

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 Government Operations, 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 2022-001

Declaring A Liquid Petroleum Gas Emergency

WHEREAS, freezing temperatures and winter conditions have been experienced throughout Utah and surrounding states during the months of December and January;

WHEREAS, these freezing temperatures pose a threat to residents and commerce;

WHEREAS, a sudden spike in demand has depleted propane supplies throughout the Region;

WHEREAS, Utah plays an important role in propane distribution for not only its own residents but neighboring states as well;

WHEREAS, many propane bulk delivery companies are experiencing delays moving propane due to road conditions and intermittent closures; and supply points are experiencing power outages creating long wait times for truck loading;

WHEREAS, these delays and wait times are considered working hours, which limit the drivers ability to complete their delivery within the allotted time;

WHEREAS, the Federal Motor Carrier Safety Regulations at 49 CFR 390 et seq., limit the hours that drivers may drive each day, limiting the private sector efforts to respond to the propane shortage;

WHEREAS, 49 CFR 390.23 provides that such rules and regulations are suspended for a limited period of time upon the declaration of an emergency where a motor carrier or driver is providing emergency relief;

WHEREAS, an exemption to the hours of service restriction provided under 49 CFR 390 et seq., is necessary to ensure the continued and stable delivery of critical winter fuel to the state of Utah and surrounding regions;

NOW, THEREFORE, I, Spencer J. Cox, Governor of the State of Utah, declare an emergency for the limited purpose of facilitating the suspension, pursuant to 49 CFR 390.23, of the rules and regulations that limit the hours operators of commercial vehicles delivering propane may drive. Nothing herein shall be construed as an exemption from the Commercial Driver's License Requirements in 49 CFR 383, the financial requirements in 49 CFR 387, or applicable federal size and weight limitations.

IT IS FURTHER ORDERED that no motor carrier operating under the terms of this emergency declaration shall require or allow an ill or fatigued driver to operate a motor vehicle. A driver who notifies a motor carrier that he or she needs immediate rest shall be given at least ten (10) consecutive hours off-duty before the driver is required to return to service in accordance with 49 CFR 390.23(b).

EXECUTIVE DOCUMENTS

IT IS FURTHER ORDERED that this Order does not suspend the operation of any state or federal laws or regulations within the State of Utah, except as specifically described in the Order. All other laws and regulations remain in full force and effect.

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

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 4th day of January, 2022.

(State Seal)

Spencer J. Cox
Governor, State of Utah

ATTEST:

Deidre M. Henderson
Lieutenant Governor, State of Utah

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 December 16, 2021, 12:00 a.m., and December 30, 2021, 11:59 p.m. are included in this, the January 15, 2022, 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 February 14, 2022. 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 May 15, 2022, 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: Amendment		
Utah Admin. Code Ref (R no.):	R68-24	Filing ID 54259

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Cody James	801-982-2376	codyjames@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-24. Industrial Hemp License for Growers
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
A change is needed based on feedback the Department of Agriculture and Food (Department) has received from the United States Department of Agriculture (USDA) related to our state hemp production plan. The USDA rules require that background checks for hemp producers be completed within 60 days rather than the 3 months currently required in this rule.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Subsections R68-24-3(4) and R68-24-3(5) have been updated to reflect that an applicant for an industrial hemp cultivation license must send a background check for each key participant completed within the prior 60 days, rather than the 3 months allowed under the current language. Additional nonsubstantive changes have been made to make the text more consistent with the requirements of the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The Department does not anticipate that this change will lead to any cost or savings to the state budget. The administration of the hemp program and licensing will remain the same. The change only changes the requirement regarding the recency of background checks that must be submitted.
B) Local governments:
This change should not impact local governments because they do not participate in or administer the industrial hemp grower program.
C) Small businesses ("small business" means a business employing 1-49 persons):
This change should not impact small businesses because the cost of obtaining a background check to submit in a license application will remain the same.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This change should not impact non-small businesses because the cost of obtaining a background check to submit in a license application will remain the same.
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 change should not impact other persons because the cost of obtaining a background check to submit in a license application will remain the same.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
Compliance costs, including the cost of a background check and licensing fees charged by the Department will not change.
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
This rule change will not have a fiscal impact on businesses. Craig W. Buttars, Commissioner
6. A) 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	FY2022	FY2023	FY2024
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
B) Department head approval of regulatory impact analysis:			
The Commissioner of the Utah Department of Agriculture and Food, Craig Buttars, has reviewed and approved this fiscal analysis.			

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 4-41-103(4)		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	02/14/2022

10. This rule change MAY become effective on:	02/21/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/21/2021
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R68. Agriculture and Food, Plant Industry.**R68-24. Industrial Hemp License for Growers.****R68-24-1. Authority and Purpose.**

Pursuant to Subsection 4-41-103(4), this rule establishes the standards, practices, procedures, and requirements for participation in the Utah Industrial Hemp Program for the growing and cultivation of industrial hemp.

R68-24-2. Definitions.

1) "Acceptable hemp THC level" means a total composite tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the total composite tetrahydrocannabinol concentration of 0.3 %.

2) "Community Location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

3) "Department" means the Utah Department of Agriculture and Food.

4) "Growing Area" means a contiguous area on which hemp is grown whether inside or outside.

5) "Handle" or "handling" means the action of cultivating or storing hemp plants or hemp plant parts ~~[prior to]~~ before the delivery of the plants or plant parts for processing.

6) "Harvesting" means removing industrial hemp plants from final growing condition and physically or mechanically preparing plant material for storage or wholesale.

7) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

8) "Key Participant" means any person who has a financial interest in the business entity including members of a limited liability company, a sole proprietor, partners in a partnership, and incorporators or directors of a corporation. A key participant also includes persons at executive levels including chief executive officer, chief operating officer, or chief financial officer. Key participants are also operation managers and site managers, or any employee who may present risk of diversion.

9) "Licensee" means a person authorized by the department to grow industrial hemp.

10) "Measurement of Uncertainty" means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

11) "Negligent" means failure to exercise the level of care that a reasonably prudent person would exercise in complying with the requirements of this rule.

12) "THC" means total composite tetrahydrocannabinol, including delta -9- tetrahydrocannabinol and tetrahydrocannabinolic acid.

R68-24-3. Grower License Application Requirements.

- 1) The applicant shall be a minimum of 18 years old.
- 2) The applicant is not eligible to receive a license if they have been convicted of a felony or its equivalent within the last ten years.
- 3) An applicant seeking an industrial hemp cultivation license shall submit the following to the department:
 - a) a completed application form provided by the department;
 - b) the legal description of the growing area;
 - c) the global positioning coordinates for the center of the outdoor growing area;
 - d) maps of the growing area in acres or square feet, and the location of different varieties within the growing area;
 - e) a statement of the intended end use or disposal for the parts of the hemp plant grown; and
 - f) a plan for the storage of seed or clone and harvested industrial hemp material as specified in Section R68-24-7.
- 4) An applicant shall submit a nationwide criminal history from the Federal Bureau of Investigation (FBI) completed within ~~three months~~ 60 days of their application.
- 5) An applicant shall submit the full name and title of each key participant, along with their email address and a nationwide criminal history from the FBI completed within ~~three months~~ 60 days of the application.
- 6) The applicant shall submit a fee as approved by the legislature in the fee schedule.
- 7) The department shall deny any applicant who does not submit the required information.

R68-24-4. Growing Area.

- 1) A licensee may not plant or grow industrial hemp on any site not listed on the grower license application and shall take immediate steps to prevent the inadvertent growth of industrial hemp outside of the authorized grow area.
- 2) A licensee may not grow hemp in any structure used for residential purposes.
- 3) A licensee may not handle or store leaf, viable seed, or floral material from hemp in a structure used for residential purposes.
- 4) A licensee may not grow industrial hemp outdoors within 1,000 feet of a community location.
- 5) The licensee shall post signage at the plot location's entrance and where the plot is visible to a public roadway in a manner that would reasonably be expected to be seen by a person in the area.
- 6) The signage shall include the following information:
 - a) the statement, "Utah Department of Agriculture Industrial Hemp Program";
 - b) the name of the licensee;
 - c) the Utah Department of Agriculture and Food licensee number; and
 - d) the department's telephone number.

R68-24-5. Reporting Requirements.

- 1) Within ten days of planting the licensee shall submit a Planting Report, on a form provided by the department, that includes:
 - a) a list of industrial hemp varieties and other plants in the growing area that were planted;

- b) the actual acres planted or the seeding rate or number of clones planted in the growing area;
- c) adjusted maps and global position coordinates for the area planted; and
- d) the amount of seed that was not used.
- 2) 30 days ~~prior to~~ before harvest the licensee shall submit a Harvest Report, on a form provided by the department, that includes:
 - a) any contracts entered into between the ~~grower~~ licensee and an industrial hemp processor or a statement of the intended use of industrial hemp cultivated in the growing area;
 - b) any intended storage areas for industrial hemp or industrial hemp material; and
 - c) the harvest dates and location of each variety cultivated in the growing areas.
- 3) The licensee shall immediately inform the department of any changes in the reported harvest date that exceed five days.
- 4) 30 days after completion of harvest the licensee shall submit a Production Report, on a form provided by the department, which includes:
 - a) yield from the growing area;
 - b) THC testing reports, if any, conducted at the licensee's request;
 - c) water application rates;
 - d) a report of any pest infestations or problems; and
 - e) a statement on the final disposition of the industrial hemp product in the growing area.
- 5) Failure to submit the required reports may result in the revocation of the grower license.

R68-24-6. Inspection and Sampling.

- 1) The growing area shall be subject to random sampling by department officials to verify the THC concentration does not exceed the acceptable hemp THC levels ~~by department officials~~.
- 2) The department shall have complete and unrestricted access to industrial hemp plants and seeds whether growing or harvested, and to land, buildings, and other structures used for the cultivation or storage of industrial hemp.
- 3) Department officials shall take a random sample of ~~Samples of~~ each variety of industrial hemp [shall be randomly sampled] ~~from the growing area~~ by department officials.
- 4) The department shall conduct the laboratory testing on the sample to determine the THC concentration on a dry weight basis.
- 5) The sample taken by the department shall be the official sample.
- 6) The department shall test the growing area within 30 days ~~prior to~~ before harvest.
- 7) The department shall notify the licensee of the test results from the official sample within a reasonable amount of time.
- 8) The test results from the department shall contain a measurement of uncertainty.
- 9) The licensee shall harvest compliant industrial hemp plants within 30 days of the official sample collection date.
- 10) Any laboratory test that exceeds the acceptable hemp THC level may be considered a violation of the terms of the license and may result in license revocation and issuance of a citation.
- 11) Upon receipt of a test result with greater than the acceptable hemp THC level, the department shall notify the grower licensee.
- 12) The department will coordinate with the appropriate law enforcement agency regarding any laboratory test result

considered to have resulted from a culpable mental state greater than negligence.

13) Corrective action plans shall be implemented for any violations of Title 4, Chapter 41, Hemp and Cannabinoid Act, that are considered to be negligent. Negligent violations shall be tracked for compliance and followed up for two calendar years.

R68-24-7. Storage of Industrial Hemp and Hemp Material.

- 1) A licensee may store hemp and hemp material provided:
 - a) the licensee notifies the department, in writing, of the location of the storage facility;
 - b) the licensee informs the department of the type and amount of product being stored in the storage facility;
 - c) the storage facility is outside of the public view; and
 - d) the storage facility is secured with physical containment and reasonable security measures.
- 2) The storage area is subject to random inspection by department officials.

R68-24-8. Transportation of Industrial Hemp Materials.

- 1) A licensee may not transport any industrial hemp materials, except to a storage facility, until the department has notified the licensee of the test results from the growing area.
- 2) An industrial hemp transportation permit is required for each day and each vehicle used to move industrial hemp or industrial hemp products.
- 3) The licensee shall submit an industrial hemp transportation permit request on a form provided by the department at least five business days before movement.
- ~~4) Requests for an industrial hemp transportation permit shall be submitted to the department at least five business days prior to movement.]~~
- ~~5]~~4) An industrial hemp transportation permit authorizes the transportation of industrial hemp materials only within the borders of the state.
- ~~6]~~5) The department may deny any application for a ~~[movement]~~transportation permit that is not completed in accordance with this rule.

R68-24-9. Restrictions on the Sale and Transfer of Industrial Hemp and Hemp Materials.

- 1) A licensee may not sell or transfer living plants, viable plants, viable seeds, leaf material, or floral material to any person not licensed by the department or to any person outside the state who is not authorized by the laws of that state or the United States Department of Agriculture.
- 2) ~~[The]~~A licensee may sell or transfer stripped stalks, fiber, and nonviable seed to the general public provided the hemp material has an acceptable hemp level.

R68-24-10. Renewal.

- 1) A licensee shall resubmit documents required in Section R68-24-3, with updated information, before December 31st of ~~[the current]~~each year.
- 2) The department may deny a renewal for:
 - a) an incomplete application~~[-]; or~~
 - ~~[3]b) [The department may deny renewal for] any licensee who has violated any portion of this rule or state law.~~

R68-24-11. Extension.

- 1) The department may extend the term of a license for up to 90 days, provided that:

- a) the licensee requests an extension ~~[prior to]~~before the end of the original license term; and
- b) the licensee reports to the department:
 - i) the amount of industrial hemp they ~~[possess]~~have at the end of the original license term; and
 - ii) the planned disposition of the remaining industrial hemp.
- 2) Under an extended license, the licensee may not grow or process industrial hemp, but may store and sell industrial hemp harvested during the previous growing season.
- 3) The licensee shall submit a license extension fee as approved by the legislature in the fee schedule.
- 4) The licensee continues to be subject to inspection by the department.

R68-24-12. Remediation or Destruction of Non-compliant Material.

- 1) Non-compliant material may be remediated by:
 - a) removing and destroying flower material, while retaining stalk, stems, leaf material, and seeds; or
 - b) shredding the entire plant to create a "biomass-blend."
- 2) ~~[Prior to]~~Before remediation, a licensee shall have their remediation plan approved by the department.
- 3) Following remediation, non-compliant material shall be retested for compliance.
- 4) A licensee shall request remediation and provide the department with their remediation plan within five business days of receiving notification that material is not compliant.
- 5) A licensee shall remediate and retest non-compliant material within 30 days of receiving department approval of their remediation plan.
- 6) If a licensee chooses not to remediate or if a remediation attempt is not successful, the licensee shall dispose of any non-compliant material.
- 7) Disposal shall be conducted:
 - a) by a DEA-registered reverse distributor or law enforcement;
 - b) on site at the farm or hemp production facility by plowing under;
 - c) by mulching or composting the non-compliant material;
 - d) by disking the non-compliant material;
 - e) by shredding the non-compliant with a bush mower or chopper;
 - f) by burying the non-compliant material at least two feet deep; or
 - g) by burning the non-compliant material.
- 7) The department shall verify the destruction of non-compliant material.

R68-24-13. Violations.

- 1) A licensee or key participant may not:
 - a) grow industrial hemp that tests greater than the acceptable hemp THC level on a dry weight basis~~[-];~~
 - ~~[2]b) [A licensee or key participant may not possess] have,~~ sell, transfer, or transport industrial hemp material that tests greater than the acceptable hemp THC level on a dry weight basis~~[-];~~
 - ~~[3] It is a violation of the grower license to grow or store industrial hemp or industrial hemp material on a site not approved by the department as part of the license.]~~
 - ~~[4]c) [A licensee or key participant may not] allow unsupervised public access to hemp plots[-];~~

[5]d) ~~[A licensee or key participant may not]~~deny an official of the department access for sampling or inspection purposes[-]; or

[6]e) ~~[A licensee or key participant may not]~~violate any portion of this rule or state law.

2) It is a violation of the grower license to grow or store industrial hemp or industrial hemp material on a site not approved by the department as part of the license.

[7]3) It is a violation of this rule to:

a) grow, cultivate, handle, or ~~[possess]~~have industrial hemp or viable industrial hemp materials without a license from the department[-];

[8]b) ~~[It is a violation to]~~grow industrial hemp material on a site not approved by the department as listed on the license[-]; or

[9]c) ~~[It is a violation to]~~grow industrial hemp outdoors within 1,000 feet of a community location.

KEY: industrial hemp cultivation

Date of Last Change: ~~December 10, 2021~~ 2022

Authorizing, and Implemented or Interpreted Law: 4-41-103(4)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R68-29	Filing ID 54220
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Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
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Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R68-29. Quality Assurance Testing on Cannabis

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

A clarification is needed in this rule to ensure that a cannabis testing laboratory is not required to test for all of the microbial contaminants listed in Table 2. Due to laboratory equipment shortages testing for some of the specific microbials listed in Table 2 is not currently possible.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Language has been added to Section R68-29-8, Microbial Standards, to clarify that specific pathogen testing requirements will be at the discretion of the Department of Agriculture and Food (Department). The requirement for microbial testing for total aerobic count and total yeast and mold and the limitations in Table 2 will remain in place.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There would be an anticipated savings to the state budget due to less required testing. The Department is currently not requiring testing of all pathogens listed in Table 2 due to limited availability of certain testing equipment and is only requiring that every sample be tested for total aerobic microbial count and total yeast and mold. The Department estimates that the reduction in testing would amount to a savings of \$50 per sample and a reduction in the cost of testing 900 samples per year, for a total of \$45,000. There would be increased cost to the Department due to a reduction in fee revenue collected at an estimated \$50 per sample and 900 samples per year, or \$45,000. This reduced fee revenue would be due to the Department charging \$70 per sample rather than \$120 due to reduced testing requirements given this change. When the equipment is available, the Department will again conduct and charge for all testing listed in Table 2.

B) Local governments:

There is no anticipated cost or savings to local governments because they do not operate as cannabis licensees or laboratories.

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

There would be a savings to small businesses due to the reduced cost of testing in the Department cannabis laboratory, from \$120 per sample to \$70 per sample. This reduction is due to the fact that testing for pathogens listed in Table 2 other than total aerobic microbial count and total combined yeast and mold is not currently required. The Department estimates that 75% of the samples tested per

year are tested for small businesses, for a total savings of \$33,750 (675 samples at a savings of \$50 per sample). When the equipment is available, the Department plans to require and charge for all tests listed in Table 2.

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

There would be a savings to non-small businesses due to the reduced cost of testing in the Department cannabis laboratory, from \$120 per sample to \$70 per sample. This reduction is due to the fact that testing for pathogens listed in Table 2 other than total aerobic microbial count and total combined yeast and mold is not currently required. The Department estimates that 25% of the samples tested per year are tested for small businesses, for a total savings of \$11,250 (225 samples at a savings of \$50 per sample). When the equipment is available, the Department plans to require and charge for all tests listed in Table 2.

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**):

Other persons would not be impacted because they do not produce medical cannabis products.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

Compliance costs for affected persons would be reduced due to the reduced cost of testing a cannabis sample. Cost would go from \$120 per sample to \$70 sample for a reduction of \$50 per sample.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule change will not have a negative fiscal impact on businesses. Craig W. Butters, Commissioner

6. A) 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	FY2022	FY2023	FY2024
State Government	\$45,000	\$45,000	\$45,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$45,000	\$45,000	\$45,000
Fiscal Benefits			
State Government	\$45,000	\$45,000	\$45,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$33,750	\$33,750	\$33,750
Non-Small Businesses	\$11,250	\$11,250	\$11,250
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$90,000	\$90,000	\$90,000
Net Fiscal Benefits	\$45,000	\$45,000	\$45,000

B) Department head approval of regulatory impact analysis:

The Commissioner of the Utah Department of Agriculture and Food, Craig W. Butters, has reviewed and approved the regulatory impact analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 4-41a-701(3)		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2021

10. This rule change MAY become effective on: 02/21/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	12/20/2021
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R68. Agriculture and Food, Plant Industry.

R68-29. Quality Assurance Testing on Cannabis.

R68-29-1. Authority and Purpose.

1) Pursuant to Subsection 4-41a-701(3), this rule establishes the standards for cannabis and cannabis product potency testing and sets limits for water activity, foreign matter, microbial life, pesticides, residual solvents, heavy metals, and mycotoxins.

R68-29-2. Definitions.

1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

- a) pesticides;
- b) heavy metals;
- c) solvents;
- d) microbial life;
- e) toxins; or
- f) foreign matter.

2) "Analyte" means a substance or chemical component that is undergoing analysis.

3) "Batch" means a quantity of:

a) cannabis concentrate produced on a particular date and time, following clean up until the next clean up during which the same lots of cannabis are used;

b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis concentrate is used; or

c) cannabis flower from a single strain and growing cycle packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

4) "Cannabinoid" means any:

a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or

b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.

5) "Cannabis" means any part of the marijuana plant.

6) "Cannabinoid concentrate" means:

a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; or

b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

7) "Cannabis cultivation facility" means a person that:

a) possesses cannabis;

b) grows or intends to grow cannabis; and

c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.

8) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

9) "Cannabis derivative product" means a cannabis product made using cannabis concentrate.

10) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

11) "Cannabis processing facility" means a person that:

a) acquires or intends to acquire cannabis from a cannabis production establishment;

b) possesses cannabis with the intent to manufacture a cannabis product;

c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or cannabis concentrate; and

d) sells or intends to sell a cannabis product to a medical cannabis pharmacy.

12) "Cannabis product" means a product that:

a) is intended for human use; and

b) contains cannabis or delta 9-tetrahydrocannabinol.

13) "CBD" means cannabidiol (CAS 13956-29-1).

14) "CBDA" means cannabidiolic acid, (CAS 1244-58-2).

15) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for the performed testing.

16) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS #1972-08-03, the primary psychotropic cannabinoid in cannabis.

17) "Department" means the Utah Department of Agriculture and Food.

18) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

19) "Final product" means a reasonably homogenous cannabis product in its final packaged form created using the same standard operating procedures and the same formulation.

20) "Foreign matter" means:

a) any matter that is present in a cannabis lot that is not a part of the cannabis plant; or

b) any matter that is present in a cannabis or cannabinoid product that is not listed as an ingredient, including seeds.

21) "Industrial hemp" means a cannabis plant that contains less than 0.3% total THC by dry weight.

22) "Industrial hemp waste" means:

a) a cannabinoid extract above 0.3% total THC derived from verified industrial hemp biomass; or

b) verified industrial hemp biomass with a total THC concentration of less than 0.3% by dry weight.

23) "Lot" means the quantity of:

a) flower from a single strain of cannabis and growing cycle produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

24) "Pest" means:

a) any insect, rodent, nematode, fungus, weed; or

b) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganisms that are injurious to health or to the environment or that the department declares to be a pest.

25) "Pesticide" means any:

a) substance or mixture of substances, including a living organism, that is intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed, or other forms of plant or animal life that are normally considered to be a pest or that the commissioner declares to be a pest;

b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and

c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, or emulsifying agent with deflocculating properties of its own used with a pesticide to aid in the application or effect of a pesticide.

26) "Sampling technician" means a person tasked with collecting a representative sample of a cannabis plant product, cannabis concentrate, or cannabis product from a cannabis production establishment who is:

- a) an employee of the department;
- b) an employee of an independent cannabis laboratory that is licensed by the department to perform sampling; or
- c) a person authorized by the department to perform sampling.

27) "Standard operating procedure" (SOP) means a document providing detailed instruction for the performance of a task.

28) "Synthetic cannabinoid" means any cannabinoid that:

- a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and
- b) is not a derivative cannabinoid.

29) "THC" means delta-9-tetrahydrocannabinol (CAS 1972-08-3).

30) "THCA" means delta-9-tetrahydrocannabinolic acid (CAS 23978-85-0).

31)(a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

(b) "THC analog" does not include the following substances or their naturally occurring acid forms:

- (i) cannabichromene (CBC), CAS# 20675-51-8;
- (ii) cannabicyclol (CBL), CAS# 21366-63-2;
- (iii) cannabidiol (CBD), CAS# 13956-29-1;
- (iv) cannabidivanol (CBDV), CAS# 24274-48-4;
- (v) cannabielsoin (CBE), CAS# 52025-76-0;
- (vi) cannabigerol (CBG), CAS# 25654-31-3;
- (vii) cannabigerovarin (CBGV), CAS# 55824-11-8;
- (viii) cannabiol (CBN), CAS# 521-35-7; or
- (ix) cannabivarin (CBV), CAS# 33745-21-0.

32) "Total CBD" means the sum of the determined amounts of CBD and CBDA.

33) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

34) "Unit" means each individual portion of an individually packaged product.

35) "Water activity" is a dimensionless measure of the water present in a substance that is available to microorganisms; calculated as the partial vapor pressure of water in the substance divided by the standard state partial vapor pressure of pure water at the same temperature.

R68-29-3. Required Cannabis, Cannabis Product, and Industrial Hemp Waste Tests.

1) ~~[Prior to]~~Before the transfer of cannabis biomass from a cannabis cultivation facility to a cannabis processing facility, the cultivation facility shall make a declaration to the department that the biomass to be transferred is either a cannabis plant product or a cannabis cultivation byproduct.

2) A representative sample of each batch or lot of cannabis plant product shall be tested by an independent cannabis testing laboratory to determine:

- a) the water activity of the sample;
- b) the amount of total THC, total CBD, and any THC analog known to be present in the sample; and
- c) the presence of adulterants in the sample, as specified in [†]Table 1.

3) Required testing shall be performed either:

a) ~~[prior to]~~Before the transfer of the cannabis plant product to a cannabis processing facility; or

b) following the transfer of the cannabis plant product to a cannabis processing facility.

4) If cannabis plant product is tested ~~[prior to]~~before being transferred to a cannabis processing facility, repeat testing for microbial contaminants and foreign matter shall be performed following the transfer.

5) Cannabis cultivation byproduct shall either be:

a) chemically or physically processed to produce a cannabis concentrate for incorporation into cannabis derivative product; or

b) destroyed pursuant to Section 4-41a-405.

6) ~~[Prior to]~~Before its incorporation into a cannabis derivative product, cannabis concentrate shall be tested by an independent cannabis testing laboratory to determine:

- a) the amount of total THC, total CBD, and any THC analog known to be present in the sample; and
- b) the presence of adulterants in the sample, as specified in [†]Table 1.

c) Any derivative or synthetic cannabinoids present in the cannabis concentrate shall be isolated to a purity of greater than 95%, with a 5% margin of error, as determined by an independent cannabis testing laboratory using liquid chromatography-mass spectroscopy or an equivalent method.

7) ~~[Prior to]~~Before the transfer of a cannabis product to a medical cannabis pharmacy a representative sample of the product shall be tested by an independent cannabis testing laboratory to determine:

- a) the water activity of the sample, as determined applicable by the department;
- b) the quantity of any cannabinoid or terpene to be listed on the product label; and
- c) the presence of adulterants in the sample, as specified in [†]Table 1.

8) Testing results for cannabis concentrate may be applied to cannabis product derived therefrom, provided that the processing steps used to produce the product are unlikely to change the results of the test, as determined by the department.

9) Mycotoxin testing of a cannabis plant product, cannabis concentrate, or cannabis product may be required if the department has reason to believe that mycotoxins may be present.

10) A cannabis plant product, cannabis concentrate, or cannabis product that fails any of the required adulterant testing standards may be remediated by a cannabis cultivation facility or cannabis processing facility after submitting and gaining approval for a remediation plan from the department.

11) A remediation plan shall be submitted to the department within 15 days of the receipt of a failed testing result.

12) A remediation plan shall be carried out and the cannabis plant product or cannabis concentrate shall be prepared for resampling within 60 days of department approval of the remediation plan.

13) Resampling or retesting of a cannabis lot or batch that fails any of the required testing standards is not allowed until the lot or batch has been remediated.

14) A cannabis lot or cannabis product batch that is not or cannot be remediated in the specified time period shall be destroyed pursuant to Section 4-41a-405.

15) ~~[In the event that tests]~~If test results cannot be retained in the Inventory Control System, the laboratory shall:

- a) keep a record of test results;
- b) issue a ~~[certificate of analysis]~~COA for required tests; and
- c) ~~[retain]~~Keep a copy of the ~~[certificate of analysis]~~COA on the laboratory premises.

16) Plant product that has been classified as industrial hemp waste may enter the state and be held by a medical cannabis cultivation facility until required testing is completed by an independent cannabis testing laboratory. A cannabis cultivation facility may not take ownership of the industrial hemp plant product until testing requirements have been met.

17) Industrial hemp waste purchased by a cannabis cultivation facility in the form of a plant product or a concentrate must meet department cannabis testing standards as determined by an independent cannabis testing laboratory ~~[prior to]~~before its transfer to a cannabis cultivation facility.

18) Industrial hemp waste that is transferred to a cannabis cultivation facility ~~[shall be considered to be]~~will be considered cannabis for all testing and regulatory purposes of the department.

TABLE 1
Required Tests by Sample Type

Test	Cannabis Plant Product	Cannabis Concentrate	Cannabis Product
Moisture Content	Required	X	X
Water Activity	Required	X	X
Foreign Matter	Required	Required	Required
Potency	Required	Required	Required
Microbial	Required	Required	Required
Pesticides	Required	Required	Required
Residual Solvents	X	Required	Required
Heavy Metals	Required	Required	Required
Mycotoxins	X	Required	X

R68-29-4. Sampling Cannabis and Cannabis Products.

1) The entity that requests testing of a cannabis plant product lot or cannabis concentrate batch, or cannabis product batch shall make the entirety of the lot or batch available to the sampling technician.

2) The lot or batch being sampled shall be contained in a single location and physically separated from other lots or batches.

3) The sample shall be collected by a sampling technician who is unaffiliated with the entity that requested testing of the cannabis lot or cannabis product batch unless an exception is granted by the department.

4) The owner of the cannabis lot or cannabis product batch and any of their employees shall not assist in the selection of the sample.

5) The sampling technician shall collect the representative sample in a manner set forth in a SOP, that is ISO 17025 compliant, maintained by the laboratory that will perform the testing.

6) When collecting the representative sample, the sampling technician shall:

- a) use sterile gloves, instruments, and a glass or plastic container to collect the sample;
- b) place tamper proof tape on the container; and
- c) appropriately label the sample pursuant to Section R68-30-6.

7) For cannabis plant product lots the minimum representative sample shall be taken according to the following schedule:

- a) 10 subunits with an average weight of one gram each for lots weighing 5 kilograms or less;

b) 16 subunits with an average weight of one gram each for lots weighing 5.01-9 kilograms;

c) 22 subunits with an average weight of one gram each for lots weighing 9.01-14 kilograms;

d) 28 subunits with an average weight of one gram each for lots weighing 14.01-18 kilograms;

e) 32 subunits with an average weight of one gram each for lots weighing 18.01-23 kilograms.

8) For cannabis concentrate the minimum representative sample shall be taken according to the following schedule:

- a) 10 mL or grams for batches of one liter or kilogram or less; or
- b) 20 mL or grams for batches of four liters or kilograms or less.

9) For cannabis products in their final product form the following minimum number of sample units must be taken, the combined total weight of which must be at least 10 grams, not including packaging materials:

- a) four units for a sample product batch with 5-500 products;
- b) six units for a sample product batch with 501-1000 products;
- c) eight units for a sample product batch with 1,001-5,000 products; and
- d) ten units for a sample product batch with 5,001-10,000 products.

10) Additional material may be included in the representative sample if the material is necessary to perform the required testing.

R68-29-5. Moisture Content Testing and Water Activity Standards.

1) The moisture content of a sample and related lot of cannabis shall be reported on the COA as a mass over mass percentage.

2) A sample and related lot of cannabis fail quality assurance testing if the water activity of the representative sample is found to be greater than 0.65.

3) A sample and related cannabis or cannabinoid product batch intended for human consumption fail quality assurance testing if the water activity of the representative sample is greater than 0.65, unless water is a component of the product formulation and is listed as an ingredient.

R68-29-6. Foreign Matter Standards.

1) A sample and related lot or batch of cannabis, cannabis product, or cannabinoid product fail quality assurance testing if:

- a) the sample contains foreign matter visible to the unaided human eye;
- b) the sample is found to contain microscopic foreign matter considered to be harmful or estimated to comprise greater than 3% of the mass of the representative sample as determined by the testing laboratory; or
- c) foreign matter is found that is suspected to have been intentionally added to the sample to increase its visual appeal or market value.

R68-29-7. Potency Testing.

1) A lot or batch of cannabis plant product, cannabis concentrate, or cannabis product shall have its potency determined and listed on a COA as total THC, total CBD, and the total concentration of any THC analog known to be present.

R68-29-8. Microbial Standards.

1) A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for microbiological contaminants if the results exceed the limits as set forth in Table 2.

2) Each sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product shall be tested for total aerobic microbial count and total combined yeast and mold. The specific pathogens listed in Table 2 may be tested for at the discretion of the department.

TABLE 2
Microbial Analytes and Action Levels

Material	Microbial Limit Requirement (cfu)
Flower	Total Aerobic Microbial Count ≤100,000 Absence of E. Coli and Salmonella spp. Absence of Aspergillus
Concentrated oil	Total Aerobic Microbial Count ≤10,000
Wax	Total Combined Yeast and Mold Count ≤1,000
Resin	Absence of STEC Absence of Pseudomonas Absence of Staph
Tablet	Total Aerobic Microbial Count ≤10,000
Capsule	Total Combined Yeast and Mold Count ≤1,000
Liquid Suspension	Absence of E. Coli and Salmonella spp.
Gelatinous cube	Absence of Staph
Transdermal	Total Aerobic Microbial Count ≤100 Total Yeast and Mold ≤100 Absence of Pseudomonas Absence of Staph Absence of E. coli

R68-29-9. Pesticide Standards.

1) Only pesticides allowed by the department may be used in the cultivation of cannabis.

2) If an independent cannabis laboratory identifies a pesticide that is not allowed under Subsection R68-29-5(1) and is above the action levels provided in Subsection R68-29-5(3) that lot or batch from which the sample was taken has failed quality assurance testing.

3) A sample and related lot or batch of cannabis, cannabis product, or cannabinoid product fail quality assurance testing for pesticides if the results exceed the limits as set forth in Table 3.

TABLE 3
Pesticide Analytes and Action Levels

Analyte	Chemical Abstract Service (CAS) Registry number	Action Level ppm
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Acequinocyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	1
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cyfluthrin	68359-37-5	1
Cypermethrin	52315-07-8	1

Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
hexythiazox	78587-05-0	1
imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	143390-89-0	0.2
Metaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl butoxide	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

4) Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8).

5) Pyrethrins should be measured as the cumulative residues of pyrethrin I (CAS 121-21-1), pyrethrin II (CAS 121-29-9), cinerin 1 (CAS 25402-06-6), and jasmolin 1 (CAS 4466-14-2).

6) Abamectin is a composite of the amounts of avermectin B1a and avermectin B1b.

R68-29-10. Residual Solvent Standards.

1) A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fails quality assurance testing for residual solvents if the results exceed the limits provided in Table 4 unless the solvent is:

- a component of the product formulation;
- listed as an ingredient; and
- generally considered to be safe for the intended form of use.

TABLE 4
List of Solvents and Action Levels

Solvent	Chemical Abstract Service (CAS) Registry number	Action level ppm
1,2 Dimethoxyethane	110-71-4	100
1,4 Dioxane	123-9	380
1-Butanol	71-36-3	5,000
1-Pentanol	71-41-0	5,000
1-Propanol	71-23-8	5,000
2-Butanol	78-92-2	5,000

2-Butanone 78-93-3		5,000
2-Ethoxyethanol	110-80-5	160
2-methylbutane	78-78-4	5,000
2-Propanol (IPA)	67-63-0	5,000
Acetone	67-64-1	5,000
Acetonitrile	75-05-8	410
Benzene	71-43-2	2
Butane	106-97-8	5,000
Cumene	98-82-8	70
Cyclohexane	110-82-7	3,880
Dichloromethane	75-09-2	600
2,2-dimethylbutane	75-83-2	290
2,3-dimethylbutane	79-29-8	290
1,2-dimethylbenzene	95-47-6	See Xylenes
1,3-dimethylbenzene	108-38-3	See Xylenes
1,4-dimethylbenzene	106-42-3	See Xylenes
Dimethyl sulfoxide	67-68-5	5,000
Ethanol	64-17-5	5,000
Ethyl acetate	141-78-6	5,000
Ethylbenzene	100-41-4	See Xylenes
Ethyl ether	60-29-7	5,000
Ethylene glycol	107-21-1	620
Ethylene Oxide	75-21-8	50
Heptane	142-82-5	5,000
n-Hexane	110-54-3	290
Isopropyl acetate	108-21-4	5,000
Methanol	67-56-1	3,000
Methylpropane	75-28-5	5,000
2-Methylpentane	107-83-5	290
3-Methylpentane	96-14-0	290
N,N-dimethylacetamide	127-19-5	1,090
N,N-dimethylformamide	68-12-2	880
Pentane	109-66-0	5,000
Propane	74-98-6	5,000
Pyridine	110-86-1	100
Sulfolane	126-33-0	160
Tetrahydrofuran	109-99-9	720
Toluene	108-88-3	890
Xylenes	1330-20-7	2,170

- 2) Xylenes is a combination of the following:
- 1,2-dimethylbenzene;
 - 1,3-dimethylbenzene;
 - 1,4-dimethylbenzene; and
 - ethyl benzene.

R68-29-11. Heavy Metal Standards.

A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for heavy metals if the results exceed the limits provided in Table 5.

TABLE 5
Heavy Metals

Metals	Natural Health Products Acceptable limits in parts per million
Arsenic	<2
Cadmium	<0.82
Lead	<1.2
Mercury	<0.4

R68-29-12. Mycotoxin Standards.

A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for mycotoxin if the results exceed the limits provided in Table 6.

TABLE 6
Mycotoxin

Test	Specification
The total of	
Aflatoxin B1,	
Aflatoxin B2,	
Aflatoxin G1, and	
Aflatoxin G2	<20 ppb of substance
Ochratoxin A.	<20 ppb of substance

KEY: cannabis testing, quality assurance, cannabis laboratory
Date of Last Change: ~~September 1, 2021~~ **2022**
Authorizing, and Implemented or Interpreted Law: 4-41a-701(3)

NOTICE OF PROPOSED RULE

TYPE OF RULE: New

Utah Admin. Code Ref (R no.):	R151-5	Filing ID 54254
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Agency Information

1. Department:	Commerce
Agency:	Administration
Building:	Heber M. Wells
Street address:	160 E 300 S
City, state and zip:	Salt Lake City, UT 84111-2316
Mailing address:	PO Box 146741
City, state and zip:	Salt Lake City, UT 84114-6741
Contact person(s):	
Name:	Phone: Email:
Masuda Medcalf	801-530-7663 mmedcalf@utah.gov

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

General Information

2. Rule or section catchline:

R151-5. Administration of the Office of the Property Rights Ombudsman's Land Use Fund

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This filing is accomplishing two needs: first, to place the Office of the Property Rights Ombudsman's Land Use Fund rule into Commerce Administration (new Rule R151-5) and out of the Division of Occupational and Professional Licensing (DOPL) (old Section R156-15A-232), which did not have authority over the title; and second, to make needed amendments to clarify what training expenses are reimbursable and add guidance on the grant request and reimbursement approval process. Further, this rule will update the language to conform to Executive Order No.

2021-12 and consistent with the Administrative Rules' Rulewriting Manual.
(EDITOR'S NOTE: The proposed amendment to Rule R156-15A is under ID 54258 in this issue, January 15, 2022, of the Bulletin.)

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Minor formatting changes made. Language from the authorizing statute has been added for clarity. Review and approval procedures for grant fund and reimbursement requests clarified.

Additionally, the language in the old Section R156-15A-232 is amended in the new Section R151-5-5 to give additional guidelines for fund expenditures for instructor fees, panelist fees, staff fees, and creation of electronic resources. For instructors, the existing cap of \$150 max/hour per presentation hour is continued, but now allows 2 presenters at a time with 3 hours of preparation time permitted per 1 hour of presentation now stipulated. This rule now includes guidance for panelist presentations at \$75 max/hour per presenter, with multiple panelists allowed, and 1 hour of preparation time permitted per hour of panelist time. This rule also includes guidance for staff fees which must be reasonable for the task and requires detailed explanation and approval by the Board. This rule gives a suggested cap of \$7,500 to create electronic training resources. Grant requests for training methods other than standard seminars, lectures, and training videos may be reviewed and approved. Reimbursement request flexibility now permitted. Reimbursement requests may be approved up to 20% above the approved grant amount.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

None of these proposed amendments are expected to impact state government revenues or expenditures. The existing rule did not address several categories of expenditures which were frequently being requested and addressed in each individual grant application on a case-by-case basis. The formatting and clarifying information do not impose additional cost or savings.

B) Local governments:

Commerce Administration estimates that these proposed amendments will have no impact on local governments because the changes merely update the rule to establish operating standards that encompass current statutory requirements and practices in the profession, and make nonsubstantive changes for clarity to facilitate compliance and enforcement in accordance with Executive Order No. 2021-12.

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

These amendments are not expected to impact small businesses' revenues or expenditures. These amendments are based solely on updating the rule to establish operating standards that encompass current requirements by the Ombudsman Office, and make nonsubstantive changes for clarity to facilitate compliance in accordance with Executive Order No. 2021-12.

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

These amendments are not expected to impact non-small businesses' revenues or expenditures. These amendments are based solely on updating the rule to establish operating standards that encompass current requirements by the Ombudsman Office, and make nonsubstantive changes for clarity to facilitate compliance in accordance with Executive Order 2021-12.

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**):

These amendments are not expected to impact any person. These amendments are based solely on updating the rule to establish operating standards that encompass current requirements by the Ombudsman Office, and make nonsubstantive changes for clarity to facilitate compliance in accordance with Executive Order No. 2021-12.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs expected for affected persons. These amendments are based solely on updating the rule to establish operating standards that encompass current requirements by the Ombudsman Office, and make nonsubstantive changes for clarity to facilitate compliance in accordance with Executive Order No. 2021-12.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

The Department of Commerce Administration, in concert with the Office of the Property Rights Ombudsman, proposes amendments to the administration of the Office of the Property Rights Ombudsman's Land Use Fund Rule currently found in Section R156-15A-232. These provisions are proposed to be moved to a new rule under Commerce Administration's Title R151. This change is for better administration of the Office of the Property Rights Ombudsman's Land Use Fund Rule review and approval procedures for the grant fund and to explain the process for reimbursement requests. Specifically, the new section

will give guidelines for fund expenditures for instructor fees, panelist fees, staff fees, and creation of electronic resources. Further, the new rule has updated references to clarify this rule and comport to the Administration Rules' Rulewriting Manual and Executive Order No. 2021-12.

This new rule for the Administration of the Office of the Property Rights Ombudsman's Land Use Fund Rule will have no foreseeable impact on the costs required for small businesses. The amendments as a whole should allow for greater efficiency and clarity for procedures with the Department of Commerce and its constituents. Accordingly, no fiscal impact is expected as these costs are either inestimable or there is no fiscal impact.

Margaret W. Busse, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

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

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 15A-1-209(5)(c) (iii)		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	02/14/2021
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10. This rule change MAY become effective on:	02/21/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Jordan Cullimore, Division Director	Date:	12/202021
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R151. Commerce Administration.

R151-5. Administration of the Office of the Property Rights Ombudsman's Land Use Fund.

R151-5-1. Purpose -- Office of the Property Rights Ombudsman's Land Use Fund.

This section establishes the procedures, standards, and policies for the administration of the Office of the Property Rights Ombudsman's Land Use Fund in accordance with Subsection 15A-1-209(5)(c)(iii) and Section R156-15A-230.

R151-5-2. Definitions.

As used under this section:

(1) "Advisory board" means the Land Use and Eminent Domain Advisory Board in accordance with Section 13-43-201.

(2) "Application" or "grant application" means the application provided by the ombudsman for a land use training fund grant.

(3) "Executive director" means the executive director of the Department of Commerce.

(4) "Fund" or "land use training fund" means the land use fund administered by the Office of the Property Rights Ombudsman.

(5) "Ombudsman" means the division director of the Office of the Property Rights Ombudsman or their designees.

(6) "Provider" means the entity providing land use training or creating land use law resources when done by an agency, individual, or company other than the ombudsman.

(7) "Request" or "reimbursement request" means the application provided by the ombudsman for a fund reimbursement request.

R151-5-3. Reimbursements to the Office of the Property Rights Ombudsman.

(1) The ombudsman shall use the fund to pay or reimburse any expenses, including personnel salaries, course development costs, travel, and other related expenses, as agreed upon by the ombudsman and the executive director, that are incurred as a result of:

(a) administering the fund;

(b) conducting training activities under Subsection 13-43-203(1)(g); or

(c) creating land use law resources.

(2) Any payment made under this section shall first be approved by:

(a) the advisory board; and

(b) the executive director.

(3) The fact that an expenditure type is reimbursable to the ombudsman under this subsection has no impact on whether an item is reimbursable as a grant under Section R151-5-4.

R151-5-4. Grants to Providers -- Eligibility Criteria.

(1) To be eligible to receive funds, the provider's program or resource shall primarily focus on the drafting, application, or explanation of land use laws and regulations or land use dispute resolution.

(2) Program training or resources may take the form of live or prerecorded seminars, lectures, continuing education programs, video productions, slide shows, websites, pamphlets, articles, books, or other methods approved by the advisory board.

(3) The following factors shall be considered when determining whether to approve, approve with conditions, or deny a grant application:

(a) previous experience in providing training or resources;

(b) how well the education or resource fits in with the land use education and training objectives of Subsection 13-43-203(1)(i)(i);

(c) whether the training or resource addresses current Utah land use law, issues, and best practices;

(d) the target audience;

(e) the location or region of the state targeted by the education or resource;

(f) cost estimates, including cost-per-attendee or cost-per-use estimates;

(g) the expected number of students, hours of instruction, and the ratio of students per dollar spent, or the expected number of potential users of the resource;

(h) If a training, the percentage of training costs paid for by the student;

(i) any other considerations deemed important by the advisory board, the ombudsman, or the executive director; and

(j) available funds.

R151-5-5. Grants to Providers -- Reimbursement Guidelines for Seminars and Lectures.

(1) The reimbursement rate for instructor fees is generally limited to \$150 per instructor per instruction hour.

(2) Reimbursement for preparation time by an instructor is generally limited to \$150 per hour, with a maximum of three hours of preparation per instructor per hour of instruction time produced.

(3) Reimbursement for presentations is generally limited to two instructors at a time.

(4) The reimbursement rate for panelist fees is generally limited to \$75 per hour per panelist.

(5) Reimbursement for preparation time by a panelist is generally limited to \$75 per hour, with a maximum of one hour of preparation per hour of panel participation.

(6) The reimbursement rate and total hours for those who assist in the training preparation or presentation shall be reasonable, appropriate to the task, and directly related to preparing for or providing the training.

(7) A request for reimbursement for expenses such as workbooks, study guides, textbooks used in the education course, meeting rooms or facilities, audio and visual equipment rental costs if needed, actual printing costs, reasonable cost of advertising materials, mailing and postage costs, and similar training preparation expenses may be submitted for approval.

(8) The ombudsman or executive director may require further justification from the provider for any grant applications in excess of these general guidelines.

R151-5-6. Grants to Providers -- Reimbursement Guidelines to Produce Video Training Resources.

(1) The cost to produce a training video or electronic module accessible by internet or other remote means may generally be reimbursed up to \$7,500 in total actual costs.

(2) The \$7,500 maximum shall include all costs to produce the training including instructor, panelist, and personnel fees, equipment rental, facility fees, and editing.

(3) Grant applications for producing training videos seeking reimbursement in excess of these general guidelines shall require further justification by the provider.

R151-5-7. Grants to Providers -- Reimbursement Guidelines for Providing Other Training Programs or Land Use Law Resources.

(1) Grant Applications for training methods other than standard seminars, lectures, or training videos shall include justification by the provider, including details of the proposed training purpose, required preparation time, and method of delivery.

(2) Grant Applications for creating land use law resources shall include justification by the provider including details of the proposed resource purpose, required preparation time, and method of delivery.

(3) The reimbursement rate and total hours of all personnel time requested to assist in the proposed training or resource preparation and presentation shall be reasonable, appropriate to the task, and directly related to preparing for or providing the training or resource.

(4) A request for reimbursement for expenses such as workbooks, study guides, textbooks used in the education course, meeting rooms or facilities, audio and visual equipment rental costs if needed, actual printing costs, reasonable cost of advertising materials, mailing and postage costs, and similar training preparation expenses may be submitted for approval.

R151-5-8. Grants to Providers -- Generally Applicable Reimbursement Guidelines.

(1) Funds may be expended only as reimbursement for expenditures incurred in preparing for and providing land use training or preparing and making available land use law resources.

(2) If providing training, the reimbursement rate for all training participants are subject to a cap of \$3,000 total for each provider per day, including airfare, vehicle mileage, and meals.

(3) If a training provider is required to travel to or from a remote or rural Utah location, the provider may be compensated up to \$50 an hour for time traveling to and from the event venue in addition to mileage costs.

(4) Funds may not be paid to any state or local government employee for any time period in which the employee is also being paid wages.

(5) Reimbursements for meals, mileage, and lodging may not exceed current Utah rates for mileage and daily travel per diem.

(6) Gift cards, door prizes, and the cost of food and food services provided to training participants shall not be paid or reimbursed from the fund.

(7) Any items that do not qualify for state funding shall be paid for by the provider, participant, or sponsor of the program.

(8) Training programs or land use law resources which receive sponsorships or grants from other sources are eligible for reimbursement on a net cost basis after subtracting sponsorships or grants from other sources.

(9) If providing a training, the total reimbursement shall generally be the lesser of \$15 per student hour or the actual approved expenditures, with a minimum reimbursement limit of \$150 multiplied by the number of hours or instruction provided.

(10) Grant applications requesting funds in excess of these guidelines requires further justification by the provider in the grant application.

R151-5-9. Grants to Providers -- Procedures for the Submission and Review of Grant Applications.

(1) A provider shall submit a completed grant application to the ombudsman on a form provided for that purpose.

(2) The application deadlines may be subject to change from time to time.

(3) Current application deadlines are published on the Office of the Property Rights Ombudsman website.

(4) Submissions received after the deadline will be considered in the next review cycle.

(5) The ombudsman shall receive and review each grant application to ensure the required information has been included and conforms with these rules.

(6) The ombudsman shall submit the completed grant application to the advisory board for review.

(7) The advisory board shall review each complete application according to the criteria set forth in Section R151-5-4.

(8) After review, the advisory board may approve, approve with modifications or conditions, or deny each application.

(9) The advisory board review may be done in person or by electronic means in accordance with Title 63G, General Government.

(10) A grant application approved by the advisory board shall then be reviewed by the ombudsman, the fund manager, and the executive director or their designees, who may jointly approve the application, approve the application with conditions, or deny the application.

(11) Providers will be notified of the status of their grant application once a decision has been made.

R151-5-10. Grants to Providers -- Procedures for Reimbursement.

(1) Only approved grants are eligible for expense reimbursement requests.

(2) A provider shall submit reimbursement requests on forms provided by the ombudsman for that purpose.

(3) A provider shall include receipts, invoices, and supporting documentation of expenditures, including proof of payment if requested by the ombudsman or the executive director.

(4) A provider shall submit the complete reimbursement request within 60 days following the approved event, class, seminar or resource release date, unless an extenuating circumstance occurs.

(5) The failure to submit a complete reimbursement request within 60 days shall result in the denial of reimbursement, unless a written explanation of any extenuating circumstances has been submitted by the provider and approved by the ombudsman.

(6) Reimbursement requests accepted by the ombudsman for review shall be reviewed by the ombudsman, the fund manager, and the executive director or their designees, and may be approved, approved with conditions, or denied.

(7) Reimbursement funds may be paid only:

(a) for eligible expenditures executed in good faith with the intent to ensure the best reasonable value; and

(b) pursuant to a reimbursement request form that has been signed as approved by the ombudsman, the fund manager, and the executive director, or their designees.

R151-5-11. Grants to Providers -- Reimbursement May Exceed Approved Grant Application Estimates When Warranted.

(1) Understanding that it is difficult to foresee some expenses, and that prices may fluctuate, reimbursement requests may be approved up to 20% above an approved grant application amount if actual expenditures reasonably exceed estimated expenditures.

(2) Approval to exceed the approved grant amount is solely at the discretion of the ombudsman and executive director or their designees.

(3) A provider shall submit justification for exceeding expected expenditures with the reimbursement request.

(4) A provider's justification shall include any efforts made to provide the training or resource within the approved grant amount.

KEY: property rights

Date of Last Change: 2022

Authorizing, and Implemented or Interpreted Law: 15A-1-209(5)(c)(iii)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R156-15A

Filing ID
54258

Agency Information

1. Department: Commerce

Agency: Occupational and Professional Licensing

Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Steve Duncombe	801-530-6235	sduncombe@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R156-15A. State Construction Code Administration and Adoption of Approved State Construction Code Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
These proposed amendments delete the provisions in this rule regarding administration of the Office of the Property Rights Ombudsman's Land Use Fund under Subsection 15A-1-209(5)(c), as the Office of the Property Rights Ombudsman is creating its own separate rule under Rule R151-5 for its administration procedures, standards, and policies. Additionally, formatting and other changes are made throughout the rule in accordance with Executive Order No. 2021-12 to streamline, clarify, and update this rule to facilitate compliance and enforcement. (EDITOR'S NOTE: The proposed new Rule R151-5 is under ID 54254 in this issue, January 15, 2022, of the Bulletin.)
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Nonsubstantive formatting changes are made throughout this rule in accordance with Executive Order No. 2021-12, and Subsections R156-15A-102(1) and R156-15A-102(4) and Section R156-15A-232 are deleted in their entirety to remove the provisions regarding administration of the Office of the Property Rights Ombudsman's Land Use Fund. A rule hearing will be held electronically before the Division using Google Meet. Join with Google Meet: meet.google.com/qxu-qnv-ydgm ; or join by phone: (US) +1 304-853-3640 (PIN: 371744703)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
These proposed amendments are expected to have no measurable impact on the state budget, as the amendments simply update and clarify the rule and remove the provisions for administration of the Land Use Fund in coordination with the creation of new Rule R151-5 by the Office of the Property Rights Ombudsman.
B) Local governments:
These proposed amendments will have no measurable impact on local governments as none of the amendments are expected to apply to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
These proposed amendments are expected to have no measurable impact on small businesses beyond what is already in statute and the existing rule, as the amendments simply update and clarify this rule and remove the provisions for administration of the Land Use Fund in coordination with the creation of new Rule R151-5 by the Office of the Property Rights Ombudsman.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
These proposed amendments are expected to have no measurable impact on non-small businesses beyond what is already in statute and the existing rule, as the amendments simply update and clarify this rule and remove the provisions for administration of the Land Use Fund in coordination with the creation of new Rule R151-5 by the Office of the Property Rights Ombudsman.
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):
These proposed amendments are expected to have no measurable impact on other persons beyond what is already in statute and the existing rule, as the amendments simply update and clarify this rule and remove the provisions for administration of the Land Use Fund in coordination with the creation of new Rule R151-5 by the Office of the Property Rights Ombudsman.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
These proposed amendments are not expected to result in an increase in compliance costs beyond what is already in statute and the existing rule, as the amendments simply update and clarify this rule and remove the provisions for administration of the Land Use Fund in coordination with

the creation of new Rule R151-5 by the Office of the Property Rights Ombudsman.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

The Department of Commerce Administration, in concert with the Office of the Property Rights Ombudsman and the Division of Professional and Occupational Licensing, proposes amendments to the administration of the Office of the Property Rights Ombudsman's Land Use Fund Rule currently found in Section R156-15A-232. These provisions are proposed to be moved to a new rule under Commerce Administration's Title as R151-5. Further, the new rule has update references to clarify the rule and comport to the Administrative Rules' Rulewriting Manual and Executive Order No. 2021-12.

Small Businesses (less than 50 employees): The new rule for the Administration of the Office of the Property Rights Ombudsman's Land Use Fund Rule will have no foreseeable impact on the costs required for small businesses. The amendments as a whole should allow for greater efficiency and clarity for procedures with the Department of Commerce and its constituents. Accordingly, no fiscal impact is expected as these costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses (50 or more employees): The changes are not expected to impact non-small businesses' revenues or expenditures because the amendments clarify language, standards, and procedures to incorporate current requirements and update this rule to conform to the rulewriting recommendations from the Office of Administrative Rules. For the same reasons relating to small business, there is no expected fiscal impact as these costs are either inestimable or there is not a fiscal impact that will result.

Margaret W. Busse, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

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

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	Subsection 15A-1-204(6)
Section 15A-1-205		

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	02/14/2022
B) A public hearing (optional) will be held:	
On:	At:
02/02/2022	10:30 AM
	Rule hearing will be held electronically using Google Meet (see information in Box 4 above)

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency

must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date:	12/21/2021
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R156. Commerce, Occupational and Professional Licensing.

R156-15A. State Construction Code Administration and Adoption of Approved State Construction Code Rule.

R156-15A-101. Title.

This rule is known as the "State Construction Code Administration and Adoption of Approved State Construction Code Rule."[-]

R156-15A-102. Definitions.

~~[In addition to the definitions in Title 15A, as used in Title 15A or this rule]~~The following definitions supplement the definitions in Title 15A, State Construction and Fire Codes Act:

(1) ~~["Advisory Board" or "LUEDAB" mean the Land Use and Eminent Domain Advisory Board created under Section 13-43-202.~~

~~(2)]~~"Building permit" means, for ~~[the purpose of]~~ determining the building permit surcharge under Subsection 15A-1-209(5)(a), a warrant, license, or authorization to build or construct a building or structure or any part thereof.

~~[(3)]~~2 "Building permit fee" means, for ~~[the purpose of]~~ determining the building permit surcharge under Subsection 15A-1-209(5)(a), fees assessed by a state agency or state political subdivision for the issuance of permits for construction, alteration, remodeling, repair, and installation, including building, electrical, mechanical, and plumbing components.[

~~(4) "Ombudsman" means the Office of the Property Rights Ombudsman created under Section 13-43-201.]~~

~~[(5)]~~3 "Permit number"[-] as used in Section 15A-1-209, means the standardized building permit number ~~[described below in]~~under Section[s] R156-15A-220[-and R156-15A-221].

~~[(6)]~~4 "Refuses to establish a method of appeal" ~~[means, with respect to]~~under Subsection 15A-1-207(3)(b)[;-] means that the compliance agency:

(a) ~~[a compliance agency does not in fact adopt]~~has not adopted a formal written method of appealing uniform building standard matters in accordance with generally recognized standards of due process; or

(b) ~~[that the compliance agency]~~does not convene an appeals board and ~~[render]~~makes a decision ~~[in the matter]~~within ~~[ninety]~~90 days from the date ~~[on which]~~the appeal is properly filed with the compliance agency.

R156-15A-103. Authority.

This rule is adopted by the Division under the authority of Subsection 15A-1-204(6), Section 15A-1-205 and Subsection 58-1-106(1)(a) to enable the Division to administer Title 15A, State Construction Code Administration and Adoption of Approved State Construction Code Rule.

R156-15A-201. Advisory Peer Committees Created - Membership - Duties.

(1) There is created ~~[in accordance with]~~under Subsections 58-1-203(1)(f) and 15A-1-203(10)(~~[d]~~c), the following advisory peer committees to the Uniform Building Codes Commission:

(a) the Education Advisory Committee consisting of ten members, which shall include:

~~_____~~(i) a factory built housing representative[-];

~~_____~~(ii) a design professional[-];

~~_____~~(iii) a general contractor[-];

~~_____~~(iv) an electrical contractor[-];

~~_____~~(v) a mechanical or plumbing contractor[-];

~~_____~~(vi) an educator[-]; and

~~_____~~(vii) four inspectors, ~~[(one from each of the specialties of plumbing, electrical, mechanical, and general building)]~~;

(b) the Plumbing and Health Advisory Committee consisting of nine members;

(c) the Structural Advisory Committee consisting of seven members;

(d) the Architectural Advisory Committee consisting of seven members;

(e) the Fire Protection Advisory Committee consisting of five members[-];

~~_____~~(i) ~~This committee, which shall join [together-]with the Fire Advisory and Code Analysis Committee of the Utah Fire Prevention Board to form the Unified Code Analysis Council[-~~

~~_____~~(ii) ~~The Unified Code Analysis Council shall meet as directed by the Utah Fire Prevention Board, or as directed by the Uniform Building Code Commission, or as needed to review fire prevention and building code issues that require definitive and specific analysis.~~

~~_____~~(iii) ~~The Unified Code Analysis Council shall select one of its members to act as chair and another to act as vice chair. The chair and vice chair shall serve for one year terms on a calendar year basis. Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year.~~

~~_____~~(iv) ~~The chair or vice chair shall report to the Utah Fire Prevention Board or Uniform Building Code Commission recommendations of the council with regard to the review of fire and building codes];~~

(f) the Mechanical Advisory Committee consisting of seven members; and

(g) the Electrical Advisory Committee consisting of seven members.

(2) ~~[The committees shall be appointed and serve in accordance with Subsection 15A-1-203(10)(d). The membership of each committee shall be made up of individuals who]~~Each committee member shall have direct knowledge or involvement in the area of code [involved]described in the title of that committee.

(3) The duties and responsibilities of the committees shall include:

(a) reviewing codes proposed for adoption or approval as assigned by the Division in collaboration with the Commission;

(b) reviewing requests for amendments to the adopted codes or approved codes as assigned to each committee by the Division with the collaboration of the Commission; and

(c) submitting recommendations concerning the reviews ~~[made]~~under Subsections (a) and (b).

(4) The duties and responsibilities of the Education Advisory Committee shall include:

(a) reviewing and making recommendations regarding funding requests that are submitted; and

(b) reviewing and making recommendations regarding budget, revenue, and expenses of the education funds ~~[established pursuant to]~~ under Subsections 15A-1-209(5)(c)(i) and (ii).

(5)(a) The duties and responsibilities of the Unified Code Analysis Council shall include:

(i) meeting as directed by the Utah Fire Prevention Board or the Uniform Building Code Commission; and

(ii) meeting as needed to review fire prevention and building code issues that require definitive and specific analysis.

(b)(i) At its meeting in the last quarter of the calendar year, the Unified Code Analysis Council shall elect one member as chair and another member as vice chair, to serve for one-year terms on a calendar year basis.

(ii) The chair or vice chair shall report to the Utah Fire Prevention Board or the Commission the Unified Code Analysis Council's recommendations on fire and building codes.

R156-15A-202. Code Amendment Process.

~~[In accordance with]~~ Under Section 15A-1-206, the procedures ~~[and manner]~~ under which requests for amendments to codes shall be filed with the Division and recommended or declined for adoption are as follows:

(1) ~~[All requests for amendments to any of the]~~ A request to amend adopted codes or approved codes shall be submitted to the Division on forms ~~[specifically prepared]~~ provided by the Division ~~[for that purpose].~~

(2) The processing of requests for code amendments shall be in accordance with Division policies and procedures.

R156-15A-210. Compliance with Codes - Appeals.

If the Commission is required to act as an appeals board ~~[in accordance with the provisions of]~~ under Subsection 15A-1-207(3)(b), the following shall regulate the convening and conduct of the appeals board:

~~(1)(a) [If a compliance agency refuses to establish a method of appeal regarding a uniform building standard issue, the]~~ The appellant may petition the Commission to act as the appeals board[-

~~(2) The appellant shall file the request to convene the Commission as an appeals board in accordance with the requirements for]~~ by filing a request for agency action as a formal adjudicative proceeding under[- as set forth in] Subsection 63G-4-201(3)(a) and Sections R151-4-202 and R151-4-203. A request by other means shall not be considered and shall be returned to the appellant with appropriate instructions.

~~(3)b~~ The appellant shall attach to the request:

(i) a[A] copy of the final written decision of the compliance agency interpreting or applying [a]the code [which]that is the subject of the dispute[- shall be submitted as an attachment to the request-]; or

(ii) [If]if the appellant [requests, but does not receive]has requested but has not received a timely final written decision, [the appellant shall submit]an affidavit to this effect[- in lieu of including a copy of the final written decision with the request].

(4)c The request shall be filed with the Division no later than 30 days following the issuance of the compliance agency's disputed written decision.

~~(5)2~~ The compliance agency shall file a written response to the request [not later than]within 20 days after the filing of the request. The request and response shall be provided to the Commission in advance of any hearing [in order-]to properly frame the disputed issues.

~~(6)3~~ Except [with regard to]for the time period [specified]in Subsection (7), the time periods [specified-]in this section may, upon a showing of good cause, be modified by the presiding officer[conducting the proceeding].

~~(7)4~~ The Commission shall convene as an appeals board within 45 days after a request is properly filed.

~~(8)5~~ Upon the convening of the Commission as an appeals board, the board members shall [review the issue to be considered to-]determine if a member of the board has a conflict of interest [which]that would preclude the member from fairly hearing and deciding the appeal. If [it is determined]the board determines that a conflict does exist, the member may attend the proceeding but may not participate [shall be excused from participating-]in the proceeding.

~~(9)6~~ The hearing shall be a formal hearing held in accordance with [the Utah Administrative Procedures Act,-]Title 63G, Chapter 4, Administrative Procedures Act.

~~(10)7~~ Decisions relating to the application and interpretation of the code [made-]by a compliance agency board of appeals:

(a) shall be binding only for the specific individual case; and

(b) do [shall-]not require Commission approval.

R156-15A-220. Standardized Building Permit Number.

~~[As provided in]~~ Under Section 15A-1-209, ~~[any]each~~ compliance agency issuing a permit for construction ~~[within the state of]~~ in Utah shall use the standardized building permit numbering system in a form adopted by rule. There are no additional requirements to those specified in ~~S[ub]~~ Section 15A-1-209.

R156-15A-230. Building Code Training Fund Fees and Factory Built Housing Fees.

(1) ~~[In accordance with]~~ Under Subsection 15A-1-209(5)(a), on April 30, July 31, October 31, and January 31 of each year, each state agency and each state political subdivision that assesses a building permit fee shall:

(a) file with the Division a report of building fees and surcharge for the immediately preceding calendar quarter; and

(b) remit 85% of the amount of the surcharge collected to the Division.

(2) ~~[In accordance with]~~ Under Subsection 15A-1-209(5)(c), the Division shall allocate and deposit the monies received under Subsection 15A-1-209(5)(a)(ii) into the following ~~[three separate-]~~ funding accounts:

(a) 30% to the Division's Building Code Inspector Training Fund, to be held, administered, and distributed pursuant to Section R156-15A-231 to provide education regarding codes and code amendments to building inspectors;

(b) 10% to the Division's Building Code Construction-Related Training Fund, to be held, administered, and distributed pursuant to Section R156-15A-231 to provide education regarding codes and code amendments to individuals licensed in construction trades or related professions; and

(c) 60% to the Office of the Property Rights Ombudsman's Land Use Fund~~[- to be held, administered, and distributed pursuant~~

~~to Section R156-15A-232 to provide education and training regarding:~~

~~(i) the drafting and application of land use laws and regulations; and~~

~~(ii) land use dispute resolution].~~

(3) ~~[In accordance with]~~Under Subsection 58-56-17.5(2)(c), the Division shall hold, administer, and distribute a portion of the monies in the Factory Built Housing Fees Account pursuant to Section R156-15A-231 to provide education for factory built housing.

(4) A Department of Commerce ~~[Employees]~~employee may not participate in the administration, selection, or payment of grants to an organization under Section R156-15A-231 or R156-15A-232 if the ~~[Department of Commerce Employee]~~employee:

(a) is in a leadership position with the entity, including membership on a board of directors or the equivalent;

(b) is an employee of the entity or has received payment of any kind from the entity in the last five years; or

(c) has any other relationships with the entity or individuals affiliated with the entity that could lead to a reasonable question about the employee's impartiality.

R156-15A-231. Administration of Building Code Inspector Training Fund, Building Code Construction-Related Training Fund, and Factory Built Housing Fees Account.

~~[In accordance with]~~Under Subsections 15A-1-209(5)(c) and 58-56-17.5(2)(c), and Section R156-15A-230, the following procedures, standards, and policies are established ~~[to apply to]~~for the administration of the Building Code Inspector Training Fund, the Building Code Construction-Related Training Fund, and the Factory Built Housing Fees Account:

(1) The Division ~~[shall]~~may not approve or deny education grant requests from a ~~[ny]~~ separate fund or account until the ~~[Uniform Building Code Commission (UBCC)]~~Education Advisory Committee ~~[("the Committee"), created in accordance with Subsections 58-1-203(1)(f) and R156-15A-201(1)(a),]~~has considered and made its recommendations on the requests.

(2) Appropriate funding expenditure categories include:

(a) for the Building Code Inspector Training Fund or the Factory Built Housing Fees Account, grants in the form of reimbursement funding to the following organizations that administer code-related training or factory built housing educational events, seminars, or classes:

(i) schools, colleges, universities, departments of universities, or other institutions of learning;

(ii) construction trade associations;

(iii) professional associations or organizations; and

(iv) governmental agencies;

(b) for the Building Code Construction-Related Training Fund, grants in the form of reimbursement funding to the following organizations that administer code-related training events, seminars, or classes:

(i) construction trade associations; or

(ii) professional associations;

(c) costs or expenses incurred as a result of code events, seminars, or classes directly administered by the Division;

(d) expenses incurred for the salary, benefits, or other compensation and related expenses resulting from the employment of a Board Secretary;

(e) office equipment and associated administrative expenses required for the performance of the duties of the Board

Secretary, including computer equipment, telecommunication equipment and costs and general office supplies; and

(f) other related expenses as determined by the Division.

(g) Gift cards, door prizes, and the cost of food and food services provided to training participants are not appropriate funding expenditure categories, and may not be paid or reimbursed from any fund.

(3) The following procedure shall be used for submission, review, and payment of funding grants:

(a)(i) A funding grant applicant shall submit a completed application on Division forms; ~~[provided for that purpose by the Division];~~

(A) at least 15 days ~~[prior to]~~before the meeting at which the request is to be considered ~~[;]~~ and

(B) ~~[and prior to]~~before the training event.

(ii) An application that does not comply with Subsection ~~(3)(a)~~ ~~[Applications received less than 15 days prior to a meeting]~~ may be denied.

(b) Payment of approved funding grants shall be made as reimbursement after:

(i) the approved event, class, or seminar has been held; and

(ii) the required receipts, invoices, and supporting documentation, including proof of payment if requested by the Division or Committee, have been submitted to the Division.

(c) Approved funding grants shall be reimbursed only for eligible expenditures ~~[which]~~that have been executed in good faith with the intent to ensure the best reasonable value.

(d)(i)(A) A Request for Reimbursement of an approved funding grant shall be submitted to the Division within 60 days following the approved event, class, or seminar, unless an extenuating circumstance occurs.

(B) Written notice shall be given to the Division of ~~[such]~~ an extenuating circumstance.

(ii) Failure to submit a Request for Reimbursement within 60 days shall result in non-payment of approved funds, unless an extenuating circumstance has been reviewed and accepted by the Division.

(4) The Committee shall consider the following in determining whether to recommend to the Division approval of a proposed funding request ~~[to the Division];~~

(a) the fund balance available; ~~[and whether]~~

(b) if the proposed request meets the overall training objectives of the fund, including the need for training;

(i) ~~[the need for training]~~ on the subject matter;

(ii) ~~[the need for training]~~ in the geographical area where the training is offered; and

(iii) ~~[the need for training]~~ on new codes being considered for adoption;

(b)(c) ~~[whether]~~ if the grant applicant agrees to charge a cost for the training event, class, or seminar that is uniform across categories of attendees;

(c)(d) the ~~[prior]~~earlier record of the program sponsor in providing codes training, including if:

(i) ~~[whether]~~ the subject matter taught was appropriate;

(ii) ~~[whether]~~ the instructor was appropriately qualified and prepared; and

(iii) ~~[whether]~~ the program sponsor followed appropriate and adequate procedures and requirements in providing the training and submitting requests for funding;

(d)(e) costs of the facility, including:

(i) the location of a facility or venue, or the type of event, seminar, or class;

(ii) the suitability of ~~said~~ the facility or venue ~~with regard to~~ for the anticipated attendance, ~~at~~ or in connection with additional non-funded portions of an event or conference;

(iii) the duration of the proposed event, seminar, or class; and

(iv) ~~whether~~ if the proposed cost of the facility is reasonable compared to the cost of alternative available facilities;

(~~e~~)f the estimated cost for instructor fees, including:

(i) a reimbursement rate for instruction activities not to exceed \$150 per instruction hour without further review and approval by the Committee~~[- This reimbursement rate represents the total amount reimbursable for instruction activities, and with preparation[- Preparation]~~ time, event coordination, course development costs, staff time, and travel time ~~are~~ not separately reimbursable;

(ii) the experience or expertise of the instructor in the proposed training area;

(iii) the quality of training based upon events, seminars or classes that have been previously taught by the instructor;

(iv) the drawing power of the instructor, meaning the ability to increase the attendance at the proposed educational event, seminar, or class;

(v) travel expenses; and

(vi) ~~whether~~ if the proposed cost for the instructor or instructors is reasonable compared to the costs of similar events, seminars, or classes;

(~~f~~)g the estimated cost of advertising materials, brochures, registration, and agenda materials, including:

(i) printing costs that may include creative or design expenses;

(ii) whether printed materials comply with Subsection (4)(b); and

(iii) delivery or mailing costs;

(~~g~~)h other reasonable and comparable cost alternatives for each proposed expense item;

(~~h~~)i other information the Committee reasonably believes may assist in evaluating a proposed expenditure; and

(~~i~~)j a total reimbursement rate of the lesser of \$10 per student hour or the cost of the approved actual expenditures.

(5) The Division, after consideration and recommendation of the Committee~~[-]~~ based upon the criteria in Subsection (4), may reimburse the following ~~items~~ reasonable costs in addition to the lesser of \$10 per student hour or the cost of the approved actual expenditures:

(a) text books, code books, or code update books;

(b) cost of one Division licensee mailing list per provider per two-year renewal period;

(c) cost incurred to upload continuing education hours into the Division's online registry for contractors, plumbers, electricians, or elevator mechanics; and

(d) ~~reasonable~~ cost of advertising materials, brochures, registration and agency materials, including:

(i) printing costs, which ~~that~~ may include creative or design expenses; and

(ii) delivery or mailing costs.

(6) Joint function.

(a) "Joint function" means a proposed event, class, seminar, or program that provides code or code-related training or factory built housing education, and education or activities in other areas.

(b) Only the prorated portions of a joint function that apply to the purposes of a separate fund are eligible for a funding grant from that fund.

(c) In considering a proposed funding request that involves a joint function, the Committee shall consider ~~whether~~ if:

(i) the expenses subject to funding are reasonably prorated for the costs directly related to the purposes of the separate fund; and

(ii) the education being proposed will be reasonable and successful in the training objective in the context of the entire program or event.

(7) Advertising materials, brochures, and agenda or training materials for a Building Code Training funded event, seminar, or class shall include a statement that acknowledges that partial funding of the program has been provided by the Utah Division of Occupational and Professional Licensing from the 1% surcharge funds on building permits.

(8) Advertising materials, brochures, and agenda or training materials for a Factory Built Housing Fees Account funded educational event, seminar, or class shall include a statement that acknowledges that partial funding of the training program has been provided by the Utah Division of Occupational and Professional Licensing from surcharge fees on factory built housing sales.

(9) If an approved event or joint event is not held, no amount is reimbursable except for the costs described in Subsection (5)(d).

~~[R156-15A-232. Administration of the Office of the Property Rights Ombudsman's Land Use Fund.~~

~~In accordance with Subsection 15A-1-209(5)(e)(iii) and Section R156-15A-230, the following procedures, standards, and policies are established for the administration of the Ombudsman's Land Use Fund:~~

~~(1) Reimbursements to the Office of the Property Rights Ombudsman.~~

~~(a) The Ombudsman shall use the Land Use Fund to pay its expenses, including personnel salaries, course development costs, travel, and other related expenses as agreed upon by the Ombudsman and the Department of Commerce, that are incurred as a result of:~~

~~(i) administering the Land Use Fund;~~

~~(ii) conducting training activities under Subsection 13-43-203(1)(g); and~~

~~(iii) creating, compiling, and updating model land use ordinances.~~

~~(b) Expenses paid to the Ombudsman under this Subsection (1) shall first be approved by:~~

~~(i) the Advisory Board; and~~

~~(ii) the Department's executive director.~~

~~(c) The fact that an expenditure type is reimbursable to the Ombudsman under Subsection (1)(a) does not affect whether an item is reimbursable as a grant under Subsection (2).~~

~~(2) The Ombudsman shall use the Land Use Fund to provide grants to providers of land use training programs, as follows:~~

~~(a) Eligibility Criteria.~~

~~(i) To be eligible to receive funds, the provider's program shall primarily provide training on Utah land use law, and in particular the drafting and application of land use laws and regulations.~~

~~(ii) Program training may take the form of live or prerecorded seminars or lectures, continuing education programs, video production, or distribution of training materials and written information.~~

~~(iii) The following factors shall apply to the consideration of whether to approve, approve with conditions, or deny a grant request:~~

- ~~(A) previous experience in providing training;~~
- ~~(B) cost estimates, including cost per attendee estimates;~~
- ~~(C) how well the education fits in with the land use education and training objectives of Subsection 13-43-203(1)(i);~~
- ~~(D) whether the training addresses current Utah land use law, issues, and best practices;~~
- ~~(E) how well the text relates to the course objectives;~~
- ~~(F) the target audience for example, whether the education is targeted for land use officials such as commissioners, council members, etc.;~~
- ~~(G) the expected number of students, hours of instruction, and the ratio of students per dollar spent;~~
- ~~(H) the location or region of the state targeted by the education;~~
- ~~(I) the percentage of training costs paid for by the student;~~
- ~~(J) any other considerations deemed important by the Advisory Board, the Ombudsman, and the Department; and~~
- ~~(K) available funds.~~

~~(b) Reimbursement Criteria.~~

~~(i) Funds may be expended only as reimbursement for expenditures incurred in providing land use training.~~

~~(ii) The reimbursement rate for instructor fees shall be limited to \$150 per instruction hour and up to \$3,000 total for all instructors per day, including airfare, vehicle mileage, and meals. This fee represents the total amount reimbursable for live or prerecorded instruction activities. Preparation time, course development, event coordination, staff time, and travel time are not separately reimbursable. Any excess instructor fees, including honoraria for keynote speakers, shall require further justification, review, and approval. Instructor fees may not be paid to State or local government employees if the instructor is also being paid wages for the same time period.~~

~~(iii) Reimbursement for instructor meals, mileage, and lodging may not exceed current State of Utah rates for mileage and daily travel per diem.~~

~~(iv) Reimbursement for other expenses such as workbooks, study guides, textbooks used in the education course, meeting rooms or facilities, audio/visual equipment rental costs, if needed, actual printing costs, reasonable cost of advertising materials, and mailing and postage costs, shall be approved as needed.~~

~~(v) Gift cards, door prizes, and the cost of food and food services provided to training participants may not be paid or reimbursed from the Ombudsman's Land Use Fund. Any items that do not qualify for state funding, including food and food service provided to training participants, shall be paid for by the participant or sponsor of the program.~~

~~(vi) Programs that receive sponsorships or grants from other sources are eligible for reimbursement on a net cost basis after subtracting sponsorships or grants from other sources.~~

~~(vii) Total reimbursement shall be the lesser of \$15 per student hour or the cost of all approved actual expenditures. Reimbursement in excess of this total requires further justification, review, and approval.~~

~~(viii) Notwithstanding Subsection (2)(b)(iii), if an instructor is required to travel to a remote, rural Utah location, the instructor may be compensated up to \$50 an hour for time traveling to and from the event venue in addition to mileage.~~

~~(c) Procedures for the submission, review, and payment of funding grants shall be as follows:~~

~~(i) A funding grant applicant shall submit a completed Request for Land Use Training Funds application to the Ombudsman on a form provided for that purpose by the Ombudsman. The application shall require a description of the proposed land use training program, including program objectives, instructors, target audience, and budget, and may encompass other criteria including that set forth in Subsection (2)(a).~~

~~(ii) The Ombudsman shall submit the completed Request for Land Use Training Funds application to the Advisory Board for selection or proposal by the Advisory Board. The submission, selection, or proposal may be done in person or by electronic means in accordance with Title 63G.~~

~~(iii) A Request for Land Use Training Funds application selected or proposed by the Advisory Board shall then be reviewed by the Ombudsman's director, the Land Use Fund's manager, and the Department's executive director, or their designees. They may jointly approve the application, approve the application with conditions, or deny the application.~~

~~(iv) To apply for reimbursement based on an approved Request for Land Use Training Funds application, the approved program shall submit one or more completed Request for Reimbursement forms to the Ombudsman as follows:~~

~~(A) The Request for Reimbursement shall be on a form provided by the Ombudsman for that purpose, and shall include receipts, invoices, and supporting documentation of expenditures, including proof of payment if requested by the Ombudsman or the Department of Commerce.~~

~~(B) The complete Request for Reimbursement shall be submitted within 60 days following the approved event, class, or seminar, unless an extenuating circumstance occurs. Written notice shall be given to the Ombudsman of such an extenuating circumstance. Failure to submit a complete Request for Reimbursement within 60 days shall result in non-payment of approved funds, unless an extenuating circumstance has been reviewed and accepted by the Ombudsman.~~

~~(v) A Request for Reimbursement accepted by the Ombudsman for review shall then be reviewed by the Ombudsman director, the Land Use Fund manager, and the Department executive director or their designees, and may be approved, approved with conditions, or denied.~~

~~(vi) Reimbursement funds may be paid only:~~

~~(A) for eligible expenditures which have been executed in good faith with the intent to ensure the best reasonable value; and~~

~~(B) pursuant to a Request for Reimbursement form that has been signed as approved by the Ombudsman director, the Land Use Fund manager, and the Department executive director, or their designees.]~~

RI56-15A-401. Adoption - Approved Codes.

~~[Approved Codes. In accordance with]~~Under Subsection 15A-1-204(6)(a), and subject to the limitations ~~[contained in]~~of Subsection 15A-1-204(6)(b), the following codes or standards are ~~[hereby]~~ incorporated by reference and approved for use and adoption by a compliance agency as the construction standards ~~[which]~~that may be applied to existing buildings in the regulation of building alteration, remodeling, repair, removal, seismic evaluation, and rehabilitation in the state:

(1) the 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings (UCADB) promulgated by the International Code Council;

(2) ASCE 31-03, Seismic Evaluation of Existing Buildings, promulgated by the American Society of Civil Engineers; and

(3) ASCE/SEI 41-06, the Seismic Rehabilitation of Existing Buildings, promulgated by the American Society of Civil Engineers, 2007 edition.

KEY: contractors, building codes, building inspections, licensing

Date of Last Change: ~~June 23, 2020~~ 2022

Notice of Continuation: May 20, 2021

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 15A-1-204(6); 15A-1-205

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R277-484	Filing ID 54251
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Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and 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:
R277-484. Data Standards
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being amended to incorporate an updated table of deadlines by reference.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The amendments adopt the December 2, 2021, version of the table of deadlines by reference as outlined in Subsection R277-484-3(1).

Fiscal Information

5. Provide an estimate and written explanation of the 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 amendments remove duplication and provide additional clarity on the Utah State Board of Education internal audit process.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The amendments provide clear reporting deadlines for local education agencies (LEAs) but do not have a fiscal impact for LEAs or other local governments.

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 amendments provide clear reporting deadlines for LEAs only.

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 amendments provide clear reporting deadlines for LEAs only.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons. The amendments to this rule do not add costs to LEAs because new requirements are not being added.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

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. In addition, this rule change is not expected to have direct fiscal impact on small businesses. Sydnee Dickson, Superintendent

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-3-501(1)
Subsection 53F-2-501(3)		

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)	USBE Reporting Deadlines
Publisher	Utah State Board of Education
Date Issued	December 2, 2021
Issue, or version	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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	02/16/2021
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R277. Education, Administration.**R277-484. Data Standards.****R277-484-1. Authority and Purpose.**

(1) This rule is authorized by:

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

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

(c) Subsection 53E-3-401(8)(a), which allows the Board to take corrective action against an education entity that fails to comply with Board rules; and

(d) Subsection 53E-3-511(8), which requires the Board to ensure LEA inclusion of data in an LEA's Student Information System.

(2) The Superintendent is required to perform certain data collection related duties essential to the operation of statewide educational accountability and financial systems as mandated in state and federal law.

(3) The purpose of this rule is to:

(a) support the operation of required educational accountability and financial systems by ensuring timely submission of data by LEAs;

(b) support the provision of equal opportunity for students;

(c) support accuracy, efficiency, and consistency of data; and

(d) ensure maintenance of basic contact and demographic information for each LEA and school.

R277-484-2. Definitions.

As used in this rule and the Board Reporting Deadline Table incorporated by reference in this rule:

(1) "Annual Financial Report" means an account of LEA revenue and expenditures by source and fund sufficient to meet the reporting requirements specified in Subsections 53E-3-301(3)(d) and (e).

(2) "Annual Program Report" means an account of LEA revenue and expenditures by source and program sufficient to meet the reporting requirements specified in Subsections 53E-3-301(3)(d) and (e).

(3) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the online licensing database maintained by the Superintendent, which will be phased out and replaced by EdUcate.

(4) "Contact information" means the name, title, email address, and phone number for a designated individual.

(5) "Data Warehouse" means the database of demographic information, course taking, and test results maintained by the USOE on all students enrolled in Utah schools.

(6) "Designated individual" means:

(a) an LEA governing board chair;

(b) a local administrator;

(c) a business administrator; or

(d) a school principal.

(7) "EDEN" means the Education Data Exchange Network, the mechanism by which state education agencies are mandated to submit data to the U.S. Department of Education.

(8) "EdUcate" has the same meaning as described in Subsection R277-312-2(1).

(9) "Fee waiver status" means the designation, maintained in the Data Warehouse, that a student has been approved or denied for a fee waiver in accordance with Rule R277-407.

(10) "Governing board chair" means the chair or president of an LEA governing board.

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

(12) "LEA demographic information" means:

(a) the LEA name;

(b) the LEA number;

(c) the physical address;

(d) the website;

(e) a phone number; and

(f) the LEA's grade range.

(13) "Local administrator" means a district superintendent or charter school director.

(14) "MSP" means Minimum School Program, the set of state supported K-12 public school funding programs.

(15) "School demographic information" means:

(a) the school name;

(b) the school number;

(c) the physical and mailing address;

(d) the website;

(e) a phone number;

(f) the school type; and

(g) the school grade range.

(16) "Schools interoperability framework" or "SIF" means an open global standard for seamless, real time data transfer and usage for Utah public schools.

(17) "Student achievement backpack" has the same meaning as that term is defined in Subsection 53E-3-511(1)(d).

(18) "Student information system" or "SIS" means a student data collection system used for Utah public schools.

(19) "UDOH" means Utah Department of Health.

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

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

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

R277-484-3. Incorporation by Reference of Board Reporting Deadline Table.

(1) This rule incorporates by reference the Board Reporting Deadline Table dated ~~October 1~~ December 2, 2021.

(2) A copy of the Board Reporting Deadline Table is located at:

(a)

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

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

R277-484-4. Deadlines for Data Submission.

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

(2) An LEA shall, by 5 p.m. Mountain Standard Time on the date specified in the Board Reporting Deadline Table, submit reports in the format specified by the Superintendent.

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

(4) An LEA shall assign an individual to oversee compliance with this rule.

R277-484-5. Adjustments to Deadlines.

(1) An LEA may seek an extension of a deadline to ensure continuation of funding and provide more accurate information to allocation formulas by submitting a written request to the

Superintendent no later than 24 hours before the specified deadline in Table 1.

(2) An extension request shall include:

(a) The reasons for the extension request;

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

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

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

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

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

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

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

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

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

(a) AFR;

(b) APR;

(c) Mid-year or Final CACTUS updates;

(d) a Financial Audit Report; or

(e) any UTREx updates.

(7) Notwithstanding Subsection (6)(e), if an LEA identifies significant errors in a UTREx update, the Superintendent may grant the LEA an extension of no more than eight calendar days to file a new update.

R277-484-6. Official Data Source and Required LEA Compatibility.

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

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

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

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

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

(3) The Superintendent shall maintain a database of LEA and school:

(a) demographic information;

(b) openings;

(c) closures; and

(d) contact information for designated individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R277-484-7. Adjustments to Summary Statistics Based on Compliance Audits.

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

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

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

R277-484-8. Financial Consequences of Failure to Submit Reports on Time.

(1) If an LEA fails to submit a report by its deadline as specified in Table 1, consistent with procedures outlined in R277-114, the Superintendent may recommend corrective action, including stopping the LEA's MSP funds transfer process, unless the LEA has

obtained an extension of the deadline in accordance with the procedure described in Section R277-484-4.

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

KEY: data standards, reports, deadlines

Date of Last Change: 2022

Notice of Continuation: November 5, 2021

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

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Utah Admin. Code Ref (R no.):	R357-23	Filing ID 54264
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Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and 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:
R357-23. Business Expansion and Retention Initiative
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
During the 2020 General Session, S.B. 95 passed and repealed the Business Expansion and Retention Initiative Program. Thus, the purpose of this rule filing is to repeal this rule in its entirety.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is repealed because the program was discontinued.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no aggregate anticipated cost or savings to the state budget. The repeal of this rule is due to the program being discontinued.

B) Local governments:

There is no aggregate anticipated cost or savings to local governments. The repeal of this rule is due to the program being discontinued.

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

There is no aggregate anticipated cost or savings to small businesses. The repeal of this rule is due to the program being discontinued.

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

There is no aggregate anticipated cost or savings to non-small businesses. The repeal of this rule is due to the program being discontinued.

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 aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The repeal of this rule is due to the program being discontinued.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons. The repeal of this rule is due to the program being discontinued.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule filing will have no impact on businesses. Dan Hemmert, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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
B) Department head approval of regulatory impact analysis:			
The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.			

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 63N-3-104.5(5)(c)		

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. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	02/14/2022

10. This rule change MAY become effective on:	02/21/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Dan Hemmert, Executive Director	Date:	12/22/2021
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R357. Governor, Economic Development.~~**R357-23. Business Expansion and Retention Initiative.**~~~~**R357-23-101. Title.**~~

~~This rule is known as the "Business and Expansion and Retention Initiative Rule."~~

~~**R357-23-102. Definitions.**~~

~~In addition to the definitions in Title 63N, Chapter 3, Section 104.5 as defined or used in this rule:~~

~~(1) "BEAR" means the Business Expansion and Retention Initiative program.~~

~~(2) "Benchmarks" means the points of reference in measuring, tracking and evaluating the performance of a project and the impact on economic development.~~

~~(3) "Board" means the Governor's Rural Partnership Board created in Section 63C-10-102.~~

~~(4) "Project" means outreach and information gathering efforts, as outlined in Subsection 63N-3-104.5(7)(a), or other activities approved by the administrator under Subsection R357-22-106.~~

~~**R357-23-103. Authority.**~~

~~This rule is adopted by the office under the authority of Subsection 63N-3-104.5(5)(c).~~

~~**R357-23-104. Content of Application.**~~

~~(1) The following content shall, at minimum, be included in each application for participation in BEAR:~~

- ~~(a) company name;~~
- ~~(b) contact information including:~~
 - ~~(i) applicants' physical address;~~
 - ~~(ii) telephone number; and~~
 - ~~(iii) email address.~~
- ~~(c) if the applicant is a registered vendor with that State of Utah documentation of the vendor number.~~
- ~~(d) copy of a current W-9 form;~~
- ~~(e) evidence that the applicant qualifies as a "rural economic development entity" as defined in Subsection 63N-3-104.5(1)(b);~~
- ~~(f) executive summary of the proposed project that clearly establishes the primary activity of the project and how the project will:~~
 - ~~(i) assist new and existing rural businesses;~~
 - ~~(ii) influence rural job creation;~~
 - ~~(iii) diversify Utah's rural economies;~~
 - ~~(g) the benchmarks of the proposed project and how they will be measured, tracked and reported;~~
 - ~~(h) amount of grant funding requested;~~

~~(i) list of all entities associated with the proposed project and their anticipated roles;~~
~~(j) letters of support from all entities associated with the proposed project;~~
~~(k) additional funding sources associated with the proposed project;~~
~~(l) timeline of the proposed project; and~~
~~(m) detailed budget of the proposed project.~~
~~(3) The office will use a scoring system to enable the Board 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.~~

R357-23-105. Verification:

~~(1) Participation in the application process and approval to participate in BEAR do not guarantee grant funding.~~
~~(2) The office shall verify that all benchmarks have been satisfied prior to an economic development entity receiving a grant.~~

R357-23-106. Other Activities Approved by the Administrator:

~~Other activities approved by the Administrator include economic development:~~
~~(1) planning;~~
~~(2) plan implementation;~~
~~(3) strategic studies;~~
~~(4) revitalization projects;~~
~~(5) regional initiatives support;~~
~~(6) training, education and cultivation;~~
~~(7) seminars and summits; or~~
~~(8) other activities if approved by the Board and the Administrator.~~

KEY: business expansion and retention, economic development

Date of Last Change: October 11, 2018

Authorizing, and Implemented or Interpreted Law: 63N-3-104.5(5)(e)]

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R414-10	Filing ID 54271
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Agency Information

1. Department:	Health
Agency:	Health Care Financing, Coverage and Reimbursement Policy
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 143102
City, state and zip:	Salt Lake City, UT 84114-3102

Contact person(s):

Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov

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

General Information

2. Rule or section catchline:

R414-10. Physician Services

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The purpose of this change is to implement and clarify the scope of services for non-physician practitioners in accordance with the Nurse Practice Act and the Physician Assistant Act.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This amendment implements and clarifies the roles of nurse practitioners and physician assistants who provide physician services in collaboration with or under the supervision of a physician.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The Department of Health (Department) estimates an administrative savings of about \$2,150 based on no change in utilization costs as physician assistants and nurse practitioners shift to assist with surgical procedures.

B) Local governments:

There is no impact on local governments as they neither fund nor provide physician services under the Medicaid program.

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

Small businesses will see neither costs nor revenue as this change creates only administrative savings to the Department.

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

Non-small businesses will see neither costs nor revenue as this change creates only administrative savings to the Department.

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 impact to other persons or entities as this change creates only administrative savings to the Department.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs to a single person or entity as this change creates only administrative savings to the Department.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

Businesses will see no fiscal impact as this change creates only administrative savings to the Department. Nate Checketts, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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	\$2,150	\$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	\$2,150	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26-1-5	Section 26-18-3	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	12/29/2021
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R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-10. Physician Services.

R414-10-2. Definitions.

In addition to the definitions in Rule R414-1, the following definitions apply to this rule.

(1) "Assistant to surgery" means a physician or non-physician practitioner who actively assists the physician in charge of a case in performing a surgical procedure.

(1)2) "Family planning" means diagnosis, treatment, medications, supplies, devices, and related counseling in family planning methods to prevent or delay pregnancy.

(2)3) "Global surgical procedures" means preoperative office visits and preparation, the operation itself, local infiltration, topical or regional anesthesia when used, and normal follow-up care.

(4) "Non-physician practitioner" means covered member healthcare providers who practice either in collaboration with or

under the supervision of a physician, including physician assistants and nurse practitioners.

(5) "Nurse practitioner" means an individual who performs professional services within the scope of licensing of a nurse practitioner pursuant to Title 58, Chapter 31b, Nurse Practice Act.

~~(3)~~(6) "Physician services", whether furnished in the office, the ~~recipient~~member's home, a hospital, a skilled nursing facility, or elsewhere, means services performed by a Medicaid provider that meet the following standards:

(a) services are performed within the scope of the physician's license as defined in Title 58, Occupations and Professions;

(b) services are performed by a doctor of medicine or osteopathy, a doctor of dental surgery or of dental medicine, a doctor of podiatric medicine, a doctor of optometry, a chiropractor, or;

(c) services include medical care, or any other type of remedial care furnished by licensed practitioners.

~~(4)~~(7) "[~~Practice as a p~~]Physician assistant" means:

(a) ~~[performing]~~an individual who performs professional ~~[duties]~~services within the scope of licensing in accordance with Title 58, Chapter 70a, Utah Physician Assistant Act,~~[conduct of a physician assistant in diagnosing, treating, advising, or prescribing for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, pursuant to Title 58, Chapter 70a, Utah Physician Assistant Act.]~~

~~(5)~~(8) "Services" means the types of medical assistance specified in Subsection 1905(a) of the Social Security Act and interpreted in 42 CFR 440.

R414-10-5. Service Coverage and Limitations.

(1) This section contains general information on coverage and limitations for physician services.

(a) Physician services may be provided only within the parameters of accepted medical practice and are subject to limitations and exclusions established by the Department on the basis of medical necessity, appropriateness, and utilization control considerations.

(b) Medicaid covers cosmetic or reconstructive procedures pursuant to Section R414-1-29.

(c) Medicaid covers experimental or medically unproven physician services pursuant to Rule R414-1A.

(d) Program limitations and non-covered services are maintained in the Coverage and Reimbursement Code Lookup and updated by notification through the Medicaid Information Bulletin. Medicaid does not cover the following types of services:

(i) services rendered during a period in which an individual is ineligible for Medicaid;

(ii) medically unnecessary or unreasonable services;

(iii) services that fail to meet existing standards of professional practice;

(iv) services rendered without required prior authorization;

(v) services, elective in nature, based on patient request or individual preference rather than medical necessity;

(vi) services claimed fraudulently;

(vii) services that represent abuse or overuse;

(viii) services rejected or disallowed by Medicare when the rejection is based on any of the reasons listed in this section;

(ix) services for which third party payers are primarily responsible for coverage, such as Medicare, private health insurance, and liability insurance pursuant to Rule R527-936. Medicaid may make a partial payment up to the Medicaid maximum if a third party does not reach the payment limit;

(x) related services, supplies, or institutional costs during a post-operative recovery period, if the service or procedure is not covered for any of the reasons specified in this section, or due to policy exclusion; and

(xi) paternity tests.

(e) Medicaid covers treatment for alcoholism or drug dependency in an inpatient setting pursuant to Subsection R414-2A-7(1).

~~[(f) Only a licensed physician may perform the specialty medical services of an assistant surgeon that include complex surgical procedures, while a physician assistant may neither perform specialty medical services nor assist in a surgical procedure.]~~

(2) Medicaid does not cover the following family planning services:

(a) surgical procedures for the reversal of previous elective sterilization on both males and females;

(b) infertility studies;

(c) in-vitro fertilization;

(d) artificial insemination; and

(e) surrogate motherhood, including services, tests, and related charges.

(3) Medicaid may only cover anesthesia services performed by a licensed, qualified provider.

(4) Medicaid does not cover anesthesia standby services.

(5) Medicaid covers the following surgical global services and procedures:

(a) preoperative examination, initiation of the hospital record, and development of a treatment program either in the physician's office on the day before admission, in the hospital, or in the physician's office on the same day as hospital admission;

(b) the operation;

(c) any topical, local, or regional anesthesia; and

(d) the normal, uncomplicated follow-up care covering the period of hospitalization and office follow-up for progress checks or any service directly related to the surgical procedure.

(6) The following criteria apply to global services.

(a) A physician may not bill for an office visit the day before surgery, for preadmission or admission workup, or for subsequent hospital care while the patient is being prepared, hospitalized, or under care for a global surgical service.

(b) Only the consulting physician may bill for consultation services when consultation and no other service is provided. When a consulting physician admits and follows a patient, independently or concurrently with the primary physician, the consulting physician may only use admission codes and subsequent care codes.

(c) Office visits after hospitalization that relate to the same diagnosis are part of the global service. The only exception to either inpatient or office service is for service related to complications, exacerbations, or recurrence of other diseases or problems requiring additional or separate service.

(d) Complications, exacerbations, recurrence, or the presence of other diseases or injuries, which require services concurrent with the initial surgical procedure during the listed period of normal follow-up care, may warrant additional charges only when the record shows extensive documentation and justification of additional services.

(e) When an additional surgical procedure is carried out within the listed period of follow-up care for a previous surgery, the follow-up periods continue concurrently to their normal terminations.

(f) Preoperative examination and planning are covered as separate services only under the following circumstances.

(i) When the preoperative visit is the initial visit for the physician and prolonged detention or evaluation is required to establish a diagnosis to determine the need for a specific surgical procedure, or to prepare the patient.

(ii) When the preoperative visit is a consultation and the consulting physician does not assume care of the patient.

(iii) When diagnostic procedures are not part of the basic surgical procedure.

(7) Medicaid does not cover early elective delivery, whether vaginal or caesarean, before 39 weeks.

(8) The following references apply to abortion, sterilization, and hysterectomy.

(a) For information on abortion policy, see Rule R414-1B.

(b) Sterilization and hysterectomy procedures must meet the requirements of 42 CFR 441[5] Subpart F.

(9) Organ transplant services must meet the requirements of Rule R414-10A.

(10) Medicaid may cover the following psychiatric services as a medical benefit:

(a) physician-ordered psychiatric services for a patient hospitalized in a non-psychiatric unit of a hospital;

(b) mental health services that target the diagnosis or treatment of developmental disability or organic disorder; and

(c) psychosocial evaluations requested before organ transplantations, psychiatric evaluations before other medical services or surgical procedures, and evaluations for individuals with conditions that require chronic pain management services.

(11) Medicaid covers the following pain management services:

(a) pain management for delivery and acute post-operative pain; and

(b) treatment for chronic pain.

(12) Medicaid may cover prescription medications subject to the requirements of Rule R414-60.

KEY: Medicaid

Date of Last Change: ~~2022~~ November 15, 2021

Notice of Continuation: October 19, 2021

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R432-5	Filing ID	54267
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Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, Licensing
Room no.:	4th Floor
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116

Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact person(s):		
Name:	Phone:	Email:
Kristi Grimes	385-214-9197	kristigrimes@utah.gov
Joel Hoffman	801-273-2804	jhoffman@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R432-5. Nursing Facility Construction

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This amendment modifies the nursing home construction rule to add health and safety standards for the construction of a pediatric respite care facility.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This amendment to the nursing facility construction rule adds regulations for the construction of a pediatric respite care facility. This type of facility would provide intermittent, time-limited care to give primary caretakers relief from the demands of caring for a person. The facility would provide skilled nursing care for individuals up to age 17, not to exceed 14 days for any single respite stay. This amendment was presented and approved by the Health Facility Committee on July 1, 2021.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There are currently no pediatric respite care facilities. When such a facility applies for licensure, construction plan review fees of \$1,716 will be assessed to the facility. This fee covers the expenses the Department of Health (Department) incurs for having staff review the blueprint plans and for on-site visits at the construction site to verify compliance with construction regulations. The fees are dedicated credits to the Department and are cost neutral versus the Department's incurred staff time expenditures.

B) Local governments:

Local government city business licensing requirements were considered. This proposed amendment should not impact local governments' revenues or expenditures. Construction of Pediatric Respite Care Facilities will be regulated by the state health department and not local governments. There will be no change in local business licensing or any other items with which local government is involved.

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

This amendment includes construction regulations for a Pediatric Respite Care Facility. There are currently no small businesses operating as a pediatric respite care facility. When such a facility applies for licensure, it is unlikely they will fall within a small business category.

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

This amendment includes construction regulations for a Pediatric Respite Care Facility. There are currently no non-small businesses operating as a pediatric respite care facility. When such a facility applies for licensure, the proposed amendment will result in a fiscal impact to the facility. The facility will incur construction plan review fees of \$1,716. The Department is aware of one facility that plans to apply for licensure, and an estimated 15 beds is used for anticipated cost analysis.

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**):

After conducting a thorough analysis, it was determined that this proposed amendment will not result in a fiscal impact to affected persons other than non-small businesses.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

This amendment includes construction regulations for a Pediatric Respite Care Facility. There are currently no businesses operating as a pediatric respite care facility. When such a facility applies for licensure, the proposed amendment will result in a fiscal impact to the facility. The facility will incur construction plan review fees of \$1,716. The Department is aware of one facility that plans to apply for licensure, and an estimated 15 beds is used for anticipated cost analysis.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There are currently no pediatric respite care facilities. It is unlikely small businesses will apply for this type of license. When a non-small business facility applies for licensure, the proposed amendment will result in a fiscal impact to the facility. The facility will incur construction plan review fees of \$1,716. The Department is aware of one facility that plans to apply for licensure, and an estimated 15 beds is used for anticipated cost analysis. Nate Checketts, Executive Director

6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$1,716	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$1,716	\$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

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Title 26,
Chapter 21

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	12/15/2021
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R432. Health, Family Health and Preparedness, Licensing.**R432-5. Nursing Care and Pediatric Respite Care Facility Construction.****R432-5-1. Legal Authority.**

This rule is ~~adopted~~promulgated pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

R432-5-2. Purpose.

The purpose of this rule is to promote the health and welfare through the establishment and enforcement of construction standards for nursing care and pediatric respite care facilities. The intent is to provide residential like environments and encourage social interaction of residents.

R432-5-3. Definitions.

(1) "Pediatric Respite Care Facility" means a facility dedicated to the care of pediatric patients, up to 17 years of age, for a period of up to 14 days. ~~"Special Care Unit" means a physical area within a licensed facility designated for the housing and treatment of residents diagnosed with a specifically defined disease or medical condition.~~

(2) "Room or Office" when used in this rule describes a specific, separate, enclosed space for the service. When room or office is not used, multiple services may be accommodated in one enclosed space.

(3) "Special Care Unit" means a physical area within a licensed facility designated for the housing and treatment of residents diagnosed with a specifically defined disease or medical condition.

R432-5-4. Description of Service.

(1) A nursing unit shall consist of resident rooms, resident care spaces, and services spaces.

(2) Each nursing unit shall contain at least four resident beds.

(3) Rooms and spaces composing a nursing unit shall be contiguous.

(4) A nursing care facility operated in conjunction with a general hospital or other licensed health care facility shall comply with ~~[all provisions of]~~ this section. Dietary, storage, pharmacy, maintenance, laundry, housekeeping, medical records, and laboratory functions may be shared by two or more facilities.

(5) Special care units shall comply with ~~[all provisions of]~~ Rule R432-5.

R432-5-5. General Design Requirements.

(1) Sections R432-4-1 through R432-4-23, and Subsection R432-4-24(8) apply with the following modifications[-]:

([1]a) ~~[F]~~[H] fixtures in ~~[a]~~each public and resident toilet and bathrooms shall comply with Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines~~[-(ADA/ABA-AG)]~~. These rooms shall be wheelchair accessible with wheelchair turning space within the room~~[-]; and~~

([2]b) ~~[F]~~[H] lavatories, counters, and door clearances within resident rooms shall be wheelchair accessible.

R432-5-6. General Construction Requirements.

(1) ~~[Nursing f]~~ Facilities shall be constructed in accordance with the Guidelines for Design and Construction of Health Care Facilities~~[-(Guidelines)]~~, Sections 4.1 and 4.2, 2010 edition which is adopted and incorporated by reference.

(2) Where a modification in this rule is cited, the modification supersedes conflicting requirements of the Guidelines.

R432-5-7. Nursing Unit.

(1) When more than one nursing unit shares spaces and service areas, as permitted in this rule, the shared spaces and service areas shall be contiguous to each nursing unit served.

(2) Facility service areas shall be accessible from common areas without compromising resident privacy.

(3) ~~[Each n]~~Nursing unit beds shall ~~[have a maximum number of 60 beds]~~be limited as follows: [-]

(a) nursing care facilities shall have a maximum of 60 beds for each nursing unit; and

(b) pediatric respite care facilities shall have a maximum number of 16 beds for each nursing unit.

(4) At least two single~~[-]~~ bed rooms, each with a private toilet room containing a toilet, lavatory, and bathing facility shall be provided ~~[for]~~on each nursing unit as isolation rooms.

(a) In addition to the lavatory in the toilet room, ~~[in new construction and remodeling,]~~ a lavatory or handwashing sink shall be provided in the resident room.

(b) Ventilation in the isolation rooms shall be continuous with not less than two outside air changes per hour with ~~[a]~~any air exhausted to the outside.

(5) Each resident sleeping room shall have a window in accordance with Subsection R432-4-23(5). Windows in resident rooms intended for sleeping shall be operable.

(6) Each resident closet shall be a minimum of 22 inches deep by 36 inches wide with a shelf to store clothing and a clothes rod positioned to accommodate full length garments.

(7) A nurse call system is not required in facilities which care for persons with ~~[mental-retardation]~~ intellectual disabilities or developmental disabilities. With prior approval of the Department, a ~~[nursing]~~ facility may ~~[modify]~~ change the system to alleviate hazards to residents.

(8) Handwashing facilities shall be located near the nursing station and the drug distribution station.

(9) A staff toilet room may also serve as a public toilet room if it is located in the nursing unit.

(10) A clean workroom or clean holding room with a minimum area of 80 square feet shall provide for preparing resident care items.

(a) The clean work room shall contain a counter, handwashing facilities and storage facilities.

(b) The work counter and handwashing facilities may be omitted in rooms used only for storage and holding, as part of a larger system for distribution of clean and sterile supply materials.

(11) If a medical cart is used it shall be under visual control of staff.

(a) Double locked storage shall be provided for controlled drugs.

(b) Provisions shall be made for receiving, assembling, and storage of drugs and other pharmacy products.

(12) If a closed cart is used for clean linen storage, it shall be stored in a room with a self closing door. Storage in an alcove in a corridor is prohibited.

(13) Ice intended for human consumption shall be dispensed by self dispensing ice makers. Bin type storage units are prohibited.

(14) One bathtub and shower shall be provided on each nursing floor in addition to bath fixtures in resident toilet rooms.

(a) At least one shower on each floor shall be at least four feet square without curbs designed for use by a resident using a wheelchair. A gurney shower may be provided at the option of the facility and shall satisfy this requirement.

(b) Each resident bathtub and shower shall be in a separate room or enclosure large enough to ensure privacy and to allow staff to assist with bathing, drying, and dressing.

(15) At least one toilet room shall be provided on each floor containing a nursing unit to be used for resident toilet training.

~~[(a)]~~ The room shall contain a toilet and lavatory with wheelchair turning space within the room.

(16) A toilet room with direct access from the bathing area shall be provided at each central bathing area if a toilet is not otherwise provided in the bathing area. The toilet training facility may serve this function if there is direct access from the bathing area.

(17) Doors to toilet rooms shall be equipped with hospital privacy locks or other hardware that protects resident privacy and permits access from the outside without the use of keys or tools in case of an emergency.

(18) A handwashing fixture shall be provided in each toilet room.

(19) An equipment storage room with a minimum area of 120 square feet for portable equipment shall be provided.

(20) Pediatric respite care facilities shall have a hand washing sink inside each resident room, located conveniently to the entrance of the room.

(21) Pediatric respite care facilities shall have single occupant rooms only.

R432-5-8. Resident Support Areas.

(1) Occupational therapy service areas may be counted in the calculation of support space.

(2) Physical Therapy, personal care room, and public waiting lobbies shall not be included in the calculation of support space.

(3) There shall be resident living areas equipped with tables, reading lamps, and comfortable chairs designed to be usable by ~~[all]~~ each resident[s].

(4) There shall be a general purpose room with a minimum area of 100 square feet equipped with a table and comfortable chairs.

(5) A minimum area of ten square feet per bed shall be provided for outdoor recreation. This space shall be provided in addition to the setbacks on street frontages required by local zoning ordinances.

~~(6) [Examination and Treatment rooms.~~

~~————(a)]~~ An examination and treatment room shall be provided except when ~~[all]~~ any resident rooms are single bed[-]rooms.

~~(b)a]~~ An examination and treatment room may be shared by multiple nursing units.

~~(e)b]~~ When provided, the room shall have a minimum floor area of 100 square feet, excluding space for vestibules, toilet, closets, and work counters, whether fixed or moveable.

~~(f)c]~~ The room shall contain a lavatory equipped for handwashing, work counter, storage facilities, and a desk, counter, or shelf space for writing.

(7) In addition to facility general storage areas, at least five square feet per bed shall be provided for resident storage.

R432-5-9. Rehabilitation Therapy.

(1) A separate storage room for clean and soiled linen shall be provided contiguous to the rehabilitation therapy area.

(2) Storage for rehabilitation therapy supplies and equipment shall be provided.

R432-5-10. General Services.

(1) Linen services shall comply with Subsection R432-4-24(8).

(2) There shall be one housekeeping room for each nursing unit.

(3) Yard equipment and supply storage areas shall be located so that equipment may be moved directly to the exterior without passing through building rooms or corridors.

R432-5-11. Waste Storage and Disposal.

Facilities and equipment shall be provided for the sanitary storage and treatment or disposal of ~~[all]~~ any categories of waste, including hazardous and infectious wastes if applicable, using techniques defined by the Utah Department of Environmental Quality, and the local health department having jurisdiction.

R432-5-12. Details and Finishes.

(1) Grab bars shall be installed in ~~[all]~~ each toilet room[s] in accordance with the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines~~[ADA/ABA-AG]~~.

(2) Corridor and hallway handrails shall comply with the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines~~[ADA/ABA-AG]~~. The top of the rail shall be 34 inches above the floor, except for areas serving children and other special care areas. Corridor handrails shall have a graspable

profile with finger wrap recesses not less than 5/8^["] inches deep. Handrails shall have color that contrasts to the wall.

(3) Cubicle curtains and draperies shall be affixed to permanently mounted tracks or rods. Portable curtains or visual barriers are not permitted.

(4) Signs shall be provided as follows:

(a) general and circulation direction signs in corridors;

(b) identification at each door;~~and~~

(c) emergency directional signs;~~and~~

(d) ~~all~~^{any} signs in corridors shall comply with the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines~~[ADA/ABA AG]~~.

R432-5-13. Elevators.

At least one elevator serving ~~all~~^{each} level[s] shall accommodate a gurney with attendant and have minimum inside cab dimensions of 5^['] feet 8^["] inches wide by 8^['] feet 5^["] inches deep and a minimum clear door width of 3^['] feet 8^["] inches.

R432-5-14. Mechanical Standards.

(1) Mechanical tests shall be conducted ~~[prior to]~~^{before} final Department construction inspection.

(2) Written test results shall be retained in facility maintenance files and available for Department review.

(3) Air Conditioning, Heating, and Ventilating Systems shall include:

(a) ~~A~~^a heating system capable of maintaining a temperature of 80 degrees Fahrenheit in areas occupied by residents~~[-]; and~~

(b) ~~A~~^a cooling system capable of maintaining a temperature of 72 degrees Fahrenheit in areas occupied by residents.

(4) Plumbing and other Piping Systems shall include:

(a) ~~H~~^{handwashing} facilities that are arranged to provide sufficient clearance for single lever operating handles~~[-];~~

(b) ~~K~~^{kitchen} grease traps that are located and arranged to permit access without the need to enter food preparation or storage areas~~[-]; and~~

(c) ~~H~~^{hot} water provided in patient tubs, showers, whirlpools, and handwashing facilities that is regulated by thermostatically controlled automatic mixing valves. These valves may be installed on the recirculating system or on individual inlets to appliances.

R432-5-15. Electrical Standards.

(1) Operators shall maintain written certification to the Department verifying that systems and grounding comply with National Fire Protection Association (NFPA) 99 and NFPA 70.

(2) Approaches to buildings and ~~all~~^{any} spaces within buildings occupied by people, machinery, or equipment shall have fixtures for lighting in accordance with the requirements of the Illuminating Engineering Society of North America~~[-(IESNA)]~~. Parking lots shall have fixtures for lighting to provide light levels as recommended in ~~IES~~^{Recommended Practice RP-20-1998}, Lighting for parking facilities by the Illuminating Engineering Society of North America.

(3) Automatic emergency lighting shall be provided in accordance with NFPA 99 and NFPA 101.

(4) Each examination and work table shall have access to a minimum of two duplex outlets.

(5) Receptacles and receptacle cover plates on the emergency system shall be red.

(6) An on-site emergency generator shall be provided in ~~all~~^{each} ~~nursing care~~^{facility}~~ies~~ except small ~~ICF/MR~~^{health care facilities of 16 beds or less set up as Intermediate Care Facilities for Individuals with Intellectual Disabilities}.

(a) In addition to requirements of NFPA 70, Section 517-40, the following equipment shall be connected to the critical branch of the essential electrical system~~[-];~~

(i) heating equipment necessary to provide heated space sufficient to house ~~all~~^{each} resident[s] under emergency conditions~~[-];~~

(ii) duplex convenience outlets in the emergency heated area at the ratio of one duplex outlet for each ten residents~~[-];~~

(iii) nurse call system~~[-];~~

(iv) one duplex receptacle in each resident bedroom~~[-]; and~~

~~four duplex receptacles in each resident room in pediatric respite care facilities, located near the head of the bed.~~

(b) Fuel storage shall permit continuous operation of the services required to be connected to the emergency generator for 48 hours.

(c) ~~Skilled nursing~~^{Facilities} that accept residents that are depend~~ent~~^{ent} on ventilators or other electrically operated life support equipment shall be equipped with Type I essential electrical systems that meet the requirements of NFPA 99 and NFPA 70, Section 517-30.

R432-5-16. Exclusions to the Guidelines.

The following sections of the Guidelines do not apply:

(1) Linen Services, ~~s~~^{Section 4.2-5.2}~~[-]; and~~

(2) Clusters, paragraph 4.2-2.2.1.3(2)(a), and Household models, paragraph 4.2-2.1.3(2)(b). ~~[These design concepts have proven beneficial in numerous cases, but are optional. However,~~[†]~~the Department encourages new construction projects to consider these concepts.~~

R432-5-17. Penalties.

The Department may assess a civil money penalty of up to \$10,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$10,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to \$1,000 ~~per~~^a day for each day a new or renovated area is occupied ~~[prior to]~~^{before} licensing agency approval.

KEY: health care facilities

Date of Last Change: 2022~~February 21, 2012~~

Notice of Continuation: January 29, 2018

Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-16

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R434-30

Filing ID
54219

Agency Information

1. Department: Health

Agency:	Family Health and Preparedness, Primary Care and Rural Health	
Room no.:	4163	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142005	
City, state and zip:	Salt Lake City, UT 84114-2005	
Contact person(s):		
Name:	Phone:	Email:
Ashley Moretz	801-350-1546	amoretz@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R434-30. Primary Care Grant Program
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being amended to comply with the Governor's Executive Order No. 2021-12. Additionally, outdated elements of this rule have been removed and program-related definitions have been added for clarity.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Minor, nonsubstantive amendments have been made throughout to comply with current standards. Additionally, the old rule contained allowances for equipment purchases in SFY15 only, which have been removed as outdated. Program-related definitions and disallowed expenses that have been used in the application guidance issued by the Department of Health have been included in this rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
None--State government will not receive or be required to expend any funds as a result of the amendment.

B) Local governments:																
None--Local governments will not receive or expend any additional funding as a result of the amendment because they are not eligible to participate in the program.																
C) Small businesses ("small business" means a business employing 1-49 persons):																
None--Small businesses will not receive or be required to expend any funds as a result of the amendment because participation in the program is voluntary.																
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																
None--Non-small businesses will not receive or be required to expend any funds as a result of the amendment because participation in the program is voluntary.																
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):																
None--Participation in the program is voluntary for persons other than small businesses, non-small businesses, state, or local government entities.																
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):																
None--Participation in the program is voluntary for potentially affected persons.																
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):																
The proposed amendment will have no fiscal impact on businesses. Nate Checketts, Executive Director																
6. A) 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																
<table border="1"> <tr> <th>Fiscal Cost</th> <th>FY2022</th> <th>FY2023</th> <th>FY2024</th> </tr> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </table>	Fiscal Cost	FY2022	FY2023	FY2024	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0
Fiscal Cost	FY2022	FY2023	FY2024													
State Government	\$0	\$0	\$0													
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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
B) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.			

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Title 26, Chapter 10b		

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. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	02/14/2022

10. This rule change MAY become effective on:	02/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	12/16/2021
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R434. Health, Family Health and Preparedness, Primary Care and Rural Health.**R434-30. Primary Care Grant Program.****R434-30-1. Authority and Purpose.**

This rule is required by Section 26-10b-104. It implements the ~~[p]Primary~~ ~~[e]Care~~ ~~[g]Grant~~ ~~[p]Program~~ under Title 26, Chapter 10b, Access to Health Care.

R434-30-2. Definitions.

The definitions ~~[as they appear]~~ in Section 26-10b-101 apply. In addition:

(1) "Equipment" ~~[under this program]~~ is defined as: capital equipment that:

(a) costs ~~[ing]~~ \$1,000 or more, or is a group of items costing less than \$1,000 each, when combined makes up one functional unit with a combined cost of \$1,000 or greater;

(b) has a life span of three years or more;

(c) is non-expendable material; and

(d) is not consumed ~~[- and/or a group of items costing less than \$1,000 each, when combined make up one functional unit with a combined cost of \$1,000 or greater is considered one piece of equipment].~~

(2) "Office" means the Utah Department of Health, Division of Family Health and Preparedness, Bureau of ~~[Primary Care]~~ Emergency Medical Services and Preparedness, Office of Primary Care and Rural Health[.];

(3) "Children who are not eligible for Medicaid or CHIP" means individuals who are age 18 years and under and for whom at least one of the following apply:

(a) who have applied for CHIP coverage and have been denied;

(b) whose parents refuse to apply for CHIP for their children;

(c) who have been informed that they have lost Medicaid or CHIP coverage;

(d) who are served before CHIP begins accepting applications; or

(e) who receive a service not covered by CHIP, Medicaid, other public health care coverage, or private insurance.

(4) "Children who have insurance" means individuals who are age 18 years and under and who are eligible for CHIP, Medicaid, other public health care coverage, or private insurance, either on their own or through their parents' health care coverage.

(5) "Follow-up Patient Visit" means face-to-face contact between an eligible individual and the awarded agency's provider who exercises independent judgment in providing services to the eligible individual and where the services provided under the Primary Care Grant Program are rendered and recorded in the eligible individual's records.

(6) "Initial Patient Visit" means any person, or member of a family, served by the awarded agency for the first time within three years, who is considered medically underserved.

(7) "Innovative" means whether the aspects are new, different, or more efficient, while also providing significant benefit to the community and the underserved populations served by the project.

(8) "Low-income" means individuals at or below 200% of the Federal Poverty Level, as established and published annually by the U.S. Department of Health and Human Services.

(9) "Referral to CHIP" means an individual who is age 18 years and under or parents of an individual 18 years and under who has been informed of the availability of CHIP and Medicaid and provided information to contact the Department, Bureau of Eligibility Services local office, outreach location, or telephone unit for determination of their eligibility for Medicaid or CHIP.

(10) "Sliding fee scale" means a system of patient co-payment or fee per clinical visit, which varies by income and other variables, such as family size.

(11) "Sustainable" means a project or service that can be continued without Primary Care Grant Program funds.

(12) "Underinsured" means individuals with public or private insurance that does not cover necessary health care services, resulting in out-of-pocket expenses that exceed their ability to pay; or individuals who are denied full coverage plans from work; have health insurance plans which only cover the worker and not the family or extended family; or have health insurance plans with high deductibles or co-insurance.

(13) "Uninsured" means individuals who lack public or private insurance and who are unable to afford health insurance or are denied paid health care through their employer.

R434-30-3. Grant Application Process and Content.

(1) The department shall solicit grant applications by issuing a request for grant applications. Applicants responding to the request for grant applications under this program shall submit their grant application as directed in the grant application guidance issued by the Office.

(2) The content of grant applications is defined in Subsection 26-10b-102(3) and Section 26-10b-103.

R434-30-4. Additional Criteria for Awarding Grants.

(1) In addition to the criteria listed in Section 26-10b-104, the Office shall consider the:

(a) reasonableness of the cost of the services to be given;

(b) degree to which primary health care services are provided comprehensively, extent to which supplemental services are provided, and extent to which services are conveniently located;

(c) demonstrated ability and intent[~~willingness~~] of applicant to systematically review the quality of care;

(d) commitment of applicant to sustain or enhance primary health care capacity for underserved, disadvantaged, and vulnerable populations;[~~and~~]

(e) degree to which the grant application is feasible, clearly described, innovative, and ready to be implemented[~~-~~];

(f) existing or future partnerships, collaborative efforts, use of volunteers, or other resources that an applicant will use to complete the project's objectives; and

(g) applicant's plan for the care of the target populations if funding becomes unavailable in the future.

R434-30-5. Disbursement and Usage.

(1) Awards to applicants can be made for one year[~~, or up to two consecutive years, however~~], and the total maximum allowable award amount is \$100,000.

(2) [In State Fiscal Year 2015, which covers the period July 1, 2014 through June 30, 2015, applicants may request up to \$25,000 of the award amount to be used to purchase equipment and supplies that will enhance their ability to provide expanded primary health

care. A single equipment purchase cannot exceed \$5,000.]Awards cannot be used to:

(a) purchase equipment;

(b) fund research;

(c) cover inpatient substance use disorder treatment costs;

(d) cover staff travel or transportation costs. However, travel expenditures may be granted to mobile clinics with a reasonable justification and explanation of costs; or

(e) replace other existing funding sources.

(3) Any pharmaceutical costs are considered part of the charge per encounter;

(4) Agencies awarded funding shall:

(a) ensure that continuity of services is maintained for the full grant period; and

(b) use awarded funding to provide primary health care services for the full grant period.

R434-30-6. Eligibility.

(1) Recognized referral networks that provide primary health care are eligible to apply for grant funding under this [S]section, as funding permits, for up to a maximum of:

(a) \$50,000 for two years at up to \$25,000 per year; or

(b) \$25,000 for one year.

(2) Grant applications will be open to public entities and community based organizations.

(3) Each applicant [~~is only allowed one grant application~~]may submit more than one application, if they have separate distinct projects. However, one site cannot request more than \$100,000 total per year.

KEY: primary health care, medically underserved, grants

Date of Last Change: [August 21, 2014]2022

Notice of Continuation: October 12, 2017

Authorizing, and Implemented or Interpreted Law: 26-10b-104(4)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R495-879

Filing ID
54253

Agency Information

1. Department:	Human Services	
Agency:	Administration	
Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Scott Weight	801-741-7435	sweigh2@utah.gov

Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R495-879. Parental Support for Children in Care
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.
B) Local governments:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses because this rule is being amended. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-1-111	Section 62A-5-109	Section 63G-4-102
Section 78A-6-104	Section 78A-6-356	Rule R527-200
Title 78B, Chapter 12, Parts 2 and 3	Section R495-883-3	Section 78B-12-106
Section 78B-12-108		

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	02/14/2022
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10. This rule change MAY become effective on:	02/21/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R495. Human Services, Administration.

R495-879. Parental Support for Children in Care.

R495-879-1. Authority and Purpose.

(1) The Department of Human Services is authorized to create rules necessary for the provision of social services by Section 62A-1-111.

(2) The purpose of this rule is to provide information to parents relating to the establishment and enforcement of child support when a child is placed in an out-of-home program.

R495-879-2. Child Support Liability.

(1) The Office of Recovery Services (ORS) will establish and enforce child support obligations against parents whose children are in out-of-home placement programs administered by the Department of Human Services or Department of Health. The department shall consider fees for outpatient and day services separate from child support payments.

(2) Establishment and enforcement of child support shall be pursuant to Title 78B, Chapter 12, ~~the Uniform Civil Liability for Support~~ Utah Child Support Act, ~~Title 78B, Chapter 12;~~ Title 62A, Chapter 11, Part 3, Child Support Services Act, ~~62A-11-301 et seq.;~~ and Section 78A-6-356 ~~Support and expenses of child in custody of an individual or institution, 78A-6-1106].~~

R495-879-3. Child Support Guidelines.

Child support obligations shall be calculated ~~in accordance with]~~ pursuant to ~~Child Support Guidelines, Sections 78B-12-201, 78B-12-203 through 78B-12-216, 78B-12-219, 78B-12-301, 78B-12-302]~~ Title 78B, Chapter 12, Parts 2 and 3.

R495-879-4. Establishing and Modifying an Order.

ORS may modify and establish child support orders ~~[through the]~~ pursuant to Title 62A, Chapter 11, Part 3, Child Support Services Act, ~~62A-11-301 et seq.;~~ Title 63G, Chapter 4, Administrative Procedures Act, ~~Section 63G-4-102 et seq.;~~ ~~Jurisdiction Determination of Custody questions by Juvenile Court, Subsection]~~ Section 78A-6-104[;], and ~~in accordance with]~~ Rule R527-200.

R495-879-5. Good Cause Waiver Request.

(1) A waiver request is appropriate if:
(a) ~~[F]~~ the order is established and the requesting division does not intend to waive the child support for both parents. ~~[E]~~ The order does not need to be established ~~[prior to]~~ before requesting the waiver if the requesting division intends to waive the child support for both parents[;];

(b) ~~[F]~~ the child support is being collected on behalf of the state; and

(c) ~~[E]~~ child support collections interfere with family reunification efforts or when an undue hardship is created by an unpreventable loss of income to the present family. A loss of income may include non-payment of child support from the other parent for the children at home, loss of employment, or loss of monthly pension or annuity payments.

(2) The request shall be initiated by the responsible case worker and forwarded to ~~[his or her]~~ their supervisor, regional director, division director, ~~superintendent]~~, or designee for approval.

(3) After a support order has been established, if required, the Good Cause Waiver request may be denied or approved by the requesting agency at any stage in the process. The request shall not be approved when it proposes actions that are contrary to state or federal law. Once the waiver has been approved at all levels in the

requesting agency, the division director [{}or designee{}] shall send the waiver to the ORS director [{}or designee{}].

(4) The ORS director [{}or designee{}] will review the waiver request, and if appropriate, ORS will ~~ease~~stop collection efforts and close the child support cases intended to reimburse the state for time in custody. ORS will notify the caseworker for the requesting agency that the waiver has been processed. The requesting agency will notify the family of the final decision.

R495-879-6. Child Support and Adoption Assistance.

ORS will establish and enforce child support obligations for parents who are currently receiving adoption assistance or who have received adoption assistance from this state or any other state or jurisdiction, for children who are in the custody of the state, ~~in accordance with~~ pursuant to Sections 78A-6-~~114~~356, 78B-12-106, and R495-879-2 and R495-883-3. If an order for support does not currently exist, ORS will establish a monthly child support obligation. When establishing a child support obligation, ORS will not include the adoption assistance amount paid to the family in determining the family's income, pursuant to Section 78B-12-207.

KEY: child support, custody of children, good cause

Date of Last Change: ~~2022 January 15, 2020~~

Notice of Continuation: July 17, 2018

Authorizing, and Implemented or Interpreted Law: ~~62A-1-111[(16)]; [62A-4-114]; [62A-5-109](1); [62A-11-302]; 62A-15-607; [63G-4-102; 78A-6-104; 78A-6-110]356; 78B-12-106; 78B-12-108; [78B-12-201; 78B-12-203 through; 78B-12-216; 78B-12-219; 78B-12-301; 78B-12-302]Title 78B, Chapter 12, Parts 2 and 3; R527-200; R495-883-3~~

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R527-10	Filing ID 54236
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Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, Ut 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Jodi Witte	801-741-7417	jwitte@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov

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

General Information

2. Rule or section catchline:

R527-10. Disclosure of Information to the Office of Recovery Services

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
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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

B) Department head approval of regulatory impact analysis:

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-1-111	Section 62A-11-104.1	Section 62A-11-107
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.

R527-10. Disclosure of Information to the Office of Recovery Services.

R527-10-1. Authority and Purpose.

[4-](1) The Department of Human Services is authorized to create rules necessary for [the provision of] social services [by] pursuant to Section 62A-1-111[and 62A-11-107]. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.

[2-](2) The purpose of this rule is to meet the [rulemaking] requirement in [S] Subsection 62A-11-104.1(2) that [the office] ORS

specify the type of health insurance and financial record information required to be disclosed ~~[under that section]~~.

R527-10-2. Disclosure of Health Insurance Information.

Upon written request ~~[by the office]~~ from ORS, the following health insurance information shall be provided:

~~[1-](1)~~ the availability of health and dental insurance to the employee;

~~[2-](2)~~ the health insurance company name, mailing address, email address, and telephone number;

~~[3-](3)~~ the policy number;

~~[4-](4)~~ the names of those covered and their relationship to the employee;

~~[5-](5)~~ the effective dates of coverage;

~~[6-](6)~~ premium and co[-]payment amounts, deductibles, and exclusions; and

~~[7-](7)~~ claims history for 24 months ~~[prior to]~~ before the date of request by the office.

R527-10-3. Disclosure of Financial Information to the Office of Recovery Services.

Upon written request ~~[by the office]~~ from ORS, the following documents and financial record information regarding the individual named in the request shall be provided:

~~[1-](1)~~ savings account and checking account numbers and balances;

~~[2-](2)~~ type of loan, loan amount and balance owing;

~~[3-](3)~~ current or last known address;

~~[4-](4)~~ ~~[s]~~ Social ~~[s]~~ Security number;

~~[5-](5)~~ employer and salary, if known;

~~[6-](6)~~ loan application;

~~[7-](7)~~ ~~[aH]~~ each name[s] listed on the account and the signature card;

~~[8-](8)~~ terms of accessibility to the account;

~~[9-](9)~~ former names and aliases;

~~[10-](10)~~ ~~[aH]~~ any accounts for that person with the bank, including certificates of deposit, money market accounts, treasury bonds, ~~[etc.]~~ numbers, names, and amounts;

~~[11-](11)~~ security on loans;

~~[12-](12)~~ account statements;

~~[13-](13)~~ transaction slips;

~~[14-](14)~~ checks deposited or cashed;

~~[15-](15)~~ checks written on account;

~~[16-](16)~~ trusts; and

~~[17-](17)~~ applications to open an account.

KEY: child support, financial information, health insurance

Date of Last Change: 2022 ~~July 13, 2009~~

Notice of Continuation: May 3, 2019

Authorizing, and Implemented or Interpreted Law: 62A-1-111; 62A-11-104.1~~(2)~~; 62A-11-107

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R527-35	Filing ID 54235
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Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Jodi Witte	801-741-7417	jwitte@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R527-35. Non-IV-A Fee Schedule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

42 U.S.C. 654	45 CFR 302.33	Section 62A-1-111
Section 62A-11-104	Section 62A-11-107	Section 63J-1-504

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on:	02/21/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.**R527-35. Non-IV-A Fee Schedule.****R527-35-1. Authority and Purpose.**

(1) Section 62A-1-11 authorizes t[~~T~~]he Department of Human Services [~~is authorized~~] to create rules necessary for [~~the provision of~~]social services[~~by Section 62A-11-111~~]. Section 62A-11-107 authorizes t[~~T~~]he Office of Recovery Services (ORS)[~~is authorized~~] to adopt, amend, and enforce rules[~~by Section 62A-11-107~~].

(2) The purpose of this rule is to provide information regarding the ORS fee schedule for [N]non-IV-A cases [~~which is authorized by federal regulations found at~~]pursuant to 45 CFR 302.33. ORS is responsible for utilizing fees as one method to finance any costs incurred pursuant to Section 62A-11-104.[~~This rule outlines when a fee will be charged and the amount that will be assessed on a case that qualifies for a particular fee.~~]

R527-35-2. Non-IV-A Fee Schedule.

(1) Pursuant to 45 CFR 302.33 and 42 U.S.C. 654(6)(~~b~~)(ii), ORS must charge an applicant or recipient of child support services who is not receiving IV-A financial assistance or Medicaid, a \$35 [~~A~~]annual [~~C~~]collection [~~P~~]processing [~~F~~]fee for [~~C~~]child [~~S~~]support [~~S~~]services. [~~This fee is charged~~]ORS shall charge this fee to the custodial parent who has never received cash assistance. The fee is retained from child support collected on behalf of the custodial parent after \$550[.00] has been collected within the one[~~-~~]year period, October 1 through September 30 each year.

(2) ORS will charge the [~~The~~]full IRS enforcement fee of \$122.50[~~is charged~~] if:

- (a) a case qualifies for full IRS collection services[~~;~~];
- (b) the obligee requests those services[~~;~~]; and
- (c) the amount of the child support obligation is certified for those services by the [~~United States Secretary of the Treasury~~]U.S. Department of Treasury.

(3) ORS shall charge the following service fees on any qualifying case:

(a) a parent locator service fee of \$20[.00], [~~-~~]this fee is waived if the case was closed within the last 12[~~-~~]month[s] period for the reason:

- (i) CTF, cannot find the [~~non-custodial~~]noncustodial parent[~~;~~]; or[~~-~~]
- (ii) AFC, [~~non-custodial~~]noncustodial parent lives in a foreign jurisdiction;
- [~~(b) the cost of genetic testing if the alleged father is excluded as the biological father;~~]

(~~e~~)b an administrative fee of 6% of the payment amount each time a payment is processed, not to exceed \$12[.00] per month;

(~~e~~)c a fee of \$25[.00], to be paid [~~at the time~~]when the obligor's federal tax refund is intercepted to offset a [N]non-IV-A support arrearage if the refund is \$50[.00] or more. [~~-~~]; If the refund is more than \$25[.00] but less than \$50[.00], the fee is the refund amount minus \$25[.00]; and

(~~e~~)d the Child Support Lien Network[~~-(CSLN)~~] fee of \$52[.00], to be paid [~~at the time~~]when the levy is processed.

KEY: child support

Date of Last Change: 2022[~~February 24, 2021~~]

Notice of Continuation: October 19, 2020

Authorizing, and Implemented or Interpreted Law: 45 CFR 302.33; 42 U.S.C. 654(~~e~~)(~~b~~)(ii); 62A-11-104; 62A-11-107; 62A-11-111; 63J-1-504(~~2~~)(a)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R527-39	Filing ID
		54237

Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Jodi Witte	801-741-7417	jwitte@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov

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

General Information**2. Rule or section catchline:**

R527-39. Applicant/Recipient Cooperation

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-1-111	Section 62A-11-107	Section 62A-11-307.2
Title 63G, Chapter 4	42 CFR 433.147	Rule R527-200

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.

R527-39. Applicant/~~or~~ Recipient Cooperation.

R527-39-1. Authority and Purpose.

(1)[~~]~~ The Department of Human Services is authorized to create rules necessary for ~~[the provision of]~~ social services ~~[by]~~ pursuant to Section 62A-1-111 ~~[and 62A-11-107]~~. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.

(2)[~~]~~ The purpose of this rule is ~~[to define the terminology related to client cooperation as required for eligibility for IV-A or Medicaid assistance,]~~ to identify ~~[the]~~ cooperation requirements for IV-A assistance eligibility pursuant to Section 62A-11-307.2, and for non-IV-A Medicaid assistance eligibility pursuant to 42 CFR 433.147. This rule describes ~~[, and to describe]~~ the review process available ~~[to a client]~~ if the client disagrees with the ~~[office's]~~ assessment that the client ~~[is or]~~ is not cooperating as required.

R527-39-2. Definitions.

As used in this rule, "recipient" refers to an applicant or recipient of IV-A or non-IV-A Medicaid services.

~~[~~ 1. IV-A recipient means any individual who has been determined eligible for financial assistance under title IV-A of the Social Security Act.

~~2. Non-IV-A Medicaid recipient means any individual who has been determined eligible for or is receiving Medicaid under title XIX of the Social Security Act but has not been determined eligible for, or is not receiving, financial assistance under title IV-A of the Social Security Act.~~

~~3. IV-A agency means the State agency that has the responsibility for administration of, or supervising the administration of, the State plan under title IV-A of the Social Security Act.~~

~~4. Medicaid agency means the State agency that has the responsibility for administration of, or supervising the administration of, the State plan under title XIX of the Social Security Act.]~~

R527-39-3. Cooperation Requirements.

(1)[~~]~~ ~~[An applicant/recipient of IV-A or Non-IV-A Medicaid services, with some Medicaid program exceptions, must cooperate with the Office of Recovery Services/Child Support Services (ORS/CSS) in:]~~ Unless a good cause determination has been made by the IV-A or Medicaid agency, a recipient of IV-A or non-IV-A Medicaid services, with some Medicaid program exceptions, must cooperate with ORS. Cooperation requirements include:

(a)[~~]~~ identifying and locating the parent of a child for whom aid is claimed;

(b)[~~]~~ establishing the paternity of a child born out of wedlock for whom aid is claimed;

(c)[~~]~~ establishing an order for child support;

(d)[~~]~~ obtaining support payments for the recipient and for a child for whom aid is claimed, ~~unless the non-IV-A Medicaid~~ ~~[unless a Good Cause determination has been made by the IV-A or Medicaid agency, or the Non-IV-A Medicaid applicant/]~~ recipient has declined child support services;

(e)[~~]~~ obtaining any other payments or property due the recipient or the child; and

(f)[~~]~~ obtaining and enforcing ~~[the provisions of]~~ an order for medical support.

(2)[~~]~~ The ~~[applicant/]~~ recipient must cooperate with ORS~~[/CSS]~~ with specific actions that are necessary for the achievement of the objectives ~~[listed above]~~ provided in Section R527-39-3(1)(a) through (f), as follows:

(a)[~~]~~ appearing at the ORS~~[/CSS]~~ office to provide verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the recipient;

(b)[~~]~~ participating at judicial or other hearings or proceedings;

(c)[~~]~~ providing information;

(d)[~~]~~ turning over to ORS~~[/CSS]~~ any support payments received from the obligor after the Assignment of Collection of Support Payments has been made~~[,]~~ and

(e)[~~]~~ complying with a judicial or administrative order for genetic testing.

R527-39-4. ~~[Request for Review]~~ Options to Contest a Noncooperation Determination.

~~[~~ 1. When ORS/CSS notifies a IV-A or Non-IV-A Medicaid applicant/recipient that she/he is not cooperating in a case, the applicant/recipient may contest the determination by requesting that ORS/CSS conduct an office administrative review. Such a review shall not be subject to the provisions of the Utah Administrative Procedures Act (UAPA), or be considered an adjudicative proceeding under Section 63G-4-203 and Rule R527-200. The applicant/recipient may choose

instead to request an adjudicative proceeding under UAPA, or petition the district court to review the noncooperation determination and issue a judicial order based on its findings. If an administrative review is requested, the senior agent designated to conduct the review shall examine the case record, talk to the agent assigned to the case, consult with the team manager, and consider any new information the applicant/recipient provides to determine whether she/he has or has not met the cooperation requirements listed in Section 62A-11-307.2 or is not able to meet the requirements and is cooperating in good faith.

2. If a IV A or Non IV A Medicaid applicant/recipient disagrees with the results of an administrative review conducted by an ORS/CSS senior agent, she/he may request that an ORS/CSS Presiding Officer conduct an adjudicative proceeding, or the applicant/recipient may petition the district court to review the initial noncooperation determination and the results of the administrative review, and issue a judicial order based on its findings.

3. If a IV A or Non IV A Medicaid applicant/recipient disagrees with the Decision and Order issued by an ORS/CSS Presiding Officer after the close of an adjudicative proceeding, she/he may request reconsideration within 20 days after the date the Decision and Order is issued as provided in Sections 63G-4-302 and R527-200-14, or petition the district court to review the Decision and Order and issue a judicial order based on its findings.]

(1) If the recipient fails to cooperate as listed in R527-39-3, ORS will notify the recipient and the Department of Workforce Services. The recipient may contest the noncooperation determination by:

- (a) requesting ORS conduct an administrative review;
- (b) requesting an adjudicative proceeding pursuant to Title 63G, Chapter 4, Utah Administrative Procedures Act (UAPA), to be conducted by an ORS presiding officer; or
- (c) petitioning the district court to review the noncooperation determination and issue a judicial order based on its findings.

(2) An administrative review shall not be subject to UAPA provisions or be considered an adjudicative proceeding pursuant to Section 63G-4-203 and Rule R527-200. The goal of the administrative review is to determine if the recipient has met the cooperation requirements or if the recipient cannot meet the requirements. A senior agent or other employee designated to conduct the administrative review shall:

- (a) examine the case record;
- (b) discuss the case with the assigned case worker;
- (c) consult with management staff; and
- (d) consider any new information the recipient provides.

(3) If the recipient disagrees with the results of an administrative review, the recipient may:

- (a) request an adjudicative proceeding pursuant to UAPA; or
- (b) petition the district court to review the initial noncooperation determination and the results of the administrative review.

(4) If the recipient disagrees with the decision and order issued at the close of an adjudicative proceeding, the recipient may:

- (a) request reconsideration within 20 days after the date the decision and order is issued pursuant to Section 63G-4-302 and Rule R527-200; or
- (b) petition the district court to review the decision and order and issue a judicial order based on its findings.

KEY: child support

Date of Last Change: 2022[July 13, 2009]

Notice of Continuation: December 15, 2017

Authorizing, and Implemented or Interpreted Law: 62A-1-111;[~~62A-11-104;~~] 62A-11-107; 62A-11-307.2; 63G-4-[~~203;~~ 63G-4-302]; 42 CFR 433.147; R527-200

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code R527-56

Filing ID
54234

Ref (R no.):

Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Nick Buchei	801-741-7520	nabuchei@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov

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

General Information

2. Rule or section catchline:

R527-56. In-Kind Support

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 62A-11-104	Section 62A-11-307.2	Section 62A-11-107
Section 62A-1-111		

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.

R527-56. In-Kind Support.

R527-56-1. Authority and Purpose.

~~1-1~~(1) ~~Section 62A-11-107 authorizes the Office of Recovery Services to adopt, amend and enforce rules. The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.~~

~~2-2~~(2) The purpose of this rule is to specify the responsibility and procedures for ~~the Office of Recovery Services, Child Support Services teams (ORS/CSS)~~ ORS to grant or deny credit for support paid in-kind when a court or administrative authority has previously ordered cash support payments. This rule also specifies the right of ORS[CSS] to recover the amount of in-kind support from the obligee when they continue to accept payments after signing an assignment or similar document.

R527-56-2. Requirements and Procedures.

~~1-1~~(1) "In-kind" support is support provided by the obligor to the obligee in lieu of payment of a cash support amount.

~~2-2~~(2) In cases where the obligee is receiving financial public assistance, ORS[CSS] shall give credit to the obligor[s] for in-kind support payments when cash support is ~~court~~-ordered and there is an in-kind support agreement between the obligee and obligor meeting the following criteria:

~~a-1~~(a) ~~B~~both the obligor and the obligee shall have agreed to the in-kind support~~[-]~~;

~~b-1~~(b) ~~F~~the agreement shall be in writing~~[-]~~;

~~c-1~~(c) ~~F~~the agreement pre-dates the obligee receiving financial public assistance~~[-]~~;

~~d-1~~(d) ~~F~~the agreement shall have been filed with the court~~[-]~~;

~~e-1~~(e) ~~F~~the value of the in-kind support is undisputed~~[-]~~;

~~f-1~~(f) ~~F~~the in-kind support is easily valued~~[-]~~;

~~g-1~~(g) ~~F~~the value of the in-kind support provided in a month equals or exceeds the monthly amount of cash support ordered by the court~~[-]~~; and

~~h-1~~(h) ORS[CSS] shall ~~have received written notice of the agreement and registered no objection to the agreement when the obligee applied for public assistance.~~ be notified of the agreement and shall have received a copy of the agreement filed with the court.

~~3-3~~(3) If the criteria listed in this section~~above~~ are met, ORS[CSS] shall give the obligor credit for the monthly ~~court~~-ordered amount for each month that the agreement was in effect and the in-kind support was provided.

~~4-4~~(4) ORS[CSS] may take whatever action is necessary to require prospective payment of the ~~court~~-ordered cash support during the time period that the obligee receives financial public assistance.

~~5-5~~(5) ~~H~~When the obligee has signed an assignment or other document from the Department of Workforce Services or ORS[CSS] which specified that upon receipt of financial public assistance by the obligee ORS[CSS] requires prospective payment of cash support as ordered by the court, and the obligor and obligee continue to act in accordance with the in-kind support agreement, the obligee is considered to be retaining support in violation of the assignment of support rights, and the office may recover the amount of in-kind support from the obligee.

~~6-6~~(6) ~~H~~When the obligee ~~did not sign~~ has not signed an assignment or other document as described in R527-56-2(5)~~(5-5)~~, but otherwise received written notice from ORS[CSS] that upon receipt of financial public assistance by the obligee ORS[CSS] requires prospective payment of cash support as ordered by the court, and the obligor and obligee continue to act in accordance with the in-kind support agreement, the obligee is considered to be retaining support in violation of the assignment of support rights, and ORS[CSS] may recover the amount of in-kind support from the obligee.

~~7-7~~(7) Once an obligor receives written notice that an assignment of support rights is in effect and that ORS[CSS] requires payment of cash support as ordered by the court, the obligor may be held responsible to pay directly to ORS[CSS] any prospective support payments which are due under a support order, in the manner provided in the support order.

KEY: child support

Date of Last Change: 2022~~June 9, 2008~~

Notice of Continuation: December 15, 2017

Authorizing, and Implemented or Interpreted Law: 62A-11-104~~(4); 62A-11-307.2~~

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R527-201

Filing ID
54247

Agency Information

1. Department:	Human Services
Agency:	Recovery Services
Street address:	515 E 100 S
City, state and zip:	Salt Lake City, UT 84102-4211

Mailing address: PO Box 45033		
City, state and zip: Salt Lake City, UT 84145-0033		
Contact person(s):		
Name:	Phone:	Email:
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R527-201. Medical Support Services
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.
B) Local governments:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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
B) 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.			

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 62A-11-107	Subsection 62A-11-406(9)	45 CFR 303.30
Section 62A-1-111	Section 78B-12-212	45 CFR 303.32
Section 62A-11-326.2	Subsection 35A-7-105(2)	45 CFR 303.31
Section 62A-11-326.1		

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. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	02/14/2022
10. This rule change MAY become effective on:	02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.

R527-201. Medical Support Services.

R527-201-1. Authority and Purpose.

~~[4-](1)~~ The Department of Human Services is authorized to create rules necessary for ~~[the provision of]~~ social services ~~[by]~~ pursuant to Section 62A-1-111 ~~[and 62A-11-107]~~. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.

~~[2-](2)~~ The purpose of this rule is to specify the responsibilities and procedures for ~~[the Office of Recovery Services/Child Support Services]~~ ORS ~~[for]~~ to ~~[providing]~~ provide Title IV-D medical support services pursuant to 45 CFR 303.30, 303.31 and 303.32.

~~[R527-201-2. Federal Requirements.~~

~~The Office of Recovery Services/Child Support Services, (ORS/CSS), adopts the federal regulations as published in 45 CFR 303.30, 303.31, and 303.32 (2008) which are incorporated by reference in this rule.]~~

R527-201-~~[3]~~2. Definitions.

~~[4-](1)~~ "Accessibility" ~~[is]~~ is whether the health care coverage provided by a parent is reasonably available for the child's use. Insurance is considered accessible to the child if non-emergency services covered by the health plan are available to the child within 90 minutes or 90 miles of the child's primary residence.

(2) "Cash Medical Support" is an obligation to provide financial support in lieu of or in addition to health insurance to provide for the medical needs of the child. Pursuant to 78B-12-102, cash medical support in Utah means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

~~[2-](3)~~ "National Medical Support Notice (NMSN)" is the federally approved form that ORS ~~[CSS]~~ shall use ~~[when appropriate]~~ to notify an employer to enroll dependent children in an employment-related group health insurance plan in accordance with a child support order.

~~[3. Cash Medical Support: An obligation to equally share all reasonable and necessary medical and dental expenses of children.]~~

R527-201-~~[4]~~3. Limitation of Services.

ORS ~~[CSS]~~ shall not:

~~[4-](1)~~ pursue establishment of specific amounts for ~~[ongoing]~~ monthly medical support ~~[s]~~;

~~[2-](2)~~ initiate an action to obtain a judgment for uninsured medical expenses ~~[s]~~; or

[3-](3) collect and disburse premium payments to insurance companies.

R527-201-[5]4. Conditions Under Which Non-IV-A Medicaid Recipients May Decline Support Services.

ORS[CSS] shall provide child and spousal support services; however, a [N]non-IV-A Medicaid recipient may decline child and spousal support services if paternity is not an issue and there is an order for the non-custodial parent to provide medical support.

R527-201-[6]5. Securing a Medical Support Provision in the Support Order.

[1-](1) ~~[Notice to potentially obligated parents: The]~~A notice to potentially obligated parents shall include a provision that an administrative or judicial proceeding will occur to:

[a-](a) order either or both parents to purchase and maintain appropriate ~~[medical insurance for the children,]~~health care coverage; and

[b-](b) order either or both parents to pay cash medical support.

(2) ~~[This notification]~~The notice shall be provided when the state either ~~[of the following conditions is met]:~~

[a-](a) ~~[the state]~~initiates an action to establish a final support order or to adjust an existing child support order; or

[b-](b) ~~[the state]~~joins a divorce or modification action initiated by either the custodial or the non-custodial parent.

[2-](3) If a judicial support order does not include a medical support provision, ORS[CSS] shall ~~[commence]~~begin judicial action to include a medical support provision.

R527-201-[7]6. Reasonable Cost of Insurance Premiums.

(1) Employment[] related or other group coverage that does not exceed 5% of the ~~[obligated]~~parent's monthly gross income is generally considered reasonable in cost.

(2) ~~[However, a]~~An employer may not withhold more than the lesser of the amount allowed under the Consumer Credit Protection Act, the amount allowed by the state of the employee's principal place of employment, or the amount allowed for health insurance premiums by the child support order.

(3) If the combined child support and medical support obligations exceed the allowable deduction amount, the employer shall withhold according to the law, if any, of the state of the employee's principal place of employment requiring prioritization between child support and medical support.

(4) If the employee's principal place of employment is in Utah, the employer shall deduct current child support before deducting employers for health insurance coverage.

(5) If the amount necessary to cover the health insurance premiums cannot be deducted due to prioritization or limitations on withholding, the employer shall notify ORS[CSS].

R527-201-[8]7. Insurance Credit.

[1-](1) If a ~~[non-obligated]~~ parent is required to provide health ~~[insurance]~~care coverage for ~~[his or her]~~the minor children, ~~[(fem)]~~and the order was issued by a Utah tribunal, the parent may receive an insurance premium credit pursuant to [in accordance with U.C.A.]Section 78B-12-212[, the parent may receive an insurance credit].

(2) ORS[CSS] will calculate and apply the insurance credit if ~~[the office]~~ORS receives a completed Insurance Premium

Credit Request letter. The completed Insurance Premium Credit Request must include the ~~[following information]~~:

[a-](a) availability of insurance;

[b-](b) policy number;

[e-](c) names of ~~[all]~~each individual[s] covered by the policy;

[d-](d) the out-of-pocket cost for the insurance;

[e-](e) proof of the monthly insurance premium paid;

[f-](f) the obligated parent's signature; and,

[g-](g) the date the letter was completed.

[2-](3) Credit will be given to the obligated parent beginning the first day of the month following the date ORS[CSS] receives the completed Insurance Premium Credit Request letter.

[3-](4) The insurance credit will ~~[be]~~end[ed each calendar year,] on January 2 of each calendar year, in accordance with ~~[U.C.A.]~~Subsection 78B-12-212(8), unless the obligated parent provides verification of coverage and costs to ORS[CSS] on an updated Insurance Premium Credit Request. To allow sufficient time for ORS to process the annual insurance verification, the obligated parent may provide verification of the coverage as early as November 1 of the previous year.

R527-201-[9]8. Credit for Premium Payments and Effect of Changes to the Premium Amount Subsequent to the Order.

[4-](1) If the order or underlying worksheet does not mention a specific credit for insurance premiums, ORS[CSS] shall give credit for the child~~[(fem)]~~'s portion of the insurance premium when the obligated parent provides the necessary verification coverage.

[2-](2) ORS[CSS] shall notify both parents in writing ~~[whenever]~~when the credit is changed.

R527-201-[10]9. Enforcement of Obligation to Maintain Medical and Dental Insurance.

[4-](1) ~~[In Non-IV-A cases and in IV-A Medicaid cases,]~~aAppropriate steps shall be taken by ORS to ensure compliance with orders ~~[which]~~that require ~~[the obligated]~~either parent or both parents to maintain insurance. ~~[Obligated p]~~Parents shall demonstrate compliance by providing ORS[CSS] with policy numbers and the insurance provider name for the dependent children for whom the medical support is ordered.

[2-](2) ~~[In Non-IV-A cases and in IV-A Medicaid cases, i]~~f a ~~[non-obligated]~~ parent has been ordered to maintain insurance and insurance is accessible and available at a reasonable cost, ORS[CSS] shall use the NMSN to transfer notice of the insurance provision to the ~~[obligated]~~parent's employer unless ORS[CSS] is notified pursuant to Section 62A-11-326.1 that the children are already enrolled in an insurance plan in accordance with the order.

[3-](3) When appropriate, ORS[CSS] shall send the NMSN to the ~~[obligated]~~parent's employer within two business days after ~~[the name]~~employment information about [of]the [obligated]parent is entered in the [has been entered into the registry of the]State Directory of New Hires, has matched with ORS[CSS] records, and been reported to ORS[CSS in accordance with] pursuant to Subsection 35A-7-105(2).

[4-](4) The employer shall transfer the NMSN to the appropriate group health plan for which the children are eligible within ~~[twenty]~~20 business days of the date of the NMSN if ~~[all]~~each of the following criteria are met:

[a-](a) the ~~[obligated]~~parent is still employed by the employer;

[b-](b) the employer maintains or contributes to plans providing dependent or family health coverage;

[e-](c) the [obligated]parent is eligible for the coverage available through the employer; and

[d-](d) state or federal withholding limitations, prioritization, or both, do not prevent withholding the amount required to obtain coverage.

[5-](5) If more than one coverage option is available under a group insurance plan and the [obligated]parent is not already enrolled, ORS[/CSS] in consultation with the custodial parent may select the least expensive option if the option complies with the child support order and benefits the children. The insurer shall enroll the children in the plan's default option or least expensive option in accordance with Subsection 62A-11-326.2(1)(b) unless another option is specified by ORS[/CSS].

[6-](6) The employer shall determine if the necessary employee contributions for the insurance coverage are available. If the amounts necessary are available, the employer shall begin withholding when appropriate and remit directly to the plan.

[7-](7) In accordance with Subsections 62A-11-326.1(2) and (3), the [obligated]parent may contest withholding insurance premiums based on a mistake of fact. The employer shall continue withholding under the NMSN until notified by ORS[/CSS] to terminate withholding insurance premiums.

[8-](8) If a parent successfully contests the action to enroll the children in a group health plan based on a mistake of fact, ORS[/CSS] shall notify the employer to discontinue enrollment and withholding insurance premiums for the children.

[9-](9) In accordance with Subsection 62A-11-406(9), the employer shall:

[a-](a) notify ORS[/CSS] within five days after the [obligated]parent terminates employment;

[b-](b) provide [the office]ORS with the [obligated]parent's last-known address; and

[e-](c) provide the name and address of [any]a new employer, if known.

[10-](10) ORS[/CSS] shall promptly notify the employer when a current order for medical support is no longer in effect for which ORS[/CSS] is responsible.

R527-201-[44]10. Coordination of Health Insurance Benefits.

If, at any point in time, a dependent child is covered by the health, hospital, or dental insurance plans of both parents, the health, hospital, or dental insurance plan of the parent whose birthday occurs first in the calendar year, shall be designated as primary coverage for the dependent child. The health, hospital, or dental insurance plan of the other parent shall be designated as secondary coverage for the dependent child.

[R527-201-12. Obligated Parent Receiving Medicaid.

~~In an unestablished paternity case, if the alleged father's income was taken into consideration when determining the household's eligibility for Medicaid, ORS/CSS shall not enforce payment of medical expenses regardless of the medical support provisions in the order, but shall enforce the health insurance provision.]~~

KEY: child support, health insurance, Medicaid

Date of Last Change: 2022[March 27, 2012]

Notice of Continuation: March 9, 2021

Authorizing, and Implemented or Interpreted Law: [30-3-5; 30-3-5.4;]62A-1-111; [62A-11-103(2);]62A-11-107; [62A-11-326;

[62A-11-326.1; 62A-11-326.2;]62A-11-326.3; 62A-11-406(9); [63C-4-102 et seq.; 78B-12-102(6);] 78B-12-212; 35A-7-105(2); 45 CFR 303.30; 45 CFR 303.31; 45 CFR 303.32

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code R527-231

Ref (R no.):

Filing ID

54230

Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Nick Buchei	801-741-7520	nabuchei@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R527-231. Review and Adjustment of a Support Order
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual. Aspects of Rule R527-255 have also been added to this rule. (EDITOR'S NOTE: The proposed repeal of Rule R527-255 is under ID 54014 in this issue, January 15, 2022, of the Bulletin.)
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12. Portions of Rule 527-255

regarding review and adjustment of support orders have been merged into this rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

45 CFR 303.8	Section 78B-12-210	Section 62A-11-320.6
Section 62A-1-111	Section 78B-12-102	Section 62A-11-320.5
Section 62A-11-107		

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.

R527-231. Review and Adjustment of ~~Child~~ Support Order.

R527-231-1. Authority and Purpose.

~~1. (1) The Department of Human Services is authorized to create rules necessary for the provision of social services by pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules as necessary by pursuant to Section 62A-11-107.~~

~~2. The purpose of this rule is to provide details as to when the Office of Recovery Services/Child Support Services (ORS/CSS) may conduct a review of a Child Support Order. It specifies when a review will not be conducted and if a review has terminated, when an order may be reviewed again.~~ (2) The purpose of this rule is to provide details regarding when ORS will proceed with a modification when requested by a case participant. This rule also specifies limitations that apply to the review process.

R527-231-2. Case Participant Request for Review Based on Substantial Change in Circumstances.

(1) A case participant may request a less-than-three-year review of the ordered child support amount where there has been a substantial change in circumstance as provided in Section 78B-12-210. For the review to proceed, the case participant must provide documentation supporting the alleged change in circumstances.

(2) ORS will not review the ordered child support amount if the substantial change in circumstance is projected to be temporary, as defined in Section 78B-12-102.

~~R527-231-23. [Review and Adjustment of Child Support Order.]~~ **Limitations for Reviewing a Support Order.**

~~1. If the child is within one year of emancipation, ORS/CSS shall not be required to review the award for potential adjustment.~~ (1) ORS shall not be required to review a child support order:

(a) if the child is within one year of emancipation; or
(b) if the location of either parent is unknown until both parents are located.

~~2. If the location of either parent is unknown, ORS/CSS shall not be required to review the support award for possible adjustment until both parents are located.~~

~~3. ORS/CSS shall pursue the setting of statutory child support guideline amounts in review and adjustment proceedings, based on the current and prospective incomes of the parties.~~

(4) (2) ORS [CSS shall] may pursue the adjustment of a court order [only] for child support or medical support provisions.

(3) ORS [CSS] shall not pursue modification of a court order for custody, visitation, property division or other non-child support related provisions.

~~5. If the parent requesting the review does not provide the necessary information for ORS/CSS to conduct the review, ORS/CSS~~ (4) If the required information to proceed with the review is not provided by the requestor, ORS shall send notice to the address on record for the requesting and non-requesting [parents] case participants

that the review process will be terminated unless the non-requesting [parent] case participant requests that the review process continue.

(6) (5) If the review process is terminated, ORS [CSS] shall not be required to review the order for a period of one year.

KEY: child support

Date of Last Change: 2022 [November 7, 2017]

Notice of Continuation: August 14, 2020

Authorizing, and Implemented or Interpreted Law: 45 CFR 303.8; 62A-1-111; 62A-11-107; 62A-11-320.5; 62A-11-320.6; 78B-12-102; 78B-12-210

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R527-250	Filing ID	54231
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Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Nick Buchei	801-741-7520	nabuchei@utah.gov

Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R527-250. Emancipation and a Child's Age of Majority
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.
B) Local governments:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-1-111	Section 78B-5-202	Section 62A-11-303
Section 62A-11-107	Section 15-2-1	Section 62A-11-401
Section 78B-12-219	Section 78B-12-102	

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	02/14/2022
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10. This rule change MAY become effective on:	02/21/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.

R527-250. Emancipation and a Child's Age of Majority.

R527-250-1. Purpose and Authority.

(1) The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111.~~[Section 62A-11-107 authorizes]~~ ~~[t]~~The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.

(2) The purpose of this rule is to establish how ORS determines the appropriate emancipation date for IV-D child support cases, particularly when determining the child's normal and expected year of graduation referenced in Section 78B-12-219 for child support orders issued on or after July 1, 1994. This rule also ~~[establishes]~~clarifies a child's age of majority as described in ~~[s]~~Section 78B-5-202 to be used when ORS determines the duration of a judgment for past due support.

R527-250-2. Normal and Expected Year of Graduation.

For a child attending school in Utah, the normal and expected year of graduation is based on kindergarten plus ~~12[twelve]~~ years of school, unless one of —the following exceptions ~~[applies]~~exists:

~~[(1)]~~(1) For a child attending school in Utah, ORS will presume that the normal and expected month of graduation is May of the expected graduation year, unless the parents provide documentation of a specific graduation date for their child.

~~[(2)]~~(1) If a deviation to the kindergarten plus ~~12[twelve]~~ years standard is known at the time of entry of the child support order, the expected year of graduation is altered accordingly~~[-]~~;

(2) If a child has been held back a grade or experienced another delay in education before the child support order is entered, the expected year of graduation will be changed to extend the support obligation based on the known facts about the delay in education~~[-]~~;

(3) If the child has been advanced a grade or experienced ~~another[some other]~~ acceleration in education before the child support order is entered, the expected year of graduation will be changed to potentially shorten the support obligation based on the facts about the acceleration in education~~[-]~~; or

~~[(3)]~~(4) If a deviation to the kindergarten plus ~~12[twelve]~~ years standard is not known until after the entry of the child support order, the expected year of graduation is not altered based on the new facts unless the child receives an early high school diploma, a high school equivalency diploma, or documentation is provided of early completion of high school course requirements.

R527-250-3. Presumed Month of Graduation.

ORS will presume that the normal and expected month of graduation is May of the expected graduation year, unless the parents provide documentation of a specific graduation date for their child.

R527-250-[3]4. Early Graduation, High School Equivalency Diploma, and General Educational Development[~~(CED)~~].

ORS may cease collection of child support the month ~~[following]~~after ~~[in which]~~the child ~~[is no longer enrolled in school]~~ is 18 years old~~[-]~~ and is no longer enrolled in school for one of the following reasons:~~[and]~~

(1) the child receives a high school diploma at the time of early graduation;

(2) documentation is provided of the child's early completion of high school course requirements; or

- (3) the child receives a high school equivalency diploma.

R527-250-[4]5. Dropping Out of School.

A child who no longer attends school is not considered emancipated until becoming 18 years old or the graduation of the child's normal and expected graduating class has occurred, whichever occurs later.

R527-250-[5]6. Burden of Proof.

(1) ORS will enforce child support based on the kindergarten plus 12[twelve] years standard until a parent or guardian has provided appropriate documentation to support an emancipation date other than that standard.

(2) A parent or guardian requesting the deviation from the standard is responsible for gathering the appropriate documentation and providing the information to ORS.

R527-250-7. Effective Dates of Support Changes.

~~[(3)](1)~~ Changes to the child support amount due under the kindergarten plus 12 years standard described in R527-250-2 will not be effective until the month following the emancipation date.

~~[(4)](2)~~ Changes to the child support amount ~~[which]~~that are based on a date other than the 18th birthday or the kindergarten plus 12[twelve] year standard will not be effective until the month following the determined date of emancipation or the month following ~~[in which]~~the parent or guardian provides sufficient documentation to support the new emancipation date, whichever occurs later. If an over collection occurs due to the parent not providing documentation, the parent will be responsible for recovering any overpaid amounts without involving ORS.

R527-250-[6]8. Age of Majority.

(1) As provided in Section 15-2-1,~~[A]~~a child reaches the age of majority when the child ~~[reaches]~~turns 18 years old or is legally married.

(2) ~~[As outlined in]~~Pursuant to ~~[s]~~Section 78B-5-202, a child support order or a sum certain judgment for past due support may be enforced within four years after the date that the youngest child reaches the age of majority, or eight years from the date of the entry of the sum certain judgment entered by a tribunal, whichever period of duration is longer.

KEY: child support, emancipation, age of majority

Date of Last Change: 2022~~[May 24, 2021]~~

Notice of Continuation: December 14, 2020

Authorizing, and Implemented or Interpreted Law: 62A-11-107; 62A-1-111; 62A-11-303; 62A-11-401; 78B-5-202; 78B-12-102; 78B-12-219; 15-2-1

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R527-254	Filing ID 54265
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Agency Information

1. Department:	Human Services
Agency:	Recovery Services
Street address:	515 E 100 S

City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Scott Weight	801-741-7435	sweigh2@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R527-254. Limitations on the Collection of Arrears

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses because this rule is being amended. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-1-111	Section 62A-11-107	45 CFR 303.11
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	02/14/2022
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10. This rule change MAY become effective on:	02/21/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.**R527-254. Limitations on Collection of Arrears.****R527-254-1. Authority and Purpose.**

(1) The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. ~~[Section 62A-11-107 authorizes that]~~ The Office of Recovery Services ~~[Child Support Services]~~ (ORS[CSS]) is authorized to adopt, amend and enforce rules pursuant to Section 62A-11-107.

(2) The purpose of this rule is to define the circumstances in which ORS[CSS] will collect support arrears ~~[which]~~ that accrue during timeframes when no ORS[CSS] IV-D services case is open, and to outline the procedures ORS[CSS] will follow when confirming the remaining balance due on an arrears debt.

R527-254-2. Definitions.

(1) "Arrears" means the past-due support debt created by the nonpayment of current support when it is due.

(2) "Current support" means the tribunal-ordered support amount due and payable within the current month or other tribunal-specified time period.

(3) "ORSIS" means the Office of Recovery Services Information System. ORSIS is used to maintain records of support due and support received on open IV-D support services cases.

R527-254-3. Responsibility to Maintain Records of Support Due and Paid.

(1) ORS[CSS] will maintain a record of support due and payments received while there is an open IV-D support services case.

(2) ORS[CSS] will not maintain a record[s] of support due and support paid during timeframes when there is not an open IV-D services case with ORS[CSS]. It is the responsibility of both parents to maintain their own records regarding child support when no IV-D case is open.

R527-254-4. Limitation on Collection of Arrears.

(1) ORS[CSS] will enforce tribunal-ordered current support commencing with the month that one of the following occurs:

(a) ORS receives an Application for Child Support Services containing sufficient information to open a IV-D services case;

(b) [A] a parent or guardian begins receiving IV-A cash assistance or Medicaid benefits for a child in ~~[his or her]~~ their care; or []

(c) [A] an intergovernmental transmittal is received requesting enforcement services on behalf of an intergovernmental agency.

(2) ORS[CSS] will enforce arrears ~~[which]~~ that accrue while there is an open IV-D services case. Enforcement of accrued arrears will continue until the IV-D services case is closed ~~[in accordance with federal regulations found in]~~ pursuant to 45 CFR 303.11 or closed at the request of the applicant for child support services. When the IV-D services case is closed, ORS[CSS] will remove any remaining debt balances from ORSIS.

(3) ORS[CSS] will enforce support arrears that are determined by a judicial court in the following circumstances:

(a) [] if a determination of arrears is issued while there is an open IV-D services case and submitted to ORS[CSS] for enforcement on the existing case; or

(b) [] if a determination of arrears is issued within one year ~~[(365 days)]~~ prior to the date ~~[the]~~ ORS[CSS] ~~[office]~~ receives an Application for Child Support Services ~~[which]~~ that contains sufficient information to open a IV-D services case, ORS will enforce the arrears balance remaining due as reported by the applicant for services.

(~~[e]~~4) If a determination of arrears is issued during a time period when there is not an open IV-D case with ORS[CSS] and more than one year ~~[(more than 365 days)]~~ has elapsed prior to ORS receipt of the Application for Child Support Services ~~[the application timeframe described above]~~, ORS[CSS] will not enforce on any remaining balance of those arrears. The amount remaining due on those arrearages must be adjudicated and determined before ORS[CSS] will begin enforcement actions.

R527-254-5. Record of Payments -- Applicant.

(1) If an applicant for IV-D services wishes to submit a determination of support arrears by a judicial court to ORS[CSS] for collection, the applicant must provide a copy of that order.

(2) The applicant must also provide a record of ~~[all]~~ payments received toward that debt ~~[as]~~ and a remaining balance on th~~[e]~~ at debt. The record of payments received must include the date and the amount of each payment.

R527-254-6. Proof of Payments -- Obligated Parent.

(1) The obligated parent may dispute the remaining arrears balance that ORS[CSS] is enforcing or other arrears being collected by ORS[CSS] by providing proof of payments made toward the balance. ORS[CSS] will consider the following items as proof of payment:

(a) ~~[€]~~ copies of cancelled checks, front and back;

(b) ~~[P]~~ payment receipts from the ordered recipient of the payments;

(c) ~~[A]~~ a notarized statement from the ordered recipient acknowledging additional payments, including the amount of the payments and the date of the payments; ~~[and]~~ or

(d) ~~[W]~~ with ORS[CSS] Director ~~[€]~~ or designee ~~[]~~ approval, other forms of payment documentation ~~[which]~~ that clearly show:

(i) the amount paid ~~[]~~;

(ii) the date of the payment ~~[]~~;

(iii) proof that the payment was received by the ordered recipient ~~[]~~; and

(iv) clear documentation of the purpose of the payment.

(2) ORS[CSS] will not consider the following items as proof of payment:

(a) ~~[R]~~ receipts for purchases in lieu of payments;

(b) ~~[A]~~ agreements for services provided in lieu of payments;

(c) ~~[R]~~ receipts for payments made to a third-party in lieu of payments to the recipient;

(d) ~~[S]~~ statements showing bank transfers where the recipient's account is not clearly identifiable as the ordered recipient; or ~~[]~~

(e) ~~[A]~~ any form of documentation ~~[including those identified in subsection (1)]~~ that does not clearly show the amount paid, the date of the payment, proof that the payment was received by the ordered recipient, and clear documentation of the purpose of the payment.

(3) If the obligated parent provides additional proof of payments, an updated list of the payments will be provided to both parties.

(4) If either party wishes to contest the arrears balance further, the matter must be adjudicated judicially by the parties. ORS[CSS] will continue to enforce the amount due based on the proof provided by the parties ~~[according to the above guidelines]~~ unless directed otherwise by a court or tribunal.

KEY: arrears, past-due support, child support
Date of Last Change: 2022[June 9, 2015]
Notice of Continuation: April 13, 2020
Authorizing, and Implemented or Interpreted Law: 45 CFR 303.11; 62A-1-111; 62A-11-107; ~~62A-11-502; 78B-12-113~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R527-255	Filing ID 54014

Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Room no.:	515 E 100 S	
Building:	Salt Lake City, UT 84102-4211	
Street address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Jean Boyack	801-568-4263	jboyack@utah.gov
Jacob Murakami	801-538-4641	jmurakami@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R527-255. Substantial Change in Circumstances
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being repealed as the result of the review of the rule against the current edition of the Administrative Rules' Rulewriting Manual. The content of this rule is being merged into Rule R527-231 Review and Adjustment of Child Support Order. The content of this rule; therefore, is redundant. (EDITOR'S NOTE: The proposed amendment to Rule R527-231 is under ID 54230 in this issue, January 15, 2022, of the Bulletin.)
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is repealed in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The requirements of this rule will now exist in Rule R527-231. Therefore, there are no anticipated costs or savings to the state budget due to this repeal.

B) Local governments:

The requirements of this rule will now exist in Rule R527-231. Therefore, there are no anticipated costs or savings for local governments due to this repeal.

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

The requirements of this rule will now exist in Rule R527-231. Therefore, there are no anticipated costs or savings to small businesses due to this repeal.

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

The requirements of this rule will now exist in Rule R527-231. Therefore, there are no anticipated costs or savings to non-small businesses due to this repeal.

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 requirements of this rule will now exist in Rule R527-231. Therefore, there are no anticipated costs or savings to other persons due to this repeal.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

The requirements of this rule will now exist in Rule R527-231. Therefore, there are no compliance costs due to this repeal.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses because this rule is being repealed. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-11-107	Section 62A-1-111	Section 62A-11-320.5
Section 62A-11-320.6	Section 78B-12-219	

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.

~~[R527-255. Substantial Change in Circumstances.~~

~~R527-255 1. Authority and Purpose.~~

~~1. The Office of Recovery Services is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.~~

~~2. The purpose of this rule is to provide information about when a parent can request a review of the child support amount when a support order is less than three years old, and to identify what must be included for a request for review to be complete. The rule also defines when a change in circumstance is considered temporary or permanent.~~

~~R527-255 2. Request for Review based on Substantial Change in Circumstances.~~

~~1. A parent may request a less than three year review of a support order based on an alleged substantial change in circumstances. For the request to be complete, the parent must provide documentation of the alleged change at his/her own expense.~~

~~R527-255 3. Duration of the Change in Circumstances.~~

~~1. If the change in circumstances is projected to be temporary, defined as less than 12 months in duration, the office shall not initiate proceedings to adjust the award.~~

~~2. If the change in circumstances is projected to be long term or permanent, defined as 12 months or more in duration, the office shall initiate proceedings to adjust the award pursuant to Section 78B-12-210.~~

KEY: child support

Date of Last Change: October 23, 2012

Notice of Continuation: January 23, 2017

Authorizing, and Implemented or Interpreted Law: 62A-11-107; 62A-11-320.5; 62A-11-320.6; 78B-12-210]

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R527-258	Filing ID	54239
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Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R527-258. Enforcing Child Support When the Obligor is an Ex-Prisoner or in a Treatment Program
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.
B) Local governments:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect

substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-1-111	45 CFR 303.32	Section 62A-11-107
Section 62A-11-326.1	Subsection 62A-11-320(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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	02/14/2022
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10. This rule change MAY become effective on:	02/21/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.

R527-258. Enforcing Child Support When the Obligor is an Ex-Prisoner or in a Treatment Program.

R527-258-1. ~~[Purpose and]~~ Authority and Purpose.

~~[4-](1) The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to create rules necessary for the provision of social services by Section 62A-1-111 and 62A-11-107.]~~ adopt, amend, and enforce rules pursuant to Section 62A-11-107.

~~[2-](2) The purpose of this rule is to specify the procedures for collection of IV-D child support and arrears payments after the obligor has been released from prison, jail or an in-patient treatment program.~~

R527-258-2. Collection from an Ex-Prisoner[s].

~~[4-](1) If the obligor has been incarcerated for [thirty]30 days or more and notifies [the Office of Recovery Services (ORS)]ORS, [Child Support Services-]or [the office]ORS is made aware of the obligor's release within six months of the release date, [the office]ORS will only collect current support and [one dollar]\$1 toward the past-due support debt for six months from the time ORS[, CSS] is notified or made aware of the release.~~

~~[2-](2) [The-]ORS[, Child Support Services] will enforce a support order that requires the obligor to provide medical insurance coverage for the children, if appropriate.~~

R527-258-3. Enforcing Child Support When the Obligor is an Ex-Prisoner.

~~[4-](1) The [federal title-]IV-A past-due support debt [which]that accrued while the obligor was incarcerated may be forgiven one time[-] if the obligor makes:[-both-]~~

~~(a) the full monthly current support payment; and~~

~~(b) the full monthly assessed payment toward the past-due support debt for [twelve]12 consecutive months. The [twelve consecutive month period]12-month-consecutive-period begins when the obligor is released and [they have]the obligor has contacted [the office]ORS to make payment arrangements within six months of the release date.~~

~~[2-](2) [The-office]ORS will use the federal income withholding notice and procedures to enforce and collect the current support and an arrears payment, when appropriate. [The-office]ORS will use the federal National Medical Support Notice and procedures to enforce insurance coverage for the children, if appropriate.~~

~~[a-](3) If the obligor does not make the full payment in each of the first six months, additional collection or enforcement action may be taken.~~

~~[b-](4) If the obligor makes the full required payment each month for [twelve]12 consecutive months, the remaining IV-A~~

support debt that accrued during the most recent period of incarceration shall be forgiven. IV-A debt forgiveness due to incarceration will only occur one time per obligor.

[3-](5) If the obligor owes IV-A arrears only, [s/he]the obligor must make [twelve]12 consecutive monthly payments to [the office]ORS based on an assessed amount determined by ORS[Child Support Services].

[4-](6) The obligor's arrearage payment shall be reassessed by [the office]ORS if the obligor's financial situation changes during the [twelve]12-month period.

R527-258-4. Collection from an Obligor[s] in a Treatment Program[s].

[1-](1) If the obligor is in an in-patient, licensed mental health or substance abuse treatment program for [thirty]30 days or more, no collection or enforcement action will be taken to collect the past-due support debt [for the duration]during of the in-patient treatment.

[2-](2) If the obligor is in an in-patient, licensed mental health or substance abuse treatment program and notifies ORS,[Child Support Services] or [the office]ORS is made aware of the release within 30 days of the release date, [the office]ORS will only collect current support and [one dollar]\$1 toward the past-due support debt for six months after the in-patient program release date.

[3-](3) If the obligor is involved in an out-patient treatment program and notifies ORS,[Child Support Services] or [the office]ORS is made aware of the treatment within 30 days of the treatment beginning, [the office]ORS will only collect current support and [one dollar]\$1 toward the past-due support debt for six months after:

[a-](a) the obligor's initial contact with [the office]ORS;

or

[b-](b) [the office]ORS determines that the individual is involved in an out-patient treatment program.

[4-](4) ORS[Child Support Services] will enforce a support order that requires the obligor to provide medical insurance coverage for the children, if appropriate.

R527-258-5. Enforcing Child Support When the Obligor [Is in a]is Released from an In-Patient Treatment Program.

[1-](1) The [federal title-]IV-A past-due support debt [which]that accrued while the obligor was in an in-patient treatment program may be forgiven one time, if the full monthly current support payment and the full monthly assessed payment toward the past-due support debt have been made for [twelve]12 consecutive months. The [twelve]12 consecutive month period begins when the obligor has been released from an in-patient treatment program and the obligor has contacted [the office]ORS to make payment arrangements within the allotted 30 days.

[2-](2) [The office]ORS will use the federal income withholding notice and procedures to enforce and collect the current support and an arrears payment, when appropriate. [The office]ORS will also use the federal National Medical Support Notice and procedures to enforce insurance coverage for the children, if appropriate.

[a-](3) If the obligor does not make the full payment in each of the first six months, additional collection or enforcement action may be taken.

[b-](4) If the obligor makes the full required payment each month for [twelve]12 consecutive months, ORS shall forgive the remaining IV-A support debt that accrued during the most recent treatment period[shall be forgiven]. IV-A debt forgiveness due to

participation in an in-patient or out-patient treatment program will only occur one time per obligor.

[3-](5) If the obligor owes IV-A arrears only, the obligor must make [twelve]12 consecutive monthly payments to [the office]ORS based on an assessed amount determined by ORS[Child Support Services].

[4-](6) The obligor's arrearage payment shall be reassessed by [the office]ORS if the obligor's financial situation changes during the [twelve]12-month period.

KEY: administrative law, child support

Date of Last Change: 2022[June 22, 2020]

Notice of Continuation: August 17, 2021

Authorizing, and Implemented or Interpreted Law: 62A-1-111; 62A-11-107; 62A-11-320(1); 62A-11-326.1;[45 CFR 303.31;] 45 CFR 303.32

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R527-260

Filing ID
54233

Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Nick Buchei	801-741-7520	nabuchei@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov

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

General Information

2. Rule or section catchline:

R527-260. Driver License Suspension for Failure to Pay Support

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 53-3-102	Section 53-3-221	Section 53-3-221.5
Section 62A-11-107	Section 62A-11-111	Section 62A-11-304.2
Section 62A-11-601	Section 62A-11-602	Section 62A-11-603
Section 62A-11-604		

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.

R527-260. Driver License Suspension for Failure to Pay Support.

R527-260-1. Authority and Purpose.

(1) ~~[Section 62A-11-107 authorizes the Office of Recovery Services/Child Support Services (ORS/CSS) to adopt, amend and enforce rules.]~~ The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.

(2) Sections 53-3-102, 53-3-221, 53-3-221.5, 62A-11-601, 62A-11-602, 62A-11-603, and 62A-11-604 provide for suspension of an individual's driver license for failure to pay child support. ORS may make rules regarding the suspension of an obligor's driver license for failure to pay support pursuant to Subsection 62A-11-603(1). The purpose of this rule is to provide procedures and criteria

for ORS to suspend an obligor's driver license for failure to pay child support.

~~R527-260-2. Purpose.~~

~~The purpose of this rule is to provide procedures and criteria for ORS/CSS to suspend an obligor parent's driver license for failure to pay child support.]~~

R527-260-[3]2. Driver License Suspension Criteria.

(1) ORS[CSS] may begin procedures for driver license suspension on an obligor if ~~[all]~~ other appropriate administrative enforcement actions have been exhausted and the obligor:

~~[(1)](a)~~ has a valid Utah driver license;

~~[(2)](b)~~ is delinquent in child support payment pursuant to Section 62A-11-602~~[(2)]~~;

~~[(3)](c)~~ is working, but ORS[CSS] ~~is unable to~~ cannot send ~~[a Notice to Withhold Income for Child Support]~~ an Income Withholding Order; and~~[(7)]~~

~~[(4)](d)~~ has the ability to pay child support.

R527-260-[4]3. Notice of Agency Action.

(1) ORS[CSS] will notify the obligor of the possibility of suspending ~~[his/her]their~~ driver license for failure to pay child support by ~~[sending]~~ personally serving the obligor with a Notice of Agency Action (NAA) pursuant to Sections 62A-11-304.2 and 63G-4-102~~[et seq.]~~. ~~[The NAA will be personally served upon the obligor.]~~

(2) ~~[Once the obligor has been personally served, s/he]The~~ obligor has ~~30~~~~[thirty]~~ days after being personally served to respond to the NAA and request an informal adjudicative hearing with ORS[CSS]. If the obligor fails to respond to the NAA, ~~[the obligor's case(s) will be sent]~~ ORS will send the obligor's case to the ORS[CSS] Supervisory Review Panel for approval to proceed with the driver license suspension.

R527-260-[5]4. Repayment Agreement to Stop Driver License Suspension.

(1) Upon receipt of the NAA, the obligor may enter into a repayment agreement with ORS[CSS] to temporarily stop the suspension process. The repayment agreement must include both current support, if appropriate, and an arrears payment for six consecutive months. ORS[CSS] will determine the obligor's monthly arrears payment by reviewing ~~[his/her]the obligor's~~ actual income and necessary debts to arrive at a reasonable monthly amount.

(2) If the obligor makes the full required payment each month for six consecutive months, ORS[CSS] will dismiss the NAA.

(3) If the obligor fails to comply with the terms of the repayment agreement at any time during the six consecutive months, ~~[his/her]the obligor's~~ case will immediately be sent to the ORS[CSS] Supervisory Review Panel to determine the next appropriate action on the case; for example, to proceed with suspension of the obligor's driver license.

R527-260-[6]5. ORS[CSS] Supervisory Review Panel.

(1) The ORS[CSS] Supervisory Review Panel consists of the ORS ~~[D]irector[, the CSS Director and other members]~~ and child support program administrators statewide as designated by the ORS director~~[and CSS Directors.]~~

(2) The panel is responsible to review the case and determine if it is appropriate to proceed with suspension of the obligor's driver license.

(3) If the ORS[CSS] Supervisory Review Panel determines it is appropriate to proceed with the driver license suspension, the ORS director or [CSS] deputy [D] director will sign the Order to Suspend, which will be sent to the Driver License Division for enforcement.

(4) If the ORS[CSS] Supervisory Review Panel determines it is not appropriate to suspend the obligor's license, the case will be sent back to the team to take the next appropriate action [and] or dismiss the NAA.

R527-260-[7]6. Repayment Agreement to Rescind Driver License Suspension.

(1) Once the Driver License Division has been notified to suspend the obligor's driver license, the obligor may contact ORS[CSS] to make arrangements to rescind the Order to Suspend and reinstate [his/her] their driver license. The obligor may enter into a repayment agreement, which includes both current support, if appropriate, and an arrears payment to be paid for six consecutive months. ORS[CSS] will determine the obligor's monthly arrears payment by reviewing [his/her] the obligor's actual income and necessary debts to arrive at a reasonable monthly amount.

(2) The obligor's license will remain suspended until [she has successfully complied] full compliance with the terms of the repayment agreement is reached. Once the terms of the repayment agreement have been met, ORS[CSS] will rescind the Order to Suspend and notify the Driver License Division.

KEY: child support, driver license

Date of Last Change: 2022[July 1, 2008]

Notice of Continuation: December 15, 2017

Authorizing, and Implemented or Interpreted Law: 53-3-102; 53-3-221; 53-3-221.5; 62A-11-107; 62A-1-111; 62A-11-304.2; 62A-11-601; 62A-11-602; 62A-11-603; 62A-11-604

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R527-475	Filing ID 54232
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Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Nick Buchei	801-741-7520	nabuchei@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov

Jonah Shaw	801-538-4225	jshaw@utah.gov
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Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R527-475. State Tax Refund Intercept

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It

is not anticipated that this amendment would create a fiscal cost or savings 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 amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 59-10-529	Section 78B-12-112	Section 62A-11-107
Section 62A-1-111		

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.

R527-475. State Tax Refund Intercept.

R527-475-1. Purpose and Authority.

[1-](1) The [Office of Recovery Services]Department of Human Services is authorized to create rules necessary for [the provision of]social services [by]pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.

~~[2-](2)~~ This rule establishes procedures for ~~[the Office of Recovery Services/Child Support Services (ORS/CSS)]~~ to intercept a state tax refund to recover delinquent ~~[child-]~~ support pursuant to Section 59-10-529~~(+)~~.

R527-475-2. State Tax Refund Intercept.

~~[1-](1)~~ For ~~[a state tax refund to be intercepted]~~ ORS to intercept a state tax refund, there must be an administrative or judicial judgment with a balance owing. An installment of child support is considered a judgment for purposes of Section 59-10-529 on and after the date it becomes due as provided in Section 78B-12-112.

~~[2-](2)~~ State tax refunds intercepted will first be applied to current support, second to ~~[N]non-IV-A~~ arrearages, and third to satisfy obligations owed to the state and collected by ORS~~[/CSS]~~.

~~(3)~~ ORS shall mail prior written notice to the obligor and potential unobligated spouse at the obligor's last known address that:

- ~~(a)~~ the state tax refund may be intercepted; and
- ~~(b)~~ the unobligated spouse may be entitled to receive a portion of the tax refund if they had earnings and filed jointly with the obligor.

R527-475-3. State Tax Refund Intercept -- Unobligated Spouse.

~~[3-](1)~~ ~~[ORS/CSS shall mail prior written notice to the obligor who owes past due support and the unobligated spouse that the state tax refund may be intercepted. The notice shall advise the unobligated spouse of his/her right to receive a portion of the tax refund if the unobligated spouse has earnings and files jointly with the obligor.]~~ If the unobligated spouse does not want ~~[his/her]their~~ share of the tax refund to be applied to the obligated spouse's child support debt, the unobligated spouse shall make a written request to ORS. The written request shall:

- ~~(a)~~ ~~[and submit-]~~ include a copy of the tax return and, if available, W-2s; and
- ~~(b)~~ ~~[W-2's to ORS/CSS]~~ be submitted at any time after prior notice, but ~~[in-]~~no ~~[case-]~~later than 25 days after the date ORS~~[/CSS]~~ intercepts the tax refund.

~~(2)~~ If W-2s are unavailable, ORS~~[/CSS]~~ may use amounts of incomes as reported on the joint tax return. ~~ORS will prorate the [The]~~ unobligated spouse's portion of the joint tax refund ~~[will be prorated-]~~ according to the percentage of income reported on the W-2 forms or the joint tax return~~[for the tax year]~~.

~~(3)~~ If the unobligated spouse does not make a written request to ORS~~[/CSS]~~ to obtain ~~[his]their~~ share of the tax refund within the specified time limit, ORS~~[/CSS]~~ shall not be required to pay any portion of the tax refund to the unobligated spouse.

KEY: child support, taxes

Date of Last Change: ~~2022~~**June 25, 2008**

Notice of Continuation: December 15, 2017

Authorizing, and Implemented or Interpreted Law: ~~62A-1-111;~~ **62A-11-107; 59-10-529; 78B-12-112**

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R527-936	Filing ID 54238
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Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R527-936. Third Party Liability, Medicaid
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rules' Rulewriting Manual.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12. A definition was added to assist readers of the rule. The sections about cooperation requirements and assignment of benefits have been removed because these are clarified in other administrative rules or the Utah Code.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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 amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26-19-103	Section 62A-1-111	Section 62A-11-107
Section 26-18-8	42 CFR 433.135 through 433.154	

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	02/14/2022
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10. This rule change MAY become effective on:	02/21/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R527. Human Services, Recovery Services.**R527-936. Third-Party Liability, Medicaid.****R527-936-1. Definition Authority and Purpose.**

(1) Section 62A-1-111 authorizes the Department of Human Services to create rules necessary for social services. Section 62A-11-107 authorizes the Office of Recovery Services (ORS) to adopt, amend, and enforce rules.

(2) The purpose of this rule is to specify ORS's participation in meeting the requirements for a state plan in regards to third-party liability. Federal regulations 42 CFR 33.135 through 433.154 require a state agency to establish and administer a third-party liability program, and specify the requirements for a state plan concerning third-party liability. Section 26-19-103 authorizes a third-party liability Medicaid recovery program and establishes the legal liabilities of third parties and recipients. Section 26-18-8 allows the department to enforce public assistance statutes.

~~_____ A third party is an individual, institution, corporation, public or private agency, trust, estate, insurance carrier, employee welfare benefit plan, health maintenance organization, health service organization, preferred provider organization, governmental program such as Medicare, CHAMPUS, and workers' compensation, which may be obligated to pay all or part of the medical costs of injury, disease, or disability of a recipient, and a spouse or a parent who:~~

~~_____ (i) may be obligated to pay all or part of the medical costs of a recipient under law or by court or administrative order; or~~

~~_____ (ii) has been ordered to maintain health, dental, or disability insurance to cover medical expenses of a spouse or dependent child by court or administrative order. The Utah Third Party Liability Program has been established to assure that all private medical resources have been exhausted before a claim is paid by Medicaid; or that when the agency discovers a liable third party after payment of a claim, reimbursement is sought.~~

~~The Utah Third Party Liability Program has been established to assure that all private medical resources have been exhausted before a claim is paid by Medicaid; or that when the agency discovers a liable third party after payment of a claim, reimbursement is sought.~~

R527-936-2. Authority.

~~_____ Federal Regulations 42 CFR 433.135 through 433.154(1995) require the state agency to establish and administer a Third Party Liability Program, and specify the requirements for a state plan concerning Third Party Liability. The office adopts these~~

~~sections and incorporates them by reference. Sections 26-19-1 through 26-19-19 authorize a Third Party Liability Medicaid Recovery Program and establish the legal liabilities of third parties and recipients.]~~

R527-936-2. Definition.

As used in this rule "third-party" means:

(1) An individual, institution, corporation, public or private agency, trust, estate, insurance carrier, employee welfare benefit plan, health maintenance organization, health service organization, preferred provider organization, or governmental program such as Medicare, CHAMPUS, or workers' compensation, that may be obligated to pay each or part of the medical costs of injury, disease, or disability of a recipient; or

(2) A spouse or a parent who under law or by court or administrative order:

(a) may be obligated to pay each or part of the medical costs of a recipient; or

(b) is ordered to maintain health, dental, or disability insurance to cover medical expenses of a spouse or dependent child.

R527-936-3. Assignment of Benefits.

~~_____ Federal regulations 42 CFR 433.145 and 433.146 specify the applicant/recipient responsibility to assign their rights to third party payments as a condition of eligibility.~~

R527-936-4. Cooperation as a Condition of Eligibility.

~~_____ The applicant/recipient must cooperate in establishing paternity and obtaining medical support and other third party payments as specified in 42 CFR 433.147. Office of Recovery Services will initiate sanctions for non cooperation in accordance with the Federal regulations and state procedures.~~

R527-936-5. Payor of Last Resort.

~~_____ Medicaid shall be the payor of last resort [as specified in] pursuant to 42 CFR 433.138[;] and 42 CFR 433.139[; and Subsection 26-18-10(4)].~~

R527-936-4 Utah Third-Party Liability Program.

(1) The Utah Third-Party Liability Program establishes:

(a) that private medical resources have been exhausted before a claim is paid by Medicaid; or

(b) the agency shall seek reimbursement when the agency discovers a liable third-party after the payment of a claim.

(2) Where appropriate, ORS provides third-party liability fund recovery required by the state plan for Medicaid by:

(a) verifying private health care coverage for Medicaid recipients;

(b) billing private health care coverage to reimburse Medicaid funds;

(c) recovering Medicaid expenditures from tort settlements; and

(d) recovering Medicaid expenditures from the estates of Medicaid beneficiaries.

KEY: ~~[m]~~ Medicaid, debt

Date of Last Change: 2022[August 3, 2001]

Notice of Continuation: August 14, 2020

Authorizing, and Implemented or Interpreted Law: 26-19-103[through 19]; 26-18-8;[26-18-10(4)] 62A-11-107; 62A-1-111; 42 CFR 433.135 through 433.154

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R539-1	Filing ID 54224

Agency Information

1. Department:	Human Services	
Agency:	Services for People with Disabilities	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Kelly Thomson	435-669-4855	kthomson@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 or section catchline:
R539-1. Eligibility
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is amended to comply with Executive Order No. 2021-12 and add a service entry exception for the Emergency Services Management Committee.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The incorporation in Section R539-1-3 is updated to reflect a new directive. The changes also add an exception in Section R539-1-7 that allows the Emergency Services Management Committee to approve service entry. The incorporation in Section R539-1-9 is updated to reflect the new fiscal year federal matching shares. The incorporation in Section R539-1-10 is updated to reflect the new annual poverty guidelines. The changes also remove a reference to a nurse coordinator in Section R539-1-10 to further clean-up the rule text.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
--

A) State budget:								
No anticipated cost or savings to the state budget. Changes to this rule do not alter program access or funding.								
B) Local governments:								
No anticipated cost or savings to local governments. Local governments do not contribute funding to state disability services.								
C) Small businesses ("small business" means a business employing 1-49 persons):								
No anticipated cost or savings to small businesses. Small businesses do not contribute funding to state disability services.								
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):								
No anticipated cost or savings to non-small businesses. Non-small businesses do not contribute funding to state disability services.								
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):								
No anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities. Changes to this rule do not alter program access or funding.								
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):								
No anticipated compliance costs for affected persons. Changes to this rule do not alter program access or funding.								
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):								
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director								
6. A) 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								
<table border="1"> <tr> <th>Fiscal Cost</th> <th>FY2022</th> <th>FY2023</th> <th>FY2024</th> </tr> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </table>	Fiscal Cost	FY2022	FY2023	FY2024	State Government	\$0	\$0	\$0
Fiscal Cost	FY2022	FY2023	FY2024					
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
B) 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.			

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 62A-5-103	Section 62A-5-105	

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)	Directive 1.40 Qualifying Brain Injury Diagnoses
Publisher	Division of Services for People with Disabilities
Date Issued	2021

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

	Second Incorporation
Official Title of Materials Incorporated (from title page)	Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the Children's Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2021 Through September 30, 2022
Publisher	Office of the Federal Register, National Archives and Records Administration
Date Issued	11/30/2020
Issue, or version	83 FR 61157

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

	Third Incorporation
Official Title of Materials Incorporated (from title page)	Annual Update of the HHS Poverty Guidelines
Publisher	Office of the Federal Register, National Archives and Records Administration
Date Issued	02/01/2021
Issue, or version	85 FR 3060

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. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	02/14/2022

10. This rule change MAY become effective on:	02/21/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R539. Human Services, Services for People with Disabilities.

R539-1. Eligibility.

R539-1-1. Purpose.

(1) The purpose of this rule is to provide a procedure and standard for:

(a) the determination of eligibility for division services as required by Section 62A-5-1; and

(b) notice to an applicant of hearing rights and the hearing process.

R539-1-2. Authority.

(1) This rule establishes a procedure and standard for the determination of eligibility for division services as required by Section 62A-5-1.

(2) Procedure described by this rule constitutes the minimum requirement to determine eligibility for division funding. Additional procedure may be required to comply with any other governing statute, federal law, or federal regulation.

R539-1-3. Definitions.

As used in this rule:

(1) Terms used in this rule are defined in Section 62A-5-101.

(2) "Agency Action" means an action taken by the division that results in:

(a) a determination of eligibility or change of intake status for an applicant; and

(b) a denial, termination, suspension, or reduction of a service applied for or included in the budget of a person receiving division funding.

(3) "Applicant" means an individual or a representative of an individual applying for a determination of eligibility.

(4) "Cash Assets" means any stock, bond, certified deposit, saving, checking, and trust account. An exempt discretionary trust account as described in Subsection 62A-5-110(6) is not included.

(5) "Department" means the Department of Human Services.

~~[(6)](6) "Division" means the Division of Services for People with Disabilities.~~

~~[(7)](6) "Form" means a standard document required by division rule or other applicable law.~~

~~[(8)](7) "Guardian" means someone appointed by a court to be a substitute decision-maker for an individual deemed incompetent to make an informed decision.~~

~~[(9)](8) "Hearing Request" means a written request made by an applicant or a person for a hearing concerning a denial, deferral or change in service.~~

~~[(10)](9) "ICF" means Intermediate Care Facility for People with Intellectual Disability.~~

~~[(11)](10) "Person" means an individual or their representative found eligible for division funding for a support service, who is waiting for or receiving a service.~~

~~[(12)](11) "Qualifying Acquired Neurological Brain Injury" means an eligible diagnosis from the International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM), as described in division Directive 1.40 Qualifying Acquired Brain Injury Diagnoses (20~~19~~21), incorporated by reference.~~

~~[(13)](12) "Related Conditions" means the same as defined in 42 CFR 435.1010.~~

~~[(14)](13) "Representative" means any legal representative including the parent of a minor child, a court appointed guardian, or a retained lawyer.~~

~~[(15)](14) "Resident" means an applicant, person, or guardian who voluntarily lives in the state with the intention of making the state their place of residence.~~

~~[(16)](15) "Support" means assistance for any portion of a task that allows a person to:~~

~~(a) independently complete any other portion of the task; or~~

~~(b) assume increasingly greater responsibility for performing the task independently.~~

~~[(17)](16) "Support Coordinator" means an employee of the division or an individual contracted with the division who provides assistance with:~~

~~(a) assessing the need of a person receiving division funding;~~

~~(b) developing a service and support plan for a person receiving division funding;~~

~~(c) completing written documentation of support;~~

~~(d) monitoring the appropriate spending of a person's annual budget; and~~

~~(e) monitoring the quality of each service used by a person receiving division funding.~~

~~[(18)](17) "Team Member" means any member of the person's circle of support who participates in the planning and delivery of any service and support with the person. Team members may include the person applying for or receiving a service, the parent, the guardian, the support coordinator, a friend of the person, and any other professional and provider staff working with the person.~~

~~[(19)](18) "Waiver" means the Medicaid approved plan for a state to provide home and community-based services to a person with a disability instead of institutionalization in a Title XIX facility.~~

R539-1-4. Services for People with Intellectual Disabilities or Related Conditions.

(1) The division shall only offer services for an intellectual disability or a related condition to an eligible applicant with a disability as defined in Subsection 62A-5-101(9).

(2) An eligible applicant must meet the following requirements:

(a) have a diagnosed intellectual disability or related condition as defined in Subsection 62A-5-101(9) and Section R414-502-8;

(b) have three or more functional limitations; and

(c) be a resident of the state.

(3) Functional limitations are defined as:

(a) "Self-care" means an applicant ~~[who]~~ requires assistance, training, or supervision with eating, dressing, grooming, bathing, or toileting.~~;~~

~~(i) eating;~~

~~(ii) dressing;~~

~~(iii) grooming;~~

~~(iv) bathing; or~~

~~(v) toileting.]~~

(b) "Expressive and receptive language" means an applicant~~[~~
~~who]~~:

(i) lacks functional communication skills;

(ii) requires the use of an assistive device to communicate;

(iii) does not demonstrate an understanding of requests; or

(iv) ~~[is unable to]~~ cannot follow a two-step instruction.

(c) "Learning" means an applicant ~~[who]~~ has a valid diagnosis of intellectual disability based on the criteria found in the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders DSM-5 (2013), incorporated by reference.

(d) "Mobility" means an applicant~~[-who]~~:

- (i) requires the use of assistive devices for mobility; and
- (ii) cannot self-evacuate from a building during an emergency without the assistive device.

(e) "Capacity for Independent Living" means the following:

- (i) ~~[a]~~A minor applicant, at least seven years of age, ~~[who is unable to]~~cannot:
 - (A) locate and use a telephone;
 - (B) cross a street safely; or
 - (C) understand that it is not safe to accept a ride, food, or money from a stranger.~~[-or]~~
- (ii) ~~[a]~~An adult applicant who lacks basic survival skills in the areas of shopping, preparing food, housekeeping, or paying a bill.~~[-~~
 - ~~(A) shopping;~~
 - ~~(B) preparing food;~~
 - ~~(C) housekeeping; or~~
 - ~~(D) paying a bill.]~~

(f) "Self-direction" means an applicant ~~is~~is:

- (i) ~~[is]~~unable to provide informed consent for medical care, personal safety, legal matters, financial matters, habilitative care, or residential matters.~~[-~~
 - ~~(A) medical care;~~
 - ~~(B) personal safety;~~
 - ~~(C) legal matters;~~
 - ~~(D) financial matters;~~
 - ~~(E) habilitative care; or~~
 - ~~(F) residential matters.]~~
- (ii) ~~[has been]~~declared legally incompetent;
- (iii) ~~[is]~~a significant danger to self or any other individual without supervision; or
- (iv) ~~[is]~~a minor applicant, at least seven years of age, significantly at risk in making an age appropriate decision.

(g) "Economic self-sufficiency" means an adult applicant~~who~~:

- (i) receives disability benefits; and
- (ii) ~~[is unable to]~~cannot work more than 20 hours a week or is paid less than minimum wage without employment support.

(4) The division determines eligibility.

(a) The division shall determine if an applicant is eligible for non-waiver services within 90 days of receiving needed documentation.

(b) To determine functional limitations for an applicant aged seven years or older, the division shall consider age appropriate ability.

(c) The division shall ~~[retain]~~keep eligibility documentation in the applicant's electronic record.

(5) The division shall use the following documents to determine eligibility:

- (a) Eligibility for Services Form 19 or Eligibility for Services Form 19C for a child younger than seven years of age;
- (b) an assessment of functional limitations and need;
- (c) a social history of the applicant completed within one year of the date of application;
- (d) a psychological evaluation or a developmental assessment for a child younger than seven years of age; and
- (e) supporting documentation for each eligibility requirement. Supporting documentation includes mental health assessment, educational record, neuropsychological evaluation, and medical healthcare visit summary.

(6) An applicant shall submit to the division the supporting documentation needed to determine eligibility.

- (a) If needed supporting documentation is not submitted within 90 ~~[calendar]~~calendar days of initial contact, the division shall change the

intake case status to inactive. The division shall send the applicant written notification of an intake status change to inactive.

(b) An applicant may reactivate the intake case by submitting any needed supporting documentation.

(c) An applicant must update eligibility documentation as needed.

(7) The division shall notify an applicant of the eligibility determination by mailing a Notice of Agency Action Form 522-I and a Hearing Request Form 490S.

(a) The Notice of Agency Action Form 522-I indicates:

(i) the eligibility determination; and

(ii) placement on the waiting list, when applicable.

(b) An applicant may challenge the eligibility determination by filing a written request for an administrative hearing before the Department of Human Services, Office of Administrative Hearings.

(8) The division shall annually re-determine eligibility for each person receiving a service. If a person receiving a service is determined to be ineligible, the division shall develop a transition plan to discontinue each service that ensures any health and safety need is met.

(9) A person who receives a non-waiver service may have their non-waiver service package reduced or terminated because of:

(a) a division budget shortfall;

(b) a reduced legislative allocation; or

(c) a reevaluation of eligibility.

(10) Section R539-1-4 does not apply to an applicant who meets the eligibility criteria for physical disability or brain injury as described in Sections R539-1-5 and R539-1-6, respectively.

R539-1-5. Services for People with Physical Disabilities.

(1) The division shall only offer services for a physical disability to an eligible applicant with a disability as defined in Subsection 62A-5-101(9).

(2) An eligible applicant must meet the following requirements:

(a) have a qualifying physical disability expected to last for a continuous period of 12 months or longer;

(b) have the functional loss of two or more limbs;

(c) have a need for a personal assistance service ~~[in order]~~ to accomplish an activity of daily living or an instrumental activity of daily living;

(d) be 18 years of age or older;

(e) be medically stable;

(f) be capable of selecting, training, and supervising a personal attendant;

(g) have at least one available personal attendant trained or willing to be trained;

(h) live in a safe residence that can accommodate the personnel and equipment needed to adequately and safely care for the person;

(i) be capable of managing personal financial and legal matters;

(j) have three or more functional limitations as described in Subsection R539-1-4(3)(a) through R539-1-4(3)(g); and

(k) be a resident of the state.

(3) The division ~~shall~~shall ~~[determine eligibility.]~~

(a) ~~[The division shall]~~ determine if an applicant is eligible for non-waiver services within 90 days of receiving needed documentation~~[-]; and~~

(b) ~~[The division shall retain]~~keep eligibility documentation in the applicant's electronic record.

(4) The division shall use the following documents to determine eligibility:

(a) Physical Disabilities Services Application Form 3-1 Part B signed by the licensed physician attesting to each eligibility requirement; and

(b) the Minimum Data Set-Home and Community-based (MDS-HC).

(5) An applicant shall submit to the division the documentation needed to determine eligibility.

(a) If needed documentation is not submitted within 90 ~~calendar~~ days of initial contact, the division shall change the intake case status to inactive ~~and send the applicant written notification of an intake status change to inactive.~~

(b) An applicant may reactivate the intake case by submitting any needed documentation.

(c) An applicant must update eligibility documentation as needed.

(6) The division shall notify an applicant of the eligibility determination by mailing a Notice of Agency Action Form 522-I and a Hearing Request Form 490S.

(a) The Notice of Agency Action Form 522-I indicates:

(i) the eligibility determination; and

(ii) placement on the waiting list, when applicable.

(b) An applicant may challenge the eligibility determination by filing a written request for an administrative hearing before the Department of Human Services, Office of Administrative Hearings.

(7) The division shall annually re-determine eligibility for each person receiving a service. If a person receiving a service is determined to be ineligible, the division shall develop a transition plan to discontinue each service that ensures any health and safety need is met.

(8) A person who receives a non-waiver service may have their non-waiver service package reduced or terminated because of:

(a) a division budget shortfall;

(b) a reduced legislative allocation; or

(c) a reevaluation of eligibility.

(9) Section R539-1-5 does not apply to an applicant who meets the eligibility criteria for intellectual disability and related conditions or brain injury as described in Sections R539-1-4 and R539-1-6, respectively.

R539-1-6. Services for People with Brain Injury.

(1) The division shall only offer services for a brain injury to an eligible applicant with a disability as defined in Subsections 62A-5-101(3) and 62A-5-101(9). Applicants with an intellectual disability or related condition are ineligible for brain injury services.

(2) An eligible applicant must meet the following requirements:

(a) have a documented qualifying acquired neurological brain injury from a licensed physician;

(b) be 18 years of age or older;

(c) have three or more functional limitations;

(d) score between 36 and 136 on the Comprehensive Brain Injury Assessment Form 4-1; and

(e) be a resident of the state.

(3) Functional limitations are defined as:

(a) "Memory" or "Cognition" means an applicant's brain injury resulted in a substantial problem with recall of information, concentration, attention, planning, sequencing, executive level skills, or orientation to time and place.

(b) "Activities of daily life" means an applicant's brain injury resulted in substantial dependence on another individual to move, eat, bathe, toilet, shop, prepare a meal, or pay a bill.

(c) "Judgment" and "Self-protection" means the applicant's brain injury resulted in substantial limitation of the ability to:

(i) provide personal protection;

(ii) provide a necessity including food, shelter, clothing, mental health care, or any other health care;

(iii) obtain a service necessary for health, safety, or welfare; or

(iv) comprehend the nature and consequence of remaining in a situation of abuse, neglect, or exploitation.

(d) "Control of emotion" means the applicant's brain injury resulted in substantial limitation of the ability to regulate mood, anxiety, impulsivity, agitation, or socially appropriate conduct.

(e) "Communication" means the applicant's brain injury resulted in substantial limitation in language fluency, reading, writing, comprehension, or auditory processing.

(f) "Physical health" means the applicant's brain injury resulted in substantial limitation of the normal process and working of the human body.

(g) "Employment" means the applicant's brain injury resulted in substantial limitation in obtaining and maintaining a gainful occupation without ongoing support.

(4) The division determines eligibility.

(a) The division shall determine if an applicant is eligible for non-waiver services within 90 days of receiving eligibility documentation.

(b) The division shall ~~retain~~ keep eligibility documentation in the applicant's electronic record.

(5) The division shall use the following documents to determine eligibility:

(a) documentation of a qualifying acquired brain injury diagnosis signed by a licensed physician;

(b) Comprehensive Brain Injury Assessment Form 4-1, Sections A through L; and

(c) Brain Injury Social History Summary Form 824L completed within one year of the date of application;

(6) An applicant shall submit to the division the documentation needed to determine eligibility.

(a) If ~~eligibility~~ needed documentation is not submitted within 90 ~~calendar~~ days of initial contact, the division shall change the intake case status to inactive ~~and send the applicant written notification of an intake status change to inactive.~~

(b) An applicant may reactivate the intake case by submitting any eligibility documentation.

(c) An applicant must update eligibility documentation as needed.

(7) The division shall notify an applicant of the eligibility determination by mailing a Notice of Agency Action Form 522-I and a Hearing Request Form 490S.

(a) The Notice of Agency Action Form 522-I indicates:

(i) the eligibility determination; and

(ii) placement on the waiting list, when applicable.

(b) An applicant may challenge the eligibility determination by filing a written request for an administrative hearing before the Department of Human Services, Office of Administrative Hearings.

(8) The division shall annually re-determine eligibility for each person receiving a service. If a person receiving a service is determined to be ineligible, the division shall develop a transition plan to discontinue each service that ensures any health and safety need is met.

(9) A person who receives a non-waiver service may have their non-waiver service package reduced or terminated because of:

- (a) a division budget shortfall;
- (b) a reduced legislative allocation; or
- (c) a reevaluation of eligibility.

(10) Section R539-1-6 does not apply to an applicant who meets the eligibility criteria for intellectual disability and related conditions or physical disability as described in Sections R539-1-4 and R539-1-5, respectively.

R539-1-7. Medicaid Waiver Eligibility and Enrollment for the Comprehensive Support Waivers.

(1) Matching federal funds may be available through a comprehensive support waiver that provides an array of home and community-based services for a person with an intellectual disability or related condition, physical disability, or brain injury.

(a) A person must meet financial eligibility for Medicaid benefits as determined by the Department of Workforce Services.

(b) A person must meet a waiver level of care as determined by the division.

(2) ~~[Within an appropriation from the Legislature, a]~~As described in Subsections 62A-5-102(3) and 62A-5-102(4), the division ~~[determines]~~provides a waiver service within an appropriation from the Legislature.~~[enrollment by the most critical need ranking.]~~

(a) Except as described in Subsection R539-1-7(2)(d), the division determines waiver enrollment by the most critical need ranking.

~~[(a)]b~~ The division shall use a need assessment tool to determine a person's need score.

~~[(b)]c~~ Ordering of each person's need score identifies the most critical need ranking.

(d) The Emergency Services Management Committee may approve enrollment in a comprehensive support waiver as described in Section R539-2-9.

(3) Pursuant to ~~[Section]~~Rule R414-510, if the Department of Health determines that sufficient funding is available, an eligible individual may receive a waiver service by transitioning out of an ICF into a comprehensive support waiver.

(4) Pursuant to ~~[Section]~~Rule R414-502, the Department of Health may find a person meeting nursing facility level of care eligible for funding through a comprehensive support waiver.

(5) Any person offered enrollment in a Medicaid waiver may choose not to participate. If an eligible person chooses not to participate in a waiver, the person shall receive only the state funded portion of their assessed need as described in Section R539-1-9.

R539-1-8. Medicaid Waiver Eligibility and Enrollment for the Limited Supports Waiver.

(1) Matching federal funds may be available through a limited support waiver that provides an array of home and community-based services for a person with an intellectual disability or related condition, or brain injury.

(a) A person must meet financial eligibility for Medicaid benefits as determined by the Department of Workforce Services.

(b) A person must meet a waiver level of care as determined by the division.

(2) ~~[Within an appropriation from the Legislature, a]~~As described in Section 62A-5-102, the division determines waiver enrollment.

(a) The division shall offer enrollment in order of time spent waiting.

(b) The division shall identify a person through:

(i) an adjusted critical needs score at or below the person's age group threshold; and

(ii) no immediate need for out-of-home residential support services.

(c) The adjusted critical need score equals the person's total critical need score minus the time spent waiting component.

(d) A person shall be enrolled in a limited support waiver only if the person's assessed need can be safely met within the individual budget limit.

(4) Pursuant to ~~[Section]~~Rule R414-510, if the Department of Health determines that sufficient funding is available, an eligible individual may receive a waiver service by transitioning out of an ICF into a limited support waiver.

(5) Pursuant to ~~[Section]~~Rule R414-502, the Department of Health may find a person who meets~~[meeting]~~ nursing facility level of care eligible for funding through a limited support waiver.

(6) Any person offered enrollment in a Medicaid waiver may choose not to participate. If an eligible person chooses not to participate in a waiver, the person shall receive only the state funded portion of their assessed need as described in Section R539-1-9.

R539-1-9. State Match Rate.

(1) "State match rate" means the state funded portion of a person's assessed need as determined through the person-centered planning process.

(a) The state match rate shall be calculated based on the Centers for Medicare and Medicaid Federal Medical Assistance Percentage~~[(FMAP)]~~.

(b) The division incorporates by reference the federal matching shares for Medicaid beginning October 1, 202~~[0]~~1 and ending September 30, 202~~[+]~~2, updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 1396b.

(2) The division shall reduce a person's funding to the state match rate for the following reasons:

(a) rejection of an offer for waiver enrollment and determined eligible for a Medicaid waiver by the Department of Workforce Services;

(b) offered waiver enrollment and determined ineligible for a Medicaid waiver by the Department of Workforce Services;

(c) failure to apply for a determination of financial eligibility for Medicaid benefits within 30 days of an offer for waiver enrollment; or

(d) failure to submit a Graduated Fee Assessment Form 2-1G to the support coordinator within 60 days of notice of the graduated fee schedule.

R539-1-10. Graduated Fee Schedule.

(1) Pursuant to Subsections 62A-5-105(2)(b) and (c) the division establishes a graduated fee schedule.

(2) The graduated fee schedule applies to any person determined ineligible for a Medicaid waiver.

(a) A person offered waiver enrollment that does not meet financial eligibility for Medicaid benefits as determined by the Department of Workforce Services.

(b) A person offered waiver enrollment that does not meet waiver level of care as determined by the division.

(c) Except a person determined ineligible for a Medicaid waiver who receives only the state match rate as described in Section R539-1-9.

(3) Each person offered waiver enrollment must apply for a determination of financial eligibility for Medicaid benefits within 30 days of the offer.

(a) If the person meets waiver level of care, the division shall submit a Form 927 requesting a determination of financial eligibility.

(b) If the person does not meet waiver level of care, the person shall:

(i) apply for state plan Medicaid; and

(ii) provide the support coordinator ~~[or nurse coordinator]~~ with the financial determination letter within 10 days of receipt of the determination.

(c) Noncompliance results in a funding reduction as described in Section R539-1-9.

(4) A person determined ineligible for a Medicaid waiver shall submit to the division a Graduated Fee Assessment Form 2-1G to report the following information:

(a) cash assets;

(b) annual gross income; and

(c) number of family members living together.

(5) The Form 2-1G shall be reviewed at the ~~[time of the]~~ annual planning meeting.

(a) The person shall return a Form 2-1G to the support coordinator ~~[prior to]~~ before delivery of a new service.

(b) A person receiving a service must return a completed and signed Form 2-1G to their support coordinator within 60 days of receiving notice of this rule.

(c) Noncompliance results in a funding reduction as described in Section R539-1-9.

(6) The person's available income determines the fee percent assessed.

(a) Available income shall be calculated using the formula (cash assets + annual gross income)/the total number of family members living together.

(b) The annual fee amount shall be calculated by multiplying available income by the fee percent.

(i) No fee shall be assessed if available income is less than 300% of the federal poverty guideline.

(ii) A 1% fee shall be assessed if available income is between 300% and 399% of the federal poverty guideline.

(iii) A 2% fee shall be assessed if available income is between 400% and 499% of the federal poverty guideline.

(iv) A 3% fee shall be assessed if available income is more than 500% of the federal poverty guideline.

(c) An assessed fee shall not exceed 3% of a person's available income.

(d) The division incorporates by reference the 202~~[0]~~ annual poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).

(7) Only one fee shall be assessed per family, regardless of the number of children in the family receiving services.

(a) A person ineligible for a Medicaid waiver who is younger than 18 years of age shall be assessed a fee based upon the parent's annual gross income and cash assets.

(b) A person ineligible for a Medicaid waiver who is 18 years of age or older shall be assessed a fee based upon individual annual gross income and cash assets.

(8) If a fee is assessed, the person shall pay the Division of Services for People with Disabilities or designee the total amount assessed.

(a) A person may submit a monthly prorated payment of 1/12 of the assessed fee amount.

(b) Payment shall begin the month after the division sends notice of the assessed fee amount to the person.

(c) Payment must be submitted before the last day of each month.

(9) If the person fails to pay the fee for six months, the division may reduce the person's annual funding from the next fiscal year to recover the amount due.

(10) If a person can show good cause as to why the fee cannot be paid, the division director may grant an exception on a case-by-case basis.

R539-1-11. Social Security Numbers.

(1) The division requires an applicant to provide a valid Social Security Number.

(2) The division adopts and incorporates by reference the same standard as ~~[Section]~~ Rule R414-302 and 42 ~~[C.F.R.]~~ CFR 435.910 (2019).

KEY: human services, disabilities, social security numbers

Date of Last Change: 2022[November 9, 2020]

Notice of Continuation: October 23, 2017

Authorizing, and Implemented or Interpreted Law: 62A-5-103; 62A-5-105

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact

Utah Admin. Code Ref (R no.): R539-2

Filing ID
54226

Agency Information

1. Department:	Human Services	
Agency:	Services for People with Disabilities	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Kelly Thomson	435-669-4855	kthomson@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 or section catchline:

R539-2. Service Coordination

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule is repealed and reenacted to comply with Executive Order No. 2021-12; and to update and clarify processes.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Language was changed to conform to the current edition of the Administrative Rules' Rulewriting Manual for Utah. Substantive changes align current practice and this rule to improve clarity and the Division of Services for People with Disabilities' responsiveness to the public.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

No anticipated cost or savings to the state budget. Changes to this rule do not alter program access or funding.

B) Local governments:

No anticipated cost or savings to local governments. Local governments do not contribute funding to state disability services.

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

No anticipated cost or savings to small businesses. Small businesses do not contribute funding to state disability services.

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

No anticipated cost or savings to non-small businesses. Non-small businesses do not contribute funding to state disability services.

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**):

No anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities. Changes to this rule do not alter program access or funding.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No anticipated compliance costs for affected persons. Changes to this rule do not alter program access or funding.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	02/14/2022
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10. This rule change MAY become effective on:	02/21/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R539. Human Services, Services for People with Disabilities.

R539-2. Service Coordination.

~~R539-2-1. Purpose.~~

~~(1) The purpose of this rule is to provide standards for the Division service system, including planning, developing and managing an array of services for Persons with disabilities and their families throughout the state as required by Subsection 62A-5-103(2)(a).~~

~~R539-2-2. Authority.~~

~~(1) This rule establishes standards as required by Subsection 62A-5-103(2)(b).~~

~~R539-2-3. Definitions.~~

~~(1) Terms used in this rule are defined in Section 62A-5-101 and R539-1-3.~~

~~(2) In addition:~~

~~(a) "Quality Assurance" means the Family, Provider, and Division management's role to assure accountability in areas of fiscal operations, health, safety, and contract compliance.~~

~~(b) "Quality Improvement" means the Provider's role to evaluate and improve the internal delivery of services.~~

~~(c) "Quality Enhancement" means the Division and the Team members' role in supporting a Person to experience personal life satisfaction in accordance with the Person's preferences.~~

~~R539-2-4. Waiting List.~~

~~(1) Pursuant to Subsection 62A-5-102(3), the Division shall determine a Person's eligibility for service, followed by a determination of that Person's priority relative to others who are also eligible. The Division shall use a standardized Needs Assessment to score and prioritize the Person's level of need. Persons with the highest scores shall receive support first. The Support Coordinator shall assess with the Person the array of services that may be needed.~~

If funding is not immediately available, the Person shall be placed on a waiting list for support. Persons who have been determined eligible for the Division's Medicaid Waivers can choose to wait for Division Support services or seek services available through Medicaid in an approved facility.

~~(2) If the Person requires, and could use, support services on the day of intake, the Person has an immediate need; otherwise, the Person has a future need.~~

~~(3) A Needs Assessment Form shall be completed for all Persons with an immediate need for support services. The Needs Assessment calculates an aggregate score for each Person by using the following three scales:~~

~~(a) severity scale;~~

~~(i) personal care supports;~~

~~(ii) daily living supports;~~

~~(iii) personal safety supports;~~

~~(iv) behavioral supports; and~~

~~(v) prescribed medical treatments;~~

~~(b) caregiver and home environment scale; and~~

~~(c) time on waitlist scale.~~

~~(4) The Division determines the Person's score, rank orders the scores, and enters the Person's name and score on the statewide waiting list.~~

~~(5) A Person's ranking may change if the Person's needs change or as Needs Assessments are completed for new Applicants.~~

~~(6) No age limitations apply to a Person placed on the waiting list for community living support or family support.~~

~~(7) To preserve the Medicaid Waiver and state-wide service infrastructure, exceptions may be made to the person's ranking on the waiting list when authorized by the Division Director and the Department of Health.~~

~~R539-2-5. Person-Centered Process.~~

~~(1) The Division supports Person-Centered Planning, which includes assessing, planning, implementing, and evaluating. This process shall have an individualized focus and incorporate the principles of Person-Centered Planning, self-determination, informed choice, and equity. Input from the Person and the Person's Team should guide and direct this process.~~

~~(a) The Person's Team shall work with the Person to identify goals.~~

~~(i) The Person receiving supports determines the membership of the Team, which shall include the Support Coordinator.~~

~~(ii) The Team meets at least annually within the month in which the previous meeting occurred, or more often as the Person or other members of the Team determine necessary.~~

~~(b) The Person, Provider, and Family shall assess, plan, implement, and evaluate goals and supports for which they are responsible, as agreed upon and listed on Division Form 1-16 in the planning meeting.~~

~~(c) The Team shall decide the level of detail required to describe the actions involved in the assessing, planning, implementing, and evaluating needs for the supports based on the experience and expertise of the staff providing the Person's supports. The use of the philosophical Person-Centered Planning approach shall be demonstrated and documented in the Person's file.~~

~~(d) Any interested party who believes that Person-Centered Planning is not being implemented as outlined or receives a request from the Person, should contact the Support Coordinator immediately to resolve the issue informally, and, if necessary,~~

through the administrative hearing process outlined in R539-3-8 Notice of Agency Action and Administrative Hearings.

~~R539-2-6. Entry Into and Movement Within Service System.~~

~~(1) The Division shall assure that an appropriate choice of supports and Providers exist for Persons entering or moving within the support system in accordance with Subsections 62A-5-103(1) and 62A-5-103(2). The Division shall coordinate, approve, and oversee all out-of-home placements.~~

~~(2) Entry into Division-funded supports:~~

~~(a) Once a Person's application for waiver services is processed by the Division, the Person is referred to the local financial eligibility office.~~

~~(b) Prior to the provision of community living supports, a Person may be required to complete a medical examination and, if under the age of 18, provide a current immunization record.~~

~~(c) Admission to Division programs from a nursing facility will be coordinated by the Division with the Person, the nursing facility social worker, the Support Coordinator, and the prospective Provider.~~

~~(d) The Division shall provide Persons with a choice of Providers by:~~

~~(i) sending Providers notice and invitation to submit offers to provide services via use of Division Form 1-6; and~~

~~(ii) assisting the Person to make an informed choice of Provider.~~

~~(e) Interested Providers may schedule and coordinate a service entry meeting that involves the Person, the Representative, Support Coordinator, and invited guests, (e.g., Developmental Center staff, school representative, and Division staff). The meeting should be held at the prospective site of placement whenever possible.~~

~~(f) The Provider shall submit an acceptance or denial letter within ten business days of the service entry meeting to the Support Coordinator and the Person. An acceptance letter shall include a written description of the following:~~

~~(i) services to be provided;~~

~~(ii) location of the service;~~

~~(iii) name and address of the primary care physician, or other medical specialists, including, for example, neurologist or dentist, if applicable;~~

~~(iv) a training and in-service schedule for the staff to meet with the Person;~~

~~(v) proposed date services will begin; and~~

~~(vi) agreed upon rate and level of support.~~

~~(g) The physical move of the Person shall be the responsibility of the Provider who is accepting the Person.~~

~~(h) The Division shall send the Person's information to the Provider five business days prior to the move.~~

~~(3) Any Team Member may initiate a request to change Provider or Developmental Center residence by asking the Support Coordinator to arrange a meeting.~~

~~(4) If a Person requests a change of Provider, the Support Coordinator shall arrange a discharge meeting that provides a ten-business-day written notice to the Person, present Provider, and Support Coordinator.~~

~~(a) The present Provider may request the opportunity to make changes in the existing relationship to address the concerns that initiated the discharge meeting.~~

~~(b) The Director shall make the final decision concerning the discharge if the parties cannot come to agreement.~~

~~(5) A Provider initiated request for discharge of a Person shall require 90 calendar days prior notification to the Person and the Division.~~

~~(6) Emergency Services Management Committee (ESMC):~~

~~(a) An Emergency Services Management Committee chairperson shall be appointed by the Division Director. Membership shall include:~~

~~(i) Division Specialists;~~

~~(ii) a representative from the Division who is skilled in crisis intervention and knowledgeable of local resources;~~

~~(iii) a representative from the Developmental Center; and~~

~~(iv) others as appointed by the Division Director.~~

~~(b) The Emergency Services Management Committee shall ensure that Persons are placed in the least restrictive most appropriate living situation as per Sections 62A-5-302 through 62A-5-312 and Subsection 62A-5-402(2)(a). Exceptions to the statute requiring children under age 11 to live only in family-like environments, as per Section 62A-5-403, require Emergency Services Management Committee review and recommendation to the Division Director for final written approval.~~

~~R539-2-7. Quality Management Procedures.~~

~~(1) The Division will oversee the three distinct functional roles of quality management, which are Quality Assurance, Quality Improvement, and Quality Enhancement:~~

~~(a) Necessary quality assurances are specified by contract with the Division. The Division may work with other offices and bureaus of the Department of Human Services and the Department of Health to assure quality.~~

~~(b) Providers are responsible to develop and implement an internal quality management system, which shall:~~

~~(i) Evaluate the Provider's programs; and~~

~~(ii) Establish a system of self-correcting feedback.~~

~~(c) The implementation of the Person's Action Plan shall be designed to enhance the Person's life. The Person and Person's Team shall:~~

~~(i) Identify and document the Person's preferences;~~

~~(ii) Plan how to support the Person's life satisfaction; and~~

~~(iii) Implement the plan with supports from the Division, such as;~~

~~(A) Technical Assistance, which involves training, mentoring, consultation, and referral through Division staff.~~

~~(B) Quality Enhancement Resource Brokerage, which involves identification and compilation of community resources, including other consumers and families, and referral to and prior approval of payment for these supports.~~

~~(C) Consumer empowerment, which involves rights education, leadership training.~~

~~(D) Team and System Process Enhancement, which involves facilitation and negotiation training, community education, and consumer satisfaction surveys.~~

~~(2) The Division shall evaluate the Person's satisfaction and statistical statewide system indicators of life enhancement.~~

~~(3) Division staff shall promote enhancement of the Person's life; support improvement efforts undertaken by Providers, Persons, and families; and assure accountability.~~

~~R539-2-8. Request for New Support Coordinator.~~

~~(1) A Person may request a new Support Coordinator by submitting a written request to the Region Office Supervisor.]~~

R539-2-1. Purpose.

The purpose of this rule is to provide a standard for the division service system. The service system includes planning, developing, and managing a statewide array of services for a person with a disability and the person's family as required by Subsection 62A-5-103(2)(a).

R539-2-2. Authority.

This rule is authorized by Subsections 62A-5-103(2)(a) and 62A-5-103(2)(b).

R539-2-3. Definitions.

(1) Terms used in this rule are defined in Sections 62A-5-101 and R539-1-3.

(2) "Attrition money" means the public funds that the division uses to provide services as described in Section 62A-5-102 that revert to the division after a person receiving services ceases to receive those services as described in Subsection 62A-5-102(7)(c).

(3) "Carry-forward money" means the public funds that the division uses to provide services as described in Section 62A-5-102 that are not spent before the end of the fiscal year as described in Subsections 62A-5-102(7)(d) and 62A-5-102(7)(e).

(4) "Caseworker" means an employee of the division that provides assistance with intake, eligibility, waiting list updates, and waiting list services; and is certified by the division as a Qualified Intellectual Disability Professional (QIDP) or is supervised by a QIDP.

(5) "Person-Centered Planning" means an individualized approach to planning services and supports to help a person achieve their goals, get the life they want for themselves, and help them reach their vision of a good life. Person-centered planning incorporates the principles of self-determination, informed choice, integration, inclusion, person-centered thinking, and person-centered practice.

(6) "Person-Centered Support Plan" means a plan that reflects the services and supports that are important for the person to meet the needs identified through an assessment of functional need, as well as what is important to the person with regard to preferences for the delivery of such services and supports.

(7) "Provider" means an agency or business contracted with the Department of Human Services to provide a support or service.

(8) "Team" means the person-centered support team made up of team members as defined in Section R539-1-3.

(9) "Quality Assurance" means the family, provider, and division management role to assure accountability in areas of fiscal operations, health, safety, and contract compliance.

(10) "Quality Improvement" means the provider role to evaluate and improve the internal delivery of services.

(11) "Quality Enhancement" means the division and the team member role in supporting a person to experience personal life satisfaction in accordance with the person's preferences.

R539-2-4. Waiting List.

(1) Except as described in Section R539-2-9, the division shall determine a person's eligibility for a service and priority of service enrollment as described in Subsection 62A-5-102(3) and Rule R539-1.

(2) A person shall be placed on the waiting list for support services, if division funding is not immediately available.

(a) The caseworker shall work with the person to assess the array of services that the person may need.

(b) A person determined eligible for Medicaid may choose to wait for a division Medicaid waiver and seek other services available in a Medicaid approved facility. The Department of Workforce Services determines Medicaid eligibility.

(3) The division determines a person's need score, and orders each score to identify the waiting list critical need ranking.

(a) The caseworker shall complete the Needs Assessment Questionnaire for each person. The Needs Assessment Questionnaire measures the following four areas:

(i) severity of need;

(ii) caregiver support;

(iii) time on the waiting list; and

(iv) urgency of need.

(b) The total need score includes each measure of severity of need, caregiver support, and time on the waiting list. The division uses the urgency of need measure to refer a person to the Emergency Service Management Committee as described in Section R539-2-9.

(c) A person's critical need ranking may change:

(i) if the person's need score changes; or

(ii) in relation to any other person's new or updated need score.

(d) The division director and the state Medicaid director may make an exception to the person's critical need ranking to preserve a Medicaid waiver and statewide service infrastructure.

(4) The division maintains the statewide waiting list by annually confirming each person's interest and need score.

R539-2-5. Person-Centered Planning.

(1) The division uses a person-centered planning process to develop a person-centered support plan.

(a) A support coordinator shall use the person-centered planning process.

(b) A support coordinator shall use any formal or informal assessment available through the division.

(c) A support coordinator shall use any other information provided by the person or a team member.

(d) The support coordinator shall be a team member.

(2) Person-centered planning must be led by the person to the maximum extent possible.

(a) The person chooses each team member.

(b) The team provides information and support that enables the person to make an informed decision.

(c) The team helps the person develop a goal.

(3) Person-centered planning must be timely.

(a) The team shall meet at least once within a 12-month period that begins on the date of the planning meeting.

(b) The team may meet if the person or any other team member requests a meeting.

(4) Person-centered planning shall be conducted in a manner that is accessible to the person.

(a) A planning meeting must occur at a time and location convenient for the person.

(b) A team member must provide information in plain language.

(c) A team member must provide information in a format and language that the person can understand.

(d) The person-centered support plan must be written in a format and language that the person can understand.

(5) The person-centered support plan must reflect the person's culture.

(6) The person-centered support plan shall include:

(a) any information necessary to help the person make an informed choice;

(b) any support necessary to help the person make an informed choice;

(c) a strategy to resolve conflict within the team;

(d) each conflict-of-interest guideline;

(e) each goal and support;

(f) a choice of service and service provider;

(g) a record of each home and community-based setting considered by the person; and

(h) a method for the person to request a meeting to update the person-centered support plan.

(7) The team may use a person-centered support plan if it includes:

(a) each element as described in Subsection R539-2-5(6);

(b) the person's signature;

(c) the signature of each team member named in the plan; and

(d) the signature of each provider named in the plan.

(8) The team shall implement each goal and support as written in the person-centered support plan.

(a) A team member shall participate in any goal or support in which the team member is named.

(b) A team member shall assess, plan, implement, and evaluate any goal or support in which the team member is named.

(9) Any person who believes that person-centered planning is not being implemented as outlined may contact the support coordinator to resolve the issue.

(a) The support coordinator shall notify the division of the resolution through noa@utah.gov.

(b) The division shall send a notice of agency action as described in Section R539-3-8.

(10) Any interested party who believes that person-centered planning is not being implemented as outlined may contact the support coordinator immediately to resolve the issue. If the issue cannot be resolved, a division constituent representative may be contacted to assist in resolving the issue or seeking a change in support coordinator or provider.

R539-2-6. Entry Into and Movement Within the Service System.

(1) The division shall approve, coordinate, or oversee any transition between:

(a) the waiting list and a division service;

(b) a non-waiver service and a waiver service; and

(c) a division home and community-based service setting and an institutional setting.

(2) Except as described in Section R539-2-8, the division shall ensure that a person entering or moving within the service system has a choice of support and provider.

(a) A support coordinator shall use the Invitation to Submit Offer to Provide Services process to notify a provider of a person seeking a service.

(i) A support coordinator must notify the division that a person is seeking a provider.

(ii) The division uses the Invitation to Submit Offer to Provide Services Form 1-6 to notify each provider and route any response to the support coordinator.

(b) A support coordinator shall assist the person with making an informed choice.

(3) A support coordinator shall facilitate a planning meeting with the team to complete person-centered planning as described in Section R539-2-5:

(a) for an initial person-centered support plan; and

(b) for any change to a person-centered support plan.

(4) A support coordinator shall submit a request for services for any initial person-centered budget through the division's case management system. The request must be approved before finalizing the person-centered support plan.

(5) Any team member may contact the support coordinator to request a change to:

(a) a support or service;

(b) a provider; or

(c) a setting.

(6) Except for a budget neutral change, a support coordinator shall submit a request for services for a budget adjustment through the division's case management system. The request must be approved before finalizing the change in the person-centered support plan.

(7) A provider shall accept the Purchase Service Authorization Form 1056 through the division's case management system before providing a service.

(8) A support coordinator shall facilitate a discharge meeting with the team:

(a) to notify the provider or person of discharge; or

(b) to identify any change to the person-centered support plan that may resolve the concern without discharge.

(9) A provider may discharge a person from a service.

(a) The provider shall notify the support coordinator in writing at least 30 days before the discharge date.

(b) The provider shall submit a discharge plan to the support coordinator no later than seven days after the date that the provider gave notice of discharge.

(c) The division director may require the provider to continue the service for 90 days after the date of discharge if necessary to:

(i) ensure the person's health and safety; and

(ii) transition the person to any other provider.

R539-2-7. Quality Management Procedures.

(1) The division shall participate in the three quality management roles of quality assurance, quality improvement, and quality enhancement.

(a) Each required quality assurance is specified in the Department of Human Services contract. The division may work with any other office or bureau of the Department of Human Services and the Department of Health to assure quality.

(b) A provider must develop and implement an internal quality management system. The internal quality management system shall:

(i) evaluate the provider's service program; and

(ii) establish a system of self-correcting feedback.

(c) Implementation of the person-centered support plan shall be designed to enhance the person's life. The person and team shall:

(i) identify and document the person's preferences;

(ii) plan how to support the person's life satisfaction; and

(iii) implement the plan with assistance from the division.

(2) The division shall evaluate the person's satisfaction and any statewide system indicator of life enhancement. The division may work with any other office or bureau of the Department of Human Services to evaluate satisfaction and life enhancement.

(3) Division staff shall:

(a) promote enhancement of the person's life;

- (b) support any improvement effort undertaken by a provider, a person, or a family; and
- (c) assure accountability.

R539-2-8. Request for a Support Coordinator or Support Coordination Provider.

(1) The division shall ensure that a person entering or moving within the service system has a choice of support coordination provider.

(2) The division shall assist a person entering the service system with making an informed choice of support coordination provider. The division uses the Invitation to Submit Offer to Provide Services Form 1-6 to notify a support coordination provider of a person seeking a support coordinator.

(3) A person within the service system may request a new support coordination provider by contacting the division constituent representative.

(a) The division's constituent representative shall assist the person with making an informed choice.

(b) The division's constituent representative uses the Invitation to Submit Offer to Provide Services Form 1-6 to notify a support coordination provider of a person seeking a support coordination provider.

(4) If a person uses a support coordination provider that employs one or more support coordinators, the person may request to change the support coordinator by contacting the provider. The support coordination provider shall assist the person with making an informed choice.

(a) The support coordination provider must inform the person that the person can contact the division constituent representative for assistance with informed choice.

(b) The support coordination provider must document giving the person contact information for a division constituent representative in a log note.

(5) A support coordination provider may request to transfer a person to any other support coordinator or support coordination provider.

(a) The support coordination provider shall give the person a minimum of 30-day notice before the date of transfer.

(b) The support coordination provider shall notify the division's constituent representative of a request to transfer.

(c) If the support coordination provider requests to transfer the person to any other support coordination provider, then the division's constituent representative shall assist the person with making an informed choice.

(d) If the support coordination provider requests to transfer the person to any other support coordinator employed by the provider, then the provider shall assist the person with making an informed choice.

(i) The support coordination provider must inform the person that the person can contact the division constituent representative for assistance with informed choice.

(ii) The support coordination provider must document giving the person contact information for a division constituent representative in a log note.

(6) If a support coordinator separates from a support coordination provider and continues employment as a support coordinator, then the division's constituent representative shall assist the person with making an informed choice.

(7) The division shall transfer a person within a 30-day period beginning on the date the division is notified of the person's informed choice.

(8) A support coordination provider shall accept the Purchase Service Authorization Form 1056 through the division's case management system before providing a service.

R539-2-9. Emergency Services Management Committee.

(1) The division creates an Emergency Services Management Committee (ESMC).

(a) The division director shall appoint a committee chair.

(b) The committee chair and division leadership appoint any other division employee that:

(i) represents subject matter expertise in each area of the division service system; or

(ii) demonstrates expertise in behavioral health, physical health, and community resources.

(2) ESMC may approve enrollment in a short-term, limited service for the waiting list;

(a) if the ESMC determines that the service is appropriate to address the person's emergency circumstance; and

(b) if carry-forward money or attrition money is available to fund the service.

(3) ESMC may approve enrollment in an ongoing service:

(a) if the ESMC determines that the service is appropriate to address the person's emergency circumstance; and

(b) if attrition money is available to fund the service.

(4) ESMC shall monitor the person-centered budget for the first four fiscal quarters.

(5) Beginning July 1, 2021, and ending June 30, 2023, each approval for service enrollment made by ESMC must be submitted to the department Executive Director's Office for a final decision before notifying the person of the decision.

KEY: services, people with disabilities

Date of Last Change: ~~2022~~December 4, 2019]

Notice of Continuation: July 15, 2019

Authorizing, and Implemented or Interpreted Law: 62A-5-102; 62A-5-103

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact

Utah Admin. Code Ref (R no.): R539-3

Filing ID
54227

Agency Information

1. Department:	Human Services	
Agency:	Services for People with Disabilities	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Kelly Thomson	435-669-4855	kthomson@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 or section catchline:
R539-3. Rights and Protections
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is repealed and reenacted to comply with Executive No. Order 2021-12. Changes to this rule clarify, update, and add processes.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Language was changed to conform to the current edition of the Administrative Rules' Rulewriting Manual for Utah. Substantive changes align current practice and this rule to improve clarity and the Division of the Services for People with Disabilities' responsiveness to the public. Changes to Section R539-3-7 add remote support and clarify surveillance.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
No anticipated cost or savings to the state budget. Changes to this rule do not alter program access or funding.
B) Local governments:
No anticipated cost or savings to local governments. Local governments do not contribute funding to state disability services.
C) Small businesses ("small business" means a business employing 1-49 persons):
No anticipated cost or savings to small businesses. Small businesses do not contribute funding to state disability services.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
No anticipated cost or savings to non-small businesses. Non-small businesses do not contribute funding to state disability services.

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**):

No anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities. Changes to this rule do not alter program access or funding.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No anticipated compliance costs for affected persons. Changes to this rule do not alter program access or funding.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-5-102 | Section 62A-5-103 |

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R539. Human Services, Services for People with Disabilities.

R539-3. Rights and Protections.

[R539-3-1. Purpose.

(1) The purpose of this rule is to support Persons in exercising their rights as Persons receiving funding from the Division. The procedures of this rule constitute the minimum rights for Persons receiving Division funded services and supports.

R539-3-2. Authority.

(1) This rule establishes procedures and standards for the protection of Persons' constitutional liberty interests as required by Subsection 62A-5-103(2)(b).

R539-3-3. Definitions.

(1) Terms used in this rule are defined in Section 62A-5-101 and R539-1-3.

R539-3-4. Human Rights Committee.

(1) This rule applies to the Division, Persons funded by the Division, Providers, Providers' Human Rights Committees, and the Division Human Rights Council.

(2) All Persons shall have access to a Provider Human Rights Committee with the exception of the following:

(a) Persons receiving physical disabilities services.

(b) Families using the Self Administered Model.

(c) Persons receiving only family supports or respite.

(3) The Provider Human Rights Committee approves the services agencies provide relating to rights issues, such as rights restrictions and the use of intrusive behavior supports. In addition, the Committee provides recommendations relating to abuse and neglect prevention, rights training, and supporting people in exercising their rights.

(4) Any interested party may request that the rights of a Person be reviewed by a Provider Human Rights Committee by contacting the Person's Provider agency verbally or in writing.

(5) Any interested party may request an appeal of the Provider Human Rights Committee decision by sending a request to the Division, 195 North 1950 West, Salt Lake City, UT 84116. The Division shall make a decision whether there will be a review and shall notify the Person, Provider, and Support Coordinator concerning the decision within eight business days. The notification shall contain a statement of the issue to be reviewed and the process and timeline for completing the review.

R539-3-5. Representative Payee Services.

(1) Unless a Person voluntarily signs the Division Voluntary Financial Support Agreement Form 1-3 or a Provider Human Rights Committee has approved restriction on the use and access to personal funds, the Person shall have access to and control over such funds.

(2) The Representative Payee shall follow all Social Security Administration requirements outlined in 20CFR416.601-665.

(3) The Division shall review Provider records for a sample of Representative Payee files on an annual basis.

(4) If the Department does not have guardianship or conservatorship and the Division has not been named as Representative Payee by the Social Security Administration, the Person may sign a Voluntary Financial Support Agreement, Division Form 1-3, allowing the Department to act as Representative Payee.

(5) If the Division is acting as the Representative Payee for a Person, the Division may initiate termination of a Representative Payee relationship through written notification to the Person and the funding agency.

(a) The Division shall initiate termination of a Representative Payee arrangement when:

(i) a Person with a voluntary arrangement requests termination of Representative Payee status;

(ii) a funding agency requests termination of Representative Payee status;

(iii) Person with a Representative Payee becomes ineligible for funding; or

(iv) a Person moves out of the service area.

R539-3-6. Personal Property.

~~(1) Restrictions to property that are implemented by the Division or Provider shall be part of a written plan or as an Emergency Behavior Intervention in accordance with Division Administrative Rule. Restrictions shall be approved by the Team and Provider Human Rights Committee.~~

R539-3-7. Privacy.

~~(1) Persons shall have privacy, including private communications (i.e. mail, telephone calls and private conversations), personal space, personal information, and self-care practices (i.e. dressing, bathing, and toileting).~~

~~(2) Restrictions to privacy that are implemented by the Division or Provider shall be part of a written plan and approved by the Team and Provider Human Rights Committee. Circumstances that require assistance in self-care due to functional limitations do not require a written plan.~~

~~(3) No Person shall be subject to electronic surveillance of any kind without:~~

~~(a) express written consent from the Person to be under surveillance or the Person's guardian;~~

~~(b) approval of both the Person's Team and the Provider Human Rights Committee;~~

~~(c) certification by the Provider Human Rights Committee that the electronic surveillance meets a necessary health or safety concern and is done in the least intrusive manner possible; and~~

~~(d) submission of Electronic Surveillance Certification to the Division Quality Manager.~~

~~(4) Electronic surveillance shall not be placed in common areas without:~~

~~(a) express written consent from all Persons who live at the site, or the guardians of those Persons;~~

~~(b) approval of the Provider Human Rights Committee;~~

~~(c) certification by the Provider Human Rights Committee that the electronic surveillance meets a necessary health or safety concern and is done in the least intrusive manner possible; and~~

~~(d) submission of Electronic Surveillance Certification to the Division Quality Manager.~~

~~(5) Under no circumstances shall electronic surveillance be used by administrative or supervisory staff as a substitute for supervision of employees providing direct care to Persons.~~

~~(6) Visitors shall be provided with notice of electronic surveillance upon entering the premises.~~

~~(a) Notice shall be provided by placing a sign of substantial size, in a conspicuous location, so as to attract the attention of visitors as they enter.~~

~~(7) The Person's Team and the Provider Human Rights Committee shall conduct reviews of electronic surveillance:~~

~~(a) at least annually; and~~

~~(b) in response to specific requests for review from the Person under surveillance or that Person's guardian.~~

~~(8) Electronic surveillance at the Utah State Developmental Center shall comply with federal regulations outlined in 42 C.F.R. 483.420(a)(7) (2011), 42 C.F.R. 483.440(f)(3)(i) (iii) (2011) and 42 C.F.R. 483.470(d)(2) (2011).~~

R539-3-8. Notice of Agency Action and Administrative Hearings.

~~(1) Persons have the right to receive adequate written Notice of Agency Action and to present grievances about agency action by requesting a formal or informal administrative hearing in accordance with R497-100 for Persons receiving non-Waiver services, and R410-14 for Persons receiving Waiver services.~~

~~(2) Pursuant to Utah Code Annotated, Title 63G, Chapter 4, the Division shall notify a Person in writing before taking any agency action, such as changes in funding, eligibility, or services.~~

~~(3) At least 30 calendar days before the Division terminates or reduces a Person's services or benefits, the Division shall send the Person a written Notice of Agency Action.~~

~~(4) The Notice of Agency Action shall comply with Subsection 63G-4-201 and R497-100-4(2)(a).~~

~~(5) To assist a Person in requesting an administrative hearing, the Division shall send the Person a Hearing Request Form 490S when the Division sends the Notice of Agency Action Form 522.~~

~~(6) To request an informal hearing with the Department of Human Services for non-waiver services, the Person must file a Hearing Request Form 490S with the Division within 30 calendar days of the mailing date shown on the Notice of Agency Action Form 522.~~

~~(7) To request a formal hearing with the Department of Health for Waiver services, the Person must file the Medicaid Standard Hearing Request Form with the Division and Department of Health, Division of Health Care Finance within 30 calendar days of the mailing date shown on the Notice of Agency Action Form 522.~~

~~(8) This 30 day deadline for formal and informal hearings applies regardless of whether the Person also wishes to participate in the Division's conflict resolution process.~~

~~(a) If the Person files the Hearing Request within ten calendar days of the mailing date of the Notice of Agency Action, the Person's services shall continue unchanged during the formal or informal hearing process.~~

~~(b) If the Person files the Hearing Request Form between 11 and 30 calendar days after the mailing date of the Notice of Agency Action, the Person is entitled to an administrative hearing, but the Person's services and benefits shall be discontinued or reduced according to the Notice of Agency Action during the formal or informal hearing process.~~

~~(9) A Person may file a Request for Hearing Form for a formal or informal hearing and choose to still participate in the Division's conflict resolution process prior to the formal or informal hearing.~~

~~(10) If the Person requests an informal hearing and also chooses the conflict resolution process, the conflict resolution process must be completed before the informal hearing can begin, unless the Person submits a written request to the Division to end the conflict resolution process prematurely.~~

R539-3-9. Participation in Hospice Services.

~~(1) Persons expected by their physicians to live fewer than six months have the right to pursue hospice services as their choice of end of life care. A Person who is expected by two physicians to live fewer than six months and who receives Division funding for services and supports may request to continue to receive their Division-funded services and supports while participating in hospice services.~~

~~(2) If a Person has not executed a Durable Power of Attorney for Health Care and is incapable of making an informed decision about hospice services or signing a Hospice Agreement, choices related to end of life care shall be made on behalf of the Person by the Team upon approval of the Provider Human Rights Committee unless a guardian has been appointed by the Court with the legal authority to make end of life decisions for the Person.~~

~~(3) If a Person receives Waiver services through the Division and elects the Medicaid hospice benefit and meets the program eligibility requirements in accordance with R414-14A-3, hospice shall become the primary service delivery program, including the primary case management program, for the care of the Person. All other~~

Medicaid programs serving the Person at the time of hospice election, including Waivers, shall coordinate with the hospice case management team to determine the full scope of services that shall be provided from that point forward.

(a) Pursuant to R414-14A-7(A), a Person can continue to receive Division services through the Waiver program that are necessary to prevent institutionalization, are not duplicative of services covered by the hospice benefit, and do not conflict with the hospice plan of treatment.

(b) The Medicaid hospice benefit shall determine the actual number of times a Person can revoke and re-elect hospice services, which hospice Providers and services are available, and which Waiver services may continue concurrently with hospice services.

(c) If the Division wishes to initiate disenrollment of a Medicaid funded Person from the Waiver based on the Person's election of hospice services, it shall be considered an involuntary disenrollment and will be subject to review and approval by the Department of Health, Division of Health Care Finance.

R539-3-10. Prohibited Procedures.

(1) The following procedures are prohibited for Division staff and Providers, including staff hired for Self Administered Services, in all circumstances in supporting Persons receiving Division funding:

(a) Physical punishment, such as slapping, hitting, and pinching.

(b) Demeaning speech to a Person that ridicules or is abusive.

(c) Locked confinement in a room.

(d) Denial or restriction of access to assistive technology devices, except where removal prevents injury to self, others, or property as outlined in Section R539-3-6.

(e) Withholding or denial of meals, or other supports for biological needs, as a consequence or punishment for problems.

(f) Any Level II or Level III Intervention, as defined in R539-4-3(n) and R539-4-3(o), used as coercion, as convenience to staff, or in retaliation.

(g) Any procedure in violation of R495-876, R512-202, R510-302, 62A-3-301 thru 62A-3-321, and 62A-4a-402 thru 62A-4a-412 prohibiting abuse.]

R539-3-1. Purpose.

The purpose of this rule is to support a person receiving funding from the division in exercising their rights. The procedures of this rule constitute the minimum rights for a person receiving a division funded service and support.

R539-3-2. Authority.

This rule establishes a procedure and standard for the protection of a person's constitutional liberty interests as required by Subsection 62A-5-103(2)(b).

R539-3-3. Definitions.

As used in this rule:

(1) Terms used in this rule are defined in Sections 62A-5-101, R539-1-3, and R539-2-3.

(2) "Electronic Surveillance" means observing or listening to a person, a place, or an activity with the aid of an electronic device including camera, webcam, global positioning system, motion detector, weight detector, or microphone. Electronic surveillance does not include:

(a) use of an electronic device as a part of remote support; and

(b) use of audio or video equipment to record a therapy session.

(3) "Electronic Surveillance Certification" means documentation approved by the provider human rights committee that contains:

(a) the location of the site under surveillance;

(b) a description of each type of surveillance used;

(c) the name of each person under surveillance;

(d) a signed informed consent from each person as described in Subsection R539-3-7(4); and

(e) evidence of visitor notification as described in Subsection R539-3-7(6).

(4) "Division Human Rights Council" means a group of stakeholders and division staff that reviews an appeal of a provider human rights committee decision.

(5) "Provider Human Rights Committee" means a group established and maintained by the provider that provides a recommendation to the person's person-centered support plan, regarding their human rights, and approves and maintains documentation for any human rights restriction.

(6) "Remote Support" means the real time provision of a service by a provider at a remote location. Staff engage with an individual through electronic equipment capable of live two-way communication. Equipment used to meet this requirement includes at least one of the following components:

(a) motion sensing system;

(b) radio frequency identification;

(c) live video feed;

(d) live audio feed;

(e) web-based monitoring system; or

(f) another device that facilitates live two-way communication.

R539-3-4. Human Rights Review.

(1) A person shall have access to review by a provider human rights committee, except for the following service type:

(a) a physical disability service; or

(b) the self-administered service model.

(2) A provider shall create a provider human rights committee or have use of any other provider's committee.

(a) A provider human rights committee shall consist of a minimum of three individuals, and at least one individual may not be employed by the provider.

(b) A provider human rights committee shall review each use of a service by a provider that relates to:

(i) a rights issue;

(ii) a rights restriction; or

(iii) an intrusive behavior support.

(c) A provider human rights committee shall make a recommendation about:

(i) abuse and neglect prevention;

(ii) rights training; and

(iii) supporting people in exercising their rights.

(3) The person or any other individual may request that the rights of a person be reviewed by a provider human rights committee by contacting the person's provider verbally or in writing.

(4) The division creates the Division Human Rights Council (DHRC).

(a) The division director shall appoint each DHRC member.

(b) DHRC membership shall include:

(i) a minimum of one family member of a person in-service or a person enrolled in state plan Medicaid or a Medicaid waiver;

(ii) a minimum of one division employee;

(iii) a minimum of one representative from Adult Protective Services; and

(iv) a minimum of one representative from the Department of Health.

(c) DHRC membership may not exceed 12 members.

(d) Each member serves a two-year term and may be reappointed for one additional two-year term.

(e) A member may resign from the DHRC at any time by giving 30-day notice in writing to the chairperson.

(f) The DHRC may remove a member for cause by majority vote. Cause includes:

(i) a continuous failure to be in attendance; or

(ii) a continuous failure to follow through with a task assigned by the DHRC.

(5) The DHRC shall:

(a) review the initial Provider Human Rights Plan for each provider;

(b) hear an appeal of a decision made by a provider human rights committee;

(c) report to the Disabilities Advisory Council;

(d) hold an annual public meeting;

(e) help train a provider or provider human rights committee about any trend in human rights violations found through the appeal process; and

(f) review each use of a service by the developmental center that relates to:

(i) a rights issue;

(ii) a rights restriction; or

(iii) an intrusive behavior support.

(6) The person or any other individual may appeal a provider human rights committee decision to the DHRC by contacting the division constituent representative or emailing dhrc@utah.gov.

(a) The DHRC shall decide if there will be a review.

(i) The DHRC shall notify the person, provider, and support coordinator of the decision no later than eight business days after the date of the decision.

(ii) Notification shall contain a statement of the issue under review; and the process and timeline for completing the review.

(b) An appeal to the DHRC is not an adjudicative proceeding as described in Section 63G-4-201.

R539-3-5. Representative Payee Services.

(1) Except as described in Subsections (1)(a) through (1)(c), a person shall have access to and control over their personal funds.

(a) A resident of the developmental center or the guardian requests that the developmental center act as the representative payee.

(b) A provider human rights committee approves a restriction on the use and access to personal funds.

(c) An administrative or court order requires the person to use a representative payee.

(2) The representative payee shall follow each Social Security Administration requirement as described in 20 CFR 416.601 through 20 CFR 416.665 (2020), incorporated by reference.

(3) The division shall review a sample of representative payee files from provider records on an annual basis. The division may work with any other office or bureau of the Department of Human Services and the Department of Health to audit provider records.

(4) The division shall act as representative payee when:

(a) the department has guardianship or conservatorship and the Social Security Administration the division as representative payee;

(b) a resident of the developmental center or the guardian requests that the developmental center act as the representative payee; or

(c) an administrative or court order requires the division to act as representative payee for a resident of the developmental center.

(5) The division shall give the person written notice to end any representative payee relationship as described in Subsection R539-3-5(4).

(6) The person shall complete a change of representative payee through the Social Security Administration.

R539-3-6. Personal Property.

(1) A restriction to property implemented by the division or provider shall be:

(a) part of a written behavior support plan as described in Section R539-4-4; or

(b) an emergency behavior intervention as described in Section R539-4-5.

(2) Each restriction shall be approved by the team and the provider human rights committee before use of the restriction.

R539-3-7. Privacy.

(1) A person who uses a provider-based service shall have privacy. Privacy includes:

(a) any method of communication;

(b) personal space;

(c) personal information; and

(d) self-care as defined by Subsection R539-1-4(3)(a).

(2) Any privacy restriction implemented by the division or a provider shall be part of a person-centered support plan approved by the team and the provider human rights committee. A privacy restriction is not:

(a) assistance with self-care based on an assessed need in the person-centered support plan; or

(b) use of remote support.

(3) A provider may use electronic surveillance in the least intrusive manner possible to meet a health or safety concern.

(4) A provider shall have safeguards in place before using electronic surveillance.

(a) Electronic surveillance of a person requires:

(i) signed informed consent from the person;

(ii) approval from the person's team and the provider human rights committee; and

(iii) electronic surveillance certification from the provider human rights committee.

(b) Electronic surveillance in a common area requires:

(i) signed informed consent from each person living on the premises;

(ii) approval from the provider human rights committee; and

(iii) electronic surveillance certification from the provider human rights committee.

(c) The provider shall submit the electronic surveillance certification to the division.

(d) Protection of electronic surveillance data requires:

(i) development of an electronic data policy and procedure;

(ii) maintaining a secure network to send electronic data; and

(iii) maintaining secure storage for any recording.

(5) Administrative or supervisory staff may not use electronic surveillance as a substitute for supervision of an employee providing direct care to a person.

(6) Each visitor shall be provided with notice of electronic surveillance.

(a) The provider shall prominently display notice within each residence equipped with electronic surveillance.

(b) A visitor must be informed of any monitoring or recording technology in use when entering the premises.

(7) The person's team and the provider human rights committee shall review any electronic surveillance:

(a) at least annually; and

(b) at the request of the person under surveillance.

(8) Electronic surveillance at the Utah State Developmental Center shall comply with 42 CFR 483.420(a)(7) (2019), 42 CFR 483.440(f)(3)(i) through 42 CFR 483.440(f)(3)(iii) (2019), and 42 CFR 483.470(d)(2) (2019), incorporated by reference.

(9) If remote support uses video or audio equipment that permits remote support staff to view activities or listen to conversations in the residence, the provider shall have signed informed consent from:

(a) the person; and

(b) each person living on the premises.

(10) Protection of remote support data requires:

(a) development of an electronic data policy and procedure; and

(b) maintaining a secure network to send electronic data.

(11) A provider may not record video or audio as part of remote support.

R539-3-8. Notice of Agency Action and Administrative Hearings.

(1) A person has the right to:

(a) receive adequate notice of agency action in writing; and

(b) present a grievance about an agency action by requesting an administrative hearing.

(2) The division shall notify a person in writing at least ten days before taking an agency action, including a change in funding, eligibility, or service; except if the person signs a written statement acknowledging consent to the agency action, the division shall send notice no later than the date of action.

(a) Notice of agency action that affects a non-waiver service shall include the information required by Sections 63G-4-201 and R497-100-5.

(b) Notice of agency action that affects a waiver service shall include the information required by 42 CFR 431.210; and Sections 63G-4-201, R497-100-5, and R410-14-3.

(c) To assist a person with an administrative hearing request, the division shall send the person a Hearing Request Form 490S when the division sends the Notice of Agency Action Form 522.

(3) A person receiving a non-waiver service may request an informal administrative hearing as described in Rule R497-100.

(a) An administrative hearing must be requested within 30 days of the mailing date shown on the Notice of Agency Action Form 522.

(b) The person must file a Hearing Request Form 490S with the division to request a hearing with the Department of Human Services Office of Administrative Hearings.

(c) If the person files a hearing request before the date of action written on the Notice of Agency Action Form 522, the person's service or benefit shall continue unchanged during the administrative hearing process.

(4) A person receiving a waiver service may request an informal administrative hearing as described in Rule R497-100 or Section R410-14-24.

(a) An administrative hearing must be requested within 30 days of the mailing date shown on the Notice of Agency Action Form 522.

(b) The person must file the request as described in Section R410-14-5 to request a hearing with the Department of Health Division of Medicaid and Health Financing.

(c) The person must file a Hearing Request Form 490S with the division to request a hearing with the Department of Human Services Administrative Hearings Office.

(d) If the person files a hearing request before the date of action written on the Notice of Agency Action Form 522, the person's service or benefit shall continue unchanged during the administrative hearing process.

(5) To dispute implementation of a service by a provider, a person receiving a service may request an informal administrative hearing as described in Rule R497-100.

(6) A person may request an informal administrative hearing and choose to participate in the division's dispute resolution process before the administrative hearing.

(a) If the person chooses to participate in the division's dispute resolution process, the 30-day deadline to request an administrative hearing as described in Subsections R539-3-8(3) and R539-3-8(4) applies.

(b) If the person requests a hearing and chooses the division dispute resolution process, the person must complete the dispute resolution process before the administrative hearing begins. The person must submit a written request to the division to end the dispute resolution process before reaching a resolution.

(c) The division's dispute resolution process is not an adjudicative proceeding as described in Section 63G-4-201.

R539-3-9. Participation in Hospice Services.

(1) A person receiving division funding may choose the Medicaid hospice benefit as described in Rule R414-14a for their end-of-life care.

(a) The person must meet hospice eligibility requirements as described in Section R414-14A-3.

(b) The person may continue division services through a waiver program as described in Section R414-14A-30.

(2) If a person loses the capacity to make an informed decision or legally authorize services, any end-of-life care decision shall be made by:

(a) the agent designated by an executed Durable Power of Attorney for Health Care;

(b) a guardian with the legal authority to make end-of-life decisions for the person; or

(c) the team and provider human rights committee if an agent or guardian is not designated or appointed.

(3) Disenrollment of a person receiving waiver funding based on the election of the hospice benefit shall be considered an involuntary disenrollment and requires approval from the Department of Health Division of Medicaid and Health Financing.

R539-3-10. Prohibited Procedures.

(1) A division, provider, or self-administered service employee may not engage in:

(a) physical punishment, including slapping, hitting, and pinching;

(b) abusive or demeaning speech;
 (c) confinement in a locked room;
 (d) denial or restriction of access to an assistive technology device, except when removal prevents injury to the person, injury to any other individual, or property damage as described in Section R539-3-6;
 (e) withholding or denial of food or any support for a biological need as a consequence or punishment;
 (f) a behavior intervention as described in Rule R539-4 used for coercion, convenience, or retaliation;
 (g) a cruel, severe, unusual, or unnecessary practice as described in Subsection 62A-2-123(1); or
 (h) a procedure in violation of Sections R495-876, R512-202, R510-302, 62A-3-301 through 62A-3-321, and 62A-4a-402 through 62A-4a-412.

KEY: people with disabilities, rights

Date of Last Change: ~~2022~~ **May 10, 2013**

Notice of Continuation: July 15, 2019

Authorizing, and Implemented or Interpreted Law: 62A-5-102; 62A-5-103

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact

Utah Admin. Code Ref (R no.):	R539-4	Filing ID 54228
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Agency Information

1. Department:	Human Services	
Agency:	Services for People with Disabilities	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Kelly Thomson	435-669-4855	kthomson@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 or section catchline:
R539-4. Behavior Interventions
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is repealed and reenacted to comply with the federal Settings Rule, and Executive Order No. 2021-12.

Changes throughout this rule clarify, update, and add processes.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Language was changed to conform to the current edition of the Administrative Rules' Rulewriting Manual for Utah. Substantive changes redefine behavior interventions to align with the federal Settings Rule, improve clarity, and the Division of Services for People with Disabilities' responsiveness to the public.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

No anticipated cost or savings to the state budget. Changes to this rule do not alter program access or funding.

B) Local governments:

No anticipated cost or savings to local governments. Local governments do not contribute funding to state disability services.

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

No anticipated cost or savings to small businesses. Small businesses do not contribute funding to state disability services.

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

No anticipated cost or savings to non-small businesses. Non-small businesses do not contribute funding to state disability services.

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**):

No anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities. Changes to this rule do not alter program access or funding.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No anticipated compliance costs for affected persons. Changes to the rule do not alter program access or funding.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-5-102 Section 62A-5-103

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R539. Human Services, Services for People with Disabilities. R539-4. Behavior Interventions.

~~R539-4.1. Purpose.~~

~~(1) The purpose of this rule is to define and establish standards for Behavior Interventions, to protect Persons' rights, and prevent abuse and neglect.~~

~~R539-4.2. Authority.~~

~~(1) This rule establishes procedures and standards for Persons' constitutional liberty interests as required by Subsection 62A-5-103.~~

~~R539-4.3. Definitions.~~

~~(1) Terms used in this rule are defined in Section 62A-5-101 and R539-1-3.~~

~~(2) In addition:~~

~~(a) "Behavior Intervention" means a specific technique designed to teach the Person skills and address their problems. Techniques are based on principles from the fields of Positive Behavior Supports and applied behavior analysis.~~

~~(b) "Behavior Peer Review Committee" means a group consisting of at least three specialists with experience in the fields of Positive Behavior Supports and applied behavior analysis. One of the three members must be outside the Provider agency. The Committee is primarily responsible for evaluating the quality, effectiveness, and least intrusiveness of the Person's Behavior Support Plan.~~

~~(c) "Behavior Support Plan" means a written document used by Provider staff and others, designed to address the Person's specific problems.~~

~~(d) "Contingent Rights Restrictions" means a Level III Intervention resulting in the temporary loss of rights based upon the occurrence of a previously identified problem.~~

(e) "Emergency Behavior Intervention" means the use of Level II Interventions not outlined in the Behavior Support Plan, but used in Emergency Situations.

(f) "Emergency Rights Restriction" means a Level II Intervention temporarily denying or restricting access to personal property, privacy, or travel in order to prevent imminent injury to the Person, others, or property. Rights are reinstated when immediate danger is resolved.

(g) "Emergency Situations" means one or more of the following:

(i) Danger to others: physical violence toward others with sufficient force to cause bodily harm.

(ii) Danger to self: abuse of self with sufficient force to cause bodily harm.

(iii) Danger to property: physical abuse or destruction of property.

(iv) Threatened abuse toward others, self, or property which, with an evidence of past threats, result in any of the items listed above.

(h) "Enforced Compliance" means a Level II Intervention in which a Person is physically guided through completion of a request or command that the Person is resisting.

(i) "Exclusionary Time out" means a Level II Intervention removing the Person from a specific setting that exceeds 10 minutes or requires Enforced Compliance to move the Person to or prevent from leaving a designated area.

(j) "Extinction" means a Level I Intervention that withholds reinforcement from a previously reinforced behavior.

(k) "Functional Behavior Assessment" means a written document prepared by the Provider behavior specialist to determine why problems occur and develop effective interventions. The results of the assessment are a clear description of the problem, situations that predict when the problem will occur, consequences that maintain the problem, and a summary statement or hypothesis.

(l) "Highly Noxious Stimuli" means a Level III Intervention applying an extremely undesirable, but not harmful, sensory event that exceeds the criteria of Mildly Noxious Stimuli.

(m) "Level I Intervention" means positive, unregulated procedures such as prevention strategies, reinforcement strategies, positive teaching and training strategies, redirecting, verbal instruction, withholding reinforcement, Extinction, Non-exclusionary Time-out/Contingent Observation, and simple correction.

(n) "Level II Intervention" means intrusive procedures that may be used in pre-approved Behavior Support Plans or as Emergency Behavior Interventions. Approved interventions include Enforced Compliance, Manual Restraint, Exclusionary Time out, Mildly Noxious Stimuli, and Emergency Rights Restrictions.

(o) "Level III Intervention" means intrusive procedures that are only used in pre-approved Behavior Support Plans. Approved interventions include Time out rooms, Mechanical Restraint, Highly Noxious Stimuli, overcorrection, Contingent Rights Restrictions, Response Cost, and Satiation.

(p) "Manual Restraint" means a Level II Intervention using physical force in order to hold a Person to prevent or limit movement.

(q) "Mechanical Restraint" means a Level III Intervention that is any device attached or adjacent to the Person's body that cannot easily be removed by the Person and restricts freedom of movement. Mechanical restraint devices may include, but are not limited to, gloves, mittens, helmets, splints, and wrist and ankle restraints. For purposes of this Rule, Mechanical Restraints do not include:

(i) Safety devices used in typical situations such as seatbelts or sporting equipment.

(ii) Medically prescribed equipment used as positioning devices, during medical procedures, to promote healing, or to prevent injury related to a health condition (i.e. helmets used for Persons with severe seizures).

(r) "Mildly Noxious Stimuli" means a Level II Intervention applying a slightly undesirable sensory event such as a verbal startle or loud hand clap.

(s) "Non-exclusionary Time out/Contingent Observation" means a Level I Intervention in which a Person voluntarily moves to a designated area for less than ten minutes for the purpose of regaining self control or observing others demonstrating appropriate actions.

(t) "Positive Behavior Supports" means the use of Behavior Interventions that achieve socially important behavior change. The supports address the functionality of the problem and result in outcomes that are acceptable to the Person, the family, and the community. Supports focus on prevention and teaching replacement behavior.

(u) "Overcorrection" means a Level III Intervention requiring a Person to repeatedly restore an environment to its original condition or repeating an alternate behavior.

(v) "Reinforcer" means anything that occurs following a behavior that increases or strengthens that behavior.

(w) "Response Cost" means a Level III Intervention removing previously obtained rewards, such as tokens, points, or activities, upon the occurrence of a problem. Removal of personal property is not approved.

(x) "Satiation" means a Level III Intervention that presents an overabundance of a reinforcer to promote a reduction in the occurrence of the problem. Satiation is not used with Enforced Compliance.

(y) "State Behavior Review Committee" means a group of professionals with training and experience in Positive Behavior Supports and applied behavior analysis. The committee reviews and approves Behavior Support Plans to ensure the least intrusive and most effective interventions are used.

(z) "Time out Room" means a Level III Intervention placing a Person in a specifically designed, unlocked room. The Person is prevented from leaving the room until pre-determined time or behavior criteria are met.

R539-4-4. Levels of Behavior Interventions.

(1) The remainder of this rule applies to all Division staff and Providers, but does not apply to employees hired for Self Administered Services.

(2) All Behavior Support Plans shall be implemented only after the Person or Guardian gives consent and the Behavior Support Plan is approved by the Team.

(3) All Behavior Support Plans shall incorporate Positive Behavior Supports with the least intrusive, effective treatment designed to assist the Person in acquiring and maintaining skills, and preventing problems.

(4) Behavior Support Plans must:

(a) Be based on a Functional Behavior Assessment.

(b) Focus on prevention and teach replacement behaviors.

(c) Include planned responses to problems.

(d) Outline a data collection system for evaluating the effectiveness of the plan.

(5) All Provider staff involved in implementing procedures outlined in the Behavior Support Plan shall be trained and demonstrate competency prior to implementing the plan.

(a) Completion of training shall be documented by the Provider.

~~_____ (b) The Behavior Support Plan shall be available to all staff involved in implementing or supervising the plan.~~

~~_____ (6) Level I interventions may be used informally, in written support strategies, or in Behavior Support Plans without approval.~~

~~_____ (7) Behavior Support Plans that only include Level I Interventions do not require approval or review by the Behavior Peer Review Committee or Provider Human Rights Committee.~~

~~_____ (8) Level II Interventions may be used in pre-approved Behavior Support Plans or emergency situations.~~

~~_____ (9) Level III Interventions may only be used in pre-approved Behavior Support Plans.~~

~~_____ (10) Behavior Support Plans that utilize Level II or Level III Interventions shall be implemented only after Positive Behavior Supports, including Level I Interventions, are fully implemented and shown to be ineffective. A rationale on the necessity for the use of intrusive procedures shall be included in the Behavior Support Plan.~~

~~_____ (11) Time-out Rooms shall be designed to protect Persons from hazardous conditions, including sharp corners and objects, uncovered light fixtures, and unprotected electrical outlets. The rooms shall have adequate lighting and ventilation.~~

~~_____ (a) Doors to the Time-out Room may be held shut by Provider staff, but not locked at any time.~~

~~_____ (b) Persons shall remain in Time-out Rooms no more than 2 hours per occurrence.~~

~~_____ (c) Provider staff shall monitor Persons in a Time-out Room visually and auditorially on a continual basis. Staff shall document ongoing observation of the Person while in the Time-out Room at least every fifteen minutes.~~

~~_____ (12) Time-out Rooms shall be used only upon the occurrence of problems previously identified in the Behavior Support Plan.~~

~~_____ (a) Persons shall be placed in the Time-out Room immediately following a previously identified problem. Time delays are not allowed.~~

~~_____ (b) Persons shall not be transported to another location for placement in a Time-out Room.~~

~~_____ (c) Behavior Support Plans must outline specific release criteria that may include time and behavior components. Time asleep must count toward time release criteria.~~

~~_____ (13) Mechanical restraints shall ensure the Person's safety in breathing, circulation, and prevent skin irritation.~~

~~_____ (a) Persons shall be placed in Mechanical Restraints immediately following the identified problem. Time delays are not allowed.~~

~~_____ (b) Persons shall not be transported to another location for Mechanical Restraints.~~

~~_____ (14) Mechanical Restraints shall be used only upon the occurrence of problems previously identified in the Behavior Support Plan.~~

~~_____ (a) Behavior Support Plans must outline specific release criteria that may include time and behavior components. Time asleep must count toward time release criteria. The plan shall also specify maximum time limits for single application and multiple use.~~

~~_____ (b) Behavior Support Plans shall include specific requirements for monitoring the Person, before, during, and after application of the restraint to ensure health and safety.~~

~~_____ (c) Provider staff shall document their observation of the Person as specified in the Behavior Support Plan.~~

~~_____ (15) Manual restraints shall ensure the Person's safety in breathing and circulation. Manual restraint procedures are limited to the Mandt System (Mandt), the Professional Assault Response Training (PART), or Supports Options and Actions for Respect (SOAR) training~~

~~programs. Procedures not outlined in the programs listed above may only be used if pre-approved by the State Behavior Review Committee.~~

~~_____ (16) Behavior Support Plans that include Manual Restraints shall provide information on the method of restraint, release criteria, and time limitations on use.~~

~~R539 4 5. Review and Approval Process.~~

~~_____ (1) The Behavior Peer Review Committee shall review and approve the Behavior Support Plan annually. The plan may be implemented prior to the Behavior Peer Review Committee's review; however the review and approval must be completed within 60 calendar days of implementation.~~

~~_____ (2) The Behavior Peer Review Committee's review and approval process shall include the following:~~

~~_____ (a) A confirmation that appropriate Positive Behavior Supports, including Level I Interventions, were fully implemented and revised as needed prior to the implementation of Level II or Level III Interventions.~~

~~_____ (b) Ensure the technical adequacy of the Functional Behavior Assessment and Behavior Support Plan based on principles from the fields of Positive Behavior Supports and applied behavior analysis.~~

~~_____ (c) Ensure plans are in place to attempt reducing the use of intrusive interventions.~~

~~_____ (d) Ensure that staff training and plan implementation are adequate.~~

~~_____ (3) The Provider Human Rights Committee shall approve Behavior Support Plans with Level II and Level III Interventions annually. Review and approval shall focus on rights issues, including consent and justification for the use of intrusive interventions.~~

~~_____ (4) The State Behavior Review Committee must consist of at least three members, including representatives from the Division, Provider, and an independent professional having a recognized expertise in Positive Behavior Supports. The Committee shall review and approve the following:~~

~~_____ (a) Behavior Support Plans that include Time-out Rooms, Mechanical Restraints or Highly Noxious Stimuli.~~

~~_____ (b) Behavior Support Plans that include forms of Manual Restraint or Exclusionary Time-out used for long-term behavior change and not used in response to an emergency situation.~~

~~_____ (c) Behavior Support Plans that include manual restraint not outlined in Mandt, PART, SOAR, Safety Care, or CPI training programs.~~

~~_____ (5) The Committee shall determine the time frame for follow-up review.~~

~~_____ (6) Behavior Support Plans shall be submitted to the Division's state office for temporary approval prior to implementation pending the State Behavior Review Committee's review of the plan.~~

~~_____ (7) Families participating in Self-Administered Services may seek State Behavior Review Committee recommendations, if desired.~~

~~R539 4 6. Emergency Behavior Interventions.~~

~~_____ (1) Emergency Behavior Interventions may be necessary to prevent clear and imminent threat of injury or property destruction during emergency situations.~~

~~_____ (2) Level I Interventions shall be used first in emergency situations, if possible.~~

~~_____ (3) The least intrusive Level II Interventions shall be used in emergency situations. The length of time in which the intervention is implemented shall be limited to the minimum amount of time required to resolve the immediate emergency situation.~~

~~_____ (4) Each use of Emergency Behavior Interventions and a complete Emergency Behavior Intervention Review shall be documented by the Provider on Division Form 1-8 and forwarded to the~~

~~Division, as outlined in the Provider's Service Contract with the Division.~~

~~(a) The Emergency Behavior Intervention Review shall be conducted by the Provider supervisor or specialist and staff involved with the Emergency Behavior Intervention. The review shall include the following:~~

~~(i) The circumstances leading up to and following the problem.~~

~~(ii) If the Emergency Behavior Intervention was justified.~~

~~(iii) Recommendations for how to prevent future occurrences, if applicable.~~

~~(5) The Person's Support Coordinator shall review Form 1-8 received from Providers and document the follow-up action.~~

~~(6) If Emergency Behavior Interventions are used three times, or for a total of 25 minutes, within 30 calendar days, the Team shall meet within ten business days of the date the above criteria are met to review the interventions and determine if:~~

~~(a) A Behavior Support Plan is needed;~~

~~(b) Level II or III Interventions are required in the Behavior Support Plan;~~

~~(c) Technical assistance is needed;~~

~~(d) Arrangements should be made with other agencies to prevent or respond to future crisis situations; or~~

~~(e) Other solutions can be identified to prevent future use of Emergency Behavior Interventions.~~

~~(7) The Provider's Human Rights Committee shall review each use of Emergency Behavior Interventions.]~~

R539-4-1. Authority and Purpose.

(1) This rule is authorized by Subsections 62A-5-103(2)(g) and 62A-5-103(2)(l).

(2) This rule defines and establishes a standard for behavior intervention to prevent infringement of a person's constitutionally protected rights without due process.

(3) The standard intends to:

(a) protect and promote a person's rights;

(b) prevent abuse and neglect;

(c) encourage positive behavior support;

(d) ensure health and safety; and

(e) ensure that the least intrusive behavior intervention is provided in the minimum amount necessary.

R539-4-2. Definitions.

(1) Terms used in this rule are defined in Sections 62A-5-101, R539-1-3, R539-2-3, and R539-3-3.

(2) "Applied behavior analysis (ABA)" means a well-developed discipline based on a mature body of scientific knowledge and established standards for evidence-based practice. ABA focuses on the analysis, design, implementation and evaluation of social and other environmental modifications to produce meaningful changes in behavior. ABA is a behavioral health treatment that is intended to develop, maintain, or restore, to the maximum extent attainable, the functioning of a person who requires behavioral intervention. ABA-based therapies are characterized by reliable empirical evidence and are not experimental or investigational.

(3) "Aversive stimulus" means a highly undesirable stimulus change or condition that exceeds what typically occurs in the environment, but is not harmful.

(4) "Behavior intervention" means a specific technique or procedure designed to teach a skill, decrease the occurrence of unwanted target behavior and increase desirable target behavior, ensure the safety of the person or any other person, or reduce significant property damage.

(5) "Behavior support plan" means a written plan of instruction designed to address a person's specific unwanted target behavior and teach a wanted target behavior.

(6) "Contingent Rights Restriction" means a temporary loss of a human right based on the occurrence of a previously identified unwanted target behavior.

(7) "Deprivation" means the non-contingent removal of or limiting access to a person's stimuli or their ability to access stimuli with their own available funds to increase its value as a potential reinforcer. The potential reinforcer is given to the person contingent on the occurrence of a desired targeted adaptive behavior or other desired targeted response. If a person does not own the item or has insufficient funds to purchase the item, removal or limiting access to that item is not deprivation.

(8) "Emergency behavior intervention" means the temporary use of an intrusive behavior intervention, including an emergency rights restriction, not outlined in a person's behavior support plan and only used in emergency situations to prevent imminent injury to a person, any other person, or significant property damage.

(9) "Emergency rights restriction" means a temporary loss of a human right based upon the occurrence of a previously identified unwanted target behavior.

(10) "Enforced compliance" means that a person is physically guided through completion of a request or command and the person is more than minimally resisting.

(11) "Error correction" means that a person must repeat the step of a skill where an error was made, while receiving as much help as needed to complete the skill without making additional errors. A person is not resisting throughout the process.

(12) "Extinction" means the reinforcement that maintained or increased the unwanted target behavior is withheld.

(13) "Functional behavior assessment" means a systematic assessment for obtaining information about the function an unwanted target behavior serves for a person. The assessment is conducted by a qualified behavior professional.

(14) "Intrusive behavior intervention" means an unpleasant and restrictive behavior intervention with the potential to restrict a person's human right and affect the safety of a person.

(15) "Manual restraint" means that a person's body is physically held or restricted in a way that prevents a person's free movement but must be administered in a way that ensures a person's general safety with specific emphasis on appropriate breathing and circulation. Manual restraint does not mean briefly holding a person who is not resisting to calm a person or escort a person safely from one area to another.

(16) "Mechanical restraint" means that a device is attached to or adjacent to a person's body, that cannot easily be removed by a person, restricts a person's freedom of movement, and is implemented to decrease the occurrence of a person's unwanted target behavior. A mechanical restraint must be administered in a way that ensures a person's general safety with specific emphasis on appropriate breathing and circulation and which prevents skin irritation.

(17) "Non-intrusive behavior intervention" means a positive behavior intervention that incorporates prevention, reinforcement, positive teaching, and training strategies.

(18) "Physical guidance" means that a person's appropriate body part is physically guided through the proper motion by a caregiver or staff and a person is no more than minimally resisting. The intervention is considered intrusive if a person demonstrates any

level of resistance. Physical guidance may include partial physical prompts and full physical prompts.

(19) "Positive behavior support" means the use of a positive behavior intervention that achieves a socially important behavior change. The support addresses the functionality of a problem and results in an outcome that is acceptable to the person, the family, and the community. Support focuses on prevention and teaching replacement behavior.

(20) "Positive practice overcorrection" means that a person repeatedly practices a positive alternative behavior in those situations when unwanted target behavior commonly occurs.

(21) "Reinforcement" means anything that occurs following a behavior that increases or strengthens that behavior.

(22) "Replacement behavior" means a necessary social, behavioral, or communication skill used to replace the unwanted target behavior.

(23) "Response-cost" means that previously obtained rewards, including tokens, points, activities, or the opportunity to exchange points or tokens to obtain a reward, are removed from a person for a time, contingent upon the occurrence of an unwanted target behavior.

(24) "Restitutional overcorrection" means that a person must repeatedly restore an environment to its original condition.

(25) "Satiation" means that a person is non-contingently presented with an overabundance of a reinforcer to decrease its reinforcing properties and subsequently decrease the occurrence of the unwanted target behavior. Satiation may not be used in conjunction with enforced compliance.

(26) "Seclusion" means the same as defined in Section 62A-2-101.

R539-4-3. Review Committees.

(1) Each person with a behavior support plan and using a provider service shall have access to a Provider Peer Review Committee and the State Behavior Review Committee.

(2) Each person with a behavior support plan and a resident of the developmental center shall have access to the State Behavior Review Committee.

(3) A Provider Peer Review Committee shall consist of at least three specialists.

(a) Each specialist shall have experience in the field of positive behavior support and the field of ABA.

(b) At least one of the three specialists may not be employed by the provider.

(4) A Provider Peer Review Committee shall evaluate a behavior support plan for:

(a) quality of design and implementation;

(b) effectiveness; and

(c) compliance with the least intrusive standard.

(5) The State Behavior Review Committee shall consist of at least three professionals.

(a) Each professional shall have training and experience in ABA.

(b) At least one professional shall be an employee of the division.

(6) For each behavior support plan, the State Behavior Review Committee shall:

(a) review each behavior support plan for effectiveness and compliance with the least intrusive standard; and

(b) determine if the behavior support plan may be used.

(7) For each intervention training program, the State Behavior Review Committee and a medical professional shall:

(a) review each curriculum and manual restraint procedure;

(b) determine if the curriculum or manual restraint procedure may be used; and

(c) keep a copy of the curriculum for each approved intervention training program.

R539-4-4. Behavior Support Plans.

(1) Each behavior support plan shall be based on the results of a functional behavior assessment conducted by a qualified behavior professional.

(a) The functional behavior assessment guides the design of each behavior intervention and shall include:

(i) a clear description of an unwanted target behavior exhibited by a person;

(ii) any situation that predicts when an unwanted target behavior will likely occur;

(iii) any consequence that maintains the desired target behavior; and

(iv) a summary statement or hypothesis.

(b) The functional behavior assessment may include any interview, checklist, direct observation, or other helpful information.

(2) Each behavior support plan shall use the principles of ABA or any other intervention consistent with best practice and research on effectiveness that is directly related to a person's goals.

(a) A behavior support plan is a modification to a person-centered support plan and must use the least intrusive, effective intervention designed to assist a person with:

(i) acquiring or maintaining a skill; or

(ii) preventing an unwanted target behavior.

(b) Staff shall provide the least intrusive intervention in the minimum amount necessary for a purpose that includes:

(i) preventing harm to the person;

(ii) preventing harm to any other person; or

(iii) reducing property damage.

(c) A behavior support plan shall include:

(i) an individualized assessed need;

(ii) a clear description of the behavior intervention;

(iii) a focus on prevention;

(iv) a method to teach a replacement behavior;

(v) a planned response to an unwanted target behavior;

(vi) a data collection system to evaluate at least annually the effectiveness of the plan and determine if a modification may be ended;

(vii) documentation of each positive behavior intervention and support used before modifying the behavior support plan and person-centered support plan;

(viii) documentation of each less intrusive method of meeting the need that was previously used and did not work, including an explanation of why the method did not work;

(ix) an assurance that each behavior intervention and support cause no harm to the person; and

(x) the informed consent of the person.

(d) A behavior intervention included in a behavior support plan must comply with Section R539-3-10.

(3) A non-intrusive behavior intervention may be used informally and without approval.

(a) Document a non-intrusive behavior intervention in a written support strategy or a behavior support plan.

(b) A non-intrusive behavior intervention includes:

(i) reinforcement;

(ii) error correction;

- (iii) extinction;
- (iv) positive behavior intervention;
- (v) positive behavior supports; and
- (vi) positive practice overcorrection.
- (c) Use of a non-intrusive behavior intervention must comply with Section R539-3-10.
- (4) A behavior support plan that includes an intrusive behavior intervention requires review and approval at least annually by the Provider Peer Review Committee as described in Section R539-4-3 and the Provider Human Rights Committee as described in Section R539-3-4.
- (a) Any intrusive behavior intervention must be directly proportionate to the assessed need.
- (b) An intrusive behavior intervention must be included in the behavior support plan as described in Section R539-4-6.
- (c) The Provider Peer Review Committee and the Provider Human Rights Committee must promote use of a non-violent intervention or a de-escalation technique.
- (5) A behavior support plan shall be implemented only after:
 - (a) a review committee approves any intrusive behavior intervention;
 - (b) the team approves the behavior support plan; and
 - (c) the person gives informed consent.
- (6) A person must consent to a behavior support plan before implementing the plan.
 - (a) If a person does not consent to a behavior support plan approved by the team, the Provider Human Rights Committee shall:
 - (i) review the behavior support plan; and
 - (ii) make a recommendation to the person and the team about how to proceed.
 - (b) The person may appeal the Provider Human Rights Committee decision to the Division Human Rights Council.
- (7) Each staff involved in implementing a procedure outlined in the behavior support plan shall receive adequate training on a behavior support plan before implementation. The provider shall document and keep a record of training completion.

R539-4-5. Emergency Behavior Interventions.

- (1) An emergency behavior intervention may be used if imminent danger is present or threatened, including imminent injury to a person, any other person, or property destruction. If possible, try and exhaust any non-intrusive behavior intervention before implementing an emergency behavior intervention.
- (2) Use of an emergency behavior intervention must comply with Section R539-3-10.
- (3) An emergency behavior intervention requires additional oversight, approval, and review.
 - (a) A manual restraint may be used as described in Section R539-4-6.
 - (b) A mechanical restraint may be used as described in Section R539-4-6.
 - (c) A provider administrator or qualified behavior professional must approve use of seclusion or use of a seclusion room as described in Section R539-4-6 within 15 minutes of staff initiating each intervention.
 - (i) If staff does not get approval within 15 minutes, the staff shall release the person from seclusion or the seclusion room.
 - (ii) Staff must have approval from a provider administrator or qualified behavior professional before shutting the door or holding the door shut.

- (d) If a provider uses an emergency behavior intervention for three or more incidents or for a total of 25 minutes or longer within 30 consecutive days, then the team shall meet within ten business days of the most recent emergency behavior intervention to determine if:
 - (i) any medical or environmental factor is causing the behavior;
 - (ii) the person needs a behavior support plan;
 - (iii) a non-intrusive behavior intervention is needed in the person's behavior support plan;
 - (iv) an intrusive behavior intervention is needed in the person's behavior support plan;
 - (v) additional medical, mental health, or other professional assistance is needed; or
 - (vi) another solution is available to help the person avoid or prevent future use of an emergency behavior intervention.
- (e) The Provider Human Rights Committee or Provider Peer Review Committee shall review each emergency behavior intervention incident report during the next regularly scheduled committee meeting or within 30 days of the date of each emergency intervention used.
 - (4) Any emergency behavior intervention shall:
 - (a) result in an emergency rights restriction;
 - (b) be considered reasonable and necessary under the circumstances;
 - (c) not be used as a substitute for the behavior support plan;
 - (d) not be used for a length of time longer than is necessary to ensure the health and safety of any person in imminent danger; and
 - (e) not exceed an amount of force considered reasonable and necessary under the circumstances.
 - (5) If prolonged use of an emergency intervention occurs, staff shall seek assistance from the provider's administrator and any public safety service needed under the circumstances.
 - (6) For each occurrence of an emergency behavior intervention, a provider shall submit a critical incident report through the division's case management system. An incident report requires the same information as described in Rule R501-1.
 - (7) The incident report shall be reviewed by the person's support coordinator.
 - (a) The provider communicates each follow-up action to the person's support coordinator.
 - (b) The support coordinator documents each follow-up action taken.

R539-4-6. Intrusive Behavior Intervention.

- (1) If a provider or the developmental center uses an intrusive behavior intervention, the intrusive behavior intervention must be:
 - (a) identified in the behavior support plan; and
 - (b) used immediately after the person engages in an unwanted target behavior identified in the behavior support plan.
- (2) An intrusive behavior intervention includes:
 - (a) aversive stimulus;
 - (b) contingent rights restriction;
 - (c) deprivation;
 - (d) emergency rights restriction;
 - (e) enforced compliance;
 - (f) seclusion;
 - (g) manual restraint;
 - (h) mechanical restraint;

(i) physical guidance;
(j) response-cost;
(k) restitutional overcorrection;
(l) satiation; and
(m) seclusion room.
(3) To include an intrusive behavior intervention in the behavior support plan, describe the:
(a) method of intervention;
(b) safety and efficacy monitoring procedure; and
(c) time limitation or individualized release criteria.
(4) Individualized release criteria for manual restraint, mechanical restraint, seclusion, and seclusion room shall be based on:
(a) a predetermined behavior that must be achieved; or
(b) a predetermined amount of time spent in restraint or seclusion.
(5) Aversive stimulus shall be free from any procedure or action that is degrading, humiliating, harsh, punitive, painful, or abusive. A provider and the developmental center may not use:
(a) a device that transmits an electric shock to the person;
(b) heat and cold exposure; or
(c) any procedure or action likely to result in psychological or physical trauma.
(6) Except when approved by a provider administrator or a qualified behavior professional as described in Subsection R539-4-6(6)(a), use of a manual restraint, mechanical restraint, or seclusion may not exceed one hour.
(a) If the predetermined behavior release criteria in the person's behavior support plan is not met within one hour of beginning the restraint or seclusion, one additional hour may be approved.
(b) Use of restraint or seclusion that exceeds one hour requires review by the team and the Provider Peer Review Committee.
(c) Any time that the person spends asleep must count toward the predetermined amount of time in the release criteria.
(d) Total time spent in restraint or seclusion may not exceed two hours in a 24-hour period.
(7) Staff shall complete detailed documentation of each use of a manual restraint, mechanical restraint, or seclusion; and any observation requirement included in the behavior support plan.
(8) A provider or the developmental center shall submit each manual restraint, mechanical restraint, seclusion, or seclusion room included in the behavior support plan to the State Behavior Review Committee for review. The State Behavior Review Committee must approve the intervention before use of the intervention.
(9) A manual restraint shall be used as described in Rule R501-1 and Section R539-4-6.
(a) A manual restraint program or procedure may be used after approval by the State Behavior Review Committee and Division Human Rights Council.
(b) Intervention training programs currently approved by the State Behavior Review Committee include:
(i) the Mandt System;
(ii) the Professional Assault Response Training (PART);
(iii) Supports Options and Actions for Respect (SOAR);
(iv) Crisis Prevention Intervention (CPI); and
(v) Safety Care.
(10) A mechanical restraint shall be used as follows:
(a) Safety and efficacy monitoring procedure shall ensure a person's health and safety.

(i) Each procedure must be individualized.
(ii) Procedure must include a method to monitor the person before, during, and after use of a mechanical restraint.
(iii) Procedure must include observation and documentation of the person's status at a minimum of 15-minute intervals.
(b) A mechanical restraint device includes gloves, mitts, helmet, splints, and wrist or ankle binding.
(c) A mechanical restraint device does not include:
(i) a device commonly used to ensure a person's safety such as seatbelts or protective sporting equipment;
(ii) medically necessary equipment related to a health condition used to promote healing or to prevent injury; and
(iii) a protective helmet used to limit injury to a person during a seizure or other medical reason.
(11) Seclusion shall be used as described in Rule R501-1 and Subsection R539-4-6(11).
(a) A seclusion room may be used as follows:
(i) A provider licensed through the Office of Licensing may use a seclusion room as described in Rule R501-1.
(ii) A provider not licensed through the Office of Licensing and the developmental center may use a seclusion room as described in Rule R501-1 and use the seclusion room for an adult or child.
(iii) The developmental center may not use a seclusion room as an emergency behavior intervention as described in 42 CFR 483.450(c)(1)(i).
(b) To include seclusion or a seclusion room in a behavior support plan, describe the individualized release criteria for each intervention as described in Subsection R539-4-6(3).
(c) Staff shall maintain constant visual and auditory observation of the person during each seclusion and use of a seclusion room.
(12) Use of a closed door during seclusion must be approved by the division director before the intervention may be used.
(a) A provider or the developmental center must request that the State Behavioral Review Committee review the use of a closed door in a behavior support plan. The behavior support plan must include a procedure for ensuring:
(i) the person's health and safety;
(ii) that staff must maintain constant visual and auditory observation of the person;
(iii) observation and documentation of the person's status at a minimum of 15-minute intervals; and
(iv) that staff shall open the door if the person falls asleep before release from seclusion.
(b) The State Behavior Review Committee may recommend that a provider be allowed to shut a door or hold a door shut during seclusion included in a behavior support plan.
(i) The recommendation must be based upon adequate justification and documentation.
(ii) The intervention must help the person be more safely served within the division support system.
(c) The State Behavioral Review Committee sends the behavior support plan and committee recommendation to the Division Human Rights Council for review.
(d) The division director may approve use of a closed door on a case-by-case basis after reviewing the recommendation of the State Behavioral Review Committee and Division Human Rights Council.

KEY: people with disabilities, behavior
Date of Last Change: 2022[December 30, 2013]
Notice of Continuation: July 15, 2019
Authorizing, and Implemented or Interpreted Law: 62A-5-102;
 62A-5-103

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R539-5	Filing ID 54225
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Agency Information

1. Department:	Human Services	
Agency:	Services for People with Disabilities	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Kelly Thomson	435-669-4855	kthomson@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 or section catchline:
R539-5. Self-Administered Services
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is amended to comply with Executive Order No. 2021-12, and adds spouse compensation as allowed by S.B. 63 passed in the 2021 General Session.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Language was changed to conform to the current edition of the Administrative Rules' Rulewriting Manual for Utah. Substantive changes align current practice and this rule to improve clarity and the Division of Services for People with Disabilities' responsiveness to the public. Changes to Section R539-5-5 add the ability to hire a spouse as an employee; updates the exception that allows for caregiver compensation; and removes the two incorporated code of conducts. This is an ongoing service option attached to self-administered services on a home and community-based services waiver. Caregiver compensation may be

billed biweekly for hours of service provided by a spouse employed as a self-administered services employee.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The fiscal note attached to S.B. 63 (2021) estimated that the state may spend an ongoing \$2,941,300 to pay a person's spouse to provide personal care services through Medicaid.

B) Local governments:

No anticipated cost or savings to local governments. Local governments do not contribute funding to state disability services.

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

No anticipated cost or savings to small businesses. Small businesses do not contribute funding to state disability services.

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

No anticipated cost or savings to non-small businesses. Non-small businesses do not contribute funding to state disability services.

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**):

No anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities. These entities do not contribute funding to state disability services. A person using a home and community-based waiver service may financially benefit from the amendment by employing a spouse to provide a personal care service. The spouse providing a service receives payment in the form of wages.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No anticipated compliance costs for affected persons. Changes to this rule do not affect the financial eligibility of or impose any fees on the person.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
State Government	\$2,941,300	\$2,941,300	\$2,941,300
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-5-102	Section 62A-5-103	
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Incorporations by Reference Information

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

	First Incorporation
Official Title of Materials Incorporated (from title page)	Department of Human Services Policy and Procedure, Provider Code of Conduct, 05-03
Publisher	Department of Human Services
Date Issued	June 2010

B) This rule removes the following title of materials incorporated by references:

	Second Incorporation
Official Title of Materials Incorporated (from title page)	Division of Services for People with Disabilities Directive, Code of Conduct, 1.20
Publisher	Division of Services for People with Disabilities
Date Issued	January 2000

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	02/14/2022
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10. This rule change MAY become effective on:	02/21/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R539. Human Services, Services for People with Disabilities. R539-5. Self-Administered Services. R539-5-1. Purpose.

[(+)]The purpose of this rule is to establish a procedure and a standard for a person and their family receiving self-administered services.

R539-5-2. Authority.

~~[(4)]~~ This rule establishes a procedure and a standard for self-administered services as required by Subsection 62A-5-103~~(8)~~~~(2)(b)~~.

R539-5-3. Definitions.

As used in this rule:

(1) Terms used in this rule are defined in Sections 62A-5-101~~], and~~ R539-1-~~[2]3,~~ and R539-2-3.

(2) "Direct Services" means any service delivered by an employee in the physical presence of the person.

(3) "Employee" means any individual hired to provide services to a person receiving self-administered services.

(4) "Fiscal Agent" means an individual or entity contracted by the division to perform fiscal, legal, and management duties.

(5) "Grant" means a budget allocated by the division to the person through which self-administered services are purchased.

(6) "Grant Agreement" means a written agreement between the person and the division that outlines each requirement the person must follow while receiving self-administered services.

(7) "Self-Administered Services" means a structure for a person or representative to administer a service paid by the division.
~~This program allows the person to hire, train, and supervise an employee who will provide a direct service from a service selection as outlined in the 1915c Medicaid home and community-based services waiver that the person is enrolled in. After the person is allocated a budget, a grant is issued for the purpose of purchasing a specific service. Grant funds are only disbursed to pay for a service rendered. Each payment is made through a contracted fiscal agent directly to the employee who provided the service.]~~

R539-5-4. Participant Requirements.

(1) The division may allow a person to use self-administered services to receive a service from the division.

(2) After the division determines the amount of the person-centered budget, the division shall issue a grant to the person to purchase a support service included in the person-centered support plan.

(3) The division shall only disburse public funds for a service rendered.

(4) The person shall:

(a) adhere to the terms of their grant agreement;

(b) ensure that each employee completes each requirement outlined in Section R539-5-5;

(c) use a fiscal agent contracted with the division to make a payment to an employee for a service rendered;

(d) provide the fiscal agent with the following documentation for each employee hired to provide a service:

(i) original form W-4;

(ii) original form I-9;

(iii) original background screening application;

(iv) copy of the signed employment agreement; and

(v) each original signed timesheet to verify that the time worked is true and accurate;

(e) complete a monthly summary of service for each month that a service is rendered as described in Subsection (5); and

(f) notify the support coordinator if any of the following occurs:

(i) the person moves to another residence;

(ii) the person is admitted to a hospital or a nursing facility;

or

(iii) the death of the person.

~~[(1) A person receiving self-administered services must adhere to the terms of their grant agreement.~~

~~[(2) The division may require the person to use a contracted provider if the person fails to meet a requirement described in rule or the grant agreement.~~

~~[(3) The person shall ensure that each employee completes each requirement outlined in Section R539-5-5.~~

~~[(4) The person shall provide the fiscal agent with documentation for each employee hired to provide a service:~~

~~[(a) original form W-4;~~

~~[(b) original form I-9;~~

~~[(c) original background screening application;~~

~~[(d) copy of the signed employment agreement; and~~

~~[(e) each original signed timesheet in order to verify that the time worked is true and accurate.~~

~~[(5) The person or representative shall complete a monthly summary of service for each month that a service is rendered.]~~

~~[(a)](5) The person must submit the monthly summary to the support coordinator by the 15th of the month following the month of services.~~

~~[(b)](a) If the person fails to provide a monthly summary to the support coordinator for a three month period, then the fourth month's payment shall be withheld until each monthly summary is submitted.~~

~~[(c)](b) If the person submits each required monthly summary during the fourth month then payment shall[will] be reinstated.~~

~~[(d)](c) If a monthly summary is not provided for the fifth month, then at the sixth month, the division shall[will] require the person to use a contracted provider and not participate in self-administered services.~~

(6) The division may require the person to use generally available technical assistance including:

(a) a behaviorist;

(b) an accountant; or

(c) a division supervisor.

(7) If the person fails to meet a requirement described in rule or the grant agreement, the division may require the person to use a contracted provider.

~~[(7) The person or representative shall notify the support coordinator if any of the following occurs:~~

~~[(a) the person moves to another residence;~~

~~[(b) the person is admitted to a hospital or a nursing facility;~~

~~or~~

~~[(c) the death of the person.]~~

R539-5-5. Employee Requirements.

~~[(1) An employee hired by the person must be 16 years of age or older.~~

~~[(a) An employee younger than age 18 must have the employee agreement co-signed by their parent or guardian.~~

~~[(2) Except as provided in Subsection (2)(a) and (2)(b), a parent, guardian, step parent, or spouse shall not be paid to provide a service to the person.~~

~~[(a) In a non-Medicaid funded program the following apply.~~

~~[(i) A spouse approved by the division before May 17, 2005, to provide paid support for a person in a non-Medicaid funded program may continue to be reimbursed.~~

~~[(ii) Payment to an approved spouse shall not exceed \$15,000 in a fiscal year.~~

~~[(iii) The exception terminates at the time of divorce or the death of one spouse.~~

~~(b) During a state of emergency declared by the state or federal government the following apply:~~

~~(i) A parent, step-parent, guardian, or spouse may be paid to provide services to a person when necessary to maintain access to support and no other provider is available.~~

~~(A) An approved Appendix K must authorize payment to a legally responsible caregiver and guardian.~~

~~(B) Additional state and federal funding must be available.~~

~~(ii) Any service provided must conform to the person's service plan.~~

~~(iii) A parent, step-parent, guardian, or spouse must obtain approval from the support coordinator before providing a service.]~~

~~(1) An employee hired by the person must be 16 years of age or older.~~

~~(2) An employee younger than 18 years of age must have the employee agreement co-signed by their parent or guardian.~~

~~(3) An employee may be a spouse.~~

~~(a) The division may pay a spouse to provide a personal care service as described in Section 26-18-426.~~

~~(b) The person and the team must ensure that employing a spouse is in the best interest of the person.~~

~~(c) The person must make an informed choice to employ a spouse.~~

~~(d) Any service provided by a spouse must conform to the person-centered support plan.~~

~~(e) The division may pay a spouse for a maximum of 40 hours within a week.~~

~~(f) If an employee, the spouse may not control the person's person-centered budget.~~

~~(4) Except as described in Subsections (4)(a) through (4)(b) and (5), the division shall not pay a parent, step-parent, or guardian to provide a service to the person.~~

~~(a) During a state of emergency declared by the state or federal government the following exceptions apply.~~

~~(i) The division may pay a parent, step-parent, or guardian to provide a service to a person when necessary to maintain access to support and in the best interest of the person.~~

~~(A) An approved Appendix K must authorize payment to a legally responsible caregiver and guardian.~~

~~(B) Additional state and federal funding must be available.~~

~~(ii) Any service provided must conform to the person's service plan.~~

~~(iii) A parent, step-parent or guardian must obtain approval from the support coordinator before providing a service.~~

~~(b) The division may pay a parent, step-parent, or guardian to provide a service eligible for federal funding under the American Rescue Plan Act of 2021, Pub. L. 117-2, 135 Stat. 4;~~

~~(i) if the Centers for Medicare and Medicaid Services approves the home and community-based services spending plan and narrative; and~~

~~(ii) if federal funding is available.~~

~~(5) A person enrolled in the physical disabilities waiver may employ a parent, step-parent, or guardian to provide a personal attendant service under the following circumstances:~~

~~(a) the person:~~

~~(i) lives in a rural area within a five-mile radius of a population center with less than 2,500 people;~~

~~(ii) lacks access to any other resource available to provide support within a 15-mile radius of the person; and~~

~~(iii) conducts ongoing recruitment of an employee who is not a parent, step-parent, or guardian;~~

(b) the parent, step-parent, or guardian has specialized training to safely operate a health related technology for the person, and the person demonstrates that no other dependable or qualified resource is available. A health related technology includes a ventilator, G peg tube feeding, home dialysis infusion, and wound care;

(c) the person is functionally quadriplegic and dependent on any other individual:

(i) to perform health and safety related support; and

(ii) any other routine activity of daily living; or

(d) the person needs support that is critical to the person's health and safety during non-traditional work hours, including at night; and

(e) the personal attendant service provided by a parent, step-parent, or guardian conforms to the personal attendant service described in the person-centered support plan.

[~~(3)~~](6) An employee must complete each employment requirement [in order] to get authorization to work with the person and to receive payment from the fiscal agent.

(a) Complete and sign a form W-4.

(b) Complete and sign a form I-9.[;]

(c) Complete a background check.

(d) Complete and sign the employee agreement.

(e) Read and sign the Provider Code of Conduct as described in Rule R495-876.[Department of Human Services Policy and Procedure, Provider Code of Conduct, 05-03 (June 2010) and the Division of Services for People with Disabilities Directive, Code of Conduct, 1.20 (January 2000), both incorporated by reference.]

(f) Review the approved and prohibited behavior support as described in Section R539-3-10. Behavior support [shall] may not violate Sections R495-876, R512-202, 62A-3-301 through 62A-3-321, and 62A-4a-402 through 62A-4-412.

(g) Review the person's support book.

(h) Review any other best practice material recommended by the division.

(i) Complete any screening and training necessary to provide for the health and safety of the person.

(j) Complete training on the person's behavior support plan.

(k) Complete and sign the application for certification form to certify that the employee reviewed or signed each requirement as described in Subsections (6)(d) through (6)(j).

R539-5-6. Incident Reports.

(1) The person or representative shall notify their support coordinator by phone, email, or fax within 24 hours of any reportable incident that occurs while the person is in the care of an employee.

(2) The support coordinator shall notify the division by phone, email, or fax within 24 hours of any reportable incident that occurs while the person is in the care of an employee.

(3) Within five business days of an incident, the support coordinator shall report the incident through the division's incident reporting system.[complete a Form 1-8 Incident Report and file it with the division.]

(4) Reportable incidents include:

(a) actual or suspected incident of abuse, neglect, exploitation, or maltreatment as described in [the Division of Services for People with Disabilities Directive 1.20 incorporated by reference in Subsection R539-5-5(3)(e),] Sections 62A-3-301 through 62A-3-321 for adults, and Sections 62A-4a-401 through 62A-4a-412 for children;

- (b) drug or alcohol abuse;
- (c) medication overdose or error that requires medical intervention;
- (d) missing person;
- (e) evidence of seizure in a person with no seizure diagnosis;
- (f) property destruction totaling \$500 or more in damage;
- (g) physical injury that requires medical intervention;
- (h) law enforcement involvement;
- (i) use of manual restraint, mechanical restraint, seclusion, seclusion[time-out] room, or aversive stimulus[highly noxious stimuli] that is not outlined in the behavior support plan as defined in [Section] Rule R539-4; and
- (j) any other instance that the person or representative determines should be reported.

R539-5-7. Service Delivery Methods.

[~~(1)~~—]A person authorized to ~~use~~receive the self-administered services method may also use the provider agency service delivery method ~~[in order]~~ to obtain a service that best meets the person's needs.

R539-5-8. Limitation.

(1) The direct service portion of a self-administered services budget ~~[shall]~~may not exceed \$63,400 in a fiscal year. Fiscal management service is not a direct service.

~~[(a) Fiscal management service is not a direct service.]~~

(2) If a person's self-administered direct service budget exceeds \$63,400 in a fiscal year, the service delivery method must change to either:

- (a) the provider agency service delivery method; or
- (b) a combination of the self-administered services method and provider agency method.

(3) The division director may waive the person's self-administered services budget limitation, if use of the provider agency method is not possible.

KEY: disabilities, ~~[self-administered]~~self-administered services

Date of Last Change: 2022~~November 23, 2020~~

Notice of Continuation: July 15, 2019

Authorizing, and Implemented or Interpreted Law: 62A-5-102; 62A-5-103

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R539-9	Filing ID 54229
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Agency Information

1. Department:	Human Services
Agency:	Services for People with Disabilities
Building:	MASOB
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116

Contact person(s):

Name:	Phone:	Email:
Kelly Thomson	435-669-4855	kthomson@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 or section catchline:**

R539-9. State Supported Employment Program

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule is amended to comply with Executive Order No. 2021-12.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Language changed to conform to the current edition of the Administrative Rules' Rulewriting Manual for Utah. Substantive changes align current practice and the rule to improve clarity and the Division of Services for People with Disabilities' responsiveness to the public.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

No anticipated cost or savings to the state budget. Changes to this rule do not alter program access or funding.

B) Local governments:

No anticipated cost or savings to local governments. Local governments do not contribute funding to state disability services.

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

No anticipated cost or savings to small businesses. Small businesses do not contribute funding to state disability services.

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

No anticipated cost or savings to non-small businesses. Non-small businesses do not contribute funding to state disability services.

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**):

No anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities. Changes to the rule do not alter program access or funding.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No anticipated compliance costs for affected persons. Changes to this rule do not alter program access or funding.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-5-103.1		
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	09/07/2021
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R539. Human Services, Services for People with Disabilities. R539-9. State Supported Employment Program.

R539-9-1. Purpose and Authority.

(1) The ~~[purpose of this]~~ rule ~~[is to provide]~~ establishes a procedure and standard for participation in the division's state supported employment program.

~~[(a) procedures and standards for the determination of eligibility for the Division's state supported employment program for Persons on the Division's Waiting List as specified in R539-2-4.]~~

(2) This rule is authorized by Section 62A-5-103.1

R539-9-2. Definitions.

(1) Terms used in this rule are defined in Sections 62A-5-101[7] and R539-1-3.

~~_____~~ (2) "Supported Employment" means "competitive work" in integrated work settings or employment in "integrated work" settings where individuals are working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities.

~~_____~~ (3) "Competitive Work" means employment in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

~~_____~~ (4) "Integrated Work" means job sites where most employees are not disabled, where a client interacts on a regular basis, in the performance of job duties, with employees who are not disabled. If a client is part of a distinct work group of only individuals with disabilities, the work group should consist of no more than eight individuals.

~~_____~~ (5) "Extended Services" means on-going support services and other appropriate services, needed to support and maintain an individual with a most significant disability in employment. They are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment. Extended services are based on a determination of the needs of an eligible individual. Extended services may include natural supports, such as volunteers, family members, co-workers, employer, supervisors, students, and Plan for Achieving Self Support or Impairment Related Work Expense.]

~~_____~~ (2) "Extended Support Services" means long-term ongoing services needed to support an individual's employment as defined by the Utah State Office of Rehabilitation.

~~_____~~ (3) "Provider" means the same as defined in Subsection R539-2-3(2).

~~_____~~ (4) "State Supported Employment Program" means a limited employment support service available for a person on the division's waiting list as described in Section R539-2-4.

~~_____~~ (5) "Supported Employment" means services intended to help a person in their efforts to obtain, maintain, and advance in competitive integrated employment or self-employment.

R539-9-3. [Eligibility]Participation.

~~_____~~ (1) A Person who meets the eligibility requirements listed in Section 62A-5-103.1 may participate in the state supported employment program provided that:

~~_____~~ (2) the Person agrees to enter services under the conditions listed in Section 62A-5-103.1;

~~_____~~ (3) the Person agrees not to use any other Home and Community Based Medicaid Waiver service operated by the Division while participating in the Supported Employment Pilot, (but may use Service Brokering services, if appropriate);

~~_____~~ (4) if the person has a Medicaid Card the person may continue to access State Plan, E-Pass and other Medicaid services operated separately from the Division during participation in the program;

~~_____~~ (5) the person agrees to move off the immediate needs waiting list for supported employment;

~~_____~~ (6) the person is found eligible for Division of Rehabilitation Services, Supported Employment funding;

~~_____~~ (7) the person agrees to use an approved provider;

~~_____~~ (8) the person signs the State Supported Employment Program Participant Agreement and agrees to follow through with instructions from rehabilitation counselors, services for people with disabilities support coordinators and service brokers and private provider staff;

~~_____~~ (9) the person has an Office of Education, Rehabilitation Services, Referral and Services Report form 58 completed, signed by a rehabilitation counselor and a Division representative;

~~_____~~ (10) the person agrees that the person's need for extended supported employment services will be met solely by the provision of state supported employment program; and

~~_____~~ (11) the person agrees to provide information needed by the person's employer to obtain the tax incentive through 26 U.S. Code 44, Federal Welfare to Work, Internal Revenue Service, IRS Form 8850 or Section 59.7-608 or Credit for Employers Who Hire Persons with Disabilities, Form TC 40HD.]

~~_____~~ (1) As described in Section 62A-5-103.1, an eligible person may participate in the state supported employment program.

~~_____~~ (2) The person must:

~~_____~~ (a) be eligible for supported employment funding from the Utah State Office of Rehabilitation;

~~_____~~ (b) use an approved provider;

~~_____~~ (c) sign the state supported employment program participation agreement;

~~_____~~ (d) follow through with any instruction from:

~~_____~~ (i) the rehabilitation counselor;

~~_____~~ (ii) the support coordinator;

~~_____~~ (iii) the service broker; or

~~_____~~ (iv) the provider staff;

~~_____~~ (e) get two forms from the Utah State Office of Rehabilitation that must be signed by a rehabilitation counselor and a division representative:

~~_____~~ (i) Confirmation of Extended Services Funding USOR 58A; and

~~_____~~ (ii) Confirmation of Stability Form 58B; and

~~_____~~ (f) provide any information needed by the employer to get any tax incentive made available by the state or federal government.

~~_____~~ (3) The person's need for an extended support service shall be met solely by the state supported employment program.

~~_____~~ (4) The person may not use any ongoing service operated by the division while participating in the state supported employment program.

~~_____~~ (5) If the person is enrolled in Medicaid, the person may access any state plan service, Employment-related Personal Assistant Services, and any other Medicaid service operated separately from the division.

R539-9-4. Priority.

~~_____~~ (1) First priority will be given to Persons on the waiting list for supported employment services who currently receive Division of Rehabilitation Services funding.

~~_____~~ (2) Second priority will be given to Persons on the waiting list for supported employment services and no other services.

~~_____~~ (3) Third priority will be given to Persons waiting for supported employment and other services.]

~~_____~~ (1) First priority enrollment targets a person who is waiting for a supported employment service and currently receives funding from the Utah State Office of Rehabilitation.

~~_____~~ (2) Second priority enrollment targets a person who is waiting for a supported employment service and no other division service.

(3) Third priority enrollment targets a person waiting for a supported employment service and any other division service.

KEY: disabilities, supported employment program

Date of Last Change: 2022|December 27, 2011|

Notice of Continuation: May 3, 2021

Authorizing, and Implemented or Interpreted Law: 62A-5-103.1

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R547-6	Filing ID
		54221

Agency Information

1. Department:	Human Services	
Agency:	Juvenile Justice Services	
Room no.:	3rd Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Reg Garff	801-602-6261	rgarff@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

General Information

2. Rule or section catchline:

R547-6. Youth Parole Authority Policies and Procedures

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021. Changes will also bring the code citations and definitions up to date with the new juvenile code.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule establishes parameters of the Youth Parole Authority. Various language is being updated to reflect current standards and practices. These changes also bring the rule in-line with the current rulewriting manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendment of this rule will have no impact on the state budget. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of rule does not impact current practices and is not fiscal in nature.

B) Local governments:

The amendment of this rule will have no impact on local government budgets. This rule is being amended following the review established in Executive Order 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

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

The amendment of this rule will have no impact on small businesses. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

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

The amendment of this rule will have no impact on non-small businesses. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

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 amendment of this rule will have no impact on persons other than small businesses, non-small businesses, state, or local government entities. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

The amendment of this rule will have no impact on compliance costs for affected persons. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
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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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-1-111	Section 80-5-202	
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	02/14/2022
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10. This rule change MAY become effective on:	02/21/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/15/2021
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R547. Human Services, Juvenile Justice Services.

R547-6. Youth Parole Authority [~~Policies and Procedures~~].

R547-6-1. Purpose and Authority.

(1) Section 62A-1-111 authorizes the Department of Human Services to adopt administrative rules.

(2) Section 80-5-202 authorizes the division to promulgate rules to govern the operation of secure care facilities.

R547-6-2. Definitions.

(1) "Administrative Officer" is established in Subsection 80-5-703(3).

(2) "Authority" means the Youth Parole Authority within the division.

(3) "Detainer" is an order to hold a [youth] minor for another governmental agency.

(4) "Division" means the Division of Juvenile Justice Services.

(5) "Juvenile Offender" is a person under the age of 25 who has been ordered into the custody of the division for placement in secure care, pursuant to Sections 80-6-705 and 80-6-802.

R547-6-3. Administration and Organization.

(1) Section [62A-7-501]80-5-701 establishes a Youth Parole Authority within the [D]division[~~of Juvenile Justice Services~~]. The authority [which] has statutory responsibility for parole release, rescission, revocation, and termination of parole for [youth] juvenile offenders committed to the [D]division for secure confinement.

[1] The Authority is established as an autonomous organization.

(2) The following criteria shall be utilized in the selection and appointment of the Authority members:

(a) A member shall have training or experience in social work, law, juvenile or criminal justice, or related behavioral sciences.

(b) A member shall not be an employee of the Department of Human Services, other than in the capacity as a member of the Authority, and may not hold any public office during the tenure of the appointment. A member shall not hold a position in the State's juvenile

justice system or be an employee, officer, advisor, policy board member, or subcontractor of any juvenile justice agency or its contractor during the tenure of the appointment.

(c) The membership shall represent, to the extent possible, a diversity of the population under the jurisdiction of the Division.

(d) The membership shall be composed of individuals with the capacity to conduct hearings in a professional manner, develop appropriate policies and procedures, be sensitive to both legal and treatment oriented issues and promote credibility in the parole release process.

(3) Youth Parole Authority members shall be appointed for terms of four years by the Governor with the consent of the Senate.

(4)(a)2 The members of the [Youth Parole A] authority shall elect the chairperson and vice-chairperson of the [A] authority by majority vote for terms of one year. A second vice-chairperson shall be designated by the [A] authority members present at hearings [in which] when the chairperson and vice-chairperson are absent.

(b)3 The duties of the chairperson are as follows:

(i)a to preside at meetings and hearings, and in the chairperson's absence the first vice-chairperson shall act,[-] [I] in the absence of the chairperson and first vice-chairperson, the second vice-chairperson shall preside at the meeting or hearing[-];

(ii) to act as official spokesperson for the [A] authority with the concurrence of the [A] authority; and

(iii) to work closely with the [A] administrative [O] officer in the administration of the [A] authority and in [e] coordinating [coordination] with the [D] division.

(5)(4) Any member of the [A] authority may be removed from office for cause.

(6)(5) [The Authority members may not receive compensation or benefits for their service, but may receive per diem and travel expenses in accordance with section 63A-3-106 and 107.

(7)-]The [D] division [D] director shall ensure that time is available for [D] division members to participate in training and administrative meetings related to [A] authority and [D] division matters.

(8) The Authority has the power to require that general and specific conditions of parole be followed in the supervision of parolees.

(9) The Authority has the statutory power, Section 62A-7-501(12), to secure prompt and full information relating to youth offenders committed to the Division from the staffs of the secure facilities, regional offices, community placements, and the juvenile court.

(10) The Authority has statutory power, Section 62A-7-504, to cause the arrest of parolees and the power to revoke parole.

(11) The Authority has the designated power to terminate youthful offenders from parole.

(12)(6) The [A] authority shall establish policies and procedures for its governance, meetings, hearings, the conduct of proceedings before it, the parole of [youth-] juvenile offenders, and the general conditions under which parole may be granted, rescinded, revoked, modified, and terminated.

(7) The [A] authority's policies and procedures are subject to the approval of the [Board of Juvenile Justice Services] division director.

(13)(8) The policy and procedures manual of the [A] authority will be readily available to [youth in secure facilities] juvenile offenders, parolees, staff and the public.

[-(14) The Authority shall request any needed legal assistance from the Attorney General's Office.

(15) The position of an Administrative Officer shall be established to carry out day to day functions and to implement the policies and procedures of the Authority.

(16) Required staff shall be appointed to the Authority.]

(9) A case file shall be maintained on each juvenile offender that comes before the authority. Materials in the case files are clearly identified as to source, verification and confidentiality pursuant to the Government Records Access and Management Act.

(10) The authority shall only proceed with revocation and rescission processes in accordance with the system of appropriate responses, which shall be developed by the division.

R547-6-4. Hearings.

[A case file shall be maintained on each youth that comes before the Authority. Materials in the case files are clearly identified as to source, verification and confidentiality.

(1) For the proper operation of the Authority and protection of those furnishing information and for the best interests of youth offenders and society, all written documents, evaluations or medical reports, opinions, investigative reports which contain or are based upon information that is, either privileged by statute or court rule or order of the Authority, or of such confidential nature that the Authority concludes the rights and reputations of particular person or persons rendering the order, decision, opinions or submitting the documents would be jeopardized or threatened, or the public interest would not be served, shall be classified as controlled and not be made available to the youth offender or his representative or for public inspection. Requests and reasons for any exceptions shall be submitted in a petition to the Authority, which may upon good cause grant the request.

(2) The Authority may order, when necessary, examinations and opinions by certified psychiatrists or psychologists. Certified members of the appropriate professions shall be available for such examinations and opinions.

(3) In order to have adequate time for case preparation, the Authority will be provided, in advance of hearings, with the necessary case materials and information to make appropriate decisions.

(4) A calendar shall be prepared in advance of all parole hearings.

(5) The number of full hearings scheduled for an Authority panel in a single day should be limited to 12 cases.

(6)(1) [Youth-] Juvenile offenders shall be notified in writing at least 14 calendar days in advance of initial and parole review hearings and shall be specifically advised as to the purpose of the hearing.

(7)(2) The [A] authority hearings are not open to the public,[-] however, the [A] authority has the discretion to admit to the hearings any persons who may serve in the best interest of the [youth] juvenile offender.

(8)(3) Hearings by the [A] authority shall be conducted in a secure environment and in private rooms appropriately furnished and of adequate size and comfort.

(9)(4) [Youth-] Juvenile offenders may have assistance from qualified persons for an effective case presentation.

(10)(5) [Youth-] Juvenile offenders shall have legal representation at parole revocation hearings. Legal representation [shall not] may be [permitted-] present at initial, parole review, progress review, and rescission hearings. [Legal representation shall be at the discretion of the hearing officer at preliminary hearings. Legal representation shall be at the discretion of the Authority at special hearings.

(11) It is the policy of the Authority that all youth offenders shall have a personal appearance before the Authority, which provides for ample opportunity for the expression of the youth's views, particularly in the situation where parole may be denied.]

(12)(6) A record shall be made of [all-] proceedings and findings made by the [A] authority.

(13)(7) The [youth-] juvenile offender will be notified [verbally] orally of the [A] authority's decisions at the conclusion of each

hearing. All decisions shall be supported in writing and [forwarded to] served upon the [youth] juvenile offender within 14 days of the hearing date.

(14) The youth offender, parent, or legal guardian of the youth offender may appeal any decision of the Authority regarding parole release or revocation to the Executive Director of the Department of Human Services or designee.

(15)(a)(8) The criteria employed by the [A] authority in its decision making process are available in written form in the administrative office of the [D] division [of Juvenile Justice Services] and are specific enough to permit consistent application to individual cases.

(b) Youth offenders committed to the Division for secure confinement may be released by the Authority earlier than their recommended guideline, when the Division's secure facilities are at maximum capacity.

(16)(9) [It is the policy of the Authority that all youth] Juvenile offenders shall be [automatically] scheduled for an initial hearing before the [A] authority [within 90] no later than 45 days after the day that the juvenile offender is ordered to secure care [of commitment to a secure facility]. The initial hearing will be to review a treatment plan and establish parole release guidelines.

(17)(10) [It is the policy of the Authority that a youth] A juvenile offender shall have [a] regularly scheduled progress review [hearing] hearings held at the discretion of secure care staff, YPA staff, the administrative office and the authority. Progress review hearings will comply with presumptive time guidelines. [180 days from the date of the initial hearing, when a parole review hearing has not been scheduled due to lengthy guideline considerations.]

(18)(11) [All youth] Juvenile offenders shall have a parole review hearing before the [A] authority [prior to] before release. [The parole review hearing shall be scheduled within 180 days of either the initial hearing or the progress review hearing.] A date for parole release shall be established at the parole review hearing when appropriate.

(19) The parole release date established by the Authority shall remain in effect except upon findings by the Authority that cause exists for the rescission of said date.

(20) The youth (12) A juvenile offender can petition the [A] authority for reconsideration of an earlier decision, including release [prior to] before the original parole date.

(21) Each parolee shall receive and sign a written copy of the parole agreement.

(22) The parole agreement can be amended upon approval by the Authority.

(23) The Authority does not accept the (13) The presence of a detainer [as] is not an automatic bar to release, [s] rather, the [A] authority pursues the basis of any such detainer, and releases the [youth] juvenile offender per detainer where appropriate.

(24) The Authority has power to terminate youth offenders from parole supervision. Youth are not continued on active parole after one year without cause.

R547-6-5. Arrest and Revocation.

(1) An [F] incident [R] report [F] form will be used to convey information to the [A] authority regarding parolees. The assigned parole officer is responsible to keep the [A] authority informed regarding [all] parole violations.

(2) [Revocation proceedings will be initiated by the region office when there is probable cause that a parole violation(s) has occurred and that such proceedings are in the best interest of the youth or the community.]

(3) A pre revocation hearing may be held by the Administrative Officer or designee to determine whether there is probable cause to return a youth to a secure facility for a parole violation hearing.

(4) The [A] administrative [O] officer [in], on behalf of the [A] authority, may issue warrants of arrest.

(5)(3) An alleged parole violator will have a revocation hearing within 21 days of the pre-revocation hearing. [Legal representation is required at revocation hearings.]

KEY: juvenile corrections, parole

Date of Last Change: 2022[December 31, 2013]

Notice of Continuation: March 27, 2017

Authorizing, and Implemented or Interpreted Law: [62A-7;] 63G-2-304

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R547-13	Filing ID 54222
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Agency Information

1. Department:	Human Services	
Agency:	Juvenile Justice Services	
Building:	MASOB	
Street address:	195 N 1950 W, 3rd Floor	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Reg Garff	801-602-6261	rgarff@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R547-13. Guidelines for Admission to Secure Youth Detention Facilities
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021. This amendment will bring this rule for admission to detention up to date with current statute.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the

substantive differences between the repealed rule and the reenacted rule):

This amendment will bring this rule up to date with current statute. These changes also bring this rule in-line with the current rulewriting manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendment of this rule will have no impact on the state budget. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

B) Local governments:

The amendment of this rule will have no impact on local governments. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

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

The amendment of this rule will have no impact on small businesses. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

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

The amendment of this rule will have no impact on non-small businesses. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

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 amendment of this rule will have no impact on persons other than small businesses, non-small businesses, state, or local government entities. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

The amendment of this rule will have no impact on compliance costs for affected persons. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 80-5-202

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/15/2021
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R547. Human Services, Juvenile Justice Services.**R547-13. Guidelines for Admission to Secure Youth Detention Facilities.****R547-13-1. Purpose and Authority.**

(1) Section 62A-1-111 authorizes the Department of Human Services to adopt administrative rules. Subsection 80-5-202(1)(a) authorizes the Division of Juvenile Justice Services to establish standards for the admission of minors to detention.

[R547-13-2. Purpose and Scope.]

(1) This rule establishes guidelines for admission to secure detention to meet the requirements of Section 80-5-202[62A-7-202].

(2) This rule shall be applied to [youth]minor candidates for placement in any secure detention facilities operated by the division.[Division of Juvenile Justice Services.]

(3) Pursuant to Subsection 80-5-202(3)(b), the division shall prioritize the use of home detention for a minor who might otherwise be held in secure detention.

R547-13-3. Definitions.

(1) Terms used in this rule are defined in Sections 62A-7-101 and 78A-6-105.

(2) "Division" means the Division of Juvenile Justice Services.

(3) "Minor" means a person age ten or over and under the age of 21.

(4) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

~~(3) "Youth" means a person age 10 or over and under the age of 21.]~~

R547-13-4. General Rules.

(1) A [youth]minor under the age of 12 may not be detained in a secure detention facility, unless the [youth]minor is arrested for any of the following state or federal equivalent criminal offenses:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-302, aggravated kidnapping;

(e) Section 76-5-405, aggravated sexual assault;

(f) Section 76-6-103, aggravated arson;

(g) Section 76-6-203, aggravated burglary;

(h) Section 76-6-302, aggravated robbery; or

(i) Section 76-10-508.1, felony discharge of a firearm.

(2) ~~[Notwithstanding]~~ Except as established in S[ub]section R547-13-3(1)~~[of this rule]~~, no [youth]minor under the age of 10 may be detained in a secure detention facility.

(3) A [youth]minor age 12 or over may be detained in a secure detention facility if:

(a) a [youth]minor is arrested for any of the following state or federal equivalent criminal offenses~~[-]~~;

(i) any offense that would be a felony if committed by an adult;

(ii) any attempt, conspiracy, or solicitation to commit a felony offense;

(iii) any class A misdemeanor violation of 76-5 Part 1, offense against the person; assault and related offenses;

(iv) any class A or B misdemeanor violation of Section 76-10-5, use of a firearm or other dangerous weapon;

(v) a class A misdemeanor violation of Section 76-5-206, negligent homicide;

(vi) a class A misdemeanor violation of Subsection 58-37-8(1)(b)(iii), a controlled substance violation;

(vii) any criminal offense defined as domestic violence~~[cohabitant]~~ by Subsections 77-36-1(4), and ~~[78B-7-102(2) and (3)]~~ 78B-7-102(5)(a) and (b);

(viii) a class A or B misdemeanor violation of Subsection 76-6-104(1)(a) or (b), reckless burning that endangers human life;

(ix) a class A misdemeanor violation of Section 76-6-105, causing a catastrophe;

(x) a class A misdemeanor violation of Subsection 76-6-106(2)(b)(i)(a), criminal mischief involving tampering with property that endangers human life;

(xi) a class A misdemeanor violation of Section 76-6-406, theft by extortion;

(xii) a class A misdemeanor violation of Section 76-9-702.1, sexual battery;

(xiii) a class A misdemeanor violation of Subsection 76-5-401.3(2)(c) or (d), unlawful adolescent sexual activity;

(xiv) a class A misdemeanor violation of Section 76-9-702.5, lewdness involving a child;

(xv) a class A misdemeanor violation of Subsection 76-9-702.7(1), voyeurism with recording device;

(xvi) a class A misdemeanor violation of Subsection 41-6A-401.3(2), leaving the scene of an accident involving injury; and

(xvii) a class A misdemeanor violation of Subsection 41-6A-503(1)(b)(i) or (ii), driving under the influence involving

injury,^[5] driving under the influence with a passenger under 16 years of age^[-];

(b) ~~[F]~~the ~~[youth-]minor~~ is an escapee or absconder from a Juvenile Justice Services secure facility or community placement^[-]; or

(c) ~~[F]~~the ~~[youth-]minor~~ has been verified as a fugitive, absconder from probation or parole, or a runaway from another state and a formal request has been received, such as a ~~[TWX]~~National Crime Information Center ~~[(NCIC)-]verification~~, ~~[or-]~~a telephone call, FAX, or email from a law enforcement officer or a verified call, FAX, or email from the institution, to hold, pending return to the other jurisdiction, whether or not an offense is currently charged.

(4) A ~~[youth-]minor~~ not otherwise qualified for admission to a secure detention facility may not be detained for any of the following:

(a) ungovernable or runaway behavior;

(b) neglect, abuse, abandonment, dependency, or other status requiring protection for any other reason;

(c) status offenses such as curfew, possession or ^[-]consumption of alcohol, tobacco, minor-in-a-tavern, truancy; or

(d) attempted suicide.

R547-13-5. Juvenile Court Warrants for Custody or Pickup Orders.

A ~~[youth-]minor~~ shall be admitted to a secure detention facility when a juvenile court judge or commissioner has issued a warrant for custody pursuant to 80-2-202.

R547-13-6. Juvenile Justice Services' Cases.

A ~~[youth-]minor~~ who is on parole or involved in a trial placement from a secure facility, and who is detained solely on a warrant from the ~~[D]~~division^[-] of Juvenile Justice Services may be held in a secure detention facility up to 48 hours excluding weekends and legal holidays.

R547-13-7. DCFS Cases.

A ~~[youth-]minor~~ in the custody or under the supervision of the Division of Child and Family Services (DCFS) cannot be held in a secure detention facility unless the ~~[youth-]minor~~ qualifies for detention under ~~a[some]~~ section of this rule.

R547-13-8. Traffic Cases.

A ~~[youth-]minor~~ brought to detention for a traffic ~~[a]~~ violation cannot be held in a secure detention facility unless the ~~[youth-]minor~~ qualifies for detention under ~~a[some]~~ section of this rule.

R547-13-9. Interstate Cases.

(1) Out-of-state ~~[youth-]minors~~ who are escapees, absconders, and runaways shall be detained in accordance with ~~[the provisions of]~~ Subsection R547-13-~~[4]~~~~3~~~~(2)~~~~3~~(c).

(2) ~~[Youth-]Minors~~ who are out-of-state runaways who commit any non-status criminal offense may be admitted to a secure detention facility.

(3) Out-of-state, non-runaway ~~[youth-]minors~~, when brought to a secure detention facility with an alleged criminal offense, may be detained or released based on the same criteria that applies to resident~~[youth-]minor~~.

R547-13-10. Immigration Cases.

A ~~[youth-]minor~~ may be detained at a secure detention facility when a lawful detainer or order is presented by United States Immigration and Customs Enforcement~~[-(ICE)]~~.

R547-13-11. AWOL Military Personnel.

Absent without leave (AWOL) military personnel who are minors shall be admitted to a secure detention facility.

R547-13-12. Home Detention.

(1) In accordance with Section~~[-62A-7-202]~~ 88-2-202, the division establishes the following guidelines for use of home detention:

(2) Home detention^[-] is a court^[-]-ordered program that is an alternative to being placed into secure detention. The ~~[youth-]minor~~ and parent or guardian shall sign the home detention rules and expectations ~~before[prior to]~~ being released from secure detention.

(3) ~~[JJS]~~Division staff will monitor the ~~[youth's-]minor's~~ compliance to the home detention rules and expectations and additional "special conditions" ordered by the Juvenile Court.

(4) ~~[JJS]~~Division will provide probation weekly updates on the ~~[youth's-]minor's~~ behavior and compliance on home detention.

R547-13-13. Home Detention Violations.

(1) ~~[If a home detention violation is alleged, the home detention counselor may cause the alleged violator to be brought to a secure detention facility, request a warrant for custody, or request an expedited detention hearing to review the violations.]If a home detention violation is alleged, the home detention counselor may cause the alleged violator to be brought to a secure detention facility by filing and affidavit in support of a request for a warrant for custody or requesting and expedited hearing for the court to review allegations for a probable cause determination.~~

(2) If the case involves a violator who is a runaway where a warrant for custody or pickup order has not yet been issued, a law enforcement officer may bring the violator to a secure detention facility. The home detention counselor may then transfer the minor back to the status of home detention, if appropriate, or may authorize the ~~[youth-]minor~~ to be held in secure detention for a re-hearing.

(3) A ~~[youth-]minor~~ placed on home detention who is arrested by a law enforcement officer for an alleged non-status criminal offense shall be admitted to a secure detention facility pursuant to Utah Rule of Juvenile Procedure 7a. The request for warrant shall be supported by an affidavit from the requesting authority the next business day.

R547-13-14. Probation Violation - Contempt of Court - Stayed Order for Detention.

A ~~[youth-]minor~~ may be admitted to a secure detention facility for conditions such as: an alleged probation violation, contempt of court, or a stayed order for detention when it has been ordered by a judge. When it is not possible to get a written order, verbal authorization from a judge to detention is sufficient to hold a ~~[youth-]minor~~ in a secure detention facility.

R547-13-15. Other Court Orders for Detention.

A ~~[youth-]minor~~ brought to a secure detention facility pursuant to either federal or out-of-state court orders shall be admitted unless otherwise directed by a juvenile court judge.

R547-13-16. Detention Risk Assessment Tool.

(1) ~~[Youth-]Minors~~ who meet the detention admission guidelines shall receive the "Detention Risk Assessment Tool" (DRAT) to inform placement decisions. ~~[Youth-]Minors~~ that score below the cutoff on the DRAT will be "diverted" and not admitted to locked detention.

(2) ~~[Youth-]A minor~~ and parent or guardian will sign an "Alternative to Detention Contract" (ADC) ~~before~~prior to leaving detention. If the parent or guardian is unavailable, the ~~[youth-]minor~~ will sign the ADC and be transported to the local Youth Services Center.

(3) ~~[JS]Division~~ staff will create a supervision plan based on the ~~[youth's-]minor's~~ recent behavior in the community, school and home. The level of supervision may include the following based on the current needs:

- (a) parent or guardian restrictions;
- (b) ~~[JS]division~~ staff supervision; and
- (c) youth services crisis residential.

(4) ~~[Youth-]A minor~~ and parent or guardian will be given a commitment to appear at meetings with probation and the Juvenile Court, and the ~~[youth's-]minor's~~ behavior and compliance to the contract will be reported to the Juvenile Court.

R547-13-17. Authority of the Division.

To the extent permitted by this ~~[R]~~rule and by law, the Director has full authority to limit or adjust individual admissions to a secure detention facility.

KEY: juvenile corrections, juvenile detention, admission guidelines, juvenile justice services

Date of Last Change: ~~2022~~July 28, 2020

Notice of Continuation: March 27, 2017

Authorizing, and Implemented or Interpreted Law: 80-5-202; 80-5-203; 80-5-204; 80-5-205~~[62A-7-202; 78A-6-112; 78A-6-113]~~

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R547-15	Filing ID 54223
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Agency Information

1. Department:	Human Services	
Agency:	Juvenile Justice Services	
Building:	MASOB	
Street address:	195 N 1950 W, 3rd Floor	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Reg Garff	801-602-6261	rgarff@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

General Information**2. Rule or section catchline:**

R547-15. Formula for Reform Savings

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021. Changes will also bring the code citations and definitions up to date with the new juvenile code.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Provides guidance to determine cost savings from implementing juvenile justice reform.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

The amendment of this rule will have no impact on the state budget. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

B) Local governments:

The amendment of this rule will have no impact on local government budgets. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

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

The amendment of this rule will have no impact on small businesses. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

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

The amendment of this rule will have no impact on non-small businesses. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

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 amendment of this rule will have no impact on persons other than small businesses, non-small businesses, state, or local government entities. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

The amendment of this rule will have no impact on compliance costs for affected persons. This rule is being amended following the review established in Executive Order No. 2021-12. The amendment of this rule does not impact current practices and is not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 80-5-202		
------------------	--	--

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/15/2021
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R547. Human Services, Juvenile Justice Services.

R547-15. Formula for Reform Savings.

R547-15-1. Purpose and Authority [and Purpose].

Section 62A-7-113 requires the division to create a rule to establish a formula calculating the savings from General Fund appropriations resulting from out-of-home placements for minors within [youth offenders with] the division.

R547-15-2. Definitions.

(1) [Definitions:] "Average Nightly Count" means the average number of youths enrolled at midnight in a program for a specified time period.

(2) "Lapsing funds" means funds unspent during a fiscal year that are not designated as non-lapsing.

(a) "Out-of-home placements" means division programs consisting of:

(i) "Detention" as defined in Subsection ~~62A-7-101~~ 80-1-102(19);

(ii) ~~Long-term secure care~~ "Secure Care" as defined in Subsection 80-1-102(64); and

(iii) ~~Residential community placements~~ "Community-based program" as defined in Subsection 80-1-102(12)

(b) ~~Lapsing funds means funds unspent during a fiscal year that are not designated as non-lapsing.~~

(c) ~~Average Nightly Count means the average number of youths enrolled at midnight in a program for a specified time period.]~~

R547-15-3. Formula.

(1) ~~Formula:~~

(a) ~~For the JJS Programs and Operations line item and the DHS Community Providers Line item:~~

(i) ~~A] at the end of each fiscal year, the Division of Finance shall transfer the lesser of the lapsing balance; in each line item or:]~~

(ii) ~~A] an amount to be determined based on calculating the percent reduction in average nightly counts of youth in out-of-home placements from the base year of 2017 to the current year, multiplied by total year end expenditures.~~

(A) ~~((FY17 Current FY)/FY17)*Current FY Expenditures]~~

KEY: human services, reinvestment, formula, Juvenile Justice Services

Date of Last Change: 2022~~September 23,~~

Authorizing, and Implemented or Interpreted Law: 62A-7-113

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R982-502-10

Filing ID
54268

Agency Information

1. Department:	Workforce Services	
Agency:	Administration	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-526-9653	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R982-502-10. Terms of Guarantee

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

During the 2021 General Session, the Legislature passed H.B. 82, Single-Family Housing Modifications, which requires the Executive Director of the Olene Walker Housing Loan Fund to establish a two-year pilot program to provide loan guarantees for certain loans related to accessory dwelling units (ADU). The Olene Walker Housing Loan Fund Board approved revisions to Section R982-502-10 concerning the Terms of Guarantee for ADU loans.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The change shortens the deed restriction time period to five years if the loan is prepaid or paid in full before the expiration of the loan term. The deed restriction time period is 15 years if the loan is not prepaid or paid in full before the expiration of the loan term.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule is not expected to have any fiscal impact on state budget revenues or expenditures that were not already accounted for by the fiscal note to H.B. 82 (2021).

B) Local governments:

This rule is not expected to have any fiscal impact on local governments' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 82 (2021).

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

This rule is not expected to have any fiscal impact on small businesses' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 82 (2021).

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

This rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 82 (2021).

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 is not expected to have any fiscal impact on other persons' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 82 (2021).

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

This rule is not expected to cause any compliance costs for affected persons because the proposed rule does not create any new administrative fees.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After a thorough analysis, it was determined that this rule will not result in a fiscal impact to businesses beyond those already accounted for by the fiscal note to H.B. 82 (2021). Casey Cameron, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Workforce Services, Casey Cameron, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 35A-8-504.5		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Casey Cameron, Executive Director	Date:	12/06/2021
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R982. Workforce Services, Administration.

R982-502. Low-income ADU Loan Guarantee Pilot Program.

R982-502-10. Terms of Guarantee.

(1) The term of the loan guarantee will be the shorter of the loan term or 15 years.

(2) ~~For~~ The following restrictions apply for each loan guarantee issued by the Division:

(a) the borrower's property shall carry a recorded deed restriction[=

~~(i)]~~ requiring the accessory dwelling unit to be rented to persons whose annual income does not exceed 80% of the area median income as determined by the U.S. Department of Housing and Urban Development; ~~and~~

~~(ii) running for the term of the loan or until the loan is paid in full; and]~~

(b) if the loan is not prepaid or paid in full before the end of the loan term, the term of the deed of restriction shall be 15 years, measured from the issuance of the certificate of occupancy for the ADU;

(c) if the loan is prepaid or paid in full before the end of the loan terms, the term of the deed of restriction shall be 5 years, measured from the issuance of the certificate of occupancy for the ADU; and

(d) the lien position for the low-income ADU loan shall be limited to first, second, or third position.

KEY: Single family housing modifications, accessory dwelling units

Date of Last Change: 2022[December 22, 2021]

Authorizing, and Implemented or Interpreted Law: 35A-8-504.5

NOTICE OF PROPOSED RULE

TYPE OF RULE: New

Utah Admin. Code Ref (R no.):	R988-200	Filing ID 54289
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Agency Information

1. Department:	Workforce Services	
Agency:	Homeless Services	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-526-9653	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R988-200. Homeless Shelter Cities Mitigation Restricted Account
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
During the 2021 General Session, the Legislature passed H.B. 347, Homeless Services Amendments, which created the Office of Homeless Services (Office) and requires the Office to administer the Homeless Shelter Cities Mitigation Restricted Account (Account). H.B. 347 directed the Office to make rules governing the process for determining whether there is sufficient Account revenue to operate a grant program for grant eligible entities in a given fiscal year, for notifying grant eligible entities of available grants,

and for determining the timeline for funding such grants within a given fiscal year.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule sets forth the criteria for the Office to determine whether there is sufficient revenue in the Account for grant eligible entities to receive a grant from the Account, how grant eligible entities will be notified of grant availability, and the timeline for how grants may be issued. This rule also establishes procedures for submitting funding requests.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule is not expected to have any fiscal impact on state budget revenues or expenditures that were not already accounted for by the fiscal note to H.B. 347 (2021).

B) Local governments:

This rule is not expected to have any fiscal impact on local governments' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 347 (2021).

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

This rule is not expected to have any fiscal impact on small businesses' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 347 (2021).

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

This rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 347 (2021).

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 is not expected to have any fiscal impact on other persons' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 347 (2021).

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

This rule is not expected to cause any compliance costs for affected persons because the proposed rule does not create any new administrative fees.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After a thorough analysis, it was determined that this rule will not result in a fiscal impact to businesses beyond those already accounted for by the fiscal note to H.B. 347 (2021). Casey Cameron, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Workforce Services, Casey Cameron, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 35A-16-306		
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Casey Cameron, Executive Director	Date:	12/23/2021
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R988. Workforce Services, Homeless Services.

R988-200. Homeless Shelter Cities Mitigation Restricted Account. R988-200-1. Authority.

This rule is authorized under Section 35A-16-306 which directs the office to make rules governing the process for determining whether there is sufficient revenue to operate a grant program for grant eligible entities, the process for notifying grant eligible entities of available grants, and the process for the office to determine the timeline within the fiscal year for funding such grants.

R988-200-2. Definitions.

Terms used in this rule have the meanings given them in Title 35A, Chapter 16, Office of Homeless Services.

R988-200-3. Availability of Account Funds; Process for Accepting Requests.

(1) In determining whether there is sufficient revenue to the account to offer a grant program for the next fiscal year, the homelessness council shall consider the following:

(a) the amount of account funds allocated to eligible municipalities for the current fiscal year;

(b) any changes anticipated to the amount of account funds allocated to eligible municipalities for the next fiscal year; and

(c) any other considerations identified by the homelessness council.

(2) The office shall announce whether there is sufficient revenue to the account to offer a grant program for the next fiscal year no later than August 31 of each year. The announcement shall be made at meetings of the homelessness council and on the office website.

(3) If the homelessness council determines there is sufficient revenue to the account to offer a grant program for the next fiscal year, the homelessness council shall set aside time on the agenda of the homelessness council meeting held in November of each year to allow

grant eligible entities to present requests for account funds for the next fiscal year.

R988-200-4. Process for Funding Requests.

(1) A grant eligible entity that is approved to receive account funds under Section 63J-1-802 shall submit an invoice of the grant eligible entity's expenses, with supporting documentation as required by the grant agreement, to the office monthly for reimbursement.

(2) Each month, the office shall disburse the revenue in the account to reimburse a grant eligible entity that submits the information described in Subsection R988-200-4(1) for the amount on the invoice or the maximum allowable monthly amount pursuant to the grant agreement, whichever is less.

KEY: grants, Homeless Shelter Cities Mitigation Restricted Account

Date of Last Change: 2022

Authorizing, and Implemented or Interpreted Law: 35A-16-306

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Utah Admin. Code Ref (R no.):	R990-102	Filing ID
		54290

Agency Information

1. Department:	Workforce Services	
Agency:	Housing and Community Development	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-526-9653	ampeck@utah.gov

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

General Information

2. Rule or section catchline:
R990-102. Homeless Shelter Cities Mitigation Restricted Account
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
During the 2021 General Session, the Legislature passed H.B. 347, Homeless Services Amendments, which created the Office of Homeless Services and transferred responsibility for administration of Homeless Shelter Cities Mitigation Restricted Account from the Housing and

Community Development Division to the Office of Homeless Services. A new rule will be enacted by the Office of Homeless Services. This rule is no longer necessary and the Department, therefore, proposes to repeal this rule once the new rule becomes effective. (EDITOR'S NOTE: The proposed new Rule R988-200 is under ID 54289 in this issue, January 15, 2022, of the Bulletin.)

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is repealed in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

Repeal of this rule is not expected to have any fiscal impact on state budget revenues or expenditures that were not already accounted for by the fiscal note to H.B. 347 (2021).

B) Local governments:

Repeal of this rule is not expected to have any fiscal impact on local governments' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 347 (2021).

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

Repeal of this rule is not expected to have any fiscal impact on small businesses' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 347 (2021).

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

Repeal of this rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 347 (2021).

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**):

Repeal of this rule is not expected to have any fiscal impact on other persons' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 347 (2021).

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no anticipated compliance costs for affected persons because this rule is being repealed, which requires no action or compliance by any person.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After a thorough analysis, it was determined that this rule will not result in a fiscal impact to businesses beyond those already accounted for by the fiscal note to H.B. 347. Casey Cameron, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Workforce Services, Casey Cameron, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 35A-8-608

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

10. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Casey Cameron, Executive Director	Date:	12/23/2021
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R990. Workforce Services, Housing and Community Development.
~~**R990-102. Homeless Shelter Cities Mitigation Restricted Account.**~~
R990-102-1. Authority.

~~This rule is authorized under Utah Code Ann. Section 35A-8-608, which directs the Department to make rules governing the process for determining whether there is sufficient revenue to operate a grant program for grant eligible entities, the process for notifying grant eligible entities of available grants, and the process for the Department to determine the timeline within the fiscal year for funding such grants.~~

~~**R990-102-2. Definitions.**~~

~~Terms used in this rule have the meanings given them in Utah Code Ann. Section 35A-8-601 et seq.~~

~~**R990-102-3. Availability of Account Funds; Process for Accepting Requests.**~~

~~(1) In determining whether there is sufficient revenue to the account to offer a grant program for the next fiscal year, the committee shall consider the following:~~

~~(a) the amount of account funds allocated to eligible municipalities for the current fiscal year;~~

~~(b) any changes anticipated to the amount of account funds allocated to eligible municipalities for the next fiscal year; and~~

~~_____ (c) any other considerations identified by the committee.~~

~~_____ (3) The Department shall announce whether there is sufficient revenue to the account to offer a grant program for the next fiscal year no later than August 31 of each year. The announcement shall be made at meetings of the committee and on the Division of Housing and Community Development website.~~

~~_____ (4) If the committee determines there is sufficient revenue to the account to offer a grant program for the next fiscal year, the committee shall set aside time on the agenda of the committee meeting held in November of each year to allow grant eligible entities to present requests for account funds for the next fiscal year.~~

~~R990-102-4. Process for Funding Requests.~~

~~_____ (1) A grant eligible entity that is approved to receive account funds under Utah Code Ann. Section 63J-1-802 shall submit an invoice~~

~~of the grant eligible entity's expenses, with supporting documentation, to the Department monthly for reimbursement.~~

~~_____ (2) Each month, the Department shall disburse the revenue in the account to reimburse a grant eligible entity that submits the information described in Subsection (1) for the amount on the invoice or contract.~~

~~KEY: grants, Homeless Shelter Cities Mitigation Restricted Account~~

~~Date of Last Change: July 23, 2018~~

~~Authorizing, and Implemented or Interpreted Law: 35A-8-608]~~

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends February 14, 2022.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through May 15, 2022, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R525-8	Filing ID: 53930

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 and 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 or section catchline:
R525-8. Forensic Mental Health Facility
3. Publication date of previous proposed rule or change in proposed rule:
10/01/2021 (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the October 1, 2021, issue of the Utah State Bulletin, on page 191. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)
4. Reason for this change (Why is the agency submitting this filing?):
Section R525-8-4 was deleted in the amendment, but further research into the reason for having Section R525-8-4 in this rule has been completed, and it was determined that even though the Utah State Hospital (USH) is required to obey court orders, taking out the ability to place a hold on admissions when the unit is at full capacity could force the USH to double bunk clients, and place an unacceptable risk on clients and staff.

5. Summary of this change (What does this filing do?):

Previously deleted Section R525-8-4 was placed back into this rule as the new Section R525-8-3.

Fiscal Information

6. Aggregate anticipated cost or savings to:
A) State budget:
This rule change will have no budgetary costs or savings to any state agency and does not change the way or amount of individuals who are normally seen and treated in the USH forensic mental health unit.
B) Local government:
This rule change will have no budgetary costs or savings to local governments. Individuals that are not seen in the USH forensic mental health unit have been and will continue to be treated by outreach teams in jail based units, and this practice will continue.
C) Small businesses ("small business" means a business employing 1-49 persons):
Small businesses are not part of the forensic mental health treatment process in Utah, so no budgetary cost or savings will be affected by this change.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Non-small businesses are not part of the forensic mental health treatment process in Utah, so no budgetary cost or savings will be affected by this change.
E) Persons other than small businesses, non-small businesses, or 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):
Other persons are not part of the forensic mental health treatment process in Utah, so no budgetary cost or savings will be affected by this change.
F) Compliance costs for affected persons:
This rule outlines the criteria for admission into the USH forensic mental health facility, and no cost are associated with those criteria.
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

7. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy S. Gruber, has reviewed and approved this fiscal analysis.

Citation Information

8. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-15-105		
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Public Notice Information

10. 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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 02/14/2022

11. This rule change MAY become effective on: 02/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/22/2021
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R525. Human Services, Substance Abuse and Mental Health, State Hospital.

R525-8. Forensic Mental Health Facility.

R525-8-1. Authority and Purpose.

(1) This rule is adopted under the authority of Sections 62A-15-105 and 62A-15-603.

(2) This rule explains the criteria for admission to beds for the forensic mental health facility at the Utah State Hospital (USH).

R525-8-2. Forensic Bed Admissions.

People are identified for admission to the forensic mental health facility based on current psychiatric need, legal status and the date of their court order into the Department of Human Services custody. Highest priority shall be given to those cases which are specifically required to be admitted to the USH by Utah law.

R525-8-3. No Admission Because of Capacity.

When capacity in the forensic mental health facility has been met, the hospital shall not admit any persons to the forensic mental health facility until a bed becomes available. In such an event the hospital will work cooperatively with the court to find a resolution.

KEY: forensic, mental health, facilities

Date of Last Change: 2022[2021]

Notice of Continuation: April 5, 2021

Authorizing, and Implemented or Interpreted Law: 62A-15-105; 62A-15-603; 62A-15-605.5; 62A-15-902(2)(c); 77-16a-202; 77-16a-203; 77-16a-204; 77-18-1(13)

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.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.):	R58-1	Filing ID: 53678
Effective Date:	12/28/2021	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and 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	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R58-1. Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals

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 enacted under Title 4, Chapter 31, Control of Animal Disease, that gives the Department of Agriculture and Food (Department) the responsibility to limit the spread of infectious animal diseases in the state (see also Subsection 4-2-103(1)(c)(i), as well as by Subsection 4-2-103(1)(i)), the Department's general rulemaking authority to adopt rules that allow for the administration of agricultural laws.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it provides guidelines that allow the Department to track the movement of animals and require appropriate testing in order to limit the spread of deadly animal diseases that could significantly harm agricultural producers. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	12/28/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R58-3	Filing ID: 52900
Effective Date:	12/28/2021	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
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Name:	Phone:	Email:
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Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R58-3. Brucellosis Vaccination Requirements
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 enacted under Title 4, Chapter 31, Control of Animal Disease, that gives the Department of Agriculture and Food (Department) the responsibility to limit the spread of infectious animal diseases in the state (see also Subsection 4-2-103(1)(c)(i), as well as by Subsection 4-2-103(1)(i)), the Department's general rulemaking authority to adopt rules that allow for the administration of agricultural laws.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it imposes a requirement that cattle and bison heifers intended for breeding be vaccinated for brucellosis. The vaccination will protect agricultural producers by helping prevent the spread of brucellosis in Utah. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/28/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R58-6	Filing ID: 52902
Effective Date:	12/28/2021	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and 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	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R58-6. Poultry
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 enacted under Section 4-31-119 which gives the Department of Agriculture and Food (Department) the authority to make rules necessary for the control of disease in poultry, waterfowl, and game birds.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it provides necessary guidelines for the Department's poultry program, including related to the licensing of poultry producers, quarantine of diseased poultry, and rules for participation in the National Poultry Improvement Plan. These rules and guidelines allow producers to be successful while creating a safe product. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/28/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R58-18	Filing ID: 52916
Effective Date:	12/28/2021	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
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Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information**2. Rule catchline:**

R58-18. Elk Farming

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 enacted under Section 4-39-106 which gives the Department of Agriculture and Food authority to make rules enforcing the provisions of the Domesticated Elk Act.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it provides licensing, identification, recordkeeping, facility, inspection, and testing requirements for elk in Utah, which allow the animals to be raised safely and limits the spread of chronic wasting disease and other potentially devastating diseases to the elk population. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/28/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R58-19	Filing ID: 52915
Effective Date:	12/28/2021	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
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FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Leann Hunting	801-982-2242	leannhunting@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov

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

General Information**2. Rule catchline:**

R58-19. Compliance 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:

This rule is enacted under Subsection 4-2-103(1)(j) that gives the Department of Agriculture and Food the authority to make investigations and conduct hearings concerning all matters related to agriculture.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it provides guidelines for compliance procedures that are followed by the Division of Animal Industry and allows for the issuance of emergency orders and citations when necessary to protect public and animal health. It also allows those cited to request a hearing, consistent with statutory requirements. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	12/28/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R58-22	Filing ID:	53405
Effective Date:	12/28/2021		

Agency Information

1. Department:	Agriculture and Food
Agency:	Animal Industry
Street address:	350 N Redwood Road

City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
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Kelly Pehrson	801-982-2200	kwpehrson@utah.gov

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

General Information**2. Rule catchline:**

R58-22. Equine Infectious Anemia (EIA)

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 enacted under Title 4, Chapter 31, Control of Animal Disease, that gives the Department of Agriculture and Food (Department) the responsibility to limit the spread of infectious animal diseases in the state (see also Subsection 4-2-103(1)(c)(i), as well as by Subsection 4-2-103(1)(i)), the Department's general rulemaking authority to adopt rules that allow for the administration of agricultural laws.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it provides a protocol for testing animals infected and exposed to equine infectious anemia and will help contain and limit the spread of the disease in Utah. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	12/28/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R58-23	Filing ID: 53406
Effective Date:	12/28/2021	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
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Leann Hunting	801-982-2242	leannhunting@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R58-23. Equine Viral Arteritis (EVA)
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 enacted under Subsection 4-2-103(1)(i), the Department of Agriculture and Food's general rulemaking authority to adopt rules that allow for the administration of agricultural laws.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it outlines importation, handling and importation requirements for equids that have been exposed to or infected with equine viral arteritis

and will help limit the spread of the disease in Utah. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/28/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R68-19	Filing ID: 50147
Effective Date:	12/20/2021	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
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Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R68-19. Compliance 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:
This rule is enacted under Subsection 4-2-103(1)(j) which allows the Department of Agriculture and Food (Department) investigate, conduct hearings, issue orders, and make recommendations on matters related to agriculture, as well as the Department's general rulemaking power under Subsection 4-2-103(1)(i).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it allows the Department to issue emergency orders when an agricultural product poses an immediate threat to public health, safety, and welfare. This rule also describes the procedures the Department will follow to issue citations and provides for administrative hearings to appeal an order or citation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/20/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R70-201	Filing ID:	53005
Effective Date:	12/28/2021		

Agency Information

1. Department:	Agriculture and Food	
Agency:	Regulatory Services	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information**2. Rule catchline:**

R70-201. Compliance 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:

This rule is enacted under Subsection 4-2-103(1)(i) which allows the Department of Agriculture and Food (Department) to enact rules to administer the agricultural laws of the state.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it allows the Regulatory Services Division to issue emergency orders when there is a threat to public or animal health or safety. It also allows for enforcement of the orders by citation and provides those cited with the opportunity to appeal via an administrative hearing, consistent with statute. This rule protects public safety and ensures that the action of the Department are transparent. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/28/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R70-320	Filing ID:	50160
Effective Date:	12/20/2021		

Agency Information

1. Department:	Agriculture and Food		
Agency:	Regulatory Services		
Street address:	350 N Redwood Road		
City, state and zip:	Salt Lake City, UT 84116		
Mailing address:	PO Box 146500		
City, state and zip:	Salt Lake City, UT 84114-6500		

Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R70-320. Minimum Standards for Milk for Manufacturing Purposes, its Production and Processing
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 enacted under Section 4-3-201 which gives the Department of Agriculture and Food (Department) authority to make rules to carry out the Utah Dairy Act, as well as Subsection 4-2-103(1)(1), the Department's general authority to adopt rules to administer the agricultural laws of the state.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it establishes standards for the manufacturing, production, transportation, grading, use, processing, and packaging of milk and milk products in Utah. These standards encourage the sanitary production and processing of milk, protecting citizens from foodborne illness. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	12/20/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R70-350	Filing ID: 50171
Effective Date:	12/20/2021	

Agency Information

1. Department:	Agriculture and Food
Agency:	Regulatory Services
Street address:	350 N Redwood Road
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500
Contact person(s):	
Name:	Phone: Email:
Amber Brown	801-982-2204 ambermbrown@utah.gov
Travis Waller	801-982-2250 twaller@utah.gov
Kelly Pehrson	801-982-2200 kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.	

General Information

2. Rule catchline:
R70-350. Ice Cream and Frozen Dairy Food Standards
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 enacted under the authority of Section 4-3-201 which allows the Department of Agriculture and Food to make rules to enforce the Utah Dairy Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it provides bacterial and pasteurization standards for frozen dairy foods that provide guidance for dairy manufacturers and protect the public from foodborne illness. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	12/20/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R70-360	Filing ID:	50163
Effective Date:	12/20/2021		

Agency Information

1. Department:	Agriculture and Food	
Agency:	Regulatory Services	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov

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

General Information

2. Rule catchline:
R70-360. Procedure for Obtaining a License to Test Milk for Payment
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 enacted under Section 4-3-201 which allows the Department of Agriculture and Food to adopt rules to enforce the provisions of the Utah Dairy Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it provides the requirements needed for a person to obtain a license to test milk for payment. Ensuring that licensees are proficient by requiring them to complete split samples helps to keep milk sold in Utah safe and protects the public. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	12/20/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R70-530	Filing ID:	52987
Effective Date:	12/28/2021		

Agency Information

1. Department:	Agriculture and Food	
Agency:	Regulatory Services	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov

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

General Information

2. Rule catchline:
R70-530. Food Protection
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 enacted under Section 4-5-104 which provides the Department of Agriculture and Food with rulemaking authority to enforce the Utah Wholesome Food Act.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it incorporates federal standards related to food protection, which helps to ensure that consumers have access to safe and healthy food products in Utah. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/28/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R70-550	Filing ID:	53656
Effective Date:	12/28/2021		

Agency Information

1. Department:	Agriculture and Food	
Agency:	Regulatory Services	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
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Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R70-550. Utah Inland Shellfish Safety 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:

This rule is enacted under Section 4-5-104 which provides the Department of Agriculture and Food with rulemaking authority to enforce the Utah Wholesome Food Act.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it adopts FDA guidance related to the control of molluscan shellfish, which protects public health by helping to ensure shellfish products sold in Utah are safe. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/28/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R70-560	Filing ID:	50170
Effective Date:	12/20/2021		

Agency Information

1. Department:	Agriculture and Food	
Agency:	Regulatory Services	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R70-560. Inspection and Regulation of Cottage Food Production 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:
This rule is enacted under Section 4-5-104, which allows the Department of Agriculture and Food to make rules to enforce the Utah Wholesome Food Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it provides guidelines for cottage food production establishments, including production and food approval requirements and inspection requirements. These guidelines allow for individuals to produce and sell home produced food. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	12/20/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R131-10	Filing ID:	50216
Effective Date:	12/17/2021		

Agency Information

1. Department:	Capitol Preservation Board (State)
Agency:	Administration
Building:	State Capitol Building
Street address:	350 North State Street

City, state and zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Mike Kelley	801-957-7239	mkelley@agutah.gov
Michelle Adams	801-957-7240	michelleadams@agutah.gov
Dana M. Jones	801-538-1189	danajones@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R131-10. Commercial Solicitations
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 required by Subsection 63C-9-301(3)(a) which requires that the Capitol Preservation Board make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds.
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 during and since the last five-year review of this rule from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is required by Subsection 63C-9-301(3)(a) which requires that the Capitol Preservation Board make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Dana M. Jones, Executive Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R131-11	Filing ID:	50219
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Effective Date:	12/17/2021
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Agency Information

Agency Information		
1. Department:	Capitol Preservation Board (State)	
Building:	State Capitol Building	
Street address:	350 North State Street	
City, state and zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Mike Kelley	801-957-7239	mkelley@agutah.gov
Michelle Adams	801-957-7240	michelleadams@agutah.gov
Dana M. Jones	801-538-1189	danajones@utah.gov

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

General Information

2. Rule catchline:
R131-11. Preservation of Free Speech Activities
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 required by Subsection 63C-9-301(3)(a) which requires that the Capitol Preservation Board make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds. This rule is also required by Subsection 63C-9-301(1)(k) which requires that the Capitol Preservation Board establish procedures for receiving, hearing, and deciding complaints or other issues raised about the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use.
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 during and since the last five-year review of this rule from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is required by Subsection 63C-9-301(3)(a) which requires that the Capitol Preservation Board make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds. This rule is also required by Subsection 63C-9-301(1)(k) which requires that the Capitol Preservation Board establish

procedures for receiving, hearing, and deciding complaints or other issues raised about the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Dana M. Jones, Executive Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R451-1	Filing ID:	51124
Effective Date:	12/20/2121		

Agency Information

1. Department:	Cultural and Community Engagement	
Agency:	Arts Council (Board of Directors of the Utah)	
Building:	Glendinning Home	
Street address:	617 E South Temple	
City, state and zip:	Salt Lake City, UT 84102	
Contact person(s):		
Name:	Phone:	Email:
Kristin Mead	218-393-2995	kristinmead@utah.gov

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

General Information

2. Rule catchline:
R451-1. Utah Arts Council General Program Rules
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 in enacted in accordance with Section 9-6-205 Arts and Museums Development
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:

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

This rule is necessary as it outlines the program conditions for making known to the public any and all information needed to access and partake in Arts Council Programs, including Art in Public Places, Art Preservation, Art Financing, and Performing Arts. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jill Love, Executive Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R451-2	Filing ID:	51125
Effective Date:	12/20/2021		

Agency Information

1. Department:	Cultural and Community Engagement	
Agency:	Arts Council (Board of Directors of the Utah)	
Building:	Glendinning Home	
Street address:	617 E South Temple	
City, state and zip:	Salt Lake City, UT 84102	
Contact person(s):		
Name:	Phone:	Email:
Kristin Mead	218-393-2995	kristinmead@utah.gov

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

General Information

2. Rule catchline:
R451-2. Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections
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 in enacted in accordance with Section 9-6-205, Arts and Museums Development
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule outlines the necessary procedures and conditions for commissions, purchases, donations, and loans to and from the Utah State Art Collections. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jill Love, Executive Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R495-878	Filing ID:	51167
Effective Date:	12/23/2021		

Agency Information

1. Department:	Human Services	
Agency:	Administration	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

General Information

2. Rule catchline:
R495-878. Americans with Disabilities Act and Civil Rights Grievance 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:
This rule is authorized by the Department of Human Service's (Department) authority to establish rules under Section 62A-1-111 and the purpose is to provide for the prompt and equitable resolution of complaints alleging any violation of the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, by employees of the Department

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule establishes the process for the prompt and equitable resolution of complaints alleging any violation of the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, by employees of the Department. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/23/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R708-2	Filing ID:	54012
Effective Date:	12/16/2021		

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Street address:	4501 S 2700 W	
City, state and zip:	Salt Lake City, UT 84129	
Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information**2. Rule catchline:**

R708-2. Commercial Driver Training Schools

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 Section 53-3-505, which requires the commissioner to make rules regarding the applications and requirements for a school license and an instructor's license under the Commercial Driver Training Schools 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:

There have not been any written comments received since the last five year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule required by Section 53-3-505. This rule is necessary in order to outline requirements for licensing applications and requirements for commercial driving schools under the Commercial Driver Training Schools Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Christopher Caras, Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R708-3	Filing ID:	51864
Effective Date:	12/16/2021		

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Street address:	4501 S 2700 W	
City, state and zip:	Salt Lake City, UT 84129	
Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov

Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov

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

General Information

2. Rule catchline:
R708-3. Driver License Point System Administration
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 Subsections 53-3-221(4), 53-3-209(2), and Section 63G-4-203, which require that the Driver License Division make rules establishing a point system for moving traffic violations and administration of a separate point system for persons younger than 21 years of age and authorizes rulemaking to address procedures for informal proceedings.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have not been any written comments received since the last five year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is authorized under Subsections 53-3-221(4), 53-3-209(2), and Section 63G-4-203, and is necessary in order to establish a point system to assess the severity of certain moving traffic violations in an effort to address potential concerns to public safety, and to outline procedures for informal proceedings with regards to a points related driver license sanction. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Christopher Caras, Director	Date:	12/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R708-7	Filing ID:	52308
Effective Date:	12/16/2021		

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Street address:	4501 S 2700 W	
City, state and zip:	Salt Lake City, UT 84129	
Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R708-7. Functional Ability in Driving: Guidelines for Physicians
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 Section 53-3-104 which requires the Driver License Division to make rules that outline the processes for examining Utah drivers' mental and physical ability to safely operate a motor vehicle.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have not been any written comments received since the last five year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is authorized under Section 53-3-104 and is necessary in order to implement the provisions of Sections 53-3-224, 53-3-303, 53-3-304, and 49 CFR 391.43, and to establish standards and guidelines to assist health care providers in assessing drivers' abilities to safely operate a motor vehicle. The statutory authority cited in this rule is not accurate as the statutory references cited are implemented or interpreted law rather than the authorizing statute. This statutory reference will be changed to

Section 53-3-104 in a subsequent rule amendment filing. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Christopher Caras, Director	Date:	12/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R708-8	Filing ID:	52307
Effective Date:	12/16/2021		

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Street address:	4501 S 2700 W	
City, state and zip:	Salt Lake City, UT 84129	
Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R708-8. Review Process: Driver License Medical Section
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 Section 53-3-104, which requires the Driver License Division to make rules that outline the processes for examining Utah drivers' mental and physical ability to safely operate a motor vehicle.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have not been any written comments received since the last five year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary in order to outline the process for drivers to request a hearing before the Medical Advisory Board following the denial or limitation of their driving privilege as a result of a medical condition. There currently is no authorizing statute cited in this rule, which will be corrected in a subsequent rule amendment filing. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Christopher Caras, Director	Date:	12/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R708-14	Filing ID:	51871
Effective Date:	12/16/2021		

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Street address:	4501 S 2700 W	
City, state and zip:	Salt Lake City, UT 84129	
Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information**2. Rule catchline:**

R708-14. Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs

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 Sections 53-3-104 and 63G-4-203 which require the Driver License Division to make rules that outline the processes for examining Utah drivers' mental and physical ability to safely operate a motor vehicle and allows the division to designate administrative hearings as informal and establish the process for those hearings.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have not been any written comments received since the last five year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is authorized by statute and is necessary in order to establish the procedures for informal adjudicative proceedings for alcohol and drug related drive license sanctions. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Christopher Caras, Director	Date:	12/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R708-27	Filing ID:	51881
Effective Date:	12/16/2021		

Agency Information

1. Department:	Public Safety
Agency:	Driver License
Street address:	4501 S 2700 W
City, state and zip:	Salt Lake City, UT 84129
Mailing address:	PO Box 144501
City, state and zip:	Salt Lake City, UT 84114-4501

Contact person(s):

Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov

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

General Information**2. Rule catchline:**

R708-27. Certification of Driver Education Teachers in the Public Schools to Administer Knowledge and Driving Skills Tests

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 Section 53G-10-507, which states that the Driver License Division shall make rules to establish the standards and procedures to certify teachers of driver education classes to administer written and driving tests. The statute cited in this rule has been renumbered from Section 53A-13-208 to Section 53G-10-507. The statutory citation will be corrected in a subsequent rule amendment filing.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have not been any written comments received since the last five year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is required under Section 53G-10-507 and is necessary to establish the standards and procedures necessary to allow driver education instructors to be able to conduct written and driving tests. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Christopher Caras, Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R708-34	Filing ID: 51879
Effective Date:	12/16/2021	

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Street address:	4501 S 2700 W	
City, state and zip:	Salt Lake City, UT 84129	
Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R708-34. Medical Waivers for Intrastate Commercial Driving Privileges
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 Section 53-3-303.5 and Subsection 63G-3-201(2) which require the Driver License Medical Advisory Board to establish fitness standards, including provisions for a waiver of specified federal driver's physical qualifications under 49 CFR 391.41, for intrastate commercial driving privileges.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have not been any written comments received since the last five year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is authorized by Section 53-3-303.5 and Subsection 63G-3-201(2), and is necessary to establish minimum fitness standards to obtain a commercial driving privilege, and provisions to obtain a waiver of specified federal physical qualifications for individuals who may qualify. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Christopher Caras, Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R708-35	Filing ID: 51885
Effective Date:	12/16/2021	

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Street address:	4501 S 2700 W	
City, state and zip:	Salt Lake City, UT 84129	
Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R708-35. Adjudicative Proceedings for Driver License Offenses Not Involving Alcohol or Drug Actions
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 Subsection 63G 4-203(1), which allows the Driver License Division to enact rules designating adjudicative proceedings as informal and

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

prescribing procedures for informal adjudicative proceedings. This rule designates adjudicative proceedings for driver license offenses that are not alcohol or drug related as informal and prescribes procedures for conducting such informal adjudicative proceedings. This rule also cites authority under Section 53-3-104, but this is not accurate and will be corrected in a subsequent rule amendment filing.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have not been any written comments received since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is authorized by Subsection 63G-4-203(1) and is necessary in order to designate administrative proceedings for driver license sanctions that are not alcohol or drug related as informal, and to establish the procedures for these informal adjudicative proceedings. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Christopher Caras, Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R810-2	Filing ID: 52010
Effective Date:	12/16/2021	

Agency Information

1. Department:	Higher Education (Utah Board of)	
Agency:	University of Utah, Commuter Services	
Building:	947	
Street address:	311 Fort Douglas Blvd	
City, state and zip:	Salt Lake City, UT 84113	
Contact person(s):		
Name:	Phone:	Email:
Jennifer Hanson	801-585-9481	Jennifer.hanson@utah.edu
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R810-2. Parking Meters and other Pay Parking Spaces

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

The University of Utah, through the Commuter Services Department, is authorized to enact and enforce regulations that govern parking on campus through interpretation of Sections 53B-3-103 and 53B-3-107

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 haven't been any comments received during or since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

There is still parking meters and other pay parking spaces on campus. Therefore, this rule should be continued. There weren't any comments in opposition to this rule.

Agency Authorization Information

Agency head or designee, and title:	Collin Simmons, Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R810-5	Filing ID: 52012
Effective Date:	12/17/2021	

Agency Information

1. Department:	Higher Education (Utah Board of)	
Agency:	University of Utah, Commuter Services	
Building:	947	
Street address:	311 Fort Douglas Blvd	
City, state and zip:	Salt Lake City, UT 84113	
Contact person(s):		
Name:	Phone:	Email:
Jennifer Hanson	801-585-9481	Jennifer.hanson@utah.edu
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R810-5. Permit Types and Eligibility
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The University of Utah, through the Commuter Services Department, is authorized to enact and enforce regulations that govern parking on campus through interpretation of Sections 53B-3-103 and 53B-3-107.
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 haven't been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Parking facilities on campus require permits. Therefore, this rule should be continued. There weren't any comments in opposition to this rule.

Agency Authorization Information

Agency head or designee, and title:	Collin Simmons, Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R810-6	Filing ID:	52013
Effective Date:	12/20/2021		

Agency Information

1. Department:	Higher Education (Utah Board of)		
Agency:	University of Utah, Commuter Services		
Building:	947		
Street address:	311 Fort Douglas Blvd		
City, state and zip:	Salt Lake City, UT 84113		
Contact person(s):			
Name:	Phone:	Email:	
Jennifer Hanson	801-585-9481	Jennifer.hanson@utah.edu	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R810-6. Permit Prices and Refunds
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The University of Utah, through the Commuter Services Department, is authorized to enact and enforce regulations that govern parking on campus through interpretation of Sections 53B-3-103 and 53B-3-107.
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 haven't been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for the authority to set prices for permits and authorize refunds. Therefore, this rule should be continued. There were not any comments in opposition to this rule.

Agency Authorization Information

Agency head or designee, and title:	Collin Simmons, Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R810-9	Filing ID:	52016
Effective Date:	12/17/2021		

Agency Information

1. Department:	Higher Education (Utah Board of)		
Agency:	University of Utah, Commuter Services		
Building:	947		
Street address:	311 Fort Douglas Blvd		
City, state and zip:	Salt Lake City, UT 84113		
Contact person(s):			
Name:	Phone:	Email:	
Jennifer Hanson	801-585-9481	Jennifer.hanson@utah.edu	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R810-9. Contractors and Their Employees
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The University of Utah, through the Commuter Services Department, is authorized to enact and enforce regulations that govern parking on campus through interpretation of Sections 53B-3-103 and 53B-3-107.
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 haven't been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Contractors need parking as they come up to help provide services to the University. Therefore, this rule should be continued. There weren't any comments in opposition to this rule.

Agency Authorization Information

Agency head or designee, and title:	Collin Simmons, Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R810-10	Filing ID:	52020
Effective Date:	12/17/2021		

Agency Information

1. Department:	Higher Education (Utah Board of)		
Agency:	University of Utah, Commuter Services		
Building:	947		
Street address:	311 Fort Douglas Blvd		
City, state and zip:	Salt Lake City, UT 84113		
Contact person(s):			
Name:	Phone:	Email:	
Jennifer Hanson	801-585-9481	Jennifer.hanson@utah.edu	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R810-10. Enforcement System
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The University of Utah, through the Commuter Services Department, is authorized to enact and enforce regulations that govern parking on campus through interpretation of Sections 53B-3-103 and 53B-3-107.
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 haven't been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Enforcement and the policies in this rule are needed to encourage compliance of the parking rules. Therefore, this rule should be continued. There weren't any comments in opposition to this rule.

Agency Authorization Information

Agency head or designee, and title:	Collin Simmons, Director	Date:	12/16/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R810-11	Filing ID:	52918
Effective Date:	12/17/2021		

Agency Information

1. Department:	Higher Education (Utah Board of)		
Agency:	University of Utah, Commuter Services		
Building:	947		
Street address:	311 Fort Douglas Blvd		
City, state and zip:	Salt Lake City, UT 84113		
Contact person(s):			
Name:	Phone:	Email:	
Jennifer Hanson	801-585-9481	Jennifer.hanson@utah.edu	
Please address questions regarding information on this notice to the agency.			

General Information**2. Rule catchline:**

R810-11. Appeals System

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

The University of Utah, through the Commuter Services Department, is authorized to enact and enforce regulations that govern parking on campus through interpretation of Sections 53B-3-103 and 53B-3-107.

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 haven't been any comments received during or since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary for the opportunity for the individual to have someone review the citation. Therefore, this rule should be continued. There weren't any comments in opposition to this rule.

Agency Authorization Information

**Agency head
or designee,
and title:**

Collin Simmons,
Director

Date:

12/16/2021

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.

Commerce

Consumer Protection

No. 54059 (Repeal and Reenact) R152-23: Health Spa Services Protection Act Rule
Published: 11/15/2021
Effective: 12/23/2021

No. 54063 (Amendment) R152-32a: Pawnshop and Secondhand Merchandise Transaction Information Act Rule
Published: 11/15/2021
Effective: 12/23/2021

Occupational and Professional Licensing

No. 54045 (Amendment) R156-31b: Nurse Practice Act rule
Published: 11/15/2021
Effective: 12/27/2021

No. 54046 (Amendment) R156-47b: Massage Therapy Practice Act Rule
Published: 11/15/2021
Effective: 12/27/2021

Corrections

Administration

No. 54050 (New Rule) R251-713: Jail Contracting Funds
Published: 11/15/2021
Effective: 01/07/2022

Crime Victim Reparations

Administration

No. 53432 (Amendment) R270-1: Award and Reparations Standards
Published: 11/15/2021
Effective: 12/22/2021

Education

Administration

No. 54123 (Amendment) R277-301: Educator Licensing
Published: 12/01/2021
Effective: 01/11/2022

No. 54124 (New Rule) R277-307: Teacher Leader
Published: 12/01/2021
Effective: 01/11/2022

No. 54125 (Amendment) R277-424: Indirect Costs for State Programs
Published: 12/01/2021
Effective: 01/11/2022

No. 54126 (Amendment) R277-477: Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program
Published: 12/01/2021
Effective: 01/11/2022

No. 54127 (Amendment) R277-484: Data Standards
Published: 12/01/2021
Effective: 01/11/2022

No. 54128 (Amendment) R277-491: School Community Councils
Published: 12/01/2021
Effective: 01/11/2022

No. 54129 (Amendment) R277-706: Regional Education Service Agencies
Published: 12/01/2021
Effective: 01/11/2022

No. 54130 (Amendment) R277-925: Effective Teachers in High Poverty Schools Incentive Program
Published: 12/01/2021
Effective: 01/11/2022

NOTICES OF RULE EFFECTIVE DATES

Environmental Quality

Air Quality

No. 53893 (Amendment) R307-401: Permit: New and Modified Sources
Published: 10/01/2021
Effective: 01/15/2022

No. 53894 (Amendment) R307-415: Permits: Operating Permit Requirements
Published: 10/01/2021
Effective: 01/15/2022

Water Quality

No. 53968 (Amendment) R317-1-7: TMDLs
Published: 10/01/2021
Effective: 12/15/2021

Government Operations

Administration

No. 54065 (New Rule) R13-5: Use of Electronic Meetings for the Government Operations Rate Committee
Published: 11/15/2021
Effective: 12/23/2021

Fleet Operations

No. 53959 (Amendment) R27-4: Vehicle Replacement and Expansion of State Fleet
Published: 11/15/2021
Effective: 01/03/2022

No. 53964 (Repeal) R27-9: Dispensing Compressed Natural Gas to the Public
Published: 11/15/2021
Effective: 01/03/2022

Governor

Colorado River Authority of Utah

No. 53861 (New Rule) R354-1: General Procurement Provisions
Published: 10/01/2021
Effective: 12/28/2021

No. 53862 (New Rule) R354-2: Small and Professional Services
Published: 10/01/2021
Effective: 12/28/2021

No. 53863 (New Rule) R354-3: Bidding
Published: 10/01/2021
Effective: 12/28/2021

No. 53864 (New Rule) R354-4: Request for Proposals
Published: 10/01/2021
Effective: 12/28/2021

No. 53865 (New Rule) R354-5: Procurement Requirements
Published: 10/01/2021
Effective: 12/28/2021

No. 53866 (New Rule) R354-6: Cancellations Rejections and Debarments
Published: 10/01/2021
Effective: 12/28/2021

No. 53867 (New Rule) R354-7: Preferences
Published: 10/01/2021
Effective: 12/28/2021

No. 53868 (New Rule) R354-8: Contracts and Change Orders
Published: 10/01/2021
Effective: 12/28/2021

No. 53869 (New Rule) R354-9: Protests
Published: 10/01/2021
Effective: 12/28/2021

No. 53870 (New Rule) R354-10: Procurement Appeals Panel
Published: 10/01/2021
Effective: 12/28/2021

No. 53871 (New Rule) R354-11: Appeals to the Court and Court Proceedings
Published: 10/01/2021
Effective: 12/28/2021

No. 53872 (New Rule) R354-12: General Provisions Related to Protests or Appeal
Published: 10/01/2021
Effective: 12/28/2021

No. 53873 (New Rule) R354-13: Records
Published: 10/01/2021
Effective: 12/28/2021

No. 53874 (New Rule) R354-14: Interaction with Public Sector Entities
Published: 10/01/2021
Effective: 12/28/2021

No. 53875 (New Rule) R354-15: Prohibited Conduct and Penalties
Published: 10/01/2021
Effective: 12/28/2021

Health

Disease Control and Prevention, Environmental Services

No. 54030 (Amendment) R392-102: Food Truck Sanitation
Published: 11/01/2021
Effective: 01/03/2022

No. 54013 (Repeal and Reenact) R392-104: Feeding Disadvantaged Groups
Published: 11/01/2021
Effective: 01/03/2022

No. 54031 (Repeal and Reenact) R392-303: Public Geothermal Pools and Bathing Places
Published: 11/01/2021
Effective: 01/03/2022

Health Care Financing, Coverage and Reimbursement Policy
No. 54080 (Repeal and Reenact) R414-516: Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program
Published: 11/15/2021
Effective: 12/29/2021

No. 54079 (New Rule) R414-523: Extraordinary Care Definition for Spousal Caregiver Compensation
Published: 11/15/2021
Effective: 12/30/2021

Family Health and Preparedness, Primary Care and Rural Health
No. 54048 (Amendment) R434-45: Rural Physician Loan Repayment
Published: 11/15/2021
Effective: 12/23/2021

No. 54032 (Amendment) R434-50: Assistance for People with Bleeding Disorders
Published: 11/15/2021
Effective: 12/23/2021

Human Services

Administration
No. 54006 (Amendment) R495-876: Provider Code of Conduct
Published: 11/01/2021
Effective: 01/06/2022

No. 54094 (Amendment) R495-883: Children in Care Support Services
Published: 12/01/2021
Effective: 01/10/2022

No. 54103 (Amendment) R495-884: Kinship Locate
Published: 12/01/2021
Effective: 01/10/2022

Administration, Administrative Services, Licensing
No. 54007 (Repeal and Reenact) R501-1: General Provisions for Licensing
Published: 11/01/2021
Effective: 01/06/2022

No. 54009 (Repeal and Reenact) R501-15: Therapeutic Schools
Published: 11/01/2021
Effective: 01/06/2022

No. 54010 (Repeal and Reenact) R501-19: Residential Treatment Programs
Published: 11/01/2021
Effective: 01/06/2022

No. 54011 (Repeal and Reenact) R501-22: Residential Support Programs
Published: 11/01/2021
Effective: 01/06/2022

Recovery Services
No. 54113 (Amendment) R527-36: Collection of Child Support After a Termination of Parental Rights or Adoption
Published: 12/01/2021
Effective: 01/10/2022

No. 54109 (Amendment) R527-38: Unenforceable Cases
Published: 12/01/2021
Effective: 01/10/2022

No. 54102 (Amendment) R527-275: Passport Release
Published: 12/01/2021
Effective: 01/10/2022

No. 54108 (Amendment) R527-330: Posting Priority of Payments Received
Published: 12/01/2021
Effective: 01/11/2022

No. 54104 (Amendment) R527-332: Unreimbursed Assistance Calculation
Published: 12/01/2021
Effective: 01/10/2022

No. 54110 (Amendment) R527-394: Posting Bond or Security
Published: 12/01/2021
Effective: 01/10/2022

No. 54107 (Amendment) R527-412: Intercept of Unemployment Compensation
Published: 12/01/2021
Effective: 01/10/2022

No. 54106 (Amendment) R527-601: Establishing or Modifying an Administrative Award for Child Support
Published: 12/01/2021
Effective: 01/10/2022

No. 54015 (Repeal) R527-800: Acquisition of Real Property, and Medical Support Cooperation Requirements
Published: 11/15/2021
Effective: 12/23/2021

Juvenile Justice Services
No. 54070 (Repeal) R547-3: Juvenile Jail Standards
Published: 11/15/2021
Effective: 12/23/2021

No. 54071 (Repeal) R547-7: Juvenile Holding Room Standards
Published: 11/15/2021
Effective: 12/23/2021

No. 54072 (Repeal) R547-10: Ex-Offender Policy
Published: 11/15/2021
Effective: 12/23/2021

NOTICES OF RULE EFFECTIVE DATES

No. 54069 (Repeal) R547-12: Division of Juvenile Justice Services Classification of Records
Published: 11/15/2021
Effective: 12/23/2021

No. 54067 (Amendment) R547-14: Possession of Prohibited Items in Juvenile Detention Facilities
Published: 11/15/2021
Effective: 12/23/2021

Insurance

Administration

No. 54096 (Amendment) R590-116: Valuation of Assets
Published: 12/01/2021
Effective: 01/10/2022

No. 54097 (Amendment) R590-147: Annual and Quarterly Statement Filing Instructions
Published: 12/01/2021
Effective: 01/10/2022

No. 54098 (Amendment) R590-149: Americans with Disabilities Act Grievance Procedures
Published: 12/01/2021
Effective: 01/10/2022

No. 54099 (Amendment) R590-150: Commissioner's Acceptance of Examination Reports
Published: 12/01/2021
Effective: 01/10/2022

No. 54095 (Repeal) R590-151: Records Access Rule
Published: 12/01/2021
Effective: 01/10/2022

No. 54100 (Amendment) R590-154: Unfair Marketing Practices Rule; Misleading Names
Published: 12/01/2021
Effective: 01/10/2022

No. 54019 (Amendment) R590-267: Personal Injury Protection Relative Value Study
Published: 11/15/2021
Effective: 01/01/2022

Title and Escrow Commission

No. 54101 (Amendment) R592-14: Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices
Published: 12/01/2021
Effective: 01/10/2022

No. 54038 (Amendment) R592-15: Schedule of Minimum Charges for Escrow Services
Published: 11/15/2021
Effective: 12/23/2021

No. 54039 (Amendment) R592-16: Escrow Settlement Closing Transactions
Published: 11/15/2021
Effective: 12/23/2021

No. 54040 (Amendment) R592-17: Requirements for an Interest Bearing Account Used for Trust Fund Deposits
Published: 11/15/2021
Effective: 12/23/2021

Labor Commission

Industrial Accidents

No. 54054 (Amendment) R612-300-4: Workers' Compensation Medical Procedures
Published: 11/15/2021
Effective: 12/23/2021

Natural Resources

Administration

No. 54116 (Amendment) R634-3-3: Sage Grouse Definition Amendment
Published: 12/01/2021
Effective: 01/10/2022

Public Safety

Administration

No. 54036 (Repeal and Reenact) R698-4: Certification of the Law Enforcement Agency of a Private College or University
Published: 11/15/2021
Effective: 12/27/2021

Driver License

No. 54041 (Repeal and Reenact) R708-41: Requirements for Acceptable Documentation, Storage, and Maintenance
Published: 11/15/2021
Effective: 12/23/2021

No. 54052 (Amendment) R708-46: Refugee or Approved Asylee Knowledge Test in Applicant's Native Language
Published: 11/15/2021
Effective: 12/23/2021

No. 54042 (New Rule) R708-53: Driver Education

Instructor Preparation Course Requirements
Published: 11/15/2021
Effective: 12/23/2021

Fire Marshal

No. 54053 (New Rule) R710-16: Rules Pursuant to Fire Service Certification and Nonaffiliated Training Organizations
Published: 11/15/2021
Effective: 12/27/2021

Highway Patrol

No. 54055 (Amendment) R714-510: 24-7 Sobriety Program
Published: 11/15/2021
Effective: 12/27/2021

Peace Officer Standards and Training
No. 54043 (New Rule) R728-507: Minimum Standards for
Use of Force Policies to be Adopted by Public Safety
Agencies That Employ Peace Officers
Published: 11/15/2021
Effective: 12/27/2021

No. 54049 (New Rule) R728-508: Police Service Patrol
and SWAT Canine Training, Certification, and Recertification
Standards
Published: 11/15/2021
Effective: 12/27/2021

Public Service Commission

Administration
No. 54064 (Amendment) R746-8: Utah Universal Public
Telecommunications Service Support Fund (UUSF)
Published: 11/15/2021
Effective: 01/01/2022

Transportation

Motor Carrier
No. 54056 (Amendment) R909-1: Safety Regulations for
Motor Carriers
Published: 11/15/2021
Effective: 01/05/2022

Workforce Services

Administration
No. 54083 (New Rule) R982-502: Low-income ADU Loan
Guarantee Pilot Program
Published: 11/15/2021
Effective: 12/22/2021

Housing and Community Development
No. 54023 (Amendment) R990-200: Private Activity Bonds
Amendment
Published: 11/15/2021
Effective: 12/22/2021

End of the Notices of Rule Effective Dates Section

