UTAH STATE BULLETIN

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Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of 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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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 <u>September 02, 2023, 12:00 a.m.</u>, and <u>September 15, 2023, 11:59 p.m.</u> are included in this, the <u>October 01, 2023</u>, 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 <u>October 31, 2023</u>. 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 <u>January 29, 2024</u>, 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 FILING:	TYPE OF FILING: Amendment		
Rule or Section Number:	R277-406	Filing ID: 55739	

Agency Information

-g,			
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 persons:			

ontact persons:

Name:	Phone:	Email:
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-406. Early Learning Program and Benchmark Assessments

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

This rule is being amended due to the passage of H.B. 477 in the 2023 General Session, to facilitate the Utah State Board of Education's (USBE's) designation of a kindergarten assessment.

4. Summary of the new rule or change:

H.B. 477 (2023) granted USBE the authority, through Section 53G-7-203, to allow the USBE to designate a kindergarten assessment for the 2024-25 school year and beyond, as well as to establish timelines and requirements for administration and reporting kindergarten assessment results and enrollment.

The amendments specifically update the definition of the Acadience Reading assessment and clarify the administration requirements of the Benchmark Reading and Mathematics Assessments.

The amendments also add specific requirements for 'Kindergarten Enrollment Reporting'.

This rule designates the required kindergarten assessment for the 2024-25 school year and beyond.

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 USBE currently designates Acadience as the kindergarten assessment tool.

The USBE will now conduct a request for proposals to designate the kindergarten assessment for school year 2024-2025 and beyond.

The USBE does not anticipate any added costs beyond the fiscal note to H.B. 477 (2023).

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

H.B. 477's (2023) fiscal note established to need to report kindergarten enrollment as full day or less than full day for accurate funding and those costs were captured in the fiscal note to H.B. 477 (2023).

Local Education Agencies (LEAs) are not expected to have additional costs to administer the kindergarten assessments or report results to parents kindergarteners.

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.

This only affects USBE and LEAs.

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

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

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

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

This rule change only affects USBE and LEAs.

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 USBE does not anticipate any increased compliance costs for USBE or LEAs.

Any costs were captured in the fiscal note to H.B. 477 (2023).

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and 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

6. 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)	Section 53E-3-521
Section 53E-4-307	Section 53E-4-307.5	Subsection 53F-2-503(14)(a)
Section 53G-7-203		

Public Notice Information

8. 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	10/31/2023
unti	il:				

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-406. Early Learning Program and [Benchmark | Assessments.

R277-406-1. 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 53F-2-503(14)(a), which directs the Board to develop rules for implementing the Early Learning Program;
- (d) Section 53E-3-521, which requires the board to define the components of the early mathematics plan and establish a statewide target using data from the mathematics benchmark assessment:[and]

- (e) Section 53E-4-307, which requires the Board to approve a benchmark assessment for statewide use to assess the reading and mathematics competency of students in grades one, two, and three[-]; and
- (f) Section 53G-7-203, which requires the Board to establish rules regarding the administration of and reporting regarding the kindergarten assessment.
 - (2) The purpose of this rule is:
- (a) to outline the responsibilities of the Superintendent and LEAs for implementation of Section 53F-2-503 and the Board's administration of Early Learning in the state, including to:
 - [(a)](i) set expectations for LEA Early Learning Plans;
 - [(b)](ii) establish timelines for LEA Early Learning Plans;
- [(e)](iii) provide definitions and designate assessments required in Sections 53E-4-307 and 53E-4-307.5;
- $[(d)] \underline{(iv)} \text{ provide testing reporting windows, and timelines;}$ and
- [(e)](v) require LEAs to submit student reading and mathematics assessment data to the Board[-]; and
- (b) designate the kindergarten assessment and establish timelines and requirements for administration and reporting kindergarten assessment results and enrollment.

R277-406-2. Definitions.

- (1) "Benchmark reading assessment" means:
- (a) for the 2023-24 school year, the Acadience Reading assessment[-that:]:
- (b) beginning with the 2024-25 school year, the benchmark reading assessment that the Board approves, as required in Subsection 53E-4-307(2), through a request for proposals process; and
- (c) the assessment described in Subsection (1)(a) or (1)(b) that:
 - [(a)](i) is given three times each year;
 - [(b)](ii) gives teachers information to:
 - [(i)](A) plan appropriate instruction; and
 - [(ii)](B) evaluate the effects of instruction; and
- [(e)](iii) provides data about student preparation for success on an end of year criterion referenced test.
 - (2) "Benchmark mathematics assessment" means:
- (a) for the 2023-24 school year, the Acadience Math assessment[-that:];
- (b) beginning with the 2024-25 school year, the benchmark mathematics assessment that the Board approves, as described in Subsection 53E-4-307.5(2), through a request for proposals process; and
- (c) the assessment described in Subsection (2)(a) or (2)(b) that:
 - $[\frac{a}{a}](i)$ is given three times each year;
 - [(b)](ii) gives teachers information to:
 - $[\underbrace{(i)}](A)$ plan appropriate instruction; and
 - [(ii)](B) evaluate the effects of instruction; and
- [(e)](iii) provides data about student preparation for success on an end of year criterion referenced test.
- (3) "Components of early mathematics" means the key areas of mathematical learning including:
 - (a) conceptual understanding;
 - (b) procedural fluency;
 - (c) strategic and adaptive mathematical thinking; and
 - (d) productive disposition.
- (4) "Conceptual understanding" means the comprehension and connection of concepts, operations, and relations.

- (5) "Evidence-based" means a strategy that has demonstrated a statistically significant effect on improving student outcomes.
- (6) "Parental notification requirements" means notice by any reasonable means, including electronic notice, notice by telephone, written notice, or personal notice.
- (7) "Plan" means the Early Learning plan described in Section 53G-7-218.
- (8) "Procedural fluency" means the meaningful, flexible, accurate, and efficient use of procedures to solve problems.
- (9) "Productive disposition" means the attitude of a student who sees mathematics as useful and worthwhile while exercising a steady effort to learn mathematics.
- (10) "Program money" means the same as that term is defined in Section 53F-2-503.
- (11) "Scoring below or well below benchmark" means that a student:
- (a) performs below or well below the benchmark score on the benchmark reading or benchmark mathematics assessment; and
- (b) requires additional instruction beyond that provided to typically-developing peers to close the gap between the student's current level of achievement and that expected of all students in that grade.
- (12) "Remediation interventions" means reading or mathematics instruction or activities, or both, given to students in addition to their regular instruction, during another time in the school day, outside regular instructional time, or in the summer, which is focused on specific needs as identified by reliable and valid assessments.
- (13) "Strategic and adaptive mathematical thinking" means the ability to formulate, represent, and solve mathematical problems with the capacity to justify the logic used to arrive at the solution.
- (14) "Utah eTranscript and Record Exchange" or "UTREx" means the same as that term is defined in Section R277-404-2.

R277-406-3. Benchmark Reading and Mathematics Assessments.

- (1) Subject to legislative appropriations, and except as provided in Subsection (2), an LEA shall administer the benchmark reading and mathematics assessments:
 - (a) annually:
 - (i) in grade 1, grade 2, and grade 3; and
- (ii) beginning with the 2024-25 school year, in kindergarten; and
 - (b) [annually] within the following testing windows:
- (a)(i) the first benchmark between the first day of school and September 30;
- $\begin{tabular}{ll} \hline (b) (ii) the second benchmark between December 1 and January 31; and \end{tabular}$
- [(e)](iii) the third benchmark between April 15 and June 15.
- (2) An LEA shall annually report benchmark reading and mathematics assessment results to the Superintendent by:
 - (a) October 30;
 - (b) February 28; and
 - (c) June 30.
- (3) If the benchmark reading or mathematics assessment indicates a student is scoring below or well below benchmark:
- (a) for reading, the LEA shall implement the parental notification requirements and evidence-based reading remediation interventions described in Section 53E-4-307;

- (b) for mathematics, the LEA shall implement parental notification requirements similar to those described for reading in Subsection (4)(a) and evidence-based [reading]mathematics remediation interventions.
- (4) An LEA shall report benchmark reading and mathematics assessment results annually to parents of students in grade 1, grade 2, and grade 3 by:
 - (a) October 30;
 - (b) February 28; and
 - (c) June 30.
- (5) Beginning with the 2024-25 school year, an LEA shall report benchmark reading and mathematics assessment results annually to parents of students in kindergarten by the deadlines described in Subsection (4).
- [(5)](6) An LEA shall annually submit to UTREx the following information from the benchmark reading and mathematics assessment:
- (a) whether or not each student received remediation intervention; and
- (b) UTREx Special Codes related to the benchmark reading and mathematics assessment.
- [(6) Notwithstanding this R277-406-3, for the 2021-22 and 2022-23 school years, in response to circumstances resulting from the COVID-19 pandemic, the Superintendent may:
- (a) waive testing and reporting deadlines established in this section; and
 - (b) determine alternate testing and reporting deadlines.

R277-406-4. Early Learning Plans -- LEA and Superintendent Requirements - Timelines.

- (1) To receive program money, an LEA shall submit:
- (a) a plan in accordance with:
- (i) Subsection 53F-2-503(4); and
- (ii) Section 53G-7-218; and
- (b) a plan that contains the components of early mathematics; and
 - (b) other required materials within established deadlines.
- (2)(a) Any time before August 1, an LEA may submit its plan to the Superintendent for pre-approval; and
- (b) For each LEA that submits a plan for pre-approval, the Superintendent shall provide feedback in preparation for the LEA submitting the plan to its local board;
- (3) An LEA shall submit a final plan to the Superintendent no later than September 1 by 5 p.m. including:
 - (a) documentation that:
- (i) the LEA's governing board reviewed and approved the LEA's plan in an open and public meeting; and
- (ii) the plan was uploaded to the appropriate system as required by the Superintendent; and
- (b) if necessary, a revised plan reflecting changes made to the LEA's plan by the LEA's governing board.
- (4) Within three weeks of an LEA submitting a final, local board-approved plan to the Superintendent, the Superintendent shall notify the LEA if the plan was approved or if modifications to the plan are required.
- (5) If the Superintendent does not approve an LEA's plan, the LEA may, by October 15:
 - (a) incorporate needed changes or provisions;
- (b) obtain approval for the amended plan from the LEA's governing board; and
- (c) resubmit the amended plan in accordance with Subsection (3)(a) of this part.

- (6) If an LEA timely resubmits a plan that includes the required modifications, the Superintendent shall approve the plan by November 1.
- (7) If an LEA fails to timely resubmit an acceptable plan by October 15, the LEA is not eligible for funding in the current school year.
- (8) When reviewing an LEA plan for approval, the Superintendent shall evaluate:
- (a) the extent to which the LEA's goals within the plan are ambitious, yet attainable; and
- (b) whether the plan uses evidence-based curriculum, materials, and practices, which will support the LEA in meeting its growth goals.
- (9) An LEA's goals, as outlined in the LEA's plan, shall be reported to the Superintendent using a digital reporting platform.

R277-406-5. Accountability and Reporting on Early Learning Plans.

- (1) An LEA shall annually report progress toward the goals outlined in the LEA's plan to the Superintendent by June 30.
- (2) In accordance with Sections 53F-2-503 and 53G-7-218, a growth goal in an LEA's plan:
- (a) is calculated using the percentage of students in an LEA's grades 1 through 3 who made typical, above typical, or well-above typical progress from the beginning of the year to the end of the year, as measured by the benchmark reading and mathematics assessment:
- (b) sets the literacy target percentage of students in grades 1 through 3 making typical or better progress at a minimum of 60%; and
- (c) sets the mathematics target percentage of students in grades 1 through 3 making typical or better progress at a minimum of 60% beginning in the 2021-2022 school year.
- (3) The Superintendent shall use the information provided by an LEA described in Section R277-406-4 to determine the progress of each student in grades 1 through 3 within the following categories:
 - (i) well-above typical;
 - (ii) above typical;
 - (iii) typical;
 - (iv) below typical; or
 - (v) well below typical.
- (4) If an LEA does not make sufficient progress toward its plan goals for two consecutive years, as defined in Subsection (5), the Superintendent shall assign the LEA to the Early Learning System of Support and require the LEA to participate in interventions to improve early literacy, early mathematics, or both.
- (5) Accept as provided for in Subsection (6), consistent with Section 53G-7-218, sufficient progress toward plan goals means the LEA meets:
 - (a) the state's growth goals for literacy and math; and
- (b) at least one of the LEA-designated goals addressing performance gaps.
- (6) The Superintendent shall establish the strategies, interventions, and techniques for schools that are part of the Early Learning System of Support to assist schools to achieve early learning goals.

R277-406-6. Kindergarten Enrollment Reporting.

(1) An LEA shall submit student membership information daily to the Superintendent using the appropriate kindergarten code through UTREx.

(2) The Superintendent shall review October 1 and June 15 kindergarten membership information annually to inform LEA funding allocations.

KEY: reading, improvement, goals Date of Last Change: <u>2023[July 22, 2022]</u> Notice of Continuation: January 13, 2022

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-521; 53E-4-307; 53E-4-307.5; 53F-2-

503(14)(a): 53G-7-203

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R277-415	Filing ID: 55743	

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 paragna	

Contact persons:

Contact persons.			
Name:	Phone:	Email:	
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov	

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-415. School Nurses Matching Funds

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

This rule is being amended because funding for school nurses is no longer handled through matching funds and is covered through the Weighted Pupil Unit (WPU). The bulk of the rule is now obsolete, but the rule is being retained to collect data for sharing with the Department of Health and Human Services (DHHS).

4. Summary of the new rule or change:

These amendments change the name of the rule to "School Health Reporting"; add reference to authorization found in Section 53F-2-204, which requires the Board to assess the progress and degree of effectiveness of programs funded by the minimum school program; eliminate the provisions of awarding an appropriation for

School Nurses, while adding clarifying language to the necessary data collection requirements in connection with funds received for school nursing by LEAs through the minimum school program.

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 existing School Health Workload report is still collected by the Utah State Board of Education (USBE) and the DHHS, but there are no added costs to USBE.

The School Nurse matching funds have been removed as a line item to Local Education Agencies (LEAs), but there is no impact to USBE staffing or budgets.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

The legislature removed the appropriation for the school nurse matching funds, but the existing report for the School Health Workload is unchanged.

There are no added costs for LEAs due to this rule change.

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.

This only affects USBE and LEAs.

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

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

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation,

association, governmental entity, or public or private organization of any character other than an *agency*):

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

This only affects USBE and LEAs.

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.

There are no costs for USBE or LEAs to maintain the existing School Health Workload Report and no additional costs due to this rule change reflecting the legislature's removal of the school nurse matching funds.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and 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

6. 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 53E-3-401	Section 53F-2-204
Section 3		

Public Notice Information

8. 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 10/31/2023 until:

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-415. School [Nurses Matching Funds] Health Reporting. R277-415-1. Authority and Purpose.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section 53E-3-401, which:
- (i) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (ii) allows the Board to audit LEA use of state funds; and
- (c) Section 53F-2-204, which requires the Board to assess the progress and degree of effectiveness of programs funded by the minimum school program.
- [(c) Section 53F-2-519, which requires the Board to distribute grant money to LEAs for school nurses.
- (2) The purpose of this rule is to provide rules for awarding of matching funds under Section 53F 2-519.]
- (2) The purpose of the rule is to specify data collection requirements in connection with funds received for school nursing by LEAs through the minimum school program.

[R277-415-2. Definitions.

- (1) "Advanced Practice Registered Nurse" or "APRN" is a nurse practitioner who may practice as a school nurse, or in a supervisory role.
- (2) "Health aid or clerk" means an unlicensed assistive person who must work under the supervision of an RN.
- (3) "Licensed Practical Nurse" or "LPN" means a nurse who may only assist or work under the supervision of a registered nurse or a medical doctor.
- (4) "Physician" means a licensed doctor with a doctorate in medicine or osteopathic medicine from an accredited college or university.
- (5) "School nurse" means the same as term is defined in Section 53E-1-102...]

R277-415-3. [Appropriation for School Nurses]LEA Report Submission.

- [(1) The Superintendent shall award an appropriation for school nurses to LEAs subject to the requirements of this Rule R277-415 and Section 53F-2-519.
- (2) An LEA that seeks an appropriation for school nurses under this rule shall submit an application for school nurse funds every three years.
- (3) The Superintendent shall determine the amount of an LEA's three year allocation taking into account:
- (a) an LEA's student enrollment;
- (b) an LEA's ability to match funds as provided in this Section R277-415-3;
- (c) the percentage of change to an LEA's school nursing staff since the previous fiscal three year period from the last application; and
- (d) the annual allocation of funds toward the school nursing program by the Legislature.
- (4) An LEA shall provide a dollar for dollar match for an appropriation for school nurses awarded in accordance with this rule.
- (5) An LEA shall provide a physician or APRN consultant to provide oversight to the LEA's school nursing program.
- (6) An LEA may use matching funds for paid personnel costs of:
 - (a) a school nurse; or
- (b) a licensed medical physician.
 - (7) An LEA may not use matching funds for:
 - (a) an LPN;
 - (b) a special education school nurse;
- (c) a pre-school school nurse;
- (d) a health aid or clerk;
 - (e) a certified nurse assistant;
- (f) office space; or
 - (g) medical supplies.
- (8) An LEA may not count a school nurse as a full FTE at one school and a partial FTE at another school.
- (9) An LEA shall provide documentation to the Superintendent to ensure that an appropriation for school nurses received does not supplant previous school nursing costs, including the LEA's:
- (a) funding amounts and sources of funding for school nurses employed in the previous three years;
- (b) funding amounts and sources of funding for current school nurses:
- (c) current personnel cost information; and
- (d) names and license numbers of employed school nurses.

- (10) An LEA shall provide names and license numbers of the LEA's school nurses, including new hires, and overseeing consultants to the Superintendent by November 30 annually.
- (11)(a) An LEA may provide an in-kind service match to qualify for state funds under this rule.
- (b) An in-kind match under Subsection (11)(a) may include:
- collaborative agreement with a local health department supported by an executed memorandum of understanding or contract, which shall include an hourly rate attributable to the services provided;
- (ii) volunteer hours by a school nurse valued at an hourly market rate approved by the Superintendent;
- (iii) volunteer hours by a licensed medical physician valued at an hourly market rate approved by the Superintendent;
- (iv) funds paid by a local health department toward school nurse personnel costs; and
- (v) funds paid by any other outside source toward school nurse personnel costs.
- (12) The Superintendent shall require an LEA receiving an appropriation for school nurses to: An LEA shall:
- ([a]1) submit the School Health Workload Report[reports] to the Superintendent and Utah Department of Health and Human Services[regarding the LEA's school nursing activities]; and
- ([b]2) participate in standardized data collection as established by the Utah Department of Health and Human Services in cooperation with the Superintendent, including the [annual school health workload census Annual School Health Workload Report.
- (13) An LEA that fails to meet its matching obligations shall reimburse any state funds awarded in accordance with this rule. (14) Nothing in this rule gives any medical provider
- authorization to prescribe medications to a student without the written consent of the student's parent or guardian.]

KEY: school [nurses, awarding, funds] health, data

Date of Last Change: 2023[August 22, 2022] **Notice of Continuation: December 15, 2022**

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401; 53F-2-[519]204

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R277-419	Filing ID: 55740

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 persons:			
Name:	Phone:	Email:	
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov	

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-419. Pupil Accounting

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

This rule is being amended to determine that the provisions for the 2023-24 school year will be continued for the 2024-25 school year and beyond, including a requirement that local education agencies (LEAs) provide at least 990 hours of educational services.

4. Summary of the new rule or change:

The amendments remove the requirement that this rule is only effective for the 2021-22, 2022-23, and 2023-24 school years.

In Section R277-419-4, this rule has been amended to eliminate the number of days available for LEAs to use exclusively for assessment of kindergarten students.

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 effect of the change is largely to make the existing rule ongoing.

There are no added costs for the Utah State Board of Education (USBE) to make the rule ongoing.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

The LEAs do not have any added costs with this rule being moved to ongoing.

Because of H.B. 477's (passed in the 2023 General Session) provisions for full day kindergarten, the 12 days for kindergarten assessments are no longer needed.

Any costs were captured in the fiscal note to H.B. 477 (2023).

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.

This only affects USBE and LEAs.

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

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

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

This rule change is not expected to have fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities revenues or expenditures.

This only affects USBE and LEAs.

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.

There are no additional costs for USBE or LEAs associated with making this rule ongoing.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and 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

6. 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:

1.	<u>-</u>	
Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53F-2-102(7)
Subsection 53E-3-501(1)(e)	Subsection 53E-3-602(2)	Subsection 53E-3-301(3)(d)
Section 53G-4-404		

Public Notice Information

8. 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	10/31/2023
unti	il:				

9. This rule change M	AY 11/07/2023
become effective on:	

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-419. Pupil Accounting.

R277-419-1. Authority and Purpose.

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

R277-419-2. Definitions.

- (1) "Aggregate Membership" means the sum of all days in membership during a school year for eligible students enrolled in a public school.
- (2) "Approved CTE course" means a course approved by the Board within the Career and Technical Education (CTE) Pathways.
- (3) "Attendance validated program" means a program within an LEA that consists of eligible, enrolled public school students who physically attend school in a brick and mortar school.
- (4) "Blended learning program" means a formal education program under the direction of an LEA in which a student learns through an integrated experience that is in part:
- (a) through online learning, with an element of student control over time, place, path, or pace; and
- (b) in a supervised brick and mortar school away from
- (5) "Brick and mortar school" means a school where classes are conducted in a physical school building.
- (6) "Data Clearinghouse" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.

- (7) "Educational services" means providing learning opportunities and services designed to support a student to be prepared to succeed and lead by having the knowledge and skills to learn, engage civically, and lead meaningful lives, including by providing:
 - (a) high quality instruction for each student;
 - (b) personalized learning supports for each student; and
- (c) implementation of evidence-based student health and wellness practices.
- (8) "Eligible student" means a student who satisfies the criteria for enrollment in an LEA, set forth in Section R277-419-5.
 - (9) "Enrollment verification data" includes:
 - (a) a student's birth certificate or other verification of age;
- (b) verification of immunization or exemption from immunization form;
 - (c) proof of Utah public school residency;
 - (d) family income verification; or
 - (e) special education program information, including:
 - (i) an individualized education program;
 - (ii) a Section 504 accommodation plan; or
 - (iii) an English learner plan.
- (10)(a) "Home school" means the formal instruction of children in their homes instead of in an LEA.
- (b) "Home school" does not include public school instruction provided in a home, including when:
- (i) an online student receives instruction at home, but the student is enrolled in a public school that follows state Core Standards;
 - (ii) an online student is:
- (A) subject to laws and rules governing state and federal mandated tests; and
 - (B) included in accountability measures; or
- (iii) an online student receives instruction under the direction of a highly qualified, licensed teacher who is subject to the licensure requirements of Rule R277-301 and fingerprint and background checks consistent with Rules R277-214 and R277-309.
 - (11) "Home school course" means instruction:
- (a) delivered in a home school environment where the curriculum and instruction methods, evaluation of student progress or mastery, and reporting, are provided or administered by the parent, guardian, custodian, or other group of individuals; and
 - (b) not supervised or directed by an LEA.
- (12)(a) "Influenza pandemic" or "pandemic" means a global outbreak of serious illness in people.
- (b) "Influenza pandemic" or "pandemic" may be caused by a strain of influenza that most people have no natural immunity to and that is easily spread from person to person.
- (13) "ISI-1" means a student who receives 1 to 59 minutes of YIC related services during a typical school day.
- (14) "ISI-2" means a student who receives 60 to 179 minutes of YIC related services during a typical school day.
- (15) "Learner validated enrollment measurement" means a methodology used to establish a student's membership or enrollment status for purposes of generating membership days.
- (16) "Learner validated program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through:
 - (a) an online learning program;
 - (b) a blended learning program; or
 - (c) a personalized, competency-based learning program.

- (17)(a) "Membership" means a public school student is on the current roll of a public school class or public school as of a given date.
- (b) A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official removal from the class or school due to the student having left the school.
- (c) Removal from the roll does not mean that an LEA should delete the student's record, only that the student should no longer be counted in membership.
- (18) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.
 - (19) "Online learning program" means a program:
 - (a) that is under the direction of an LEA; and
- (b) in which students receive educational services primarily over the internet.
- (20) "Personalized, Competency-based Learning Grants Program" means an education program that provides instruction through personalized, competency-based learning as defined in Section 53F-5-501.
 - (21) "Private school" means an educational institution that:
 - (a) is not an LEA;
- (b) is owned or operated by a private person, firm, association, organization, or corporation; and
- (c) is not subject to governance by the Board consistent with the Utah Constitution.
- (22) "Program" means a course of instruction within a school that is designed to accomplish a predetermined curricular objective or set of objectives.
 - (23) "Qualifying school age" means:
- (a) a person who is at least five years old and no more than 18 years old on or before September 1;
- (b) with respect to special education, a person who is at least three years old and no more than 21 years old on or before July
- (c) with respect to YIC, a person who is at least five years old and no more than 21 years old on or before September 1.
- (24) "Resource" means a student who receives 1 to 179 minutes of special education services during a typical school day consistent with the student's IEP provided for under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.
- (25) "Retained senior" means a student beyond the general compulsory school age who is authorized at the discretion of an LEA to remain in enrollment as a high school senior in the years after the student's cohort has graduated due to:
 - (a) sickness;
 - (b) hospitalization;
 - (c) pending court investigation or action; or
- (d) other extenuating circumstances beyond the control of the student.
- (26) "S1" means the record maintained by the Superintendent containing individual student demographic and school membership data in a Data Clearinghouse file.
- (27) "S2" means the record maintained by the Superintendent containing individual student data related to participation in a special education program in a Data Clearinghouse file.
- (28) "S3" means the record maintained by the Superintendent containing individual student data related to participation in a YIC program in a Data Clearinghouse file.

- (29) "School" means an educational entity governed by an LEA that:
 - (a) is supported with public funds;
- (b) includes enrolled or prospectively enrolled full-time students;
- (c) employs licensed educators as instructors that provide instruction consistent with Rule R277-301;
 - (d) has one or more assigned administrators;
 - (e) is accredited consistent with Section R277-410-3; and
- (f) administers required statewide assessments to the school's students.
- (30) "School day" means a day where an LEA provides educational services to students subject to the requirements described in Section R277-419-4.
- (31) "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.
 - (32) "School of enrollment" means:
 - (a) a student's school of record; and
- (b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.
- (33) "School year" means the 12 month period from July 1 through June 30.
- (34) "Self-contained" means a public school student with an IEP or YIC, who receives 180 minutes or more of special education or YIC related services during a typical school day.
- (35) "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.
 - (36) "SSID" means Statewide Student Identifier.
 - (37) "Student with a disability" means a student who:
- (a)(i)(A) is of an age during which it is mandatory under state law to provide educational services to persons with disabilities as described in Subsection 53E-3-503(1)(a); or
- (B) is of an age during which a student without a disability is provided educational services; and
- (ii) is entitled to receive a free appropriate public education under the Individuals with Disabilities Education Act or Board rules related to special education, including Rule R277-750; or
- (b) is entitled to receive a free appropriate public education under Section 504 of the Rehabilitation Act of 1973 because the student:
- (i) has a physical or mental impairment which substantially limits one or more major life activities;
- (ii) has a record of an impairment described in Subsection (37)(b)(i); or
- (iii) is regarded as having an impairment described in Subsection (37)(b)(i).
- (38) "Unexcused absence" means an absence charged to a student when:
- (a) the student was not physically present at school at any of the times attendance checks were made in accordance with Subsection R277-419-8(5); and
- (b) the student's absence could not be accounted for by evidence of a legitimate or valid excuse in accordance with local board policy on truancy as defined in Section 53G-6-201.
- (39) "Weighted pupil unit" or "WPU" means the same as that term is defined in Section 53F-2-102.
- (40) "Year end upload" means the Data Clearinghouse file due annually by July 15 from LEAs to the Superintendent for the prior school year.

- (41) "Youth in custody or YIC" means a person under the age of 21 who is:
- (a) in the custody of the Department of Health and Human Services;
- (b) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or
 - (c) being held in a juvenile detention facility.

R277-419-3. Schools and Programs.

- (1)(a) The Superintendent shall provide a list to each school detailing the required accountability reports and other statemandated reports for the school type and grade range.
- (b) A school shall submit a Clearinghouse report to the Superintendent.
- (c) A school shall employ at least one licensed educator and one administrator.
- (2)(a) A student who is enrolled in a program is considered a member of a public school.
- (b) The Superintendent may not require programs to receive separate accountability and other state-mandated reports.
- (c) A student reported under an LEA's program shall be included in the LEA's WPU and student enrollment calculations of the LEA's school of enrollment.
- (d) A course taught at a program shall be credited to the appropriate school of enrollment.
- (3) A private school or program may not be required to submit data to the Superintendent.
- (4) A private school or program may not receive annual accountability reports.

R277-419-4. Minimum School Days.

- (1)(a) Except as provided in Subsection (1) and Subsection 53F-2-102(4), an LEA shall provide educational services over a minimum of 180 school days each school year.
- (b)(i) Except as provided in Subsection (1)(b)(ii), an LEA that participates in the National School Lunch Program shall provide school meals on each day that the LEA schedules toward the LEA's 180 educational service days described in Subsection (1)(a).
- (ii) The requirement to provide school meals described in Subsection (1)(b)(i) does not apply to:
- (A) an unplanned school closure or unplanned learn from home day due to snow, inclement weather, or other emergency;
- (B) a day that an LEA governing board reallocates as a teacher preparation or teacher professional development day as described in Subsection 53F-2-102(4)(d);
- (C) a day that an LEA counts in student membership for professional development or parent-teacher conference days as described in Subsection (6); or
- (D) a day where the LEA provides educational services while all the LEA's students engage in distance learning.
- (c) An LEA may seek an exception to the number of school days described in Subsection (1)(a):
- (i) except as provided in Subsection (1)(c)(ii), for a whole school or LEA as described in Rule R277-121;
- (ii) for a school closure due to snow, inclement weather, or other emergency as described in Section R277-121-5; or
- (iii) for an individual student as described in Section R277-419-11.

- (2) An LEA may offer the required school days described in Subsection (1)(a) at any time during the school year, consistent with the law.
- (3) An LEA shall plan for emergency, activity, and weather-related exigency time in its annual calendaring.
- (4) Minimum standards apply to a public school in all settings unless Utah law or this rule provides for a specific exception.
- (5) An LEA's governing board shall provide adequate contingency school days in the LEA's yearly calendar to avoid the necessity of requesting a waiver except in the most extreme circumstances.
- (6)(a) A school may conduct parent-teacher and student Plan for College and Career Readiness conferences during the school day.
- (b) Parent-teacher and college and career readiness conferences may only be held for a total of the equivalent of three full school days for the school year.
- (c) Student membership for professional development or parent-teacher conference days shall be counted as that of the previous school day.
- [(d) An LEA may designate no more than a total of 12 educational service days at the beginning of the school year, at the end of the school year, or both for the assessment of students entering or completing kindergarten.
- (e) If educational service days are designated for kindergarten assessment:
- (i) an LEA shall designate the days in an open meeting;
- (ii) an LEA shall provide adequate notice and explanation to kindergarten parents well in advance of the assessment period;
- (iii) qualified school employees shall conduct the assessment consistent with Section 53G-7-205; and
- [(f)](d) The final decision and approval regarding planning time, parent-teacher and Student Plan for College and Career Readiness conferences rests with an LEA, consistent with Utah Code and Board administrative rules.
- [(g)](e) Total instructional time and school calendars shall be approved by an LEA in an open meeting.

R277-419-5. Student Membership Eligibility and Learner Validated Enrollment Measurements.

- (1) A student may enroll in two or more LEAs at the discretion of the LEAs.
- (2) A kindergarten student may only enroll in one LEA at a time.
- (3) To generate membership for funding through the Minimum School Program on any school day, an LEA shall ensure that a student being counted by the LEA in membership:
- (a) has not previously earned a basic high school diploma or certificate of completion;
- (b) has not been enrolled in a YIC program with a YIC time code other than ISI-1 or ISI-2;
- (c) does not have unexcused absences, which are determined using one of the learner validated enrollment measurements described in Subsection (4);
- (d) is a resident of Utah as defined under Section 53G-6-302;
 - (e) is of qualifying school age or is a retained senior;
- (f)(i) is expected to attend a regular learning facility operated or recognized by an LEA on each regularly scheduled school day, if enrolled in an attendance validated program;

- (ii) has direct instructional contact with a licensed educator provided by an LEA at:
 - (A) an LEA-sponsored center for tutorial assistance; or
- (B) the student's place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended time, due to:
 - (I) injury;
 - (II) illness;
 - (III) surgery;
 - (IV) suspension;
 - (V) pregnancy;
 - (VI) pending court investigation or action; or
- (VII) an LEA determination that home instruction is necessary;
- (iii) is enrolled in an approved CTE course on the campus of another state funded institution where such a course is:
 - (A) not offered at the student's school of membership;
- (B) being used to meet Board-approved CTE graduation requirements under Subsection R277-700-6(16); and
- (C) a course consistent with the student's Plan for College and Career Readiness; or
- (iv) is enrolled in a learner validated program under the direction of an LEA that:
- (A) is consistent with the student's Plan for College and Career Readiness;
 - (B) has been approved by the student's counselor; and
- (C) includes regular instruction or facilitation by a designated employee of an LEA.
- (4) An LEA shall use one of the following learner validated enrollment measures:
- (a) For a student primarily enrolled in an attendance validated program, the LEA may not count a student as an eligible student if the eligible student has unexcused absences during the prior ten consecutive school days.
- (b) For a student enrolled in a learner validated program, an LEA shall:
- (i) adopt a written policy that designates a learner validated enrollment measurement to document the learner validated membership or enrollment status for each student enrolled in the learner validated program consistent with this section;
- (ii) document each student's continued enrollment status in compliance with the learner validated enrollment policy at least once every ten consecutive school days; and
- (iii) appropriately adjust and update student membership records in the student information system for students that did not meet the learner validated enrollment measurement, consistent with this section.
- (c) For a student enrolled in a learner validated program, the LEA may not count a student as an eligible student if the LEA has not engaged with the student during the prior ten consecutive school days.
 - (5) Notwithstanding Subsection (4), an LEA:
- (a) shall continue to provide a student with a disability a free and appropriate public education even when the student has not attended school or engaged with the LEA during the prior ten consecutive days;
- (b) shall maintain the student with a disability's enrollment in the LEA; and
- (c) may continue to count the student with a disability in membership for funding purposes up to $30\ \text{days}$ if the LEA

documents that the LEA is working to locate and engage with the student with a disability.

- (6) The learner validated enrollment measurement described in Subsection (4)(b) may include the following components, in addition to other components, as determined by an LEA:
- (a) a minimum student login or teacher contact requirement;
 - (b) required periodic contact with a licensed educator;
- (c) a minimum hourly requirement, per day or week, when students are engaged in course work; or
- (d) required timelines for a student to provide or demonstrate completed assignments, coursework, or progress toward academic goals.
- (7)(a) Beginning with the 2021-22 school year, an LEA shall submit each student's attendance validated or learner validated enrollment status through the UTREx or Data Clearinghouse.
- (b) For a student who participates in both attendance validated, and learner validated programs, the LEA shall designate the student's status as learner validated enrollment.
- (8)(a) An LEA desiring to generate membership for student enrollment in courses outlined in Subsection (3)(f)(iii), or to seek a waiver from a requirement in Subsection (3)(f)(iii), shall submit an application for course approval by April 1 of the year prior to which the membership will be counted.
- (b) An LEA shall be notified within 30 days of the application deadline if courses have been approved.

R277-419-6. Student Membership Calculations.

- (1)(a) Except as provided in Subsection (1)(b) or (1)(c), a student enrolled in only one LEA during a school year is eligible for no more than 180 days of regular membership per school year.
- (b) With written verification from the student's parent that the student intends to graduate early, an early graduation student may be counted for more than 180 days of regular membership in accordance with the student's Plan for College and Career Readiness.
- (c) A student transferring within an LEA to or from a yearround school is eligible for no more than 205 days of regular membership per school year.
- (2)(a) Except as provided in Subsection (2)(b), (2)(c), or (2)(d), a student enrolled in two or more LEAs during a school year is eligible for no more than 180 days of regular membership per school year.
- (b) A student transferring to or from an LEA with a schedule approved under Subsection R277-419-4(1)(b) is eligible for no more than 220 days of regular membership per school year.
- (c) A student transferring to or from an LEA where the student attended or will attend a year-round school is eligible for no more than 205 days of regular membership per school year.
- (d) If the exceptions in Subsections (2)(b) and (2)(c) do not apply but a student transfers from one LEA to another at least one time during the school year, the student is eligible for regular membership in an amount not to exceed the sum of:
 - (i) 170 days; plus
- (ii) 10 days multiplied by the number of LEAs the student attended during the school year.
- (3) If a student is enrolled in two or more LEAs during a school year and the aggregate regular membership generated for the student between the LEAs exceeds the amount allowed under Subsection (2), the Superintendent shall apportion the days of regular membership allowed between the LEAs.

- (4) If a student was enrolled for only part of the school day or only part of the school year, an LEA shall prorate the student's membership according to the number of hours, periods or credits for which the student actually was enrolled in relation to the number of hours, periods or credits for which a full-time student normally would have been enrolled, for example:
- (a) if the student was enrolled for four periods each day in a seven period school day for 180 school days, the student's aggregate membership would be 4/7 of 180 days or 103 days; or
- (b) if the student was enrolled for seven periods each day in a seven period school day for 103 school days, the student's membership would also be 103 days.
- (5)(a) An LEA shall calculate the days in membership for all students using a method equivalent to the following: total clock hours of educational services for which the student was enrolled during the school year divided by 990 hours and then multiplied by 180 days and finally rounded up to the nearest whole day.
- (b) For example, if a student was enrolled for only 900 hours during the school year, the student's aggregate membership would be (900/990)*180, and the LEA would report 164 days.
- (6) The sum of regular plus self-contained special education and self-contained YIC membership days may not exceed 180 days.
- (7) The sum of regular and resource special education membership days may not exceed 360 days.
- (8) The sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed $360\ \text{days}.$
- (9) An LEA may also count a student in membership for the equivalent in hours of up to:
 - (a) one period each school day, if the student has been:
- (i) released by the school, upon a parent or guardian's request, during the school day for religious instruction or individual learning activity consistent with the student's Plan for College and Career Readiness; or
- (ii) participating in one or more co-curricular activities under Rule R277-438, but has otherwise been exempted from school attendance under Section 53G-6-204 for home schooling;
- (b) two periods each school day per student for time spent in bus travel during the regular school day to and from another state funded institution, if the student is enrolled in CTE instruction consistent with the student's Plan for College and Career Readiness;
 - (c) all periods each school day, if the student is enrolled in:
- (i) a concurrent enrollment program that satisfies the Title 53E, Chapter 10, Part 3, Concurrent Enrollment;
- (ii) a private school without religious affiliation under a contract initiated by an LEA to provide special education services which directs that the instruction be paid by public funds if the contract with the private school is approved by an LEA board in an open meeting;
- (iii) a foreign exchange student program under Section 53G-6-707; or
- (iv) a school operated by an LEA under a Utah Schools for the Deaf and the Blind IEP provided that:
- (A) the student may only be counted in S1 membership and may not have an S2 record; and $\,$
- (B) the S2 record for the student is submitted by the Utah Schools for the Deaf and the Blind.
- (10)(a) Except as provided in Subsection (10)(b), a student receiving instruction delivered in a home school course or by a private school is not eligible to be claimed in an LEA's membership and does not qualify for funding under the Minimum School Program in Title 53F, Chapter 2, Minimum School Program Act.

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

R277-419-7. Calculations for a First Year Charter School.

- (1) For the first operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on October 1 counts.
- (2) For the second operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on Section 53F-2-302.

R277-419-8. Reporting Requirements and LEA Records.

- (1) An LEA shall report aggregate membership for each student via the School Membership field in the S1 record and special education membership in the SCRAM Membership field in the S2 record and YIC membership in the S3 record of the Year End upload of the Data Clearinghouse file.
- (2) In the Data Clearinghouse, aggregate membership is calculated in days of membership.
- (3) To determine student membership, an LEA shall ensure that records of daily student attendance or student engagement are maintained in each school which clearly and accurately show for each student the:
 - (a) entry date;
 - (b) exit date;
 - (c) exit or high school completion status;
 - (d) whether or not an absence was excused;
- (e) disability status, resource or self-contained, if applicable; and
 - (f) YIC status, ISI-1, ISI-2 or self-contained, if applicable.
 - (4) An LEA shall ensure that:
- (a) computerized or manually produced records for CTE programs are kept by teacher, class, and core code; and
- (b) the records described in Subsection (4)(a) clearly and accurately show for each student in a CTE class the:
 - (i) entry date;
 - (ii) exit date; and
 - (iii) excused or unexcused status of absence.
- (5) An LEA shall ensure that each school within the LEA completes a minimum of one attendance check each school day.
- (6) Due to school activities requiring schedule and program modification during the first days and last days of the school year:
- (a) for the first five school days, an LEA may report aggregate days of membership equal to the number recorded for the second five-day period of the school year;
- (b) for the last five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding five-day period; and
- (c) schools shall continue educational service activities throughout required calendared days.
 - (7) The Superintendent:
- (a) shall review each LEA's student membership and fall enrollment reports as they relate to the allocation of state funds; and
- (b) may periodically or for cause review LEA records and practices for compliance with Federal and State laws and this rule.

R277-419-9. High School Completion Status.

(1) An LEA shall account for the final status of students who enter high school, grades 9-12, whether they graduate or leave

- high school for other reasons, using the following decision rules to indicate the high school completion or exit status of each student who leaves the Utah public education system:
- (a) graduates are students who earn a basic high school diploma by satisfying one of the options consistent with Rule R277-705 or out-of-school youths of school age who complete adult education secondary diploma requirements consistent with Rule R277-733;
- (b) completers are students who have not satisfied Utah's requirements for graduation but who:
- (i) are in membership in twelfth grade on the last day of the school year; and
- (ii)(A) meet any additional criteria established by an LEA consistent with its authority under Rule R277-705;
- (B) meet any criteria established for special education students under Utah State Board of Education Special Education Rules, Revised, June 2016, and available at: http://www.schools.utah.gov/sars/Laws.aspx and the Utah State Board of Education;
- (C) meet any criteria established for special education students under Subsection R277-700-8(5); or
- (D) pass a General Educational Development or GED test with a designated score;
 - (c) continuing students are students who:
- (i) transfer to higher education, without first obtaining a diploma;
- (ii) transfer to the Utah Center for Assistive Technology without first obtaining a diploma; or
 - (iii) age out of special education;
 - (d) dropouts are students who:
- (i) leave school with no legitimate reason for departure or absence:
- (ii) withdraw due to a situation so serious that educational services cannot be continued even under the conditions of Subsection R277-419-5(3)(f)(ii):
- (iii) are expelled and do not re-enroll in another public education institution; or
 - (iv) transfer to adult education;
- (e) an LEA shall exclude a student from the cohort calculation if the student:
- (i) transfers out of state, out of the country, to a private school, or to home schooling;
- (ii) is a U.S. citizen who enrolls in another country as a foreign exchange student;
- (iii) is a non-U.S. citizen who enrolls in a Utah public school as a foreign exchange student under Section 53G-6-707 in which case the student shall be identified by resident status, J for those with a J-1 visa, F for all others, not by an exit code;
 - (iv) dies; or
- (v) beginning with the 2015-2016 school year, is attending an LEA that is not the student's school of enrollment.
- (2)(a) An LEA shall report the high school completion status or exit code of each student to the Superintendent as specified in Data Clearinghouse documentation.
- (b) High School completion status or exit codes for each student are due to the Superintendent by year end upload for review.
- (c) Except as provided in Subsection (2)(d), an LEA shall submit any further updates of completion status or exit codes by October 1 following the end of a student's graduating cohort pursuant to Rule R277-484.
- (d) An LEA with an alternative school year schedule where the students have an extended break in a season other than summer,

shall submit the LEA's data by the next complete data submission update, following the LEA's extended break, as defined in Rule R277-484.

- (3)(a) The Superintendent shall report a graduation rate for each school, LEA, and the state.
- (b) The Superintendent shall calculate the graduation rates in accordance with applicable federal law.
- (c) The Superintendent shall include a student in a school's graduation rate if:
- (i) the school was the last school the student attended before the student's expected graduation date; and
- (ii) the student does not meet any exclusion rules as stated in Subsection (1)(e).
- (d) The last school a student attended will be determined by the student's exit dates as reported to the Data Clearinghouse.
- (e) A student's graduation status will be attributed to the school attended in the student's final cohort year.
- (f) If a student attended two or more schools during the student's final cohort year, a tie-breaking logic to select the single school will be used in the following hierarchical order of sequence:
- (i) school with an attached graduation status for the final cohort year;
 - (ii) school with the latest exit date;
 - (iii) school with the earliest entry date;
 - (iv) school with the highest total membership;
 - (v) school of choice;
 - (vi) school with highest attendance; or
 - (vii) school with highest cumulative GPA.
- (g) The Superintendent shall report the four-year cohort rate on the annual state reports.

R277-419-10. Student Identification and Tracking.

- (1)(a) Pursuant to Section 53E-4-308, an LEA shall:
- (i) use the SSID system maintained by the Superintendent to assign every student enrolled in a program under the direction of the Board or in a program or a school that is supported by public school funding a unique student identifier; and
- (ii) display the SSID on student transcripts exchanged with LEAs and Utah public institutions of higher education.
 - (b) The unique student identifier:
- (i) shall be assigned to a student upon enrollment into a public school program or a public school-funded program;
- (ii) may not be the student's social security number or contain any personally identifiable information about the student.
- (2)(a) An LEA shall require all students to provide their legal first, middle, and last names at the time of registration to ensure that the correct SSID follows students who transfer among LEAs.
- (b) A school shall transcribe the names from the student's birth certificate or other reliable proof of the student's identity and age, consistent with Section 53G-6-603;
- (c) The direct transcription of student names from birth certificates or other reliable proof of student identity and age shall be the student's legal name for purposes of maintaining school records; and
- (d) An LEA may modify the order of student names, provide for nicknames, or allow for different surnames, consistent with court documents or parent preferences, so long as legal names are maintained on student records and used in transmitting student information to the Superintendent.
- (3) The Superintendent and LEAs shall track students and maintain data using students' legal names.

- (4) If there is a compelling need to protect a student by using an alias, an LEA should exercise discretion in recording the name of the student.
- (5) An LEA is responsible to verify the accuracy and validity of enrollment verification data, prior to enrolling students in the LEA, and provide students and their parents with notification of enrollment in a public school.
- (6) An LEA shall ensure enrollment verification data is collected, transmitted, and stored consistent with sound data policies, established by the LEA as required in Rule R277-487.

R277-419-11. Exceptions.

- (1)(a) An LEA may, at its discretion, make an exception for school attendance for a public school student, in the length of the school day or year, for a student with compelling circumstances.
- (b) The time an excepted student is required to attend school shall be established by the student's IEP or Plan for College and Career Readiness.
- (2) A school using a modified 45-day/15-day year-round schedule initiated prior to July 1, 1995 is in compliance with this rule if the school's schedule includes a minimum of 990 hours of time the LEA will provide educational services over a minimum of 172 days.

[R277-419-12. Effective Date.

This rule is effective for the 2021-22, 2022-23 and 2023-24 school years.

KEY: education finance, school enrollment, pupil accounting Date of Last Change: [July 25,] 2023

Notice of Continuation: December 2, 2021

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-102(7); 53E-3-501(1)(e); 53E-3-602(2); 53E-3-301(3)(d); 53G-4-404

NOTICE OF PROPOSED RULE			
TYPE OF FILING: New			
Rule or Section Number:	R277-439	Filing ID: 55747	

Agency Information

Agency information				
1. Department:	Education			
Agency:	Administration			
Building:	Board of Education			
Street address:	250 E 50	00 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 persons:				
Name:	Phone:	Email:		
Angie Stallings	801- angie.stallings@schools.utal 538- gov 7830			
Please address questions regarding information on				

this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-439. Block Grant Funding for Prevention Programs in Public Education

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

This rule is being created due to the passage of H.B. 16 in the 2023 General Session.

4. Summary of the new rule or change:

This new rule provides guidance to local education agencies (LEAs) about designing and implementing a comprehensive prevention program, technical assistance to LEAs prevention needs, and outlines targeted professional learning opportunities in evidence-based prevention practices.

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.

LEAs now have the option to combine several grant applications into one block grant.

The fiscal note to H.B. 16 (2023) captured any fiscal impacts, but there are no additional costs to the Utah State Board of Education (USBE) due to the rule change.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

There are no additional costs to LEAs, though they may have some administrative time savings upon combining grant applications.

The USBE has no data to quantify time or cost savings.

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.

This only affects USBE and LEAs.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and

Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

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

This only affects USBE and LEAs.

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.

There are no added costs to USBE or LEAs to combine several grant applications.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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

H) Department head comments on fiscal impact and 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

6. 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:

1-		
Article X,	Section 53F-2-525	
Section 3		

Public Notice Information

8. 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.)

4	A)	Comments	will	be	accepted	10/31/2023
ļ	unti	l:				

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-439. Block Grant Funding for Prevention Programs in Public Education.

R277-439-1. Authority and Purpose.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
- (b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and
- (c) Subsection 53F-2-525(3), which establishes the prevention block grant and directs the Board to make rules to govern the application process.

- (2) The purpose of this rule is to provide:
- (a) procedures for an LEA to apply for the Prevention Block Grant; and
 - (b) annual reporting guidelines.

R277-439-2. Definitions.

- (1) "Comprehensive prevention plan" means the same as the term is defined in Subsection 53F-2-525(1).
 - (2) "Participating LEA" means an LEA that:
- (a) applies to participate in the prevention block program described in Section 53F-2-525 and this rule; and
- (b) is approved by the Superintendent to participate in the prevention block grant program.

R277-439-3. Application Process.

- (1) The Superintendent shall develop an application for an LEA that is interested in applying for prevention block grant funds.
- (2) An LEA may apply for the grant in a form and within the deadlines specified by the Superintendent.
- (3) The Superintendent shall distribute prevention block grant funds to a participating LEA based on funds available from the substance abuse prevention account and through the underage drinking and substance abuse prevention program restricted account as described in Section 53F-2-525 and Section 53F-9-304.
- (4) An LEA's application for the prevention block grant shall include the following:
- (a) the LEA's approach and rationale underlying the comprehensive prevention plan;
- (b) a demonstration of the LEA's specific prevention needs;
- (c) data that support the substance and cost of the LEA's comprehensive prevention plan;
- (d) the use of funds to implement the LEA's comprehensive prevention plan; and
- (e) specific outcomes that will be used to measure the success of the plan.
 - (5) The Superintendent shall provide:
- (a) guidance to LEAs about designing and implementing the comprehensive prevention plan;
- (b) technical assistance to LEAs with prevention needs; and
- (c) targeted professional learning opportunities in evidence-based prevention practices.

R277-439-4. Allowable Expenses.

- (1) Awarded funds may be used for the following purposes:
- (a) Implementation of the comprehensive prevention plan;
- (b) Prevention-focused parent seminars as described in Subsection 53G-9-703(2):
- (c) To supplement specific prevention needs identified by the LEA that can be justified through data;
 - (d) Prevention science professional learning;
- (e) Supplies and materials related to implementing prevention programs; and
- (f) Other evidence-based prevention practices authorized by USBE.
- (2) An LEA may not use funds received through this program for:
 - (a) food;
 - (b) capital improvements;
 - (c) metal detectors; and
 - (d) vape detectors.

R277-439-5. Annual Reporting Requirements.

- (1) A participating LEA that receives prevention block grant funds shall provide the Superintendent with a year-end report in a form and within the deadlines specified by the Superintendent.
- (2) The Superintendent may require additional evaluation or audit procedures from an LEA to demonstrate the use of funds consistent with the law and Board rules.

KEY: public schools, substance abuse prevention, prevention block grant

Date of Last Change: 2023

Authorizing, and Implemented, or Interpreted Law: Art X Sec

3; 53F-2-525

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section R277-474 Filing ID: 55748			

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 persons:	

Contact persons:

Name:	Phone:	Email:
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-474. School Instruction and Sex Education

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

This rule is being amended due to the passage of H.B. 348 in the 2023 General Session.

4. Summary of the new rule or change:

These amendments clarify local education agency (LEA) responsibilities when a student chooses to refrain from participation in course materials.

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.

This rule largely applies to LEA responsibilities and does not affect the Utah State Board of Education (USBE) staffing or budgets.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

Language of this rule is changed due to H.B. 348.

Any costs were captured in the fiscal note to H.B. 348 (2023).

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.

This only affects USBE and LEAs.

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

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

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

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

This only affects USBE and LEAs.

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.

There are no additional costs for USBE or LEAs outside those captured in the fiscal note to H.B. 348 (2023).

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Regulatory impact rable				
Fiscal Cost	FY2024	FY2025	FY2026	
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	FY2024	FY2025	FY2026	
State Government	\$0	\$0	\$0	
Local Governments	\$0	\$0	\$0	
Small Businesses	\$0	\$0	\$0	
Non-Small Businesses	\$0	\$0	\$0	
Other Persons	\$0	\$0	\$0	
Total Fiscal Benefits	\$0	\$0	\$0	
Net Fiscal Benefits	\$0	\$0	\$0	

H) Department head comments on fiscal impact and 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

6. 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,	Subsection	Subsections
Section 3	53E-3-401(4)	53G-10-402(1)
		and (3)

Public Notice Information

8. 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	10/31/2023
unti	il:				

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	08/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-474. School Instruction and Sex Education.

R277-474-1. 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) Subsections 53G-10-402(2), (4) and (5), which direct the Board to adopt rules to allow local boards to adopt sex education materials or programs as described in this Rule R277-474 and provide sex education instruction as provided in Section 53G-10-402; and
- (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
 - (2) The purpose of this rule is to provide:
- (a) requirements for LEAs and individual educators to select instructional materials about sex education and maturation;
- (b) notice to parents of proposed sex education and maturation discussions and instruction; and
- (c) direction to public education employees regarding instruction and discussion of maturation and sex education with students.

R277-474-2. Definitions.

- (1) "Curriculum materials review committee" or "committee" means a curriculum materials review committee formed at the school district or charter school level as described in Section R277-474-5.
- (2) "Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g" or "FERPA" means a federal law designed to protect the privacy of students' education records.
- (3) "Sex education instruction or instructional programs" means any course, unit, class, activity or presentation that provides instruction or information to students as outlined under Subsection 53G-10-403(1)(a).
- (4) "Instructional materials commission" means the advisory commission authorized under Section 53E-4-402.
- (5) "LEA" for purposes of this rule, includes the Utah Schools for the Deaf and the Blind.

- (6) "Maturation education" means instruction and materials used to provide fifth or sixth grade students with age appropriate, medically accurate information regarding the physical and emotional changes associated with puberty, to assist in protecting students from abuse and to promote hygiene and good health practices.
- (7) "Medically accurate" means verified or supported by a body of research conducted in compliance with scientific methods and published in journals that have received peer-review, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the American Medical Association.
- (8) "Parental notification form" means a form developed by the Superintendent and used exclusively by LEAs or public schools for parental notification of subject matter identified in this rule.
- (9) "Professional development" means training in which Utah educators may participate to renew a license, receive information or training in a specific subject area, teach in another subject area or teach at another grade level.
- (10) "Utah educator" means an individual such as an administrator, teacher, counselor, teacher's assistant, or coach, who is employed by a unit of the Utah public education system and who provides teaching or counseling to students.
- (11) "Utah Professional Practices Advisory Commission" or "UPPAC" means a Commission established under Section 53E-6-501 and designated to review allegations against educators and recommend action against educators' licenses to the Board.

R277-474-3. General Provisions.

- (1) The following may not be taught in Utah public schools through the use of instructional materials, direct instruction, or online instruction:
- (a) the intricacies of intercourse, sexual stimulation or erotic behavior:
- (b) the advocacy of premarital or extramarital sexual activity; or
- (c) the advocacy or encouragement of the use of contraceptive methods or devices.
- (2) A Utah educator may provide instruction consistent with Subsection 53G-10-402(2)(b)(iv);
- (3) A Utah educator is responsible to teach the values and information identified under Subsections 53G-10-402(2)(a) and (b)(i)[-] through (ii).
- (4) A Utah educator shall follow all provisions of federal and state law including the parental notification and prior written parental consent requirements described in Sections 76-7-322 and 76-7-323 when teaching any aspect of sex education.
- (5) While sex education instruction and related topics are most likely to take place in such courses as health education, health occupations, human biology, physiology, parenting, adult roles, psychology, sociology, child development, and biology, this Rule R277-474 applies to any course or class in which these topics are the focus of discussion.

R277-474-4. State Board of Education Responsibilities.

The Superintendent shall:

- (1) develop and provide professional development and assistance with training for educators on law and rules specific to sex education instruction and related issues.
- (2) develop, for Board approval, a parental notification form and timelines for use by LEAs.

- (3) establish a review process for sex education instructional materials and programs using the instructional materials commission and requiring final Board approval of the instructional materials commission's recommendations.
- (4) approve only medically accurate sex education instruction programs.
- (5) receive and track parent and community complaints and comments received from LEAs related to sex education instructional materials and programs.

R277-474-5. LEA Responsibilities.

- (1) An LEA shall require all newly hired or newly assigned Utah educators with responsibility for any aspect of sex education instruction to attend professional development outlining the sex education curriculum and the criteria for sex education instruction in any courses offered in the public education system.
- (2) An LEA governing board shall provide training consistent with Subsection R277-474-5(1) at least once during every three years of employment for Utah educators.
- (3) An LEA governing board shall form a curriculum materials review committee at the school district or charter school level as described in Subsection (4).
- (4)(a) An LEA governing board shall annually appoint and review members of the LEA's curriculum materials review committee on or before August 1.
- (b) An LEA's curriculum materials review committee shall include parents, health professionals, school health educators, and administrators, with at least as many parents as school employees.
 - (c) The members of an LEA's committee shall:
- (i) meet on a regular basis, as determined by the membership;
 - (ii) select officers; and
- (iii) comply with Title 52, Chapter 4, Open and Public Meetings Act.
- (5) An LEA's curriculum materials review committee shall:
- (a) be organized consistent with Subsection R277-474-2(1);
 - (b) designate a chair and procedures; and
- (c) review and approve all guest speakers and guest presenters and their respective materials relating to sex education instruction in any course and maturation education [prior to]before their presentation.
- (6) The committee may not authorize the use of any sex education instructional program or maturation education program not previously:
 - (a) approved by the Board;
 - (b) approved consistent with Section R277-474-6; or
 - (c) approved under Subsections 53G-10-402(2)(f) and (g).
- (7) The district superintendent or charter school administrator shall report educators who willfully violate the provisions of this rule to the Utah Professional Practices Advisory Commission (UPPAC) for investigation and possible discipline.
- (8)(a) A student may not participate in sex education instruction, maturation education, or other instructional programs without prior affirmative parent consent, as evidenced by a completed parental notification form, on file.
- (b) An LEA shall obtain parental consent from a student's parent using the common parental notification form or a form that satisfies all criteria of the law and Board rules and comply with timelines approved by the Board.

- (9) The parental notification form shall:
- (a) explain a parent's right to review proposed curriculum materials in a timely manner;
- (b) request the parent's permission to instruct the parent's student in identified course material related to sex education or maturation education:
- (c) allow the parent to exempt the parent's student from attendance for a class period where identified course material related to sex education instruction or maturation education is presented and discussed:
- (d) be specific enough to give parents fair notice of topics to be covered;
- (e) include a brief explanation of the topics and materials to be presented and provide a time, place and contact person for review of the identified curricular materials;
- (f) be retained on file with affirmative parental consent for each student [prior to]before the student's participation in discussion of issues protected under Section 53G-10-402; and
- (g) be maintained at the student's school for a reasonable period[-of time].
- (10) An LEA shall develop a logging and tracking system of parental and community complaints and comments resulting from student participation in sex education instruction, to include the disposition of the complaints, and provide that information to the Superintendent upon request.
- (11) A student may refrain from participation in [H a student is exempted from] course material [required by the Board-approved Core Standards-] consistent with Section 53G-10-205.[(1), (2), and (3), the school shall:
 - (a) waive the participation requirement; or
 - (b) provide a reasonable alternative to the requirement.

R277-474-6. Local School Board or Charter School Governing Board Adoption of Sex Education and Maturation Education Instructional Materials.

- (1) An LEA governing board may adopt the LEA's instructional materials if the instructional materials meet the requirements of Subsection 53G-10-402(2).
- (2) Instructional materials adopted as described in Subsection (1) shall:
- (a) comply with the criteria of Subsection 53G-10-402(2)(h) and:
 - (b) be medically accurate;
- (c) be approved by a majority vote of the LEA governing board present at a public meeting of the LEA governing board;
- (d) be available for reasonable review opportunities to residents of the school district or parents of charter school students [prior to]before consideration for adoption; and
- (e) comply with the county data review requirements as outlined in Subsection 53G-10-402(8).
- (3) An LEA shall comply with the reporting requirements of Section 53G-10-402.
 - (4) A report to the Board shall include:
- (a) a copy of sex education instructional materials or maturation education materials not approved by the Instructional Materials Commission that the local board or local charter board seeks to adopt;
- (b) documentation of the materials' adoption in a public board meeting;
- (c) documentation that the materials or program meets the medically accurate criteria as defined in Subsection R277-474-2(7);

- (d) documentation of the recommendation of the materials by the committee: and
- (e) a statement of the local board's or local charter board's rationale for selecting materials not approved by the instructional materials commission.
- (5) An LEA governing board's adoption process for sex education instructional materials and maturation education materials shall include:
 - (a) an appeals process for the adopted materials; and
- (b) a process for annual review of the LEA governing board's decision.

R277-474-7. Utah Educator Responsibilities.

- (1) A Utah educator shall participate in training provided under Subsections R277-474-5(1) and (2).
- (2) A Utah educator shall use the common parental notification form or a form approved by the Utah educator's LEA, and follow timelines approved by the Board.
- (3) A Utah educator shall individually record parent and community complaints, comments, and the Utah educators' responses regarding sex education instructional programs.
- (4) A Utah educator may respond to spontaneous student questions for the purposes of providing accurate data or correcting inaccurate or misleading information or comments made by students in class regarding sex education.

KEY: health education, sex education, schools Date of Last Change: <u>2023[October 8, 2019]</u>
Notice of Continuation: September 15, 2022

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53G-10-402(1) and (3); 53E-3-401(4)

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Amendment				
Rule or Section R277-484 Filing ID: 55744				

Agency Information

1. Department:	Education		
Agency:	Administration		
Building:	Board of	f Education	
Street address:	250 E 50	00 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 persons:			
Name:	Phone:	Email:	
Angie Stallings	801- angie.stallings@schools.utah. 538- gov 7830		
Please address questions regarding information on			

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-484. Data Standards

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

This rule is being amended to update terminology and references and to add language regarding local education agency (LEA) reporting of educator data.

4. Summary of the new rule or change:

These amendments remove the references to "EdUcate", as well as the definitions for "EDEN" and "UDHHS".

The amendments also add clarification to the deadline requirements for Data Submission, specifying that an LEA is required to submit teacher assignment and salary data to the Board through the Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS) or the Utah Schools Information Management System (USIMS).

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 USIMS is currently being constructed, and when operational, will replace the CACTUS.

This rule simply allows for data to be submitted through the applicable system when operational. There are no costs to the Utah State Board of Education (USBE) associated with this rule update.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

There are no costs to LEAs associated with this rule change, as the data submitted to USBE through CACTUS and/or USIMS is the same data.

When operational, LEAs will now submit through USIMS.

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.

This only affects USBE and LEAs.

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

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

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

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

This only affects USBE and LEAs.

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.

USIMS is already funded through legislative action and there are no additional costs for USBE or LEAs associated with these rule updates.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

9 , ,					
Fiscal Cost	FY2024	FY2025	FY2026		
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	FY2024	FY2025	FY2026		
State Government	\$0	\$0	\$0		

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

H) Department head comments on fiscal impact and 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

6. 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	Subsections 53E-3-301(d) and (e)	Section 53E-3-401
Subsection 53E-3-401(8)(a)	Subsection 53E-3-511(8)2	

Incorporations by Reference Information

7. Incorporations by Reference:

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

	•
Official Title of Materials Incorporated (from title page)	Board Reporting Deadline Table
Publisher	Utah State Board of Education
Issue Date	September 7, 2023

Public Notice Information

8. 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	10/31/2023
unti	l:				

9.	This rule change	MAY	11/07/2023
bec	come effective on:		

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

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] USIMS.
- (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]Superintendent 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]7) "Governing board chair" means the chair or president of an LEA governing board.
- ([40]8) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
 - ([11]9) "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.
- $([\frac{12}{10}])$ "Local administrator" means a district superintendent or charter school director.
- ([13]<u>11</u>) "MSP" means Minimum School Program, the set of state supported K-12 public school funding programs.
 - ([14]12) "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.
- ([45]13) "Schools interoperability framework" or "SIF" means an open global standard for seamless, real time data transfer and usage for Utah public schools.
- ([16]14) "Student achievement backpack" has the same meaning as that term is defined in Subsection 53E-3-511(1)(d).
- ([47]15) "Student information system" or "SIS" means a student data collection system used for Utah public schools.
- [(18) "UDHHS" means Utah Department of Health and Human Services (UDHHS).]
- ([49]16) "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.
- ([20]17) "Utah Student Record Store" has the same meaning as that term is defined in Subsection 53E-3-511[(e)](1)(d).
- ([21]18) "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 [December 1, 2022]September 7, 2023.
- (2) A copy of the Board Reporting Deadline Table is located at:

- (a) http://schools.utah.gov/administrativerules/documents incorporated; 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 submit teacher assignment and salary data to the Board through CACTUS or USIMS.
- ([2]3) 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]4) 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.
- $([4]\underline{5})$ 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] local administrator; 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 $\ensuremath{\,^{\circ}}$
- (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[$\overline{\text{via}} \in DEN$].
- (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) Before 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 before 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 Rule 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: 2023[July 11, 2023] 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 PROP	OSED RULE	
TYPE OF FILING:	Amendment	
Rule or Section Number:	R277-489	Filing ID: 55741

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 persons	s :	
Name:	Phone:	Email:
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-489. Kindergarten Programs and Assessment

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

This rule is being amended due to the passage of H.B. 477 in the 2023 General Session.

4. Summary of the new rule or change:

These amendments clarify that for the 2023-24 school year, the Board selected kindergarten assessment is the kindergarten entry and exit profile or KEEP.

The amendments also provide a sunset clause for Rule R277-489 of 06/30/2024.

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.

Costs associated with changes to kindergarten assessments were captured in the fiscal note to H.B. 477 (2023).

These updates clarify that this rule will only apply for the 2023-2024 school year due to the legislative changes.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

H.B. 477's (2023) fiscal note captured costs associated with updates to the kindergarten assessments.

There are no additional costs for local education agencies (LEAs) to have this rule sunset after the 2023-2024 school year.

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.

This only affects the Utah State Board of Education (USBE) and LEAs.

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

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

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

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

This only affects USBE and LEAs.

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.

There are no additional costs for USBE and LEAs outside the fiscal note to H.B. 477 (2023).

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and 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

6. 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,	Subsection	Section
Section 3	53E-3-401(4)	53G-7-203

Public Notice Information

8. 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	10/31/2023
unt	til:				

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-489. Kindergarten Programs and Assessment.

R277-489-1. 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 permits the Board to make rules to execute the Board's duties and responsibilities under the Utah constitution and state law; and
- (c) Section 53G-7-203, which requires the Board to establish rules regarding the administration of and reporting regarding the kindergarten assessment.
- (2) The purpose of this rule is to designate the kindergarten assessment and establish timelines and requirements for administration and reporting assessment results and enrollment.

R277-489-2. Definitions.

"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.

R277-489-3. Administration of Kindergarten Entry and Exit Assessments.

- (1) For purposes of Subsection 53G-7-203(4), <u>for the 2023-24 school year</u>, the Board selected kindergarten assessment is the kindergarten entry and exit profile or KEEP, which includes the kindergarten entry and exit assessments, required to be administered by LEAs as described in Section 53G-7-203.
 - (2) An LEA shall administer:
- (a) the kindergarten entry assessment to each kindergarten student sometime during the three weeks before through the three weeks after the first day of kindergarten; and
- (b) the kindergarten exit assessment to each kindergarten student sometime during the four weeks before the last day of school.
- (3) The days used for the assessment shall be consistent with Subsection R277-419-4(6)(d).
 - (4) An LEA shall submit to the Data Gateway:
- (a) kindergarten entry assessment data by September 30; and
 - (b) kindergarten exit assessment data by June 15.
- (5) In accordance with Rule R277-114, the Superintendent may recommend action to the Board, including withholding of funds, if an LEA fails to provide complete, accurate, and timely reporting under Subsection (4).

R277-489-4. Use of Kindergarten Entry and Exit Assessment Data.

- (1) The Superintendent or an LEA may use entry and exit assessment data obtained in accordance with Section R277-489-3 to:
- (a) provide insights into current levels of academic performance upon entry and exit of kindergarten;
- (b) identify students in need of early intervention instruction and promote differentiated instruction for all students;
- (c) understand the effectiveness of programs, such as full-day kindergarten and preschool;
- (d) provide opportunities for data-informed decision making and cost-benefit analysis of early learning initiatives;
- (e) identify effective instructional practices or strategies for improving student achievement outcomes in a targeted manner;
- (f) understand the influence and impact of full-day kindergarten on at-risk students in both the short- and long-term.

- (2) An LEA may not use entry and exit assessment data obtained in accordance with Section R277-489-3 to:
- (a) justify early enrollment of a student who is not currently eligible to enroll in kindergarten, such as a student with a birthday falling after September 1;
 - (b) evaluate an educator's teaching performance; or
- (c) determine whether a student should be retained or promoted between grades.

R277-489-5. Kindergarten Enrollment Reporting.

- (1) An LEA shall submit student membership information daily to the Superintendent using the appropriate kindergarten code through UTREx.
- (2) The Superintendent shall review October 1 and June 15 kindergarten membership information annually to inform LEA funding allocations and to inform potential Board action.

R277-489-6. Sunset Clause.

This rule will sunset on June 30, 2024.

KEY: enhanced kindergarten Date of Last Change: [July 11,] 2023 Notice of Continuation: January 13, 2022

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401(4); [53F-2-507]53G-7-203

NOTICE OF PROPO	OSED RULE	
TYPE OF FILING:	Amendment	
Rule or Section Number:	R277-552	Filing ID: 55745

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 persons	

Contact persons:

Name:	Phone:	Email:
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-552. Charter School Timelines and Approval Processes

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

This rule is being amended so that the definitions are aligned with other definitions in Rule R277-550.

4. Summary of the new rule or change:

These amendments specifically remove the definitions for "Large expansion", "Market analysis", and "Significant school remodel".

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 removed definitions allow this rule to more closely align with the recently updated Rule R277-550.

There are no added costs for the Utah State Board of Education (USBE).

Administrative time may be slightly reduced for USBE and the State Charter School Board, however, no data is available to quantify the savings.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

The definitions removed apply to charter local education agencies (LEAs) only, and do not add costs for any LEA.

The removed definitions allow this rule to more closely align with the recently updated Rule R277-550 (Charter Schools – Definitions).

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.

This only affects USBE and LEAs.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-

small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

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

This only affects USBE and LEAs.

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.

There are no costs for USBE, LEAs, or any other entities with the removal of these definitions.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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	\$0	\$0	\$0
0031			
Fiscal Benefits	FY2024	FY2025	FY2026
Fiscal	FY2024 \$0	FY2025	FY2026 \$0
Fiscal Benefits State			
Fiscal Benefits State Government Local	\$0	\$0	\$0
Fiscal Benefits State Government Local Governments Small	\$0 \$0	\$0 \$0	\$0 \$0

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

H) Department head comments on fiscal impact and 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

6. 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	Section 53E-3-401	Section 53F-2-702
Section 53G-6-503		

Public Notice Information

8. 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) Commer	ts will	be	accepted	10/31/2023
until:				

9. This rule change MA become effective on:	11/07/2023
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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.

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-552. Charter School Timelines and Approval Processes. R277-552-1. 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 adopt rules in accordance with its responsibilities;
- (c) Subsection 53G-6-504(5), which requires the Board to make rules regarding a charter school expansion or satellite campus;
- (d) Sections 53G-5-304 through 53G-5-306, which require the Board to make a rule providing a timeline for the opening of a charter school;
- (e) Section 53F-2-702, which directs the Board to distribute funds for charter school students directly to the charter school;

- (f) the Charter School Expansion Act of 1998, 20 U.S.C. Sec. 8063, which directs the Board to submit specific information before a charter school's receipt of federal funds; and
- (g) Subsection 53G-5-205(5), which requires the Board to make rules establishing minimum standards that an authorizer is required to apply in authorizing and monitoring charter schools.
 - (2) The purpose of this rule is to:
- (a) establish procedures for timelines and approval processes for new charter schools; and
- (b) provide criteria and standards for consideration of high performing charter schools to expand and request new schools that are satellite schools.

[R277-552-2. Definitions.

- (1) "Large expansion" means a charter school's request for expansion if the expansion request:
- (a) is for more than 50 students;
 - (b) would necessitate significant renovation; or
- (c) is for more than one additional grade level.
- (2) "Market analysis" means a qualitative and quantitative analysis of the educational market near a proposed charter school, including:
- (a) the school's target demographics;
 - (b) population and development trends in the area;
- (c) nearby competing public schools;
- (d) the proposed school's own forecasts, along with supporting data; and
- (e) any risks, barriers, or regulations that may impact a proposed school's success.
- (3) "Significant school remodel" means new construction or a renovation that requires:
- (i) a building permit from a local municipality or county; or
- (ii) a project number from the Board as described in Rule R277-471.
- - (a) is for 50 or fewer students;
 - (b) would not necessitate a significant renovation; and
 - (c) is for no more than one additional grade.]

R277-552-[3]2. Charter School Authorization Process.

- (1) An individual or non-profit organization as described in Subsection 53G-5-302(2)(b) may apply to open a charter school from any statutorily approved authorizer.
- (2) An authorizer shall submit a process to the Board for approval of:
 - (a) a new charter school;
 - (b) a request from a school to change authorizers;
 - (c) a charter school expansion; or
 - (d) a satellite school.
- (3) A new authorizer shall submit a new charter school application process to the Board for approval at least six months before accepting applications for a new charter school.
- (4) An existing authorizer may not authorize a new charter school for the 2021-22 school year and beyond until the Board approves the authorizer's application process.
- (5)(a) The Board shall approve or deny an authorizer's proposed application process, including expansion and satellite approval processes, within 90 days of receipt of the proposed process from an authorizer.

- (b) If the Board denies an application process, the Superintendent shall provide a written explanation of the reasons for the denial to the applicant within 45 days.
- (c) If an authorizer's application process is denied, the authorizer may submit a revised application process for approval at any time.
- (6) An authorizer shall have an application and charter agreement, which shall include all elements required by Title 53G, Chapter 5, Part 3, Charter School Authorization.
- (7) An authorizer shall maintain the official signed charter agreement, which shall presumptively be the final, and complete agreement between a school and the school's authorizer.
- (8) An authorizer's review process for a new charter school shall include:
- (a) a plan for mandatory pre-operational and other trainings;
- (b) an evaluation of the school's governing board, including:
- (i) a review of the resumes of and background information of proposed governing board members; and
 - osed governing board members; and

 (ii) a capacity interview of the proposed governing board;
- (c) an evaluation of the school's financial viability, including:
 - (i) a market analysis;
 - (ii) anticipated enrollment; and
 - (iii) anticipated and break even budgets;
- (d) an evaluation of the school's academic program and academic standards by which the authorizer will hold the school accountable; and
- (e) an evaluation of the school's proposed pre-operational plan, including implementation of:
 - (i) applicable legal requirements for public schools;
 - (ii) required policies;
- (iii) student data systems, including student data privacy requirements:
 - (iv) reporting; and
 - (v) financial management.
- (9) An authorizer's review process shall include contacting the school district in which a proposed charter school will be located and consideration of any feedback provided by the district.
- (10) An authorizer shall design its approval process so that the authorizer notifies the Superintendent of an authorizer approval of a request identified in Subsection (2) no later than October 1, one fiscal year before the state fiscal year the charter school intends to serve students.

R277-552-[4]3. Timelines - Charter School Starting Date and Facilities.

- (1) A charter school may receive state start-up funds if the charter school is approved as a new charter school by October 1, one fiscal year before the state fiscal year the charter school intends to serve students.
- (2) Before receiving state start-up funds an authorizer, other than the State Charter School Board, shall certify in writing to the State Charter School Board that a charter school has:
 - (a) completed all required financial documents;
- (b) completed background checks for each governing board member; and
- (c) executed a signed charter agreement, which includes academic goals.

- (3) Before an LEA receives state start-up funds, the State Charter School Board shall require the LEA to submit documentation supporting the information required in Subsections (2)(a) and (c) to the Superintendent.
- (4) A charter school may receive state funds, including minimum school program funds, if the charter school authorizer certifies in writing to the Superintendent by June 30 before the school's first operational year that:
- (a) the charter school meets the requirements of Subsection (2):
- (b) the charter school's governing board has adopted all policies required by statute or Board rule, including a draft special education policies and procedures manual;
- (c) the charter school's governing board has adopted an annual calendar in an open meeting and has submitted the calendar to the Superintendent;
- (d) the authorizer has received the charter school's facility contract as required by Subsection 53G-5-404(9);
- (e) the charter school has met the requirements of Subsections (5) and (6) and that the school's building is scheduled for completion, including all required inspections, before occupancy;
- (f)(i) the charter school has hired an executive director and a business administrator; or
- (ii)(A) the charter school governing board has designated an executive director or business administrator employed by a third party; and
- (B) the charter school governing board has established policies regarding the charter school's supervision of the charter school's third-party contractors;
- (g) the charter school's enrollment is on track to be sufficient to meet the school's financial obligations and implement the charter school agreement;
- (h) the charter school has an approved student data system that has successfully communicated with UTREx, including meeting the compatibility requirements of Subsection R277-484-5(3);
- (i) the charter school has a functional accounting system; and
- (j) the charter school has a budgeted net lease adjusted debt burden ratio of under 30% based on the school's executed facility agreement; and
- (k) the charter school has complied with all legal requirements for new charter schools in a school's pre-operational year.
 - (5) An authorizer shall:
- (a) create a process to verify the requirements in Subsection (4);
 - (b) maintain documentation of Subsection (5)(a); and
- (c) provide the documentation described in Subsection (5)(b) to the Superintendent upon request; and
- (d) submit a copy of the process required in Subsection (5)(a) to the Board for approval along with the authorizer's process for approving new charters under Subsection R277-552-[3]2(2).
- (6) A charter school shall begin construction on a new or existing facility requiring significant renovation no later than January 1 of the year the charter school is scheduled to open.
- (7) A charter school that intends to occupy a facility requiring only minimal renovation, such as renovation not requiring a project number according to Rule R277-471, shall enter into a written agreement no later than May 1 of the calendar year the charter school is scheduled to open.

(8) If a charter school fails to meet the requirements of this section within 36 months of approval, the approval of the charter school shall expire.

R277-552-[5]4. Charter Amendment Requests.

- (1) An authorizer shall have a policy establishing a process for consideration of proposed amendments to a school's charter agreement.
- (2) An authorizer's timeline for consideration of an amendment to a charter agreement may not conflict with any funding deadline established in Board rule.

R277-552-[6]5. Charter School Small Expansion Requests.

- (1) An authorization process developed by an authorizer in accordance with Subsection R277-552- $[\frac{3}{2}]$ 2(2) shall comply with Sections R277-552- $[\frac{6}{5}]$ 5 and R277-552- $[\frac{7}{6}]$ 6 for a charter school expansion.
- (2) An authorizer may approve a small expansion request in accordance with an authorizer's standards and established criteria.
- (3) An authorizer may approve an application from a charter school for a large expansion if the charter school meets the requirements for a satellite school described in Section R277-552-[7]6.
- (4) An authorizer may provide additional requirements in addition to the requirements described in Sections R277-552-[6]5 and R277-552-[7]6.
- (5) An authorizer shall provide documentation of an applicant school's eligibility for an expansion under Subsection (2) or Section R277-552-[7]6 to the Superintendent upon request.
 - (6) An authorizer shall:
- (a) approve a proposed expansion before October 1 of the state fiscal year before the school year that the charter school intends to expand; and
- (b) provide the total number of students by grade that the charter school expansion is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year before the school year that the school intends to expand.

R277-552-[7]6. Requests for a New Satellite School or Large Expansion.

- (1) An authorization process developed by an authorizer in accordance with Subsection R277-552-[3]2(2) shall comply with this Section R277-552-[7]6 for a satellite school or large expansion request.
- (2) An authorizer may not consider an application for a satellite school from a charter school governed by a different authorizer.
- (3) An authorizer may only approve an application from a charter school for a satellite school or large expansion if:
- (a) the charter school is in compliance with the requirements of federal and state law, regulations, and Board rule;
- (b) the charter school meets the academic and other standards and requirements of the charter school authorizer, and is in good standing according to the standards established by the charter school's authorizer in the authorizer's process for charter school expansion or satellite school described in Subsection R277-552-[3]2(2), including whether the charter LEA, as a whole, qualifies as high performing under the charter school's authorizer's approved definition of high performing;

- (d) subject to Subsection (4), the charter school is operationally successful, taking into consideration at least two years of data for every school under the charter agreement;
- (e) the charter school has plans for the new satellite school or large expansion to:
- (i) provide educational services consistent with state law and Board rule;
- (ii) administer and have capacity to carry out statewide assessments including proctoring statewide assessments, consistent with Section 53E-4-303 and Rule R277-404; and
- (iii) provide evidence-based instruction for special populations as required by federal law;
- (f) the charter school has adequate qualified administrators and staff to meet the needs of the proposed student population at the new school;
- (g) the school is in compliance with all public school legal obligations;
- (h) the charter school is in good standing with its authorizer;
- (i) the charter school has no outstanding corrective action that has not yet been resolved by the completion of a corrective action plan;
- (j) the charter school provides a market analysis, including documentation of the school's potential for enrollment stability; and
- (k) the charter school provides any additional information or documentation requested by the authorizer.
- (4)(a) For purposes of this Subsection (4), "debt coverage ratio" means:
- (i) a debt coverage ratio calculated using (revenue expenditures + interest cost + depreciation) divided by annual debt service; or
- (ii) if the charter school's facilities are leased and not owned, a debt coverage ratio calculated using (revenue expenditures + facility lease payment + real property taxes + depreciation) divided by annual debt service.
- (b) A charter school is considered to be operationally successful if:
- (i) for each of the schools under the charter agreement, the charter school meets the following criteria:
- (A) for a school with 350 or less students enrolled in the school, at least 120% debt coverage ratio for each of the three years before the request for a satellite;
- (B) for a school with between 351 and 499 students enrolled in the school, at least 115% debt coverage ratio for each of the three years before the request for a satellite;
- (C) for a school with between 500 and 750 students enrolled in the school, at least 110% debt coverage ratio for each of the three years before the request for a satellite; or
- (D) for a school with more than 750 students enrolled in the school, at least 105% debt coverage ratio for each of the three years before the request for a satellite;
- (ii) the charter school is financially viable, as evidenced by the charter school's financial records, including the charter school's:
 - (A) most recent annual financial report (AFR);
 - (B) annual program report (APR); and
 - (C) audited financial statements;
- (iii) the charter school has maintained a net lease adjusted debt burden ratio of under 25% for each of the last three years; and
- (iv) the charter school's financial statements report revenues in excess of expenditures for at least three of the last four years;

- (v) the charter school is meeting the terms of its charter agreement;
- (vi) the charter school has maintained for each of the last three years:
 - (A) a re-enrollment rate of at least 80%;
 - (B) a wait list of at least 40% of its annual enrollment; or
- (C) there is a demonstrated demand for the proposed satellite or large expansion, taking into consideration the market analysis required under Subsection (3)(j).
- (5) An authorizer may provide additional requirements for a charter school in addition to the minimum requirements described in this Section R277-552-[7]6.
- (6) An authorizer shall provide documentation of an applicant school's eligibility for a satellite school or large expansion under Subsection (3) to the Superintendent upon request.
 - (7) An authorizer shall:
- (a) approve a proposed large expansion request or satellite school before October 1 of the state fiscal year before the school year that the proposed school intends to first serve students;
- (b) provide the total number of students by grade that the expanded or satellite school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year before the school year that the proposed school intends to first serve students; and
- (c) ensure that a proposed school that will receive School LAND Trust funds has a charter trust land council and satisfies all requirements of Rule R277-477, including transparency of information for parents.
- (8) A charter school and all of the charter school's satellite schools are a single LEA for purposes of public school funding and reporting.
- (9) If a satellite charter school does not open within 36 months of approval, the approval shall expire.
- (10) If an authorizer denies an application for a satellite school, the school may immediately apply for a new charter in accordance with an authorizer's approved processes.

R277-552-[8]7. Procedures and Timelines to Change Charter School Authorizers.

- (1) A charter school may transfer to another charter school authorizer.
- (2) A charter school shall submit an application to the new charter school authorizer at least 90 days before the proposed transfer.
- (3) The charter school authorizer transfer application shall include:
- (a) the name and contact information of all current governing board members;
- (b) financial records that demonstrate the charter school's financial position, including the following:
 - (i) most recent annual financial report (AFR);
 - (ii) annual program report (APR); and
 - (iii) audited financial statements;
 - (c) test scores, including all state required assessments;
 - (d) current employees and assignments;
 - (e) board minutes for the most recent 12 months; and
 - (f) affidavits, signed by all board members certifying:
- (i) the charter school's compliance with all state and federal laws and regulations, including documentation if requested;
- (ii) all information on the transfer application is complete and accurate;

- (iii) the charter school is current with all required charter school governing board policies;
- (iv) the charter school is operating consistent with the charter school's charter agreement; and
- (v) there are no outstanding lawsuits, judgments, or liens against the charter school.
- (4) The current authorizer of a charter school seeking to transfer charter school authorizers shall submit a position statement to the new charter school authorizer about:
 - (a) the charter school's status;
- (b) compliance with the charter school authorizer requirements; and
 - (c) unresolved concerns.
- (5) If a school applies to change authorizer's, the existing authorizer shall advise the proposed authorizer if there is any outstanding debt to the existing authorizer or the state.
- (6) If a school applies to change authorizers, the request shall extend to all satellite schools.
- (7) A new charter school authorizer shall review an application for transferring to another charter school authorizer within 60 days of submission of a complete application, including all required documentation.
- (8) Before accepting a charter school's transfer from another authorizer, the new authorizer shall request and consider information from the Board and current authorizer concerning the charter school's financial and academic performance.
- (9) The Superintendent and current authorizer shall provide the information described in Subsection (7) to a new charter authorizer within 30 days of request described in Subsection (7).
- (10) If an authorizer accepts the transfer of a charter school, the new authorizer shall notify the Superintendent within 30 days.

R277-552-[9]8. Requirements for Board Approval of Process Updates Due to Changes in Board Rule.

- (1) An authorizer with a previously Board approved process shall re-submit the authorizer's updated processes described in Subsection R277-552-[3]2(2) within six months of the new effective date of this rule if the updates to this rule include new or amended requirements.
- (2) An authorizer may submit only those portions of the processes that were impacted by the updates to this rule.

KEY: training, timelines, expansion, satellite Date of Last Change: [May 23,] 2023

Date of Last Change: [May 23,] 2023 Notice of Continuation: July 13, 2023

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401; 53G-5-205; 53F-2-702; 53G-6-503

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Amendment				
Rule or Section R277-620 Filing ID: 55749				

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 persons:

Name:	Phone:	Email:
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-620. Suicide Prevention Programs

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

This rule is being amended to expand the program to all grade levels rather than exclusively to secondary schools.

4. Summary of the new rule or change:

These amendments specifically remove the definitions for "Adverse Childhood Experiences Study", "Program for secondary grades", and "State suicide prevention coordinator".

The amendments also add clarification to the local education agency (LEA) reporting requirements concerning Youth Suicide Prevention Grants, and require LEAs to implement the appropriate youth suicide prevention programs for elementary and secondary grades.

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.

Costs associated with youth suicide prevention programs were considered in 2023's H.B.16 fiscal note.

There are no added costs to the Utah State Board of Education (USBE) associated with the rule changes as USBE already has materials for all age levels.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

Costs for LEAs were considered in the fiscal note for H.B. 16 (2023), and this rule does not add any additional quantifiable costs for LEAs.

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.

This only applies to USBE and LEAs.

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

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

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

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

This only applies to USBE and LEAs.

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.

There are no costs for LEAs or USBE to comply with this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Net Fiscal Benefits	30	\$0	\$0
Total Fiscal Benefits		\$0	\$0
Other Persons	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
State Government	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
Total Fiscal Cost	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

H) Department head comments on fiscal impact and 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

6. 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,	Subsection	
Section 3	53E-3-401(4)	

Public Notice Information

8. 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	10/31/2023	
unti	l:					

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-620. Suicide Prevention Programs.

R277-620-1. Authority and Purpose.

- (1) This rule is authorized under:
- (a) Utah Constitution Article X Section 3 which vests general control and supervision of public education in the Board; and
- (b) Subsection 53E-3-401(4) which allows the Board to adopt rules in accordance with its responsibilities.
 - (2) The purposes of this rule are:
- (a) to provide for collaboration with the Utah Department of Health and [Department of] Human Services to establish, oversee, and provide model policies, programs for an LEA and training for parents about youth suicide prevention programs;
- (b) to require an LEA to have and update youth protection policies; and
- (c) to direct an LEA to send notice to parents and protect the confidentiality of the required parent notification record regarding bullying and suicide incidents.

R277-620-2. Definitions.

- (1) "Adverse Childhood Experiences Study" or "ACES" means the study conducted on potentially traumatic events that can have negative, lasting effects on health, learning, and well-being as defined by the American Journal of Preventive Medicine.]
- $\left[\frac{2}{2}\right]$ (1) "Intervention" means an effort to prevent a student from attempting suicide.
- [(3)](2) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- [(4)](3) "Parent notification" means a notice provided by a public school to a students' parent[(s)]s consistent with Subsections 53G-9-604(2) and 53G-9-605(3)(e).
- [(5)](4) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.
- (6) "Program for secondary grades" means a youth suicide prevention program for students in grades 7 through 12, including grade 6 if middle or junior high school includes grade 6.
- (7) "State suicide prevention coordinator" means the person designated by the Department of Health - State Division of Substance Abuse and Mental Health in Section 62A-15-1101.]
- [(8)](5) "Youth protection and mental health seminar" means a seminar offered for each 11,000 students enrolled in a school district to parents of students consistent with Section 53G-9-702.

R277-620-3. Youth Suicide Prevention Grants - LEA Reporting Requirements.

- The Superintendent, in collaboration with [the Department of Health - State Division of Substance Abuse and Mental Health and the State suicide prevention coordinator, other government and community agencies shall establish model youth suicide prevention programs for LEAs that include training and resources [addressing]consistent with Subsection 53G-9-702(2).[÷]
 - (a) prevention of youth suicides;
- (b) standard response protocols that utilize trauma informed practices, which may reference the ACES or other empirical data;

- (c) youth suicide intervention; and
- (d) postvention for family, students, and faculty.]
- (2) Based on legislative appropriation, the Board shall distribute funds to LEAs to support suicide prevention efforts in the school district or charter school.
- (a) An LEA may use the awarded funds to select and implement:
 - (i) evidenced-based practices and programs; or
 - (ii) emerging best practices and programs.
- (3) An LEA shall implement the appropriate youth suicide prevention programs for students in elementary grades and secondary grades.[, including grades 7 through 12 and grade 6, if grade 6 is part of a secondary grade model.]
- (4) An LEA's youth suicide prevention program shall include the components provided in Subsection 53G-9-702(2).
- (5) An LEA shall establish a policy governing the required parent notification outlined in Subsections 53G-9-604(2) and 53G-9-605(3)(e) and Section R277-613-4.
- (6) An LEA shall provide necessary reporting information consistent with Subsection 53G-9-702(7)- for the Board's report on the coordination of suicide prevention programs and seminar program implementation to the Legislature's Education Interim Committee.

KEY: public schools, suicide prevention programs, parent notifications, seminars

Date of Last Change: 2023[December 10, 2018]

Notice of Continuation: October 5, 2018

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401(3)

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Amendment				
Rule or Section R277-626 Filing ID: 55746				

Agency Information

1. Department:	Education		
Agency:	Adminis	tration	
Building:	Board of	f Education	
Street address:	250 E 50	00 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 persons:			
Name:	Phone:	Email:	
Angie Stallings	801- 538- 7830 angie.stallings@schools.utal		

General Information

2. Rule or section catchline:

R277-626. Special Needs Opportunity Scholarship Program

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

This rule is being amended due to the passage of H.B. 398 in the 2023 General Session.

4. Summary of the new rule or change:

These amendments add specific requirements for effective monitoring of qualifying schools.

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.

H.B. 398's (2023) fiscal note captured costs for the Utah State Board of Education (USBE) and the rule does not add any additional costs or staff time for USBE.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

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.

This only affects USBE, local education agencies (LEAs), and scholarship granting organizations participating in the Special Needs Opportunity Scholarship.

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

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

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation,

association, governmental entity, or public or private organization of any character other than an *agency*):

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

This may affect scholarship granting organizations participating in the Special Needs Opportunity Scholarship program.

USBE does not have any data to support additional costs, but they may be subject to additional monitoring.

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. There are no costs outside the fiscal note to H.B. 398 (2023).

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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	\$0	\$0	\$0
Benef	its			

H) Department head comments on fiscal impact and 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

6. 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,	Subsection	Title 53E,
Section 3	53E-3-401(4)	Chapter 7, Part 4

Public Notice Information

- 8. 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 10/31/2023 until:

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-626. Special Needs Opportunity Scholarship Program. R277-626-1. 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) <u>Subsection</u> 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
- (c) Section 53E-7-404, which requires the Board to make rules to implement the Special Needs Opportunity Scholarship Program.
- (2) The purpose of this rule is to provide guidelines for contracted scholarship granting organizations and the Superintendent to implement the Special Needs Opportunity Scholarship Program.

R277-626-2. Definitions.

- (1) "Eligible student" has the same meaning as defined in [Subsection] Section 53E-7-401[(1)].
- (2) "Program donation" means a donation to a scholarship granting organization in accordance with Section 53E-7-405.

- (3) "Qualifying school" has the same meaning as defined in [Subsection] Section 53E-7-401[(7)].
- (4) "Request for proposals" or "RFP" has the same meaning as defined [Subsection] Section 63G-6a-103[(70)].
- (5) "Scholarship expense" has the same meaning as defined in Subsection 53E-7-401(10).
- (6)(a) "Scholarship granting organization" or "SGO" has the same meaning as defined in [Subsection] Section 53E-7-401[(11)].
 - (b) An SGO may not be a qualifying school.
- (7) "Scholarship student" has the same meaning as defined in [Subsection] Section 53E-7-401[(12)].
- (8) "Special Needs Opportunity Scholarship Program" or "the program" means the scholarship grant program established in Section 53E-7-402.

R277-626-3. Superintendent Responsibilities.

- (1) The Superintendent shall conduct an RFP for an SGO in accordance with Subsection 53E-7-404(3).
- (2) The Superintendent shall provide all information required to the Utah State Tax Commission in accordance with Subsection 53E-7-404([4]3)(c).
- (3) The Superintendent shall provide a tax credit certificate form, in accordance with Subsection 53E-7-[404(2)(a)]407(1) for use by an approved SGO.
- (4) The Superintendent shall annually recommend to the Board a program donations cap for approval in accordance with Subsection 53E-7-407(4).
- (5)(a) The Superintendent shall monitor an SGO chosen under Subsection (1) to ensure compliance with state law, including Title 53E, Chapter 7, Part 4, Special Needs Opportunity Scholarship Program and this Rule R277-626.
- (b) The Superintendent may recommend remedial action against an SGO in accordance with Rule R277-114 and Subsection 53E-7-404([5]4).
 - (6)(a) The Superintendent shall:
- (i) recommend qualifying schools to the Board for approval in accordance with Subsection 53E-7-408(6);[-and]
- (ii) require, as a condition for approval, that a qualifying school reimburse scholarship money to an SGO if an eligible student discontinues enrollment early[-]; and
- (iii) establish agreed upon procedures for required monitoring or auditing of an SGO.
- (b) The Superintendent shall post a list of approved qualifying schools on the Board website.
- (c) The Superintendent may monitor eligible schools for on[-]going compliance with the requirements of Section 53E-7-408.
- (7)(a) The Superintendent shall monitor SGO employees and officers in accordance with Subsection 53E-7-410(2).
- (b) The Superintendent shall initiate corrective action against an SGO if an employee or officer of the SGO is facing charges for, or has been convicted or pled guilty or no contest to a violation of the following state laws or laws of another jurisdiction:
 - (i) any felony; or
- (ii) an offense involving fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

R277-626-4. SGO Responsibilities.

(1) An SGO approved in accordance with Subsection R277-626-3(1) shall administer the program in accordance with Section 53E-7-405.

- (2)(a) An SGO shall maintain separate accounts for all scholarship donations, including any interest or other income from the scholarship funds.
- (b) An SGO may not comingle the scholarship funds with any other funds and may only use funds from the account to cover scholarship expenses.
- (3)(a)[(i)] An SGO may only award scholarship funds for a scholarship expense at a qualifying school.
- (b)(i) Prior to an SGO paying expenses for tuition and fees, a parent of an eligible student shall personally approve a funds transfer to the qualifying school.
- (ii) A student may not approve a funds transfer under a power of attorney from the student's parent.
- (iii) After approval as required under Subsection (3)(a)(i), an SGO shall pay costs for tuition and school fees for an eligible student directly to a qualifying school.
- ([b]c) An SGO may disburse reimbursements to an eligible student's parent upon proof of payment of other approved scholarship expenses.
- $([\frac{3}{4}])$ If an eligible student discontinues enrollment in a qualifying school, the SGO shall:
 - (a) notify the Superintendent; and
- (b) obtain reimbursement of scholarship money from the qualifying school.
- ([4]5) An SGO shall provide the following information to the Superintendent [biannually by January 31 and July 31]quarterly by deadlines set by the Superintendent:
- (a) the amount of tuition and fees each qualifying school charges [for the 2020-21 through the 2023-24 school years]annually;
- (b) financial records of the SGO annually, including administrative costs incurred by the SGO to administer the program;
- (c) the number of scholarship students from each school district of residence annually;
 - (d) the number of first time scholarship students annually;
- (e) the amount disbursed for scholarship expenses annually, provided with any detail requested by the Superintendent;
- (f) the standards used by the SGO to determine whether a student is an eligible student;
- (g) data reflecting savings to the state and LEAs, if any, as a result of scholarship students exiting the public school system;
- (h) demographic information on scholarship students, including:
 - (i) name;
 - (ii) date of birth;
 - (iii) gender;
 - (iv) race; [-and]
 - (v) student SSID number; and

[(v)](vi) last public school attended, if applicable;

- (i) whether the SGO has received complaints of discrimination, and any steps taken by the SGO to remedy the complaints; and
- (j) any other information requested by the Superintendent to facilitate monitoring of the program and preparation of the annual report required by Section 53E-[1.202.1]7-404.
- $([5]\underline{6})$ An SGO may not have a personal or professional relationship with a qualifying school or an employee of a qualifying school that would create a conflict of interest, favoritism, or bias in making awards from program donations.
- ([6]7) An SGO is subject to monitoring and corrective action in the same manner as a recipient under Rule R277-114.

KEY: special needs opportunity scholarship Date of Last Change: 2023[January 8, 2021]

Authorizing, and Implemented, or Interpreted Law: Art X, Sec

3; 53E-3-401(4); Title 53E, Chapter 7, Part 4

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Amendment				
Rule or Section Number:	R277-629	Filing ID: 55750		

Agency Information

1. Department:	Education	ion		
Agency:	Adminis	tration		
Building:	Board of	d of Education		
Street address:	250 E 50	50 E 500 S		
City, state and zip:	Salt Lake City, UT 84111			
Mailing address:	PO Box 144200			
City, state and zip:	Salt Lak	e City, UT 84114-4200		
Contact persons:				
Name:	Phone:	Email:		
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov		

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-629. Paid Professional Hours for Educators

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

This rule is being amended due to the passage of H.B. 489 in the 2023 General Session, to clarify the requirements for use of educator funds, as well as the technical assistance that the Utah State Board of Education (USBE) provides to local education agencies (LEAs).

4. Summary of the new rule or change:

These amendments add a definition clarifying that a "student support educator" may include a librarian, instructional coach, or another certified position that works 50% or more in a school building.

The amendments also add language to clarify that an LEA may pro-rate funds if an educator ends employment prior to the end of the school year.

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.

It clarifies eligible positions and adds language for proration in response to legislative changes.

There is no additional staff or costs for the USBE to carry out the changes.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

Legislative changes clarified eligible positions and proration for educators starting employment midyear.

The changes give clarity to LEAs and allow them to maximize the funds received from legislative allocations. There are no additional costs for LEAs due to the rule change.

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.

This only affects USBE and LEAs.

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

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

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

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

Educators qualifying under the legislation will be able to receive prorated amounts if they join midyear.

There are no costs for other 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 for affected persons.

There are no additional costs to USBE and LEA to prorate the funds for educators joining midyear. USBE will continue to distribute the funds to LEAs in the same manner.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory In	Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026	
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	FY2024	FY2025	FY2026	
State Government	\$0	\$0	\$0	
Local Governments	\$0	\$0	\$0	
Small Businesses	\$0	\$0	\$0	
Non-Small Businesses	\$0	\$0	\$0	
Other Persons	\$0	\$0	\$0	
Total Fiscal Benefits	\$0	\$0	\$0	
Net Fiscal Benefits	\$0	\$0	\$0	

H) Department head comments on fiscal impact and 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

6. 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,	Subsection	Section 53F-7-203
Section 3	53E-3-401(4)	

Public Notice Information

8. 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 I	be	accepted	10/31/2023
unti	il:				

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-629. Paid Professional Hours for Educators.

R277-629-1. Authority and Purpose.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (c) Section 53F-7-203, which directs the Board to distribute program funds to LEAs to provide to educators consistent with the statute.
- (2) The purpose of this rule is to establish rules for distribution of program funds.

R277-629-2. Definitions.

- (1) "Program funds" means funds allocated to LEAs in accordance with Section 53F-7-203.
- (2) For purposes of Subsection 53F-7-203(1), "student support educator" may include a librarian, instructional coach, or another certified position that works 50% or more in a school building.

R277-629-3. Distribution of Funds.

- (1) The Superintendent shall distribute program funds to LEAs annually based on November 15 licensing information.
- (2) An LEA shall distribute program funds in compliance with Subsections 53F-7-203(3) and (4).
- (3)(a) An LEA may only use program funds for educator salary and benefits.

- (b) An LEA may not use program funds to cover indirect costs.
- (c) An LEA may pro-rate funds if an educator ends employment prior to the end of the school year.
- (4)(a) An LEA shall disburse program funds to educators by June 30 annually.
 - (b) The Superintendent may:
- (i) offset unused program funds against future allocations to the LEA; or
- (ii) require the LEA to return unused program funds by September 30 of the next school year.

KEY: paid professional hours

Date of Last Change: 2023[October 11, 2022]

Authorizing, and Implemented, or Interpreted Law: Art X Sec

3; 53E-3-401(4); 53F-7-203

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R277-700	Filing ID: 55751	

Agency Information

1. Department:	Education	ıcation		
Agency:	Adminis	tration		
Building:	Board of	f 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 Lak	e City, UT 84114-4200		
Contact persons:				
Name:	Phone:	Email:		
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov		

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-700. The Elementary and Secondary School General Core

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

This rule is being amended due to the passage of H.B. 475 in the 2023 General Session.

4. Summary of the new rule or change:

The amendments to Section R277-700-6 add a communication credit requirement that includes up to 0.5

credits emphasizing verbal communication completed in a course or school-sponsored activity.

The amendments to Section R277-700-7 add clarification to the student mastery and assessment of core standards requirements if student refrains from a portion of a course or to a course in its entirety, under Section 53G-10-205.

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 budget revenues or expenditures.

The Utah State Board of Education (USBE) does not estimate any costs for local education agencies (LEAs) outside the impacts captured in the fiscal note to H.B. 475 (2023).

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

USBE does not estimate any costs for LEAs outside the impacts captured in the fiscal note to H.B. 475 (2023).

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.

This only affects USBE and LEAs.

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

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

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

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

This only affects USBE and LEAs.

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.

USBE does not estimate any compliance costs for USBE or LEAs outside the fiscal note to H.B. 475 (2023).

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table				
Fiscal Cost	FY2024	FY2025	FY2026	
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	FY2024	FY2025	FY2026	
State Government	\$0	\$0	\$0	
Local Governments	\$0	\$0	\$0	
Small Businesses	\$0	\$0	\$0	
Non-Small Businesses	\$0	\$0	\$0	
Other Persons	\$0	\$0	\$0	
Total Fiscal Benefits	\$0	\$0	\$0	
Net Fiscal Benefits	\$0	\$0	\$0	

H) Department head comments on fiscal impact and 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

6. 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-3-501(1)(b)
Section 53E-4-202	

Public Notice Information

8. 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) unti	Comments	will	be	accepted	10/31/2023
unu	1.				

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	08/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-700. The Elementary and Secondary School General Core. R277-700-1. 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) Section 53E-3-501, which directs the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements;
 - (d) Section 53E-4-202, which directs:
- (i) the Board to establish Core Standards in consultation with LEA boards and superintendents; and
- (ii) LEA boards to adopt local evidence-based curriculum and to design programs to help students master the General Core;
- (e) Title 53E, Chapter 4, Part 2, Career and College Readiness Mathematics Competency, which directs the Board to establish college and career mathematics competency standards; and
- (f) Section 53E-4-205, which requires the Board to provide rules related to a basic civics test.
- (2) The purpose of this rule is to specify the minimum Core Standards and General Core requirements for the public schools, and to establish responsibility for mastery of Core Standard requirements.

R277-700-2. Definitions.

For purposes of this rule:

- (1)(a) "Applied course" means a public school course or class that applies the concepts of a Core subject.
- (b) "Applied course" includes a course offered through Career and Technical Education or through other areas of the curriculum.
- (2) "Arts" means the visual arts, music, dance, theatre, and media arts.
 - (3) "Assessment" means a summative assessment for:
 - (a) English language arts grades 3 through 10;
- (b) mathematics grades 3 through 10, and Secondary I, II, and III; or
 - (c) science grades 4 through 10.
- (4) "Career and Technical Education (CTE)" means an organized educational program in secondary schools (grades 6-12) or courses, which teach current industry-specific skills and knowledge that prepares students for employment, and for additional postsecondary preparation leading to employment.
- (5) "Core Standard" means a statement of what a student enrolled in a public school is expected to know and be able to do at a specific grade level or following completion of an identified course.
- (6) "Core subject" means a course for which there is a declared set of Core Standards as approved by the Board.
- (7) "Elementary school" for purposes of this rule means a school that serves grades K-6 in whatever kind of school the grade levels exist.
- (8) "General Core" means the courses, content, instructional elements, materials, resources and pedagogy that are used to teach the Core Standards, including the ideas, knowledge, practice and skills that support the Core Standards.
- (9) "High school" for purposes of this rule means a school that serves grades 9-12 in whatever kind of school the grade levels exist.
- (10) "LEA" or "local education agency" includes the Utah Schools for the Deaf and the Blind.
- (11) "Middle school" for purposes of this rule means a school that serves grades 7-8 in whatever kind of school the grade levels exist
- (12) "Junior High school" means a school that serves grades 7-9 in whatever kind of school the grade levels exist.
- (13) "Proficiency in keyboarding" means a student's ability to key by touch.
- (14) "Summative adaptive assessment" means an assessment that:
- (a) is administered upon completion of instruction to assess a student's achievement;
- (b) is administered online under the direct supervision of a licensed educator;
- (c) is designed to identify student achievement on the Core Standards for the respective grade and course; and
- (d) measures the full range of student ability by adapting to each student's responses, selecting more difficult questions when a student answers correctly and less difficult questions when a student answers incorrectly.

R277-700-3. General Core and Core Standards.

- (1) The Board establishes minimum course description standards for each course in the required General Core.
- (2)(a) The Superintendent shall develop, in cooperation with LEAs, course descriptions for required and elective courses.
- (b) The Superintendent shall provide parents and the general public an opportunity to participate in the development process of the course descriptions described in Subsection (2)(a).

- (3)(a) The Superintendent shall ensure that the courses described in Subsection (2):
 - (i) contain mastery criteria for the courses; and
- (ii) stress mastery of the course material, Core Standards, and life skills consistent with the General Core.
- (b) The Superintendent shall place a greater emphasis on a student's mastery of course material rather than completion of predetermined time allotments for courses.
- (4) An LEA board shall administer the General Core and comply with student assessment procedures consistent with state law.
- (5) An LEA shall use evidence-based best practices, technology, and other instructional media to increase the relevance and quality of instruction.

R277-700-4. Elementary Education Requirements.

- (1) The Core Standards and a General Core for elementary school students in grades K-6 are described in this section.
- (2) The following are the Elementary School Education Core Subject Requirements:
 - (a) English Language Arts;
 - (b) Mathematics;
 - (c) Science:
 - (d) Social Studies;
 - (e) Arts:
 - (i) Visual Arts;
 - (ii) Music;
 - (iii) Dance: or
 - (iv) Theatre;
 - (f) Health Education;
 - (g) Physical Education;
 - (h) Educational Technology, including keyboarding;
- (i) Library Media skills, integrated into the core subject areas and
- (j) Civics and character education, integrated into the core subject areas.
- (3) An LEA board shall provide access to the General Core to all students within the LEA.
- (4) An LEA board is responsible for student mastery of the Core Standards.
- (5) An LEA shall implement formative assessment practices on a regular basis to ensure continual student progress.
- (6) An LEA shall assess students for proficiency in keyboarding by grade 5 and report school level results to the Superintendent.
- (7) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following:
 - (a) language arts;
 - (b) mathematics;
 - (c) science; and
 - (d) effectiveness of written expression in grade 5.
- (8) An LEA shall provide intervention to elementary students who do not achieve mastery of the subjects described in this section.

R277-700-5. Middle School Education Requirements.

- (1) The Core Standards and a General Core for middle school students are described in this section.
- (2) A student in grades 7-8 shall[is required to] complete the courses described in Subsection (3) to be properly prepared for instruction in grades 9-12.
- (3) The following are the Grades 7-8 General Core Requirements:

- (a) Grade 7 Language Arts;
- (b) Grade 8 Language Arts;
- (c) Grade 7 Mathematics;
- (d) Grade 8 Mathematics;
- (e) Grade 7 Integrated Science;
- (f) Grade 8 Integrated Science;
- (g) United States History;
- (h) Utah History; and
- (i) at least one course in each of the following in grades 7
 - (A) Health Education;
 - (B) College and Career Awareness;
 - (C) Digital Literacy;
 - (D) the Arts; and

or 8:

- (E) Physical Education.
- (5) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following:
 - (a) language arts;
 - (b) mathematics;
 - (c) science; and
 - (d) writing in grade 8.
 - (6) At the discretion of the LEA board, an LEA board may:
 - (a) offer additional elective courses;
 - (b) require a student to complete additional courses; or
 - (c) set minimum credit requirements.
- (7) Upon parental or student request, an LEA may, with parental consent, substitute a course requirement described in Subsection (3) with a course, extracurricular activity, or experience that is:
 - (a) similar to the course requirement; or
- (b) consistent with the student's plan for college and career readiness.
- (8)(a) An LEA shall establish a policy governing the substitution of a course requirement as described in Subsection (7).
- (b) An LEA's policy described in Subsection (8)(a) shall include a process for a parent to appeal an LEA's denial of a request for a substitution described in Subsection (7) to the LEA board or the LEA board designee.

R277-700-6. High School Requirements.

- (1) The General Core and Core Standards for students in grades 9-12 are described in this section.
- (2) A student in grades 9-12 shall[is required to] earn a minimum of 24 units of credit through course completion or through competency assessment consistent with <u>Rule_R277-705</u> to graduate.
- (3)(a) Through recording of credits in a student's transcripts for grades 9-12, in accordance with Subsections R277-726-5(5) and R277-726-5(6), for purposes of high school graduation, an LEA shall recognize high school credits earned before[prior to] grade 9 through participation in the Statewide Online Education Program.
- (b) For funding purposes, the LEA should record the participating student's intention to graduate early.
- (c) An LEA may not use high school courses to replace middle school educational requirements.
- (4) The General Core credit requirements from courses approved by the Board are described in Subsections (4) through (18).
 - (5) Language Arts (4.0 units of credit from the following):
 - (a) Grade 9 level (1.0 unit of credit);
 - (b) Grade 10 level (1.0 unit of credit);
 - (c) Grade 11 level (1.0 unit of credit); and

- (d) Grade 12 level (1.0 Unit of credit) consisting of applied or advanced language arts credit from the list of Board-approved courses using the following criteria and consistent with the student's Plan for College and Career Readiness:
- (i) courses are within the field [/] or discipline of language arts with a significant portion of instruction aligned to language arts content, principles, knowledge, and skills;
- (ii) courses provide instruction that leads to student understanding of the nature and disposition of language arts;
- (iii) courses apply the fundamental concepts and skills of language arts;
- (iv) courses provide developmentally appropriate content; and
- (v) courses develop skills in reading, writing, listening, speaking, and presentation.
- (e) A student may receive up to a half credit of the students four required Language Arts credits for a course or school sponsored activity emphasizing verbal communication during any year between grades 9 and 12.
- (6) Mathematics (3.0 units of credit) shall be met minimally through successful completion of a combination of the foundation or foundation extended courses, Secondary Mathematics I, Secondary Mathematics II, and Secondary Mathematics III.
- (7)(a) A student may opt out of Secondary Mathematics III if the student's parent submits a written request to the school.
- (b) If a student's parent requests an opt out described in Subsection (6)(a), the student shall[is required to] complete a third math credit from the Board-approved mathematics list.
- (8) A 7th or 8th grade student may earn credit for a mathematics foundation course before 9th grade, consistent with the student's Plan for College and Career Readiness if:
- (a) the student is identified as gifted in mathematics in accordance with the procedures outlined in Rule R277-707;
- (b) the student is enrolled at a middle school or junior high school and a high school:
- (c) the student qualifies for promotion one or two grade levels above the student's age group and is placed in 9th grade; or
- (d) the student takes the Board competency test in the summer before[prior to] 9th grade and earns high school graduation credit for the course.
- (9) A student who successfully completes a mathematics foundation course before 9th grade shall[is required to] earn 3.0 units of additional mathematics credit by:
- (a) taking the other mathematics foundation courses described in Subsection (5); and
- (b) an additional course from the Board-approved mathematics list consistent with:
 - (i) the student's Plan for College and Career Readiness; and
 - (ii) the following criteria:
- (A) courses are within the field[A] or discipline of mathematics with a significant portion of instruction aligned to mathematics content, principles, knowledge, and skills;
- (B) courses provide instruction that lead to student understanding of the nature and disposition of mathematics;
- (C) courses apply the fundamental concepts and skills of mathematics;
- (D) courses provide developmentally appropriate content; and
- (E) courses include the Standards for Mathematical Practice as listed in the Utah secondary mathematics core.
- (10) A student who successfully completes a Calculus course with a "C" grade or higher has completed mathematics

graduation requirements, regardless of the number of mathematics credits earned.

- (11) Science (3.0 units of credit):
- (a) shall be met minimally through successful completion of 2.0 units of credit from two of the following five science foundation areas:
 - (i) Earth Science (1.0 units of credit);
 - (A) Earth Science;
 - (B) Advanced Placement Environmental Science; or
 - (C) International Baccalaureate Environmental Systems;
 - (ii) Biological Science (1.0 units of credit);
 - (A) Biology;
 - (B) Biology: Agricultural Science and Technology;
 - (C) Advanced Placement Biology;
 - (D) International Baccalaureate Biology; or
 - (E) Biology with Lab Concurrent Enrollment;
 - (iii) Chemistry (1.0 units of credit);
 - (A) Chemistry;
 - (B) Advanced Placement Chemistry;
 - (C) International Baccalaureate Chemistry; or
 - (D) Chemistry with Lab Concurrent Enrollment;
 - (iv) Physics (1.0 units of credit);
 - (A) Physics;
- (B) Advanced Placement Physics (1, 2, C: Electricity and Magnetism, or C: Mechanics);
 - (C) International Baccalaureate Physics; or
 - (D) Physics with Lab Concurrent Enrollment; or
 - (v) Computer Science (1.0 units of credit):
 - (A) Advanced Placement Computer Science;
 - (B) Computer Science Principles; or
 - (C) Computer Programming 2; and
 - (b) one additional unit of credit from:
 - (i) the foundation courses described in Subsection (10)(a);

or

- (ii) the applied or advanced science list:
- (A) determined by the LEA board; and
- (B) approved by the Board using the following criteria and consistent with the student's Plan for College and Career Readiness:
- (i) courses are within the field/discipline of science with a significant portion of instruction aligned to science content, principles, knowledge, and skills;
- (ii) courses provide instruction that leads to student understanding of the nature and disposition of science;
- (iii) courses apply the fundamental concepts and skills of science;
 - (iv) courses provide developmentally appropriate content;
- (v) courses include the areas of physical, natural, or applied sciences; and
 - (vi) courses develop students' skills in scientific inquiry.
- (12) Social Studies (3.0 units of credit) shall be met minimally through successful completion of:
 - (a) 2.5 units of credit from the following courses:
 - (i) World Geography (0.5 units of credit);
 - (ii) World History (0.5 units of credit);
 - (iii) U.S. History (1.0 units of credit); and
 - (iv) U.S. Government and Citizenship (0.5 units of credit);
 - (b) Social Studies (0.5 units of credit per LEA discretion);

and

- (c) a basic civics test or alternate assessment described in Section R277-700-8.
- (13) The Arts (1.5 units of credit from any of the following performance areas):

- (a) Visual Arts;
- (b) Music;
- (c) Dance;
- (d) Theatre; or
- (e) Media Arts.
- (14) Health Education (0.5 units of credit).
- (15)(a) Physical Education (1.5 units of credit from each of the following):
 - (i) Participation Skills (0.5 units of credit);
 - (ii) Fitness for Life (0.5 units of credit); and
 - (iii) Individualized Lifetime Activities (0.5 units of credit);
- (b) Notwithstanding Subsection (15)(a), a student may earn 0.5 units of credit per sport for team sport[/] or athletic participation up to a maximum of 1.0 units of credit with LEA approval to replace participation skills and individualized lifetime activities requirements.
- (16) Career and Technical Education (1.0 units of credit from any of the following):
 - (a) Agriculture, Food and Natural Resources;
 - (b) Architecture and Construction;
 - (c) Arts, Audio/Visual Technology and Communications;
 - (d) Business, Finance and Marketing;
 - (e) Computer Science and Information Technology;
 - (f) Education and Training;
 - (g) Engineering and Technology;
 - (h) Health Science;
 - (i) Hospitality and Tourism;
 - (j) Human Services;
 - (k) Law, Public Safety, Corrections and Security;
 - (1) Manufacturing; or
 - (m) Transportation, Distribution, and Logistics.
 - (17) Digital Studies (0.5 units of credit).
- (18) Library Media Skills (integrated into the subject areas).
 - (19) General Financial Literacy (0.5 units of credit).
 - (20) Electives (5.5 units of credit).
- (21) An LEA shall use Board-approved summative assessments to assess student mastery of the following subjects:
 - (a) language arts through grade 11;
 - (b) mathematics as defined in Subsection (6); and
 - (c) science as defined in Subsection (11).
- (22) An LEA board may require a student to earn credits for graduation that exceed the minimum Board requirements described in this rule.
- (23) An LEA board may establish and offer additional elective course offerings at the discretion of the LEA board.
- (24)(a) An LEA may modify a student's graduation requirements to meet the unique educational needs of a student if:
 - (i) the student has a disability; and
- (ii) the modifications to the student's graduation requirements are made through the student's individual IEP.
- (b) An LEA shall document the nature and extent of a modification, substitution, or exemption made to a student's graduation requirements described in Subsection (22)(a) in the student's IEP.
- (25) The Superintendent shall provide a list of approved courses meeting the requirements of this rule.
- (26) An LEA may modify graduation requirements for an individual student to achieve an appropriate route to student success if the modification:
 - (a) is consistent with:
 - (i) the student's IEP; or

- (ii) SEOP[/] or Plan for College and Career Readiness;
- (b) is maintained in the student's file;
- (c) includes the parent's signature; and
- (d) _maintains the integrity and rigor expected for high school graduation, as determined by the Board.

R277-700-7. Student Mastery and Assessment of Core Standards.

- (1) An LEA shall ensure students master the Core Standards at all levels.
- (2) An LEA shall provide intervention for secondary students who do not achieve mastery in accordance with Section 53G-9-803.
- (3) An LEA shall provide remedial assistance to students who are found to be deficient in basic skills through a statewide assessment in accordance with Subsection 53E-5-206(1).
- (4) If a [parent objects to]student refrains from a portion of a course or to a course in its entirety under Section 53G-10-205, the parent [shall be responsible for]and school may work together to establish a reasonable academic accommodation, which allows the student to demonstrate [the student's-]mastery of Core Standards, consistent with Section 53G-6-803 and Subsection 53G-10-205(2)(b).[to the satisfaction of the school] before[prior to] the student's promotion to the next course or grade level.
- (5)(a) A student with a disability served by a special education program shall[is required to] demonstrate mastery of the Core Standards.
- (b) If a student's disability precludes the student from successfully mastering the Core Standards, the student's IEP team, on a case-by-case basis, may provide the student an accommodation for, or modify the mastery demonstration to accommodate, the student's disability.
- (6) A student may demonstrate competency to satisfy course requirements consistent with <u>Section R277-705-3</u>.
- (7) LEAs are ultimately responsible for and shall comply with all assessment procedures, policies and ethics as described in Rule R277-404.

R277-700-8. Civics Education Initiative.

- (1) For purposes of this section:
- (a) "Student" means:
- (i) a public school student who graduates on or after January 1, 2016; or
- (ii) a student enrolled in an adult education program who receives an adult education secondary diploma on or after January 1, 2016.
- (b) "Basic civics test" means the same as that term is defined in Subsection 53E-4-205(1)(b).
 - (2) Except as provided in Subsection (3), an LEA shall:
- (a) administer a basic civics test in accordance with the requirements of Section 53E-4-205; and
- (b) require a student to pass the basic civics test as a condition of receiving:
 - (i) a high school diploma; or
 - (ii) an adult education secondary diploma.
- (3) An LEA may require a student to pass an alternate assessment if:
 - (a)(i) the student has a disability; and
- $% \left(ii\right) ^{\prime }$ the alternate assessment is consistent with the student's IEP; or
 - (b) the student is within six months of intended graduation.

- (4) Except as provided in Subsection (5), the alternate assessment shall be given:
- (a) in the same manner as an exam given to an unnaturalized citizen; and
 - (b) in accordance with 8 C.F.R. Sec. 312.2.
- (5) An LEA may modify the manner of the administration of an alternate assessment for a student with a disability in accordance with the student's IEP.
- (6) If a student passes a basics civics test or an alternate assessment described in this section, an LEA shall report to the Superintendent that the student passed the basic civics test or alternate assessment.
- (7) If a student who passes a basic civics test or an alternate assessment transfers to another LEA, the LEA may not require the student to re-take the basic civics test or alternate assessment.

R277-700-9. College and Career Readiness Mathematics Competency.

- (1) For purposes of this section, "senior student with a special circumstance" means a student who:
 - (a) is pursuing a college degree after graduation; and
- (b) has not met one of criteria described in Subsection (2)(a) before the beginning of the student's senior year of high school.
- (2) Except as provided in Subsection (4), in addition to the graduation requirements described in <u>Section R277-700-6</u>, beginning with the 2016-17 school year, a student pursuing a college degree after graduation shall:
 - (a) receive one of the following:
- (i) a score of 3 or higher on an Advanced Placement (AP) calculus AB or BC exam;
- (ii) a score of 3 or higher on an Advanced Placement (AP) statistics exam;
- (iii) a score of 5 or higher on an International Baccalaureate (IB) higher level math exam;
- (iv) a score of 50 or higher on a College Level Exam Program (CLEP) pre-calculus or calculus exam;
- (v) a score of 26 or higher on the mathematics portion of the American College Test (ACT) exam;
- (vi) a score of 640 or higher on the mathematics portion of the Scholastic Aptitude Test (SAT) exam; or
- (vii) a "C" grade in a concurrent enrollment mathematics course that satisfies a state system of higher education quantitative literacy requirement; or
- (b) if the student is a senior student with a special circumstance, take a full year mathematics course during the student's senior year of high school.
- (3) Except as provided in Subsection (4), in addition to the graduation requirements described in <u>Section R277-700-6</u>, beginning with the 2016-17 school year, a non-college and degree-seeking student shall complete appropriate math competencies for the student's career goals as described in the student's Plan for College and Career Readiness.
- (4) An LEA may modify a student's college or career readiness mathematics competency requirement under this section if:
 - (a) the student has a disability; and
- (b) the modification to the student's college or career readiness mathematics competency requirement is made through the student's IEP.
- (5)(a) An LEA shall report annually to the LEA's board the number of students within the LEA who:
 - (i) meet the criteria described in Subsection (2)(a);

- (ii) take a full year of mathematics as described in Subsection (2)(b);
- (iii) meet appropriate math competencies as established in the students' career goals as described in Subsection (3); and
- (iv) meet the college or career readiness mathematics competency requirement established in the students' IEP as described in Subsection (4).
- (b) An LEA shall provide the information described in Subsection (5)(a) to the Superintendent by October 1 of each year.

KEY: graduation requirements, standards Date of Last Change: <u>2023[August 12, 2021]</u> Notice of Continuation: June 4, 2021

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-501(1)(b); 53E-4-202; 53E-3-401(4)

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R277-701	Filing ID: 55752	

Agency Information

rigonoy imormati	J11					
1. Department:	Education					
Agency:	Administration					
Building:	Board of Education			Board of Education		
Street address:	250 E 50	00 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 persons:						
Name:	Phone: Email:					
Angie Stallings	801- angie.stallings@schools.utah 538- gov 7830					
Diagon address	aaatia.u	o recording information on				

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-701. Early College Programs

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

This rule is being amended due to passage of H.B. 189 in the 2023 General Session.

4. Summary of the new rule or change:

These amendments update the International Baccalaureate (IB) funding policy specifically related to the distribution and use of funds, eliminating the \$100,000 cap on IB spending, and making updates to the process for

determining funding awards to a local education agency's (LEA) IB programs.

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.

H.B.189's (2023) fiscal note captured the fiscal impacts, and there are none for the Utah State Board of Education (USBE) staff or budgets.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

It does impact funding distributions for AP and IB programs. 40% of the allocation is still to be used for Advanced Placement (AP) and IB, but language requiring up to \$100,000 for IB programs is removed, and IB funds are distributed based on number of programs and exam costs for students experiencing socioeconomic disadvantage.

These impacts were captured in the fiscal note for H.B.189 (2023).

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.

This only affects USBE and local education agencies (LEAs).

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

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

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation,

association, governmental entity, or public or private organization of any character other than an *agency*):

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

This only affects USBE and LEAs.

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.

There are no costs to change the distribution method in accordance with H.B.189's (2023).

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and 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

6. 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 53F-2-408.5
Section 53F-2-409	

Public Notice Information

- **8.** 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 10/31/2023 until:

9. This rule change MA become effective on:	11/07/2023
---	------------

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

Agency Authorization Information

Agency head or designee	Angie Stallings, Deputy	Date:	09/15/2023
and title:	Superintendent of Policy		

R277. Education, Administration. R277-701. Early College Programs.

R277-701-1. 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) Section 53F-2-408.5, which requires the Board to establish a distribution formula for the expenditure of funds appropriated for Early College Programs; and
- (d) Section 53F-2-409, which directs the Board to provide for the distribution of concurrent enrollment dollars in rule.
 - (2) The purpose of this rule is to:

and

- (a) specify the procedures for distributing funds appropriated under Sections 53F-2-408.5 and 53F-2-409 to LEAs;
 - (b) provide resources to LEAs for early college programs;
- (c) specify the standards and procedures for concurrent enrollment courses and the criteria for funding appropriate concurrent enrollment expenditures.

R277-701-2. Definitions.

- (1) "Advanced placement" or "AP" courses means the same as the term is defined in Section 53F-2-408.5.
- (2) "Concurrent enrollment" or "CE" means the same as the term is defined in.
- (3) "Early college programs" means an LEA's AP courses, IB programs, and CE programs.
- (4) "Enhancement of Accelerated Students Programs" means the same as the term is defined in Section R277-707-2.
- (5) "International Baccalaureate" or "IB" Program means the same as the term is defined in Section 53F-2-408.5.
- (6) "Master course list" means a list of approved CE courses, maintained by the Superintendent and USHE, which may be offered and funded.
- (7) "Successfully completed" means that a student received USHE credit for a CE course.
- (8) "Underrepresented students" means the same as the term is defined in Section R277-707-2.
- (9) "USHE" means the Utah System of Higher Education as described in Section 53B-1-102.

R277-701-3. Eligibility and Application.

- (1) All LEAs are eligible to apply for the [early college program Early College Program funds annually.
- (2) To receive program money, an LEA shall submit an application to the Superintendent that includes an LEA's plan for:
 - (a) how the LEA intends to spend program money;
- (b) how the LEA intends to engage parents so that parents understand the opportunities available for their children in elementary, middle school, high school and beyond, including how the LEA will comply with Rule R277-462; and
- (c) how the LEA intends to eliminate barriers and increase student enrollment, in $[\bullet]\underline{E}$ arly college programs, including underrepresented students.
 - (3) The Superintendent shall publish:
 - (a) expectations;
- (b) targets related to gap closures for underrepresented students; and
 - (c) timelines related to an LEA application.

R277-701-4. Distribution and Use of Funds for AP and IB Programs.

- (1) The Superintendent shall distribute the total allocation for Enhancement of Accelerated Students program as follows after setting aside the requisite funding described in Subsection 53F-2-408.5(3):
- (a) 40% of the total allocation to AP and IB programs as described in Rule R277-701[-including up to \$100,000 to support IB programs]; and
- (b) 60% of the total allocation to LEAs to support Gifted and Talented programs as described in Rule R277-707.
- (2)(a) The Superintendent shall determine funding to be awarded to an LEA's IB programs by:
- (i) [dividing the number of students enrolled in an LEA's IB program by the total enrollment of students in IB programs throughout the state]the number of IB programs at each school; and
- (ii) [multiplying the result from Subsection (2)(a)(i) by the total IB allocation]the exam costs for students experiencing socioeconomic disadvantage.
- (b) The Superintendent shall determine 30% of the funding to be awarded for LEA AP programs by:

- (i) dividing the number of students enrolled in an LEA's AP classes by the total enrollment of students in AP classes throughout the state; and
- (ii) multiplying the result from Subsection (2)(b)(i) by 30% of the total AP allocation.
- (c) The Superintendent shall determine 70% of the funding to be awarded for LEA AP programs by:
- (i) dividing the number of students in the LEA receiving a three or higher on an AP examination by the total number of students receiving a three or higher on an AP examination throughout the state; and
- (ii) multiplying the result from Subsection (2)(c)(i) by 70% of the total AP allocation.
 - (3) An LEA may use the LEA's allocation of funds for:
 - (a) professional learning for teachers;
 - (b) identification of underrepresented students;
 - (c) Advanced Placement courses;
 - (d) International Baccalaureate programs; or
- (e) International Baccalaureate test fees of eligible low-income students.
- (4) An LEA shall use at least a portion of the LEA's allocation for Advanced Placement test fees of eligible low-income students, as defined in Section 53F-2-408.5.

R277-701-5. Distribution and Use of Funds for CE Programs.

- (1) CE funds shall be allocated in accordance with Section 53F-2-409.
- (2) CE funds allocated to LEAs may not be used for any other program or purpose, except as provided in Section 53F-2-206 and after funds distribution as described in Subsection 53F-2-409(5)(c).
- (3) CE funding may not be used to fund a parent or student-initiated college-level course at an institution of higher education.
- (4) The Superintendent may not distribute CE funds to an LEA for reimbursement of a CE course:
 - (a) that is not on the master course list;
- (b) for a student that has exceeded 30 semester hours of CE for the school year;
 - (c) for a CE course repeated by a student; or
 - (d) taken by a student:
 - (i) who has received a diploma;
 - (ii) whose class has graduated; or
 - (iii) who has participated in graduation exercises.
- (5) An LEA shall receive a pro-rated amount of the funds appropriated for CE according to the number of semester hours successfully completed by students registered through the LEA in the prior year compared to the state total of completed CE hours.
- (6) An LEA's use of state funds for CE is limited to the following:
- (a) increasing access for groups of students who are underrepresented;
- (b) aid in professional development of an eligible CE instructor in cooperation with the participating USHE institution;
- (c) assistance with delivery costs for distance learning programs;
- (d) participation in the costs of LEA personnel who work with the program;
 - (e) student textbooks and other instructional materials;
- (f) fee waivers for costs or expenses related to CE for fee waiver eligible students under Rule R277-407;
- (g) purchases by LEAs of classroom equipment required to conduct CE courses; and

- (h) other uses approved in writing by the Superintendent consistent with the law and purposes of this rule.
- (7) An LEA that receives program funds shall provide the Superintendent with the following:
 - (a) end-of-year expenditures reports;
 - (b) an annual report containing:
- (i) supervisory services and professional development provided by a USHE institution; and
 - (ii) data as required by Section R277-701-12.
- (8) Appropriate reimbursement may be verified at any time by an audit of the LEA.

R277-701-6. Early College Programs Funding Requirements.

- (1) If an LEA fails to demonstrate progress in meeting plan goals, the Superintendent may:
- (a) place the LEA on probation and provide targeted technical assistance; and
 - (b) reduce funding to the LEA.
- (2) Excepted as described in Subsection (3) and subject to the general requirements of Section R277-700-7:
 - (a) A middle school or high school:
- (i) shall provide all course registration opportunities to each student; and
- (ii) through consultation with students, parents, educators, and administrators, may consider academic readiness, but may not require prerequisites for enrolling in an AP, IB, or CE course.
- (b) Except as described in USHE Policy R165, a school that offers an early college program may not prohibit a student from enrolling in the course based on the student's:
 - (i) grades or grade point average;
 - (ii) state standardized assessment scores; or
 - (iii) referral or lack of a referral from an educator;
- (c) In addition to the restrictions listed in Subsection R277-701-6(2)[(b)](d), an early college program may not prohibit a student from enrolling in a course based on the student's:
 - (i) grade level;
 - (ii) participation in or passing a pre-requisite course;
- (iii) participation in or passing an honors-level or collegepreparatory course; or
 - (iv) requirements over the summer.

R277-701-7. Student Eligibility and Participation for CE.

- (1) A student participating in CE shall be an "eligible student" as described in Subsection 53E-10-301(5).
 - (2) Student eligibility requirements for CE shall be:
 - (a) established by an LEA and a USHE institution;
 - (b) sufficiently selective to predict a successful experience;
- and
- (c) in accordance with Subsection R277-701-5(3)(b).
- (3) An LEA has the primary responsibility for identifying a student who is eligible to participate in a CE course.
- (4) An LEA shall appropriately evaluate the supports the LEA employs to assist in achieving the highest access rate reasonable for all students to enroll in a CE course.

R277-701-8. CE Course Credit and Offerings -- CE Course Approval Process.

- (1) Credit earned through a CE course:
- (a) has the same credit hour value as the CE course's counterpart on a college campus;
- (b) applies toward graduation on the same basis as a course taught at a USHE institution to which the credits are submitted;

- (c) generates higher education credit that becomes a part of a student's permanent college transcript;
- (d) generates high school credit that is consistent with the LEA policies for awarding credit for graduation; and
 - (e) is transferable from one USHE institution to another.
- (2) A USHE institution is responsible to determine the credit for a CE course, consistent with State Board of [Regents']Higher Education policies.
- (3) An LEA and a USHE institution shall provide the Superintendent and USHE with proposed new course offerings, including syllabi and curriculum materials, by November 15 of the year preceding the school year in which the courses would be offered.
- (4) A CE course shall be approved by the Superintendent and USHE, and designated on the master course list, maintained by the Superintendent and USHE.
- (5)(a) CE course offerings shall reflect the strengths and resources of the respective schools and USHE institutions and be based upon student needs.
- (b) The number of courses selected shall be kept small enough to ensure coordinated statewide development and professional development activities for participating teachers.
- (6) To provide for the focus of energy and resources on quality instruction in the CE program, CE courses shall be limited to courses in:
 - (a) English;
 - (b) mathematics;
 - (c) fine arts;
 - (d) humanities;
 - (e) science;
 - (f) social science;
 - (g) world languages; and
 - (h) career and technical education.
- (7) A CE course may not be approved if the course is a postsecondary course below the 1,000 level.
- (8) The appropriate USHE institution shall take responsibility for:
 - (a) course content;
 - (b) procedures;
 - (c) examinations;
 - (d) teaching materials; and
 - (e) program monitoring.
 - (9) CE procedures and materials shall be:
 - (a) consistent with Utah law; and
- (b) ensure quality and comparability with CE courses offered on a college or university campus.

R277-701-9. CE Program Management and Delivery.

- (1) An LEA shall use a Superintendent-designated 11-digit course code for a CE course.
- (2) An LEA and a USHE institution shall jointly align information technology systems with individual student academic achievement data so that student information will be tracked through both education systems consistent with Section 53E-4-308.
- (3) An LEA shall only receive funds for the LEA's CE program if the LEA's course enrollment matches the USHE institution enrollment in the technology systems as described in Subsection (2).

R277-701-10. Faculty and Educator Requirements.

- (1) An educator who is not employed by a USHE institution and teaches a CE course shall:
 - (a) be employed by an LEA; and

- (b) meet the requirements of Subsections 53E-10- $302[\frac{(6)}{(5)}](5)$ and $[\frac{(7)}{(6)}](6)$.
- (2) An educator employed by an LEA who teaches a CE course shall be approved as an adjunct faculty member at the contracting USHE institution before teaching the CE course.
- (3) High school educators who hold adjunct or part time faculty status with a USHE institution to teach CE courses shall be included as fully as possible in the academic life of the supervising academic department at the USHE institution.
- (4) An LEA and a USHE institution shall share expertise and professional development, as necessary, to adequately prepare a teacher to teach in the CE program, including federal and state laws specific to student privacy and student records.
- (5) A USHE institution that employs a faculty member who teaches in a high school has responsibility for ensuring and maintaining documentation that the faculty member has successfully completed a criminal background check, consistent with Section 53G-11-402.

R277-701-11. Student Tuition and Fees.

- (1) A CE program student may be charged partial tuition and program-related fees, in accordance with Section 53E-10-305.
- (2) Postsecondary tuition and participation fees charged to a CE student are not fees, as defined in Rule R277-407, and do not qualify for a fee waiver under Rule R277-407.
- (3)(a) All costs related to CE courses that are not tuition and participation fees are subject to a fee waiver consistent with Rule R277-407.
 - (b) CE costs subject to fee waiver may include:
 - (i) consumables;
 - (ii) lab fees;
 - (iii) copying;
 - (iv) material costs;
 - (v) application fees; and
 - (vi) textbooks required for the course.
- (4)(a) Except as provided in Subsection (4)(b), an LEA shall be responsible for fee waivers.
- (b) An agreement between a USHE institution and an LEA may address the responsibility for fee waivers.

R277-701-12. Annual Contracts and Other Student Instruction Issues.

- (1) An LEA and a USHE institution that plan to collaborate to offer a CE course shall enter into an annual contract for the upcoming school year by no later than May 30.
- (2) An LEA shall provide the USHE with a copy of each annual contract entered into between the LEA and a USHE institution for the upcoming school year by no later than May 30.
- (3) An LEA and a USHE institution shall use the standard contract language developed by the Superintendent and USHE.

R277-701-13. Performance Criteria and Reports.

- (1) An LEA receiving an allocation of funds shall submit an annual evaluation report to the Superintendent consistent with Section 53F-2-408.5.
- (2) An LEA shall present the evaluation report identified in Subsection (1) to the LEA's local board in a public meeting.
 - (3) The report shall include the following:
- (a) an accounting of student performance, disaggregated by student group for each early college program that the LEA participates;

- (b) evidence of stakeholder input demonstrating that the LEA engaged parents;
- (c) an accounting of how the LEA's funds were disbursed to the teacher level; and
- (d) evidence that the LEA is making progress toward the LEA's plan goals.

KEY: early college program, advanced placement, international baccalaureate, concurrent enrollment Date of Last Change: [June 15.] 2023

Authorizing, and Implemented, or Interpreted Law: Art X Sec

3; 53E-3-401(4); 53F-2-408.5; 53F-2-409

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R277-922	Filing ID: 55753	

Agency Information

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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 persons		

Contact persons:

Name:	Phone:	Email:
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-922. Digital Teaching and Learning Grant Program

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

This rule is being amended due to passage of H.B. 494 in the 2023 General Session.

4. Summary of the new rule or change:

The amendments to this rule clarify that the digital readiness assessment is only required to be completed the first time a local education agency (LEA) applies for the Digital Teaching and Learning Grant Program.

The amendments also remove the requirement that the LEA plan include the LEA's results on the readiness assessment, as required in Section 53F-2-510.

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.

There are no impacts to the Utah State Board of Education (USBE) budgets outside impacts captured by the fiscal note to H.B. 494 (2023). The changes only apply to the digital readiness assessments required by LEAs.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

The fiscal note to H.B. 494 (2023) captured that requirements for the digital readiness assessment have been loosened somewhat.

There are no other impacts to LEA budgets associated with this rule change.

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.

This only affects USBE and LEAs.

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

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

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

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

This only affects USBE and LEAs.

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.

There are no costs to comply with the rule change for USBE or LEAs.

The requirements for the digital readiness assessments are lessened due to H.B. 494 (2023).

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

FY2025

FY2026

Regulatory Impact Table Fiscal Cost FY2024

Persons

Benefits

Benefits

Net

Total Fiscal \$0

Fiscal \$0

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	FY2024	FY2025	FY2026
Fiscal	FY2024 \$0	FY2025 \$0	FY2026 \$0
Fiscal Benefits State			
Fiscal Benefits State Government Local	\$0	\$0	\$0
Fiscal Benefits State Government Local Governments Small	\$0 \$0	\$0 \$0	\$0 \$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

\$0

\$0

\$0

\$0

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

Citation Information

6. 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,	Subsection	Section 53F-2-510
Section 3	53E-3-401(4)	

Public Notice Information

8. 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	10/31/2023
unt	il:				

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-922. Digital Teaching and Learning Grant Program. R277-922-1. Authority and Purpose.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
- (c) Section 53F-2-510, Digital Teaching and Learning Grant Program, which requires the Board to:
 - (i) establish a qualifying grant program; and
- (ii) adopt rules related to administration of the Digital Teaching and Learning Grant Program.
 - (2) The purpose of this rule is to:
- (a) establish an application and grant review committee and process;
- (b) give direction to LEAs participating in the Digital Teaching and Learning Program.

R277-922-2. Definitions.

- (1) "Advisory committee" means the Digital Teaching and Learning Advisory Committee:
- (a) established by the Board as required in Section 53F-2- 510; and
- (b) required to perform the duties described in Section R277-922-5.
- (2) "LEA plan" has the same meaning as that term is defined in Section 53F-2-510.

- (3) "Master plan" means Utah's Master Plan: Essential Elements for Technology-Powered Learning incorporated by reference in Section R277-922-3.
- (4) "Program" has the same meaning as that term is defined in Section 53F-2-510.
 - (5) "Participating LEA" means an LEA that:
 - (a) has an LEA plan approved by the Board; and
 - (b) receives a grant under the program.

R277-922-3. Incorporation of Utah's Master Plan by Reference.

- (1) This rule incorporates by reference Utah's Master Plan: Essential Elements for Technology-Powered Learning, October 9, 2015, which establishes:
- (a) the application process for an LEA to receive a grant under the program; and
- (b) a more detailed description of the requirements of an LEA plan.
 - (2) A copy of the Master Plan is located at:
 - (a)
- https://www.schools.utah.gov/curr/digital?mid=4332&tid=4; and
- (b) the Utah State Board of Education, 250 East 500 South, Salt Lake City, Utah 84111.

R277-922-4. LEA Planning Grants.

- (1) An LEA may apply for a planning grant in lieu of preparing an LEA plan and receiving a Digital Teaching and Learning Grant as described in this rule.
- (2) A planning grant awarded under Subsection (1) shall be in the amount of \$5,000.
 - (3) To qualify for a planning grant, an LEA shall:
- (a) send an LEA representative to a pre-grant submission training conducted by the Superintendent; and
- (b) complete the readiness assessment required in Section 53F-2-510.
- (4)(a) If an LEA receives a planning grant, the LEA shall submit an LEA plan as set forth in Section R277-922-8 for the subsequent school year.
- (b) An LEA that fails to submit an LEA plan in the subsequent year shall reimburse funds awarded under Subsection (2) to the program.

R277-922-5. Digital Teaching and Learning Advisory Committee Duties.

- (1) The advisory committee shall include the following individuals who will serve as non-voting chairs:
- (a) the Deputy Superintendent of Instructional Services or designee; and
- (b) the Director of the Utah Education and Telehealth Network or designee.
- (2) In addition to the chairs described in Subsection (1), the Board shall appoint six members to the advisory committee as follows:
 - (a) the Digital Teaching and Learning Coordinator;
- (b) one member who represents a school district with expertise in digital teaching and learning;
- (c) one member who represents a charter school with expertise in digital teaching and learning;
- (d) two members that have earned a national certification in education technology, that may include a certification from the Certified Education Technology Leader from the Consortium for School Networking (CoSN); and

- (e) one member who represents the Utah School Superintendents Association.
 - (3) The advisory committee shall:
- (a) oversee review of an LEA plan to determine whether the LEA plan meets the criteria described in Section R277-922-8;
- (b) make a recommendation to the Superintendent and the Board on whether the Board should approve or deny an LEA plan;
- (c) make recommendations to an LEA on how the LEA may improve the LEA's plan; and
 - (d) perform other duties as directed by:
 - (i) the Board; or
 - (ii) the Superintendent.
- (4) The advisory committee may select additional LEA plan reviewers to assist the advisory committee with the work described in Subsection (3).
- (5) The advisory committee, or the Superintendent on behalf of the advisory committee, shall present the advisory committee's recommendations on whether to approve or deny each LEA plan to the Board for the Board's approval.

R277-922-6. Board Approval or Denial of LEA Plans.

- (1) The Board will either approve or deny each LEA plan submitted by the advisory committee.
- (2) If the Board denies an LEA's plan, the LEA may amend and re-submit the LEA's plan to the advisory committee until the Board approves the LEA plan.

R277-922-7. Pre-LEA Plan Submission Requirements.

- (1) Before an LEA submits an LEA plan to the advisory committee for approval by the Board, an LEA shall:
- (a) have an LEA representative participate in a pre-grant submission training conducted by the Superintendent;
- (b) require the following individuals to participate in a leadership and change management training conducted by the Superintendent:
- (i) a representative group of school leadership from schools participating in the program;
 - (ii)(A) the school district superintendent;
 - (B) charter school executive director; or
- (C) the school district superintendent's or charter school executive director's designee;
 - (iii) the LEA's technology director; and
 - (iv) the LEA's curriculum director; and
- (c) complete the readiness assessment the first time an LEA applies for the grant as required in Section 53F-2-510.
- (2) A member of an LEA's local school board or charter school governing board and other staff identified by the LEA may participate in:
- (a) a pre-grant submission training conducted by the Superintendent as described in Subsection (1)(a); or
- (b) a leadership and change management training conducted by the Superintendent as described in Subsection (1)(b).

R277-922-8. LEA Plan Requirements.

- (1) An LEA shall develop a five year LEA plan in cooperation with educators, paraeducators, and parents:[-;]
 - (2) An LEA plan shall include:
- (a) [an LEA's results on the readiness assessment required in Section 53F-2-510;
- (b) a statement of purpose that describes the outcomes, and metrics of success an LEA will accomplish by implementing the program, including the following outcomes:

- (i) a 5% increase in an LEA's growth or proficiency on the statewide accountability metrics by the end of the fifth year of the LEA's implementation of the program; or
 - (ii) a learning outcome:
 - (A) selected by the LEA;
 - (B) included in the LEA's plan; and
 - (C) approved by the advisory committee;
- (c) long-term, intermediate, and direct outcomes as defined in the Master Plan and identified in an LEA's five year plan;
- (d) an implementation process structured to yield an LEA's learning outcomes;
 - (e) a plan for infrastructure needs and refreshment cycle;
- (f) a description of necessary high quality digital primary instructional materials, as defined in Section R277-469-2, in relation to the outcomes provided for in Subsection R277-922-8(b)(i) including:
- (i) providing special education students with appropriate software;
- (ii) the recommended usage requirements of the software provider; and
- (iii) the best practices recommended by the software or hardware provider;
- (g) a detailed plan for student engagement in personalized learning;
- (h) technical support standards for implementation and maintenance of the program that removes technical support burdens from the classroom teacher;
- (i) proposed security policies, including security audits, student data privacy as referenced in Rule R277-487, and remediation of identified lapses;
- $\mbox{(j)}$ a disclosure by an LEA of the LEA's current technology expenditures;
- (k) the LEA's overall financial plan, including use of additional LEA non-grant funds, to be utilized to adequately fund the LEA plan;
- (l) a description of how an LEA will provide high quality professional learning for educators, administrators, and support staff participating in the program, including ongoing periodic coaching;
- (m) a plan for digital citizenship curricula and implementation; and
- (n) a plan for how an LEA will monitor student and teacher usage of the program technology.
- (2) An LEA's approved LEA plan is valid for five years, and may be required to be reapproved by the advisory committee and the Board after five years of implementation.
- (3) An LEA is not required to implement the program in kindergarten through grade 4.

R277-922-9. Distribution of Grant Money to Participating LEAs.

- (1) If an LEA's plan is approved by the Board, the Superintendent shall distribute grant money to the participating LEA as described in this section.
- (2)(a) The amount available to distribute to participating charter schools is an amount equal to the product of:
- (i) October 1 headcount in the prior year at charter schools statewide, divided by October 1 headcount in the prior year in public schools statewide; and
- (ii) the total amount available for distribution under the program.
- (b) The Superintendent shall distribute to participating charter schools the amount available for distribution to participating charter schools in proportion to each participating charter school's

- enrollment as a percentage of the total enrollment in participating charter schools in the prior year.
- (c) A new LEA or new charter school satellite campus shall be funded based on the new LEA or new charter school satellite campus's projected October 1 headcount.
- (3) The Superintendent shall distribute grant money to the Utah Schools for the Deaf and the Blind in an amount equal to the product of:
- (a) October 1 headcount in the prior year at the Utah Schools for the Deaf and the Blind, divided by October 1 headcount in the prior year in public schools statewide; and
- (b) the total amount available for distribution under this section.
- (4) Of the funds available for distribution under the program after the allocation of funds for the Utah Schools for the Deaf and the Blind and participating charter schools, the Superintendent shall distribute grant money to participating LEAs that are school districts as follows:
- (a) the Superintendent shall distribute 10% of the total funding available for participating LEAs that are school districts to the participating LEAs as a base amount on an equal basis; and
- (b) the Superintendent shall distribute the remaining 90% of the funds to the participating LEAs on a per-student basis, based on the October 1 headcount in the prior year.
- (5)(a) If an LEA's plan is not approved during year one of the program, the advisory committee and the Digital Teaching and Learning Coordinator shall provide additional supports to help the LEA become a qualifying LEA.
- (b) The Superintendent shall redistribute the funds an LEA would have been eligible to receive, in accordance with the distribution formulas described in this section, to other qualifying LEAs if the LEA's plan is not approved:
- (i) after additional support described in Subsection (5)(a) is given; and
- (ii) by no later than December 31 of the school year for which the grant is being awarded.
- (6) A non-qualifying LEA may reapply for grant money in subsequent years based on the LEA's plan being approved by the Board.

R277-922-10. Prohibited Uses of Grant Money.

- A participating LEA may not use grant money:
- (1) to fund nontechnology programs;
- (2) to purchase mobile telephones;
- (3) to fund voice or data plans for mobile telephones; or
- (4) to pay indirect costs charged by the LEA.

R277-922-11. Participating LEA Reporting Requirements.

A participating LEA shall annually review how the participating LEA made progress toward implementation.

R277-922-12. Evaluation of LEA Program Implementation.

- (1) An evaluation shall be conducted by an independent evaluator described in Section 53F-2-510.
- (2) After an evaluation described in Subsection (1), if the Superintendent determines that a participating LEA is not meeting the requirements of the participating LEA's LEA plan the Superintendent:
 - (a) shall:
 - (i) provide assistance to the participating LEA; and
 - (ii) recommend changes to the LEA's LEA plan; or

(b) after at least two findings of failure to meet the requirements of the participating LEA's LEA plan, may recommend that the Board terminate the participating LEA's grant money.

KEY: digital teaching and learning, grant programs Date of Last Change: 2023[August 22, 2022]

Notice of Continuation: October 7, 2021

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401(4); 53F-2-510

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Amendment				
Rule or Section R277-927 Filing ID: 55742				

Agency Information

1. Department:	Education		
Agency:	Administration		
Building:	Board of Education		
Street address:	250 E 50	00 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 persons:			
Name:	Phone:	Email:	
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov	

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

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

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

This rule is being amended due to the passage of H.B. 308 in the 2023 General Session.

4. Summary of the new rule or change:

These amendments clarify accountability performance standards by removing the requirement for the Utah State Board of Education (USBE) to publish an overall rating for school accountability, and specifying the total point possible when determining the threshold of points that designates a school as succeeding in school performance.

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.

School performance standards are updated due to H.B. 308 (2023). The fiscal note to H.B. 308 (2023) captured any costs for the USBE and this rule does not add any additional costs.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

The fiscal note for H.B. 308 (2023) captured any costs for local education agencies (LEAs) associated with school performance standard updates in this rule and this rule does not add additional costs for LEAs.

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.

This only affects USBE and LEAs.

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

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

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

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

This only affects USBE and LEAs.

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.

This rule change does not add any compliance costs for USBE or LEAs.

The fiscal note for H.B. 308 (2023) captured any associated compliance costs.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Regulatory impact rable			
Fiscal Cost	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and 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

6. 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)	Section 53F-2-416
Section 53G-7-1304	Section 53G-7-1306	

Public Notice Information

8. 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	10/31/2023
unti	il:				

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/15/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

R277. Education, Administration.

R277-927. Teacher and Student Success Act (TSSA) Program. R277-927-1. Authority and Purpose.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
- (c) Section 53F-2-416, which requires the Board to calculate and distribute student and teacher success program money to LEAs;
- (d) Section 53G-7-1304, which requires the Board to make rules for an LEA governing board to calculate and distribute a school's allocation of program money for each school within the LEA; and
- (e) Section 53G-7-1306, which require the Board to determine:
- (i) a threshold of points under the statewide school accountability system that designates a school as succeeding in school performance and student academic achievement; and
 - (ii) performance standards for certain schools.
 - (2) The purpose of this rule is to:
- (a) set standards for the Board's distribution of student and teacher success program money to LEAs;
- (b) set standards governing an LEA's distribution of student and teacher success program money to each school within the LEA; and

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

R277-927-2. Definitions.

- (1) As used in Section 53G-7-1304, "capital expenditures" are funds used to acquire, maintain, or upgrade physical assets like property, building, technology, or equipment and may include:
 - (a) improvements to a building or school grounds;
 - (b) a school bus;
 - (c) rent, lease, or bond payments; and
- (d) a portable classroom or costs related to moving a portable classroom.
- (2) "Program" means the student and teacher success program created in Section 53G-7-1302.
- (3) "Satellite school" means the same as that term is defined in Rule R277-550.
- (4) "School personnel who work directly with and support students in an academic role" does not include:
 - (a) school level administrative or operational staff;
- (b) building and maintenance staff, including custodial and grounds staff;
 - (c) transportation staff;
 - (d) child nutrition services staff;
 - (e) operational or facility support staff;
 - (f) financial staff;
 - (g) information technology staff;
 - (h) legal staff;
 - (i) secretarial staff; or
- (j) other district level staff paid on an administrative salary schedule.

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

- (1)(a) The Superintendent shall distribute an LEA's annual program allocation, in equal payment amounts, to an LEA once the LEA submits the LEA's student success framework through the Board's grant management system.
- (b) If an LEA amends the LEA's student success framework, the LEA shall submit the amended student success framework through the Board's grant management system.
- (2) If the LEA previously submitted a student success framework, before the LEA receives the LEA's annual program allocation, the LEA shall submit annual assurances in accordance with the requirements of Rule R277-108.
- (3) If an LEA fails to submit the LEA's student success framework as described in Subsection (1) or annual assurances described in Subsection (2) to the Superintendent:
- (a) the LEA may not receive a program allocation for that fiscal year; and
- (b) the undistributed balance will be included with the new year appropriation and distributed in the following fiscal year according to the formula described in Subsection 53F-2-416(3).
- (4) For purposes of calculating the formula described in Subsection 53F-2-416(3), "weighted pupil units" means:
 - (a) for an existing LEA:
- (i) the weighted pupil units for the prior year for the minimum school basic program; minus
- (ii) the weighted pupil units allocated for foreign exchange students: and
- (b) for a new LEA or a charter school opening a new satellite campus:

- (i) the weighted pupil units based on the LEA's projected enrollment for the current year for the minimum school basic program; minus
- (ii) the weighted pupil units allocated for foreign exchange students; and
- (c) for the Utah Schools for the Deaf and Blind, USDB's prior year October 1 headcount multiplied by two.
- (5) For a new LEA or a charter school opening a new satellite campus during the second year of operation, the Superintendent shall increase or decrease the LEA's first year distribution of funds to reflect the LEA's actual first year October 1 counts
- (6) For purposes of determining whether a school district in a county of the first, second, or third class has an approved board local levy for the maximum amount allowed for the purposes described in Subsection 53G-7-1304(2)(c)(i)(A), the school district meets the property tax requirements of Subsection 53G-7-1304(2)(a)(i) if in the applicable fiscal year:
- (a) the school district's rate imposed for the board local levy is equal to the maximum amount allowed under Section 53F-8-302; or
- (b)(i) the school district's board local levy rate meets or exceeds an amount equal to the certified board local levy rate; and
- (ii) the school district's board local levy rate equaled the maximum amount allowed under Section 53F-8-302 sometime within the prior five fiscal years.
- (7) For purposes of determining whether a school district in a county of the first, second, or third class increased the school district's board local levy by at least .0001 per dollar of taxable value as described in Subsection 53G-7-1304(2)(c)(i)(B), a school district that does not meet the property tax requirements of Subsection (6), the school district meets the requirements of Subsection 53G-7-1304(2)(c)(i)(B) if the school district's board local levy rate for the current fiscal year is at least .0001 per dollar of taxable value more than the school district's board local levy rate imposed in the prior fiscal year.
- (8) For fiscal year 2020, "state average teacher salary" means a weighted calculation of the statewide teacher salary expenditures reported on the annual financial report by LEA from fiscal year 2018 divided by the number of full-time equivalent educators or FTEs from the most recent educator cactus submission.
- (9) Except as provided in Subsection (10), for fiscal year 2020, "LEA's average teacher salary" means the LEA's teacher salary expenditures reported on the annual financial report from fiscal year 2018 divided by the LEA's number of full-time equivalent educators or FTEs from the most recent educator cactus submission.
- (10) For a new LEA in the new LEA's first or second year of operation, the new LEA's average teacher salary is equal to the state average teacher salary.

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

- (1) An LEA shall report expenditures of program money by location according to the Board approved chart of accounts.
 - (2) An LEA may not use program money:
 - (a) for a purpose described in Subsection 53G-7-1304(1);
 - (b) to support adult education or preschool programs; or
- (c) to pay for contracted services commonly performed by the following staff:
 - (i) school level administration staff;
- (ii) building and maintenance staff, including custodial staff;

- (iii) transportation staff;
- (iv) child nutrition services staff;
- (v) operational or facility support staff; or
- (vi) district level staff.
- (3) As used in Subsection 53G-7-1304(2), "district administration costs" does not include salary driven benefits for school personnel charged at the district level.
- (4) An LEA may carry over restricted program funds into the next fiscal year to support a purpose identified by the LEA governing board student success framework. Any funds carried over must be reported according to the Board approved chart of accounts.

R277-927-5. LEA Allocations to Schools.

- (1) An LEA with two or more schools shall establish a policy that defines how the LEA will calculate and distribute program allocations based on prior year average daily membership as determined by the Superintendent, to all schools within the LEA, including how the LEA will calculate allocations for new schools within the LEA.
- (2) For a new school within an LEA, the LEA shall calculate and distribute school's allocation based on the school's projected October 1 headcount for the applicable school year.
- (3) After calculating an LEA's school level allocations, an LEA may make adjustments to individual school ADM values and school level allocations due to changes in current year student enrollment for reasons including:
 - (a) changes in school boundaries;
 - (b) changes to feeder school patterns;
 - (c) changes in grade levels offered; or
 - (d) significant student growth of 30% or more.

R277-927-6. Accountability Performance Standards.

- (1) For purposes of determining the threshold of points that designates a school as succeeding in school performance as described in Subsection 53G-7-1306(1)(a), a school is succeeding in school performance if, in the most recently published [overall-]school [accountability ratings]determinations the school [is designated as a commendable or exemplary school as described in Section R277-
- (a) 43.5% or more of the total points possible for a school that is an elementary or middle school; or
- (b) 46% or more of the total points possible for a school that enrolls students in grade 12.
- (2) For purposes of determining the performance standards for a school described in Subsection 53G-7-1306(1)(b), a school meets the performance standards if the school meets the criteria described in Subsection 53E-5-203(2).

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

Date of Last Change: [May 23,] 2023

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401(4); 53F-2-416; 53G-7-1304; 53G-7-1306

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Repeal				
Rule or Section R398-3 Filing ID: 55721				

Agency Information

1. Department:	Health and Human Services			
Agency:	Family Health, Children with Special Health Care Needs			
Room number:	3032			
Building:	Multi-Ag (MASOE	ency State Office Building 3)		
Street address:	195 N 1	950 W		
City, state and zip:	Salt Lake City, UT 84116			
Mailing address:	PO Box 144610			
City, state and zip:	Salt Lake City, UT 84114-4610			
Contact persons:				
Name:	Phone:	Email:		
Alexis Weight	8014- 273- 2956	abweight@utah.gov		
Stephanie McVicar	801- 273- 6600			

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R398-3. Children's Hearing Aid Program

3. Reason for this change:

Following the passing of S.B. 272 in the 2023 General Session, the Children's Hearing Aid Program no longer has rulemaking authority.

4. Summary of this change:

This repeals the Children's Hearing Aid Program rule in its entirety.

Fiscal Information

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

A) State budget:

There are no anticipated costs or savings associated with this repeal. The state budget will not see a fiscal impact.

This program is now funded through the general fund and the Department of Health and Human Services (Department) will govern the program through policy.

B) Local government:

There are no anticipated costs or savings associated with this repeal. Local governments will not see a fiscal impact.

The Department will govern the program through policy.

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

There are no anticipated costs or savings associated with this repeal. Small businesses will not see a fiscal impact.

The Department will govern the program through policy.

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

There are no anticipated costs or savings associated with this repeal. Non-small businesses will not see a fiscal impact.

The Department will govern the program through policy.

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*):

There are no anticipated costs or savings associated with this repeal. Persons other than small businesses, nonsmall businesses, or state or local government entities will not see a fiscal impact.

The Department will govern the program through policy.

F) Compliance costs for affected persons:

Regulatory Impact Table

There are no compliance costs associated with this repeal.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Fiscal Cost FY2024 FY2025 FY2026 \$0 State Government Local \$0 \$0 \$0 Governments Small \$0 \$0 \$0 Businesses Non-Small \$0 \$0 \$0 Businesses Other \$0 \$0 Persons Total Fiscal \$0 \$0 \$0 Cost Fiscal FY2024 FY2025 FY2026

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

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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

8. 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	10/31/2023
unti	l:				

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Tracy S. Gruber,	Date:	09/14/2023
or designee	Executive Director		
and title:			

R398. Health, Family Health and Preparedness, Children with Special Health Care Needs.

[R398-3. Children's Hearing Aid Program. R398-3-1. Authority and Purpose.

(1) This rule is authorized by Section 26-10-11.

(2) The purpose of this rule is to set forth the process to identify children who are financially eligible to receive services

Benefits

under the program and describe how the department will review and pay for services provided to a child under the program.

R398-3-2. Definitions.

- (1) "CHAP" means the Children's Hearing Aid Program.
 (2) "CSHCN" means the Department's Bureau of Children
- with Special Health Care Needs.
- (4) "L and D" means loss and damage, referring to warranty or insurance coverage for hearing aids.
- (5) "Managing audiologist" means a non Department licensed audiologist with expertise in pediatric audiology who is responsible for the provision of hearing aids and follow-up care to eligible children.

R398-3-3. Process to Identify Children Who Are Financially Eligible for Services.

- (1) Participant financial eligibility:
- (a) Children younger than six years old, with hearing loss who do not yet own a hearing aid or for whom current amplification is no longer appropriate may be eligible for hearing aids under this program.
- (b) Participant must complete and submit CSHCN Financial Form (PFR) with application to the managing audiologist.

 (c) Upon request, the family must provide a copy of the most recent federal income tax filing to CHAP to verify family income as reported by the child's parents. If the federal income tax filing is unavailable, the parents may submit the prior three months' check stubs to extrapolate annual income.
- (d) Family must be at or below 300% of Federal Poverty Level.
- (e) This is a one-time per ear benefit per child.

R398-3-4. Process to Review and Pay for Services Provided to a Child.

- (1) Applications:
- (a) participant application:
 - (i) must be completed by parent or guardian.
- (ii) if a child is under three years of age, the child shall participate in an Early Intervention program specializing in services for children with hearing loss.
- (iii) application must be submitted to managing audiologist with:
- (A) proof of denial for Medicaid or evidence that family is ineligible for Medicaid; and
- (B) evidence of noncoverage by current insurance provider.
- (I) family or guardian shall provide coverage for each out of warranty repair.
- (II) if L and D is claimed during the warranty period, the family shall provide supplemental hearing aid insurance including L and D.
- (III) child will receive hearing aids directly from managing audiologist.
 - (b) audiologist qualifications and application:
 - (i) hearing aid must be fit by a licensed audiologist.
- (ii) a separate application must be submitted for each child.
- (2) Review of applications:
- (a) each application will be reviewed for completeness and eligibility by the CSHCN designee.

- (b) eligibility shall be communicated to the managing audiologist.
 - (3) Payment process:
- (a) within 30 days of hearing aid fitting, the managing audiologist will submit the Payment Request Cover Sheet with all supporting documentation.
- (b) CSHCN will review documentation to assure that managing audiologist has submitted all items listed in payment request.
- (c) payments will go directly to the managing audiologist or their designee.

KEY: hearing aids

Date of Last Change: December 23, 2021

Notice of Continuation: September 14, 2018

Authorizing, and Implemented or Interpreted Law: 26-10-11

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Repeal				
Rule or Section R945-1 Filing ID: 55719				

Agency Information

igonoj imorman	•				
1. Department:	UTech Board of Trustees				
Agency:	Administration				
Room number:	5th Floo	r			
Building:	Board of Regents Building, The Gateway				
Street address:	60 S 400) W			
City, state and zip:	Salt Lake City, UT 84101				
Contact persons:	1				
Name:	Phone:	Email:			
Kevin V. Olsen	801- 556- 3461	kvolsen@agutah.gov			
Geoffrey T. Landward	801- 321- 7136	glandward@ushe.edu			
Alison Adams	801- 643- 5535	Alison.Adams@ushe.edu			
Please address	questior	s regarding information on			

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R945-1. UTech Technical College Scholarship

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

Beginning 07/01/2020, the Utah Board of Higher Education assumed all statutory and administrative obligations of the Utah System of Technical Colleges Board of Trustees.

This rule is no longer needed as a result of rules promulgated by the Utah Board of Higher Education.

4. Summary of the new rule or change:

This filing repeals Rule R945-1 in its entirety.

Fiscal Information

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

A) State budget:

Because the rule has been replaced by other rules of the Utah Board of Higher Education, it is no longer needed.

As a result, the repeal of this rule will not affect the state budget.

B) Local governments:

Because the rule does not affect local governments, its repeal will not affect local governments.

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

Because the rule does not affect small businesses, its repeal will not affect small businesses.

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

Because the rule does not affect non-small businesses, its repeal will not affect 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*):

Because the rule has been replaced by other rules of the Utah Board of Higher Education, the rule is no longer useful for any person.

As a result, the repeal of the rule will not affect 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?):

The repeal of this rule will not create compliance costs for any person.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table					
Fiscal Cost	FY2024	FY2025	FY2026		
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	FY2024	FY2025	FY2026		
State Government	\$0	\$0	\$0		
Local Governments	\$0	\$0	\$0		
Small Businesses	\$0	\$0	\$0		
Non-Small Businesses	\$0	\$0	\$0		
Other Persons	\$0	\$0	\$0		
Total Fiscal Benefits	\$0	\$0	\$0		
Net Fiscal Benefits	\$0	\$0	\$0		

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of Higher Education, David R. Woolstenhulme, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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:

1-	-	
Subsection		
53B-2a-116(6)		

Public Notice Information

8. 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	10/31/2023
unti	il:				

9. This rule change MAY 11/07/2023 become effective on:

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

Agency Authorization Information

Agency head	Kevin V. Olsen,	Date:	09/11/2023
or designee	Assistant Attorney		
and title:	General and		
	Designee		

R945. UTech Board of Trustees, Administration. [R945-1. UTech Technical College Scholarship. R945-1-1. Purpose and Authority.

(1) The purpose of this rule is to establish requirements related to the technical college scholarships as provided in Section 53B-2a-116, including a college's administration of the scholarships, student eligibility and priority, application processes, and determination of satisfactory progress.

(2) This rule is authorized and directed as provided in Subsection 53B 2a 116(6).

R945-1-2. Definitions.

- As used in this rule:
 - (1) "Career and Technical Education Pathway" means:
- (a) For a technical college, a certificate granting program approved in accordance with Utah System of Technical Colleges (UTech) policy;
- (b) For an institution of higher education, a program approved in accordance with State Board of Regents policy that leads to a certificate or associate degree and that prepares a student for an occupation; or
- (e) For a school district or charter school, a sequence of courses that leads to a secondary school credential of labor market value approved by the State Board of Education.
- (2) "Deferral" means the carrying forward of a UTech Scholarship, as provided in Subsection R945-1-6(4).
- (3) "Graduate from High School" means to be conferred a high school diploma as provided in Subsection R277-705-2(3) or a secondary student completion credential for homeschool.
- (5) "Institution of Higher Education" means an institution within the Utah System of Higher Education as provided in Subsection 53B-1-102(1)(a).
- (6) "Satisfactory Progress" means completion of any course, as included in an official transcript from the provider of a career and technical education pathway, that is specific to a career and technical education pathway discipline. A course in a career and technical education pathway that is not specific to a pathway discipline, such as a general education course, is not eligible.
- (7) "Secondary School" means grades 7-12 in whatever kind of school the grade levels exist, as provided in Subsection R277-705-2(5).
- (8) "Technical College" means an institution within the Utah System of Technical Colleges as provided in Section 53B-2a-105.
- (9) "Underserved Population" means the same as that term is defined in the UTech Data Dictionary.

(10) "UTech Scholarship" means a financial award provided by a technical college as provided in Section 53B-2a-116 and this rule to a student enrolled in a technical college.

R945-1-3. Award Requirements.

- To receive a UTech Scholarship, an applicant shall satisfy the following criteria:
- (1) Graduate from high school within the 12 months prior to receiving a scholarship;
- (2) enroll in, or show intent to enroll in, a high demand program at a technical college within the 12 months after high school graduation, except as granted in a deferral; and
- (3) while enrolled in a secondary school, make satisfactory progress in a career and technical education pathway offered by a technical college, an institution of higher education, or a school district or charter school.

R945-1-4. Application Process.

The process for an individual to apply to a technical college to receive a UTech Scholarship shall be administered by the technical college, and shall include the following:

- (1) The technical college shall provide an application form, process, and instructions which include the elements as provided in this rule, and which may be integrated with other scholarship application forms and processes administered by the college.
- (2) In its application forms and processes, the technical college shall clearly identify the UTech Scholarship's name, award requirements, use, and application process, and shall provide for the applicant to specify that the applicant is applying to be considered for the UTech Scholarship.
- (3) The technical college shall establish deadlines for submission of applications in accordance with the college's scholarship application processes.
- (4) The technical college shall require and retain the following information from each applicant in its application forms and accompanying documents:
- (a) identity and contact information consistent with the college's regular scholarship applications, such as name, address, and date of birth;
- (b) application date;
- (c) UTech Scholarship specificity as provided in Subsection R945-1-4(2);
- (d) demographic information to include underserved population identification; and
- (e) high school information, on transcripts or otherwise
 - (i) name of high school attended;
 - (ii) expected or actual high school graduation date; and
- (iii) expected or actual satisfactory progress in a career and technical education pathway offered by a technical college, an institution of higher education, or a school district or charter school.
 - (f) Technical college enrollment intentions to include:
 - (i) name of technical college;
- (ii) high demand program in which the student is enrolled or intends to enroll;
- (iii) date on which the student began or expects to begin the high demand program;
 - (iv) intended enrollment hours per week;
 - (v) expected program completion date; and
- (vi) if a deferral is requested, justification for the deferral as provided in Subsection 945-1-6(4)(a).

R945-1-5. Determination of Scholarship Awards and Amounts.

- A technical college shall determine scholarship eligibility, prioritize selection of award recipients and the amount of each award, and grant scholarships according to the following provisions and sequence.
- (1) For each application deadline in Subsection R945-1-4(3), the college shall identify from the application documentation:
- (a) Each applicant that satisfies or is expected to satisfy each award requirement as provided in Section R945-1-3;
 - (b) for each eligible applicant, the period determined by:
- (i) the date on which the applicant expects to begin a high demand program, or, in the case of an applicant who has previously begun the intended high demand program, the day after the high school graduation date; and
- (ii) 12 months after the high school graduation date, or, in the case of a requested deferral, 12 months after the start date.
- (e) For each eligible applicant, the total cost of tuition, program fees, and required textbooks projected to accrue for the high demand program in which the applicant intends to be enrolled during the eligible award period, informed by the applicant's intended enrollment hours per week.
- (2) The college shall award scholarships within an application deadline group as follows:
- (a) the college shall first award a scholarship to each eligible applicant who is a member of an underserved population, in the amount as provided in Subsection R945-1-5(3); and
- (b) the college shall, with any funds remaining after awarding scholarships to members of underserved populations, award scholarships to all other eligible applicants in the amounts as provided in Subsection R945-1-5(3).
- (3) the college shall determine award amounts for each scholarship recipient identified in Subsection R945-1-5(2) as follows:
- (a) if available funds as provided in Section R945-1-7 are sufficient for the total of all eligible award amounts identified in Subsection R945-1-5(1)(e) in a given priority group as provided in Subsection R945-1-5(2), then each eligible applicant in the group shall be awarded 100% of the applicant's eligible award amount; or
- (b) if available funds are less than the total of all eligible award amounts for the priority group, the available funds shall be divided by the number of eligible applicants in the group to determine the maximum award per recipient.
- (c) each eligible applicant shall be awarded up to the maximum award, not to exceed 100% of the applicant's eligible award amount.
- (d) any unobligated funds remaining for applicants awarded less than the maximum award shall be retained in the scholarship fund for future applicants.
- (e) if there are no available scholarship funds remaining after awards have been determined for a higher priority group, no scholarships shall be awarded for remaining applicants.

R945-1-6. Conditions and Utilization of Scholarship.

- (1) Before applying funds for a scholarship awarded as provided in Subsection R945-1-5(2) to a student, a technical college shall verify that all award requirements as provided in Section R945-1-3 have been met by obtaining and retaining additional documentation of actual qualifications which at the time of application were expected or intended to have been met.
- (2) Scholarship funds may be used only for tuition, program fees, and required textbooks in a high demand program in which the recipient is enrolled, up to the recipient's award amount determined in

- Subsection R945-1-5(3). Funds shall be applied by the college directly to an authorized cost and shall not be issued to a recipient in eash.
- (3) Except in the case of a granted deferral, a technical college may only apply a scholarship toward a recipient's costs as provided in Subsection R945-1-6(2) from the day on which the college awards the scholarship as identified in Subsection R945-1-5(2) until 12 months after the day on which the recipient graduates from high school.
- (4) A college may, by request from the recipient at any time before or during the recipient's award period, defer all or any portion of a scholarship for up to three years after the day on which the recipient graduates from high school.
- (a) a deferral may be granted at the discretion of the college for military service, humanitarian or religious service, documented medical reasons, or other exigent reasons.
- (b) The duration of a deferred scholarship shall be for the time remaining in the recipient's award period, not to exceed 12 months.
- (5) A technical college may cancel a scholarship if the recipient does not, as determined by the college:
- (a) maintain enrollment in the college on at least a half-time basis; or
- (b) make satisfactory progress toward the completion of a certificate in a high demand program.
- (6) Upon termination of a recipient's scholarship due to non-acceptance, completion, cancellation, or any other reason, any unused award amount shall be removed from liability or obligated status as provided in Subsection R945-1-7(4) and retained in the college's restricted UTech Scholarship account.

R945-1-7. UTech Scholarship Funds.

- (1) The annual distribution of UTech Scholarship award funds to technical colleges by the Board of Trustees shall be as provided in Subsection 53B-2a-116(2).
- (2) UTech Scholarship funds shall be considered restricted funds by a technical college, shall be recorded only in restricted UTech Scholarship accounts, and shall be used only for scholarship recipients' tuition, program fees, and required textbooks during their award periods.
- (3) Funds: Each technical college is encouraged to annually utilize all UTech Scholarship funds for qualified students. Surplus funds including fund balance or net assets shall be retained in the restricted fund and carried over from one fiscal year to the next.
- (4) The projected value of a given student's scholarship award shall be recorded as a liability from the time of the student's selection until the student's scholarship ends and shall be regarded as utilized funds when determining unused or carryover funds. Obligated funds remaining after the student's scholarship ends shall be returned to unused or carryover funds.

R945-1-8. Appeals.

A technical college shall provide a process and criteria, to be referenced in application materials, by which an applicant may appeal a decision made by the college that is related to this rule, to include provision for any unresolved appeal to be submitted to the Commissioner of Technical Education for final agency action.

R945-1-9. Reporting.

A technical college shall submit calendar year end data regarding its UTech Scholarships to the Office of the Commissioner by January 15 of each year, and at other times as required by the Office of the Commissioner, to include information pertaining to the provisions of this rule with respect to applications, awards, enrollments, utilization, funding, or other information as directed by the Commissioner.

KEY: scholarships, technical college, career and technical education, secondary education

Date of Last Change: May 11, 2020

Authorizing, and Implemented or Interpreted Law: 53B-2a-116|

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 October 31, 2023.

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 <u>January 29, 2024</u>, 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				
Rule or Section Number:	R307-110-17	Filing ID: 55324		
Date of Previous Publication:	06/01/2023			

Agency Information

1. Department:	Environmental Quality
Agency:	Air Quality
Building:	MASOB
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144820
City, state and zip:	Salt Lake City, UT 84114-4820

Contact persons:

Name:	Phone:	Email:
Erica Pryor	385- 499- 3416	epryor1@utah.gov
Ryan Bares	801- 536- 4216	rbares@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits

3. Reason for this change:

The materials being incorporated by reference in Section R307-110-17 underwent a 45-day public comment period. During this time, stakeholders submitted additional technical information that resulted in modifications to the proposed emission controls and some timelines. More accurate financial information was also submitted to the Division during this time.

4. Summary of this change:

The changes are:

- 1) Controls for Chevron Products Company Salt Lake Refinery have been removed;
- 2) The timeline for implementation of controls at the Tesoro Refining & Marketing Company LLC Marathon Refinery have been modified from 05/01/2026 to 10/01/2028;
- 3) More accurate values for the annual operating costs have been determined; and

4) Fiscal impacts have been updated to accurately reflect the fiscal year they will occur in and not the calendar year. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the June 1, 2023, issue of the Utah State Bulletin, on page 70. 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.)

Fiscal Information

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

A) State budget:

These changes to this rule are not expected to create additional costs or savings for the state government since these facilities are already permitted and inspected under existing rules.

Inspectors will be able to confirm compliance as part of normal inspection processes.

B) Local government:

These changes to this rule are not expected to impact local governments; therefore, no costs or savings are anticipated.

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

These changes to this rule are not expected to impact small businesses; therefore, no costs or savings are anticipated.

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

The Utah Division of Air Quality anticipates that the changes to this rule will impact two non-small businesses.

The impacts are described below:

1) NOx limits for Tesoro Refining & Marketing Company LLC Marathon Refinery. Installation of Selective Catalytic Reduction on two cogeneration turbines with heat recovery steam generation that meet an emission concentration limitation of 5 ppmv @ 15% O2 (as required in Section IX Part H.32.j.b of the SIP).

Installed Capital Costs: \$23,335,159 Annual Operating Costs: \$591,869* Cost per ton of pollutant removed: \$39,770 Implementation timeline: October 1, 2028 2) VOC limits for Tesoro Refining & Marketing Company LLC Marathon Refinery. Installation of a secondary seal on Tank 321 (as required by Section IX Part H.32.j.c of the SIP).

Installed Capital Costs: \$143,795

Annual Costs: \$2,094*

Cost per ton of pollutant removed: \$9,115 Implementation Timeline: May 1, 2026

3) VOC limits for US Magnesium LLC (Cost Information from 01/31/2023 RACT Analysis). Installation of a steam stripper in series with regenerative thermal oxidizer on boron plant process wastewater ponds (as required in Section IX Part H.32.k.a of the SIP).

Installed Capital Costs: \$3,749,632

Annual Costs: \$5,077,156*

Cost per ton of pollutant removed: \$31,399 Implementation timeline: October 1, 2024

* Includes costs associated with annual interest.

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*):

These changes to this rule are not expected to impact persons other than small businesses, non-small businesses, or state or local government entities; therefore, no cost or savings are anticipated.

F) Compliance costs for affected persons:

Impacted non-small businesses are existing permitted sources with reoccurring testing and permitting obligations. Any additional costs for determining compliance are accounted for in the annual operating costs outlined above in Section D and are included in the Regulatory Impact Summary Table in Section G below.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$3,749,632	\$5,220,951
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$3,749,632	\$5,220,951
Fiscal Benefits	FY2024	FY2025	FY2026
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	(\$3,749,632)	(\$5,220,951)

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kim D. Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 19-2-104	U.S.C. Title 42,	
	Chapter 85,	
	Subchapter I, Part	
	A Section 7410	
	(a)(1) 2 (A)	

Incorporations by Reference Information

7. Incorporations by Reference:

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

Official Title of Materials Incorporated (from title page)	Utah State Implementation Plan Emission Limits and Operating Practices Section IX, Part H.31 and H.32
Publisher	Utah Department of Environmental Quality, Division of Air Quality
Issue or Version	September 12, 2023

NOTICES OF CHANGES IN PROPOSED RULES

Public Notice Information

- **8.** 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 No Formal Comment until:

9. This rule change MAY become	10/31/2023
effective on:	

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

Agency Authorization Information

or designee	Bryce C. Bird, Director	Date:	09/13/2023
and title:			

R307. Environmental Quality, Air Quality. R307-110. General Requirements: State Implementation Plan. R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits and Operating Practices, as most recently amended by the Utah Air Quality Board on September [6]12, 2023, pursuant to Section 19-2-104, is incorporated by reference and made a part of Rule R307-110.

KEY: air pollution, PM10, PM2.5, ozone

Date of Last Change: 2023

Notice of Continuation: December 1, 2021

Authorizing, and Implemented or Interpreted Law: 19-2-104

End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **Proposed Rule**, a **120-Day Rule** is preceded by a **Rule Analysis**. This analysis provides summary information about the **120-Day Rule** including the name of a contact person, justification for filing a **120-Day Rule**, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the 120-DAY RULE is printed. New text is underlined (<u>example</u>) and text to be deleted is struck out with brackets surrounding the deleted text ([example]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.....) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULEs**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or 120-DAY RULES are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE			
Rule or Section Number:	R251-716	Filing ID: 55720	
Effective Date:	09/14/2023		

Agency Information

1. Department:	Corrections		
Agency:	Administration		
Street address:	14727 Minuteman Drive		
City, state and zip:	Draper, UT 84020		
Contact persons:			
Name:	Phone:	Email:	
Steve Gehrke	385- 237- 8040	sgehrke@utah.gov	

Please address questions regarding information on this notice to the persons listed above.

General Information

Scholar information	
2. Rule or section catchline:	
R251-716. Undercover Roles of Offenders	

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

The Department of Corrections (Department) did not file a five-year review on Rule R251-103 before the rule expired on 09/12/2023. The Department is filing this emergency rule until a permanent rule can be made effective.

4. Summary of the new rule or change:

This rule regulates the capacities in which a justice involved individual (offender) can be used in undercover roles.

It outlines who receives and authorizes requests to use offenders in undercover roles.

The text is similar to the previous Rule R251-103. (EDITOR'S NOTE: The expiration notice for Rule R251-103 is under ID 50343 in this issue, October 1, 2023, of the Bulletin.)

5A) The agency finds that regular rulemaking would:

- cause an imminent peril to the public health, safety, or welfare;
- cause an imminent budget reduction because of budget restraints or federal requirements; or
- place the agency in violation of federal or state law.

B) Specific reasons and justifications for this finding:

Rule R251-301 expired after a five-year review was not completed.

The Department needs this rule to remain in effect to prevent an imminent peril to public health, safety, or welfare. If this rule does not define who reviews and approves the undercover roles of offenders, offenders could be extorted into aiding agencies without personal protection.

Fiscal Information

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

A) State budget:

There is no anticipated cost or savings change to the state budget, as this rule provides guidelines to the individual responsible for receiving and authorizing applications for offenders to be used in undercover roles. This rule will not have a fiscal impact.

B) Local governments:

There is no anticipated cost or savings change to the local governments, as this rule does not apply to this group.

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

There is no anticipated cost or savings change to small businesses, as this rule does not apply to this group.

D) Persons other than 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 anticipated cost or savings change to other persons, as this rule does not apply to this group.

E) 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, as this does not apply to this group and this rule has no fiscal impact regardless.

F) 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 Executive Director of the Department of Corrections, Brian Redd, has stated there to be no fiscal impacts to businesses as a result of this rule.

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 63G-3-201	Subsection 64-13-6(1)(h)	Section 64-13-10
Section 64-13-14		

Agency Authorization Information

Agency head	Brian Redd,	Date:	07/19/2023
or designee	Executive		
and title:	Director		

R251. Corrections, Administration.

R251-716. Undercover Roles of Offenders.

R251-716-1. Authority and Purpose.

- (1) This rule is authorized by Sections 63G-3-201, 64-13-10, 64-13-14, and Subsection 64-13-6(1)(h).
- (2) The purpose of this rule is to provide the Department's policy and requirements governing the use of offenders in undercover roles.

R251-716-2. Definitions.

- (1) "Department" means Utah Department of Corrections.
- (2) "Entity" means agency, department, the Board of Pardons and Parole, or other criminal justice organization.
 - (3) "LEB" means the Law Enforcement Bureau.
- (4) "Offenders" means any person under the supervision of the Department including inmates, parolees, and probationers.

R251-716-3. General Requirements.

- (1) Requests to use offenders in undercover roles originating within or outside the Department must be made in writing to the LEB Chief.
- (2) Decisions relating to requests from criminal investigators from the Department, or other criminal justice agencies, to use offenders under the supervision of the Department in undercover roles shall be made on a case-by-case basis. Factors to be considered include:
 - (a) risk or danger to the offender;
- (b) impact of these activities on implementation and realization of correctional goals for the offender;
 - (c) the nature of the assignment;
 - (d) the controls which shall exist; and
- (e) the importance of the assignment to maintaining public safety.
- (3) The Department may not unlawfully coerce nor knowingly permit unlawful coercion of offenders to participate in undercover roles.
- (4) Neither the Department nor any other entity shall be bound by any promises, inducements, or other arrangements agreed to by the offender unless the Department or any other involved entities has agreed in writing to the promises.
- (5) Final authority within the Department concerning requests shall reside with the LEB Chief.
- (6) Nothing in this section shall prohibit members of this Department or other criminal justice agencies from requesting or receiving information from offenders.

(7) Functions of this program shall be carried out by policies internal to the Department.

<u>Authorizing, and Implemented or Interpreted Law: 64-13-6(1)(f); 64-13-10</u>

KEY: corrections, probationers, parolees Date of Last Change: September 14, 2023

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **Proposed Rule**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **Review** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at 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				
Rule Number:	per: R156-61 Filing ID: 55378			
Effective Date: 09/07/2023				

Agency Information

1. Department:	Commerce		
Agency:	Professional Licensing		
Building:	Heber M	l Wells Building	
Street address:	160 E 30	00 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 persons:			
Name:	Phone: Email:		
Jana Johansen	801- janajohansen@utah.gov 530- 6628		
Please address q	questions regarding information on		

General Information

2. Rule catchline:

R156-61. Psychologist Licensing Act Rule

this notice to the persons listed above.

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 58, Chapter 61, provides for the licensure and regulation of psychologists and certified psychology residents.

Subsection 58-1-106(1) provides that the Division of Professional Licensing (Division) may adopt and enforce rules to administer Title 58.

Subsection 58-1-202(1)(a) provides that the Psychologist Licensing Board's duties, functions and responsibilities includes recommending to the director appropriate rules.

This rule was enacted to clarify the provisions of Title 58, Chapter 61, with respect to psychologists and certified psychology residents.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

Since this rule was last reviewed in September 2018, this rule has had controversial proposed rule amendment filings relating to conversion therapy in 2019 and 2020.

The Division ultimately filed three different rule amendment filings, two in 2019 and one in 2020 regarding proposed conversion therapy amendments. Between those three proposed rule filings in 2019 and 2020, the Division received over 2,500 written comments relating to the proposed rule amendments.

Some of the written comments supported the proposed amendments and some of the comments opposed the proposed amendments. The Division also notes that a large number of persons attended a September 2019 rule hearing and provided comments in person.

As a result of all of the written and verbal comments, the Division ultimately filed a third proposed rule filing (OAR File No. 52388) as was directed by Governor Herbert at the time and which filing was ultimately made effective on 01/21/2020. It is also noted that this rule was also amended on 05/01/2023 as a result of a legislative nonreauthorization filing due to legislative changes (see H.B. 127) made to the governing statute, Title 58, Chapter 61, in which provisions relating to conversion therapy were deleted from 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 is necessary as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 61.

This rule also provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Mark B. Steinagel,	Date:	07/28/2023
or designee	Division Director		
and title:			

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-400	Filing ID: 55668
Effective Date:	09/13/2023	

Agency Information

1. Department:	Education			
Agency:	Administration			
Building:	Board of Edu	ucation		
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 persons:	Contact persons:			
Name:	Phone: Email:			
Angie Stallings	801-538- angie.stallings@schools. 7830 utah.gov			
Please address q	ddress questions regarding information on			

this notice to the persons listed above.

General Information

2. Rule catchline:

R277-400. School Facility Emergency and Safety

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 pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; and Subsection 53E-3-401(4), which allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no public comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it establishes general criteria for emergency preparedness and emergency response plans, directing a Local Education Agency (LEA) to develop prevention, intervention, and response measures, prepare staff and students to respond promptly and appropriately to school emergencies, and protect the health and safety of all students. Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/13/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-437	Filing ID: 50421
Effective Date:	09/11/2023	

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 persons:			
Name:	Phone:	Email:	
Angie Stallings	801-538- 7830	angie.stallings@schools. utah.gov	

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:

R277-437. Open Enrollment

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 pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3-401(4), which allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law; and Section 53G-6-405, which directs the Board to provide a formula by rule for resident students to attend school districts under Section 53G-6-401.

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 public comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it establishes necessary definitions; establishes a formula for the residual per pupil expenditure for school districts to reimburse each other for full and part-time nonresident students; summarizes school, school district, and state responsibilities under Section 53G-6-401; and provides a standard statewide open enrollment form required under Subsection 53G-6-402(4)(b)(ii). Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/11/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-609	Filing ID: 55331
Effective Date:	09/13/2023	

Agency Information

agonoy information		
Education		
Administration	on	
Board of Edu	ucation	
250 E 500 S		
Salt Lake City, UT 84111		
PO Box 144200		
Salt Lake City, UT 84114-4200		
Contact persons:		
Phone: Email:		
801-538- angie.stallings@scho 7830 utah.gov		
	Education Administration Board of Edu 250 E 500 S Salt Lake Ci PO Box 144 Salt Lake Ci Phone: 801-538-	

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:

R277-609. Standards for LEA Discipline Plans and Emergency Safety Interventions

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 pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3-401(4), which allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law; Subsection 53E-3-501(1)(b)(v), which requires the Board to establish rules concerning discipline and control; Section 53E-3-509, which requires the Board to adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction; Section 53G-8-702, which requires the Board to adopt rules regarding training programs for school principals and school resource officers; Section 53G-8-202, which directs local school boards and charter school governing boards to adopt conduct and discipline policies and directs the Board to develop model policies to assist local school boards and charter school governing boards; and Section 53G-8-302, which describes the instances when a school employee may use reasonable and necessary physical restraint.

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 public comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it outlines requirements for school discipline plans, restorative practices, and related policies for the use of emergency safety interventions in all schools and for all students within each Local Education Agencies (LEA's) jurisdiction. Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/13/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-620	Filing ID: 53390
Effective Date:	09/11/2023	

Agency Information

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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 persons:	

Name:	Phone:	Email:
Angie Stallings	801-538- 7830	angie.stallings@schools. utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:

R277-620. Suicide Prevention Programs

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 pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3-401(4), which allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no public comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary to provide for collaboration with the Department of Health and Department of Human Services to establish, oversee, and provide model policies, programs for a local education agency (LEA) and training for parents about youth suicide prevention programs; to require an LEA to have and update youth protection policies; and to direct an LEA to send notice to parents and protect the confidentiality of the required parent notification record regarding bullying and suicide incidents. Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/11/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

FIVE-YEAR NOTI CONTINUATION	CE OF REVIEW	AND STATEMENT OF
Rule Number:	R277-718	Filing ID: 50541
Effective Date:	09/11/2023	

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Edu	ucation
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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538- 7830	angie.stallings@schools. utah.gov
Please address questions regarding information on		

General Information

2. Rule catchline:

R277-718. Out-of-School Time Program Quality Improvement Grants

this notice to the persons listed above.

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 pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3-401(4), which allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law; and Section 53F-5-210, which creates a grant program for out-of-school time programs, and requires the Board to adopt rules to administer the grant program.

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 public comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it outlines grant procedures, including:

- (a) an application procedure;
- (b) criteria and procedures for awarding grants; and
- (c) requirements for grant recipients.

Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Angie Stallings,	Date:	09/11/2023
or designee	Deputy		
and title:	Superintendent of		
	Policy		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R414-511	Filing ID: 51005
Effective Date:	09/13/2023	

Agency Information

1. Department:	Health and Human Services
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 persons:		
Name:	Phone:	Email:
Craig Devashrayee	801- 538- 6641	cdevashrayee@utah.gov
Jonah Shaw	385- 310- 2389	jshaw@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:

R414-511. Medicaid Accountable Care Organization Incentives to Appropriately Use Emergency Room Services

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 26B-3-108 requires the Department of Health and Human Services to implement the Medicaid program through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department did not receive any written comments regarding this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Department will continue this rule because it provides definitions and incentives, which set forth performance measures for Medicaid accountable care organizations to appropriately use emergency room services. Therefore, this rule should be continued.

The Department will file an amendment to update citations for recodification purposes.

Agency Authorization Information

Agency head	Tracy S. Gruber,	Date:	09/12/2023
or designee	Executive		
and title:	Director		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number: R590-160 Filing ID: 54783
Effective Date: 09/15/2023

Agency Information

agency information			
1. Department:	Insurance		
Agency:	Administration		
Room number:	Suite 2300		
Building:	Taylorsvi	ille State Office Building	
Street address:	4315 S 2700 W		
City, state and zip:	Taylorsville, UT 84129		
Mailing address:	PO Box 146901		
City, state and zip:	Salt Lake City, UT 84114-6901		
Contact persons:			
Name:	Phone: Email:		
Steve Gooch	801- sgooch@utah.gov 957- 9322		

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:

R590-160. Adjudicative Proceedings

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.

Section 63G-4-102 authorizes the Department of Insurance (Department) to enact rules affecting or governing adjudicative proceedings.

Section 63G-4-203 authorizes the Department to designate one or more categories of adjudicative proceeding as informal and to prescribe procedures for these informal hearings.

Section R590-160-4 designates the categories for informal proceedings, and Sections R590-160-7 and R590-160-8 set the rules for proceedings and their review.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is important for the activities of the Department and its regulation of the industry. This rule sets fair and equitable standards that govern administrative procedures. This helps all involved in the process to know what is expected of them and what to expect of the process. Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Steve Gooch,	Date:	09/15/2023
or designee	Public Information		
and title:	Officer		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-161	Filing ID: 54000	
Effective Date:	09/15/2023		

Agency Information

1. Department:	Insurance		
Agency:	Administration		
Room number:	Suite 2300		
Building:	Taylorsvi	lle State Office Building	
Street address:	4315 S 2	2700 W	
City, state and zip:	Taylorsville, UT 84129		
Mailing address:	PO Box 146901		
City, state and zip:	Salt Lake City, UT 84114-6901		
Contact persons:			
Name:	Phone: Email:		
Steve Gooch	801- sgooch@utah.gov 957-		

Please address questions regarding information on this notice to the persons listed above.

9322

General Information

2. Rule catchline:

R590-161. Income Replacement Insurance Policy Disclosure

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. This rule requires insurers offering disability policies to clearly explain in their policies, group

certificates, or outline of coverage forms, if the policy limits will be reduced as a result of other coverage.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Insurance has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule provides protection for consumers by requiring disclosure of which other types of income are considered for reducing a benefit under a disability income policy.

Without this rule, consumers may not realize that their policy benefits will be reduced if they are receiving benefits from other policies, social security, or workers' compensation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Steve Gooch,	Date:	09/15/2023
or designee	Public Information		
and title:	Officer		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-162	Filing ID: 54693
Effective Date:	09/15/2023	

Agency Information

1. Department:	Insurance		
Agency:	Administration		
Room number:	Suite 2300		
Building:	Taylorsv	ille State Office Building	
Street address:	4315 S 2	2700 W	
City, state and zip:	Taylorsville, UT 84129		
Mailing address:	PO Box 146901		
City, state and zip:	Salt Lake City, UT 84114-6901		
Contact persons:			
Name:	Phone: Email:		
Steve Gooch	801- sgooch@utah.gov 957- 9322		

General Information

2. Rule catchline:

R590-162. Actuarial Opinion and Memorandum Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-17-503 requires the Department of Insurance (Department) to set standards and wording to be used in an actuarial opinion and memorandum. The opinion and memorandum are filed by all life and fraternal insurance companies along with their annual statements.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it is an important requirement that allows financial regulators to gain a comfort level for insurance company reserves, asset adequacy, and liability matching. This rule is also required by the National Association of Insurance Commissioners for Utah to keep its national accreditation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Steve Gooch,	Date:	09/15/2023
or designee	Public Information		
and title:	Officer		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF

CONTINUATION		
Rule Number:	R590-245	Filing ID: 54584
Effective Date:	09/15/2023	

Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129

Please address questions regarding information on

this notice to the persons listed above.

Mailing address:	PO Box 146901		
City, state and zip:	Salt Lake City, UT 84114-6901		
Contact persons:			
Name:	Phone:	Email:	
Steve Gooch	801- 957- 9322	sgooch@utah.gov	

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:

R590-245. Self-Service Storage Insurance

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.

Section 31A-23a-106 classifies self-service storage insurance as a limited line license.

Sections 31A-23a-104 and 31A-23a-110 authorize the insurance commissioner to prescribe the form in which licenses covered under Chapter 23a are to be issued or renewed.

Section 31A-23a-111 authorizes the Insurance Commissioner to prescribe, by rule, license renewal and reinstatement procedures.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Insurance has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule establishes the guidelines and standards for obtaining and maintaining a license to sell self-service storage insurance coverage in Utah. This coverage benefits those without personal property or tenant liability coverage through some other insurance policy, such as a homeowners insurance policy. Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Steve Gooch, Public Information	 09/15/2023
or designee and title:	Officer	
and title.	Onloci	

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION			
Rule Number:	R708-52	Filing ID: 51895	
Effective Date:	ate: 09/13/2023		

Agency Information

1. Department:	Public Safety		
Agency:	Driver License		
Room number:	Suite 26	00	
Street address:	4315 S 2	2700 W	
City, state and zip:	Taylorsville, UT 84129		
Mailing address:	PO Box	144501	
City, state and zip:	Salt Lake City, UT 84114-4501		
Contact persons:			
Name:	Phone: Email:		
Kim Gibb	801- 556- 8198	kgibb@utah.gov	
Tara Zamora	801- 964- 4483	tarazamora@utah.gov	
Britani Flores	801- 884-	bflores@utah.gov	

Please address questions regarding information on this notice to the persons listed above.

8313

General Information

2. Rule catchline:

R708-52. Air Pollution Mitigation Education 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 authorized by Subsection 53-3-104(1)(g) which requires the Driver License Division to make rules to provide educational information regarding air pollution mitigation to each applicant for a license.

The authorizing statute in the current rule text is Subsection 53-3-104(1)(f) and will be corrected in a subsequent 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 been no comments 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 by Subsection 53-3-104(1)(g) and is necessary to disseminate educational information regarding air pollution including ways to mitigate it, and the harmful effects of vehicle emissions. Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Christopher	Date:	09/13/2023
or designee	Caras, Division		
and title:	Director		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R918-4	Filing ID: 52114
Effective Date:	09/15/2023	

Agency Information

1. Department:	Transportation		
Agency:	Operations, Maintenance		
Room no.:	Administ	rative Suite, 1st Floor	
Building:	Calvin R	ampton Building	
Street address:	4501 S 2	2700 W	
City, state and zip:	Taylorsv	ille, UT 84129	
Mailing address:	PO Box	148455	
City, state and zip:	Salt Lake City, UT 84114-8455		
Contact person(s)	act person(s):		
Name:	Phone: Name:		
Leif Elder	801- 580- 8296	lelder@utah.gov	
Becky Lewis	801- blewis@utah.gov 965- 4026		
James Palmer	801- 965- 4197	jimpalmer@agutah.gov	
Lori Edwards	801- 965- 4048	loriedwards@agutah.gov	

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:

R918-4. Using Volunteer Groups and Third-Party Contractors for the Adopt-a-Highway and Sponsor-a-Highway Litter Pickup Programs

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 Department of Transportation's (Department) general rulemaking authority in Section 72-1-201.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received any written comments 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 satisfies a need to maintain state highway right of way free from litter and debris while minimizing the cost to the taxpayers. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee	Carlos M. Braceras, PE,	Date:	09/08/2023
and title:	Executive Director		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION Rule Number: R926-16 Filing ID: 54808

 Rule Number:
 R926-16
 Filing ID: 54808

 Effective Date:
 09/05/2023

Agency Information

1. Department:	Transportation	
Agency:	Program Development	
Room no.:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton Building	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	

Contact person(s):		
Name:	Phone:	Name:
Leif Elder	801- 580- 8296	lelder@utah.gov
Becky Lewis	801- 965- 4026	blewis@utah.gov
James Palmer	801- 965- 4197	jimpalmer@agutah.gov
Lori Edwards	801- 965- 4048	loriedwards@agutah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:

R926-16. Unsolicited Proposals for Transportation Infrastructure Public-Private Partnerships

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 72-1-201(1)(h) and Section 63G-6a-712.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Transportation (Department) has not received any written comments 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 satisfies the requirement of Subsection 72-1-201(1)(h) to make rules for the Department's administration, state transportation systems, and programs. Therefore, this rule should be continued.

Agency Authorization Information

Agency head	Carlos M.	Date:	09/02/2023
or designee	Braceras, PE,		
and title:	Executive		
	Director		

FIVE-YEAR NOTI CONTINUATION	CE OF REVIEW	AND STATEMENT OF
Rule Number:	R940-3	Filing ID: 54160
Effective Date:	09/05/2023	

Agency Information

1. Department:	Transportation Commission	
Agency:	Administration	
Room no.:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton Building	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact person(s)	:	

Name:	Phone:	Name:
Leif Elder	801- 580- 8296	lelder@utah.gov
Becky Lewis	801- 965- 4026	blewis@utah.gov
James Palmer	801- 965- 4197	jimpalmer@agutah.gov
Lori Edwards	801- 965- 4048	loriedwards@agutah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:

R940-3. State Infrastructure Bank Fund, Prioritization Process, Procedures, and Standards for Making Loans or Providing Infrastructure Assistance

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 authority to make this rule is by Sections 72-2-202 and 72-2-203.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Transportation Commission (Commission) has not received any written comments 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 satisfies the requirement in Section 72-2-203 that the Commission shall make rules providing procedures and standards for making infrastructure loans and providing infrastructure assistance and a process for prioritization of requests for loans and assistance.

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ı	Therefore, this rule should be continued.	

Agency Authorization Information

Agency head	Carlos M.	Date:	09/02/2023
or designee	Braceras, PE,		
and title:	Executive		
	Director		

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a NOTICE OF FIVE-YEAR REVIEW **EXTENSION** (**EXTENSION**) with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed EXTENSIONS for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

EXTENSIONS are governed by Subsection 63G-3-305(6).

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule Number:	R398-3	Filing ID: 54201
New Deadline Date:	01/12/2024	

Agency Information

1. Department:	Health and Human Services		
Agency:	Family Health, Children with Special Health Care Needs		
Room number:	3032		
Building:	Multi-Agency State Office Building (MASOB)		
Street address:	195 N 1950 W		
City, state and zip:	Salt Lake City, UT 84116		
Mailing address:	PO Box 144610		
City, state and zip:	Salt Lake City, UT 84114-4610		
Contact persons:			
Name:	Phone: Email:		
Alexis Weight	801- abweight@utah.gov 273- 2956		

Stephanie McVicar	801- 273- 6600	smcvicar@utah.gov
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Please address questions regarding information on this notice to the persons listed above.

General Inform	iation		
2. Rule catch	line:		
R398-3. Childr	en's Hearing Aid	Program	
3. Reason for	requesting the	extension:	
(Department) is give the Depa accordance wit	ent of Health is requesting a fiv rtment enough t ih S.B. 272 from t I the authorizing	e-year review ime to repeal the 2023 Gene	extension to this rule in

Agency Authorization Information

Agency head or designee	David Litvack, Deputy Director	Date:	09/08/.82 2023
and title:			

End of the Notices of Five-Year Review Extensions Section

NOTICES OF FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a NOTICE OF FIVE-YEAR EXTENSION (EXTENSION) with the Office. However, if the agency fails to file either the FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION or the EXTENSION by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION** (**EXPIRATION**) to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

NOTICE OF EXPIRED RULE		
Rule Number:	R251-103	Filing ID: 50343
Effective Date:	09/13/2023	

Agency Information

1. Department:	Corrections				
Agency:	Administration				
Street address:	14727 Minuteman Drive				
City, state, and zip:	Draper, UT 84020				
Contact person(s)	Contact person(s):				
Name:	Phone:	Email:			
Nancy L. Lancaster	801- 957- 7102	rulesonline@utah.gov			

General Information

2. Title of rule (catchline):

R251-103. Undercover Roles of Offenders

3. Summary:

The five-year review and notice of continuation was not filed for this rule by the deadline. This rule has expired and was removed from the Utah Administrative Code.

End of the Notices of Notices of Five-Year Expirations 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.

Corrections

Administration

No. 55548 (Amendment) R251-703: Vehicle Direction

Station

Published: 08/15/2023 Effective: 09/26/2023

Environmental Quality

Air Quality

No. 55323 (Amendment) R307-110-13: Section IX, Control

Measures for Area and Point Sources, Part D, Ozone

Published: 06/01/2023 Effective: 09/13/2023

Waste Management and Radiation Control, Radiation

No. 55531 (Amendment) R313-12-3: Definitions

Published: 08/01/2023 Effective: 09/18/2023

No. 55532 (Amendment) R313-32-2: Clarifications or

Exceptions

Published: 08/01/2023 Effective: 09/18/2023

Health and Human Services

Disease Control and Prevention, Health Promotion

No. 55390 (Amendment) R384-415: Requirements to Sell

Electronic Cigarette Products Published: 05/15/2023 Effective: 09/12/2023

No. 55390 (Change in Proposed Rule) R384-415: Requirements to Sell Electronic Cigarette Products

Published: 06/15/2023 Effective: 09/12/2023 Health Care Financing, Coverage and Reimbursement Policy

No. 55528 (Amendment) R414-1-31: Withholding of

Payments

Published: 08/01/2023 Effective: 09/14/2023

Natural Resources

Public Lands Policy Coordinating Office

No. 55457 (New Rule) R654-1: Archaeological Permits

Published: 07/15/2023 Effective: 09/05/2023

Public Lands Policy Coordination Office

Administration

No. 55443 (Repeal) R694-1: Archeological Permits

Published: 07/15/2023 Effective: 09/05/2023

Public Safety

Emergency Management

No. 55542 (New Rule) R704-4: Response, Recovery, and

Post-disaster Mitigation Grant Funding

Published: 08/15/2023 Effective: 09/21/2023

Driver License

No. 55526 (Repeal) R708-49: Temporary Identification

Card

Published: 08/01/2023 Effective: 09/11/2023

Highway Patrol

No. 55552 (Amendment) R714-560: Technology and Equipment for Officer-Involved Critical Incident Investigation

Published: 08/15/2023 Effective: 09/21/2023

NOTICES OF RULE EFFECTIVE DATES

No. 55587 (New Rule) R714-562: Early Intervention System Grant Program Published: 08/15/2023

Effective: 09/21/2023

End of the Notices of Rule Effective Dates Section