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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EDITOR'S NOTES

EDITOR'S NOTE

Public Hearing for Rule R156-4a, ID 58296

The Office of Administered Rules (OAR) was notified on 10/16/2026 of missing information for the public hearing for Rule R156-4a, ID 58296, that was published in the October 15, 2026, issue, pages 8 to 18, of the Utah State Bulletin.

The date and time of the public hearing was omitted from the rule analysis form. The hearing will be on 11/05/2026 at 11:00 AM. Below is the information needed to attend physically or virtually.

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	11/16/2026

B. A public hearing (optional) will be held (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.)**:**		
Date:	**Time:**	**Place** (physical address or URL)**:**
11/05/2026	11:00 AM	Anchor Meeting Location: Heber M Wells Building Room 402 160 E 300 S Salt Lake City, UT Google Meet joining info: Video call link: https://meet.google.com/qyr-rvcq-edn Or dial: (US) +1 260-215-6455 PIN: 217 815 599# More phone numbers: https://tel.meet/qyr-rvcq-edn?pin=2112834373143

If there are any questions, please send them to rulesonline@utah.gov.

EDITOR'S NOTE

Public Hearing for Rule R909-19, ID 58219

The Utah Department of Transportation (UDOT), Division of Motor Carrier is holding a public hearing on the proposed amendment to Rule R909-19, Safety Regulations for Tow Truck Operations – Tow Truck Requirements for Equipment, Operation, and Certification, that was published under ID 58219 in the October 1, 2026, issue, pages 243 to 255, of the Utah State Bulletin.

Hearing Information:
Date: Tuesday, 11/03/2026
Time: 2:00 PM to 3:30 PM

In Person Location:
Calvin Rampton Complex
4501 S 2700 W
First Floor, Redwood A Conference Room
Taylorsville, UT

Electronic Means:
meet.google.com/qgy-ezwi-xac
Phone Numbers: (US)+1 510-957-3389
PIN: 371 176 252#

UDOT has also extended the public comment period from 11/02/2026 through 11/09/2026.

If there are any questions, contact Leif Elder at phone number 801-580-8296 or email at lelder@utah.gov.

End of the Editor's Notes Section

EXECUTIVE DOCUMENTS

Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Office of Administrative Rules for publication and distribution.

PROCLAMATION

WHEREAS, since the close of the 2026 General Session of the 66th Legislature of the state of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the state of Utah provides that the governor may, by proclamation, convene the Senate into Extraordinary Session; and

NOW, THEREFORE, I, Spencer J. Cox**,** governor of the state of Utah, by virtue of the authority vested in me by the Constitution and Laws of the state of Utah, do by this Proclamation call the Senate only of the 66th Legislature of the state of Utah into the 14th Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 21st day of October 2026, at 4:00 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the state of Utah since the close of the 2026 General Session of the Legislature of the state of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the state of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 20th day of October 2026.

(State Seal)

Spencer J. Cox
Governor

ATTEST:

Deidre M. Henderson
Lieutenant Governor

2026-14E

End of the Executive Documents Section

NOTICES OF
PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between October 02, 2026, 12:00 a.m., and October 15, 2026, 11:59 p.m. are included in this, the November 01, 2026, 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 December 01, 2026. 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 March 02, 2027, 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 SUBSTANTIVE CHANGE	
TYPE OF FILING: Repeal	**Filing ID: 58363**
Rule or section number:	**R17-8**

1. Agency Information

Title catchline:	Government Operations, Archives and Records Service
Building:	Rio Grande Building
Street address:	346 S Rio Grande St
City, state:	Salt Lake City, UT

2. Contact Persons

Name:	**Phone:**	**Email:**
Rebekkah Shaw	385-386-1955	rshaw@utah.gov
Kendra Yates	801-531-3856	kendrayates@utah.gov

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

3. General Information

A. Rule or section catchline:

R17-8. Application of Microfilm Standards

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

Microfilming records for retention purposes is no longer best practice for records preservation. Microfilm is no longer readily available.

C. Summary of the new rule or change:

This filing repeals this rule in its entirety.

5. Fiscal Information

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

A. State budget:

There is no cost impact. Microfilm is no longer in use so repealing this rule has no anticipated savings or impact on current Division of Archives and Records Service (division) practices.

B. Local governments:

There is no cost impact. Microfilm is no longer in use so repealing this rule has no anticipated savings or impact on current division practices.

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

There is no cost impact. Microfilm is no longer in use so repealing this rule has no anticipated savings or impact on current division practices.

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

There is no cost impact. Microfilm is no longer in use so repealing this rule has no anticipated savings or impact on current division practices.

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

There is no cost impact. Microfilm is no longer in use so repealing this rule has no anticipated savings or impact on current division practices.
F. Compliance costs for affected persons:
There is no cost impact. Microfilm is no longer in use so repealing this rule has no anticipated savings or impact on current division practices.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Government Operations, Marvin Dodge, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 63A-12-104		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Division Director, State Archivist	**Date:**	09/29/2026

R17. Government Operations, Archives and Records Service.
[~~R17-8. Application of Microfilm Standards.~~
~~R17-8-1. Authority and Purpose.~~
~~In accordance with Subsection 63A-12-104(1), this rule establishes a procedure for the microfilming standards of permanent and long-term records.~~

~~R17-8-2. Micrographic Standards.~~
~~(1) Anyone microfilming Utah state and local government documents for retention purposes shall microfilm these records in conformity with the ANSI/AIIM Imaging Guidelines 2004, which are incorporated by reference.~~
~~(2) The State Archives must certify that each roll of microfilm complies with these Imaging Guidelines prior to the destruction of the original records.~~
~~(3) The State Archives is the official custodian of all master microfilm.~~
~~(4) Access to microfilmed records is permitted in accordance with the approved retention and classification for the records series.~~

~~KEY: records retention, public information, access to information~~
~~Date of Last Change: December 31, 2013~~
~~Notice of Continuation: October 24, 2022~~
~~Authorizing, and Implemented or Interpreted Law: 63A-12-104~~]

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58349**
Rule or section number:	**R23-1**

1. Agency Information

Title catchline:	Government Operations, Facilities Construction and Management
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W, 3rd Floor
City, state:	Taylorsville, UT
Mailing address:	PO Box 141160
City, state and zip:	Salt Lake City, UT 84114-1160

2. Contact Persons

Name:	**Phone:**	**Email:**
Mike Kelley	801-957-7239	mkelley@agutah.gov

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

3. General Information

A. Rule or section catchline:

R23-1. Procurement Rules with Numbering Related to the Procurement Code

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

HB 508 passed in the 2026 General Session, now codified at Section 63G-6a-1103, removed the requirement that the Division of Facilities Construction and Management (DFCM) obtain performance and payment bonds but may require a performance bond, payment bond or both if DFCM determines that the bond is necessary to protect DFCM from financial loss or performance risk.

The amendment to Rule R23-1, specifically the addition of Section R23-1-1103, sets forth the factors DFCM will consider in determining if a bond is necessary to protect DFCM from financial loss or performance risk.

C. Summary of the new rule or change:
The amendment to Rule R23-1, specifically the addition of Section R23-1-1103, sets forth the factors DFCM will consider in determining if a bond is necessary to protect DFCM from financial loss or performance risk.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 508 (2026 General Session)

5. Fiscal Information

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
None. Any cost or savings on the state budget are the result of Section 63G-6a-1103 exempting DFCM from the requirement of obtaining a performance bond and payment bond unless DFCM determines bonds are necessary to protect DFCM from financial loss or performance risk, and not from implementation of that exemption in Section R23-1-1103. The Fiscal Note attached to HB 508 (2026) noted that: "[i]nasmuch as a capital development project comes in under budget, the excess funds could be deposited into the General Fund or the Income Tax Fund. The exact amount is unknown."
B. Local governments:
None. Any cost or savings on local governments are the result of Section 63G-6a-1103 exempting DFCM from the requirement of obtaining a performance bond and payment bond unless DFCM determines bonds are necessary to protect DFCM from financial loss or performance risk, and not from implementation of that exemption in Section R23-1-1103. The Fiscal Note attached to HB 508 (2026) found no direct, measurable costs to local governments.
C. Small businesses ("small business" means a business employing 1-49 persons)**:**
None. Any cost or savings on small businesses are the result of Section 63G-6a-1103 exempting DFCM from the requirement of obtaining a performance bond and payment bond unless DFCM determines bonds are necessary to protect DFCM from financial loss or performance risk, and not from implementation of that exemption in Section R23-1-1103. The Fiscal Note attached to HB 508 (2026) found no direct expenditures from tax or fee changes for Utah residents and businesses.
D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
None. Any cost or savings on non-small businesses are the result of Section 63G-6a-1103 exempting DFCM from the requirement of obtaining a performance bond and payment bond unless DFCM determines bonds are necessary to protect DFCM from financial loss or performance risk, and not from implementation of that exemption in Section R23-1-1103. The Fiscal Note attached to HB 508 (2026) found no direct expenditures from tax or fee changes for Utah residents and 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***)**:**
None. Any cost or savings to persons other than small businesses, non-small businesses and state or local government entities are the result of Section 63G-6a-1103 exempting DFCM from the requirement of obtaining a performance bond and payment bond unless DFCM determines bonds are necessary to protect DFCM from financial loss or performance risk, and not from implementation of that exemption in Section R23-1-1103. The Fiscal Note attached to HB 508 (2026) found no direct expenditures from tax or fee changes for Utah residents and businesses.

F. Compliance costs for affected persons:
None. Any cost or savings in compliance costs for affected persons are the result of Section 63G-6a-1103 exempting DFCM from the requirement of obtaining a performance bond and payment bond unless DFCM determines bonds are necessary to protect DFCM from financial loss or performance risk, and not from implementation of that exemption in Section R23-1-1103. The Fiscal Note attached to HB 508 (2026) found that enactment of this legislation will not change the regulatory burden for Utah residents or businesses.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	inestimable	inestimable	inestimable	inestimable	inestimable
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**inestimable**	**inestimable**	**Inestimable**	**inestimable**	**inestimable**
Net Fiscal Benefits	**inestimable**	**inestimable**	**inestimable**	**inestimable**	**inestimable**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Government Operations, Marvin Dodge, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Subsection 63A-5b-305(2)(c)	Subsection 63G-6a-1103(5)	

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Andy Marr, Director	**Date:**	10/14/2026

R23. Government Operations, Facilities Construction and Management.
R23-1. Procurement Rules with Numbering Related to the Procurement Code.
R23-1-101. Scope of the Rules and Compliance by Using Agencies.

(1) Rule R23-1 applies to procurements by the Division of Facilities Construction and Management. This includes the procurement of construction, architects, engineers, design services and any other professional services and procurements related to design or construction by the Division of Facilities Construction and Management as well as other procurement items within the rule authorization of the Division of Facilities Construction and Management. Using Agencies are required to comply with this rule to the extent required by the Utah Code.

(2) The statutory provisions governing the procurement referred to in Subsection R23-1-101(1) are provided in the Utah Procurement Code, Title 63G, Chapter 6a as well as Title 63A, Chapter 5b, Administration of State Facilities.

R23-1-102. Definitions.

Terms used in this rule are defined in Section 63G-6a-103 of the Utah Procurement Code. In addition:

(1) "Adequate Price" Competition means when a minimum of two competitive bids, proposals, or quotes are received from responsive bidders or offerors.

(2) "Acquiring Agency" is a conducting procurement unit subject to Section 63A-16-204 acquiring new technology or technology as therein defined.

(3) "Bid Bond" is an agreement, accompanied by a monetary commitment, by which a third party, the surety, accepts liability and guarantees that the bidder will not withdraw the bid. The bidder will furnish bonds in the required amount and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or else the surety will pay a specific amount.

(4) "Bid Security" means the deposit of cash, certified check, cashier's check, bank draft, money order, or bid bond submitted with a bid and serving to guarantee to the division that the bidder, if awarded the contract, will execute such contract in accordance with the bidding requirements and the contract documents.

(5) "Brand Name or Equal Specification" means a specification which uses a brand name specification to describe the standard of quality, performance, and other characteristics being solicited, and which invites the submission of equivalent products.

(6) "Brand Name Specification" means a specification identifying one or more products by manufacturer name, product name, unique product identification number, product description, SKU or catalog number.

(7) "Cost Analysis" means the evaluation of cost data to arrive at estimates of costs to be incurred, prices to be paid, costs to be reimbursed, or costs actually incurred.

(8) "Cost Data" means factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

(9) "Director" means the director of the division, including, unless otherwise stated, the director's authorized designee.

(10) "Division" means the Division of Facilities Construction and Management established pursuant to Section 63A-5b-301.

(11) "New Technology" means a technology innovation as defined in Section 63A-16-901.

(12) "Payment Bond" is a bond that guarantees payment for labor and materials expended on the contract.

(13) "Performance Bond" means a promise to pay the obligee, the division, a certain amount if the principal, contractor, fails to meet some obligation, such as fulfilling the terms of a contract. The performance bond protects the obligee, the division, against losses resulting from the principal's failure to meet the obligation. If the obligations are not met, the obligee, the division, will recover its losses via the performance bond.

(14) "Pricing Data" means factual information concerning prices for procurement items.

(15) "Record" shall have the meaning defined in Section 63G-2-103 of the Government Records Access and Management Act (GRAMA).

(16) "Solicitation," in addition to the definition in Subsection 63G-6a-103(8[~~2~~]4) also includes all documents, whether attached or incorporated by reference to the solicitation.

(17) "Technology" means any type of information technology defined in Subsection 63A-16-102(8).

(18) "Using Agency" means any state agency or any political subdivision of the state which utilizes the services procured under this Rule R23-1.

R23-1-103. Division is Issuing and Conducting Procurement Unit.

The division is both the issuing and conducting procurement unit for procurements under this rule.

R23-1-104. Specifications.

(1) Solicitation documents shall include specifications for the procurement items.

(2) Specifications shall be drafted with the objective of clearly describing the division's requirements and encouraging competition. [~~]~~Specifications shall emphasize the functional or performance criteria necessary to meet the needs of the division.

(3) Persons with a conflict of interest, or who anticipate responding to the proposal for which the specifications are written, may not participate in writing specifications. The division may retain the services of an entity to assist in writing specifications, scopes of work, requirements, qualifications, or other components of a solicitation. However, the entity assisting in writing specifications shall not, at any time

during the procurement process, be employed in any capacity by, nor have an ownership interest in, an individual, public or private corporation, governmental entity, partnership, or unincorporated association bidding on or submitting a proposal in response to the solicitation.

(a) Subsection R23-1-104(3) does not apply to the following:

(i) a design-build construction project;

(ii) provisions in a specification provided by the designer when the source of the specification is identified and it is not designed to be an impermissible sole source, a sole source that does not comply with the Utah Procurement Code and the applicable administrative rules; and

(iii) other procurements determined in writing by the director.

(b) Violations of Subsection R23-1-104(3) may result in:

(i) the bidder or offeror being declared ineligible for award of the contract;

(ii) the solicitation being cancelled;

(iii) termination of an awarded contract; or

(iv) any other action determined to be appropriate by the director.

(4) Brand Name or Equal Specifications.

(a) Brand name or equal specifications may be used when:

(i) "or equivalent" reference is included in the specification; and.

(ii) as many other brand names as practicable are also included in the specification.

(b) Brand name or equal specifications shall include a description of the particular design and functional or performance characteristics which are required. Specifications unique to the brands shall be described in sufficient detail that another person can respond with an equivalent brand.

(c) When a manufacturer's specification is used in a solicitation, the solicitation shall state the minimum acceptable requirements of an equivalent. When practicable, the division shall name at least three manufacturer's specifications.

(5) Sole Source Requirements for Brand Name Specifications:

(a) If only one brand can meet the requirement, the division shall conduct the procurement in accordance with Section 63G-6a-802 and shall solicit from as many providers of the brand as practicable; and

(b) If there is only one provider that can meet the requirement, the division shall conduct the procurement in accordance with Section 63G-6a-802.

R23-1-201. Director Appoint to Policy Board.

The director shall appoint a representative to serve on the Utah State Procurement Policy Board.

R23-1-301. Relationship with the Division of Purchasing and General Services.

(1) The division recognizes Part 3 of the Utah Procurement Code regarding the Chief Procurement Officer. The division may participate as needed or required with trainings provided by the Division of Purchasing and General Services.

(2) The director's responsibilities are provided in Title 63a, Chapter 5b, Administration of State Facilities.

R23-1-401. Request for Information.

In addition to the requirements of Part 4 of the Utah Procurement Code, a Request for Information may state the procedure for business confidentiality claims and other protections provided by the Utah Government Records and Access Management Act.

R23-1-501. Prequalification of Potential Vendors.

General procurement provisions, including prequalification of potential vendors, approved vendor lists, and small purchases shall be conducted in accordance with the requirements set forth in Sections 63G-6a-506 and 63G-6a-507. All definitions in the Utah Procurement Code shall apply to Sections R23-1-501 through R23-1-502 unless otherwise specified in Rule R23-1. Sections R23-1-501 and R23-1-502 provide additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

R23-1-502. Thresholds for Approved Vendor Lists.

The division may establish approved vendor lists in accordance with the requirements of Section 63G-6a-507.

(1) Contracts or purchases from an approved vendor list may not exceed the following thresholds:

(a) Construction Projects: $3,500,000 per contract, for direct construction costs, including design and allowable furniture or equipment costs, awarded using an invitation for bids or a request for proposals; and

(b) Professional and General Services, including architectural and engineering services: $150,000.

(2) Thresholds for other approved vendor lists may be established by the director.

R23-1-503. Small Purchases or Commodities.

Small purchases shall be conducted in accordance with the requirements set forth in Section 63G-6a-506. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

(1) "Small Purchase" means a procurement conducted by the division that does not require the use of a standard procurement process.

(2) Small Purchase thresholds for commodities:

(a) The "Individual Procurement" threshold is a maximum amount of $2,000 for a procurement item and [

———]for individual procurement items costing up to $2,000, the division may select the best source by direct award and without seeking competitive bids or quotes;

(b) The single procurement aggregate threshold is a maximum amount of $10,000 for multiple procurement items purchased from one source at one time; and

(c) The annual cumulative threshold from the same source is a maximum amount of $100,000.

(3) When practicable, the division shall use a rotation system or other system designed to allow for competition when using the small purchases process for commodities.

R23-1-504. Small Purchases Threshold for Architectural and Engineering Services.

(1) The small purchase threshold for architectural or engineering services is a maximum amount of $150,000.

(2) Architectural or engineering services may be procured, up to a maximum of $150,000, by direct negotiation.

(3) The division shall follow the process described in Section 63G-6a-507 to prequalify potential vendors and if the division develops an approved vendor list, or Part 15 of the Utah Procurement Code for the selection of architectural and engineering services.

(4) The division shall include minimum specifications when using the small purchase threshold for architectural and engineering services.

R23-1-505. Small Purchases Threshold for Construction Projects.

(1) The small construction project threshold is a maximum of $3,500,000 for direct construction costs, including design and allowable furniture or equipment costs[~~,~~].

(2) The division shall follow the process described in Section 63G-6a-507 to prequalify potential vendors and to develop an approved vendor list or other applicable selection methods described in the Utah Procurement Code for construction services.

(3) The division shall include minimum specifications when using the small purchases threshold for construction projects.

(4) The director may procure small construction projects up to a maximum of $50,000 by direct award without seeking competitive bids or quotes after documenting that all building code approvals, licensing requirements, permitting, and other construction related requirements are met. The awarded contractor must certify that they are capable of meeting the minimum specifications of the project.

(5) The director may procure small construction projects costing more than $50,000 up to a maximum of $150,000 by obtaining a minimum of two competitive quotes that include minimum specifications and shall award to the contractor with the lowest quote that meets the specifications after documenting that all applicable building code approvals, licensing requirements, permitting and other construction related requirements are met.

(6) The division shall procure construction projects over $150,000 using an invitation to bid, request for proposals, approved vendor list, or other approved source selection method provided in the Utah Procurement Code.

R23-1-506. Quotes for Small Purchases of Commodities from $1,000 to $50,000.

The following applies to commodities:

(1) For procurement items where the cost is greater than $1,000 but up to a maximum of $10,000, the division shall get a minimum of two competitive quotes, which may be by email, phone, or verbal, that include minimum specifications and shall purchase the procurement item from the responsible vendor offering the lowest quote that meets the specifications.

(2) For procurement items where the cost is greater than $10,000 up to a maximum of $100,000, the division shall get a minimum of two competitive quotes, that include minimum specifications, which must be communicated to the proposed vendors in writing and shall purchase the procurement item from the responsible vendor offering the lowest quote that meets the specifications.

(3) For procurement items costing over $100,000, the division shall conduct an invitation for bids or other procurement process outlined in the Utah Procurement Code.

(4) The names of the vendors offering quotations and bids and the date and amount of each quotation or bid shall be recorded and maintained as a governmental record.

R23-1-507. Small Purchases of Services of Professionals, Providers, and Consultants.

(1) The small purchase threshold for professional service providers and consultants is a maximum amount of $150,000.

(2) After reviewing the qualifications, the director may get professional services or consulting services up to a maximum of $150,000 by direct negotiation.

R23-1-601. Competitive Sealed Bidding.

Competitive Sealed Bidding shall be conducted in accordance with the requirements set forth in Sections 63G-6a-601 through 63G-6a-608. All definitions in the Utah Procurement Code shall apply to this rule unless otherwise specified in this rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

R23-1-602. Bidder Submissions.

(1) The invitation for bids shall include the information required by Section 63G-6a-603 and shall also include a "Bid Form" or forms, which shall provide lines for each of the following:

(a) the bidder's bid price;

(b) the bidder's acknowledged receipt of addenda issued by the division;

(c) the bidder to identify other applicable submissions; and

(d) the bidder's signature.

(2) Bidders may be required to submit descriptive literature and product samples to assist the director in evaluating whether a procurement item meets the specifications and other requirements set forth in the invitation to bid.

(a) Product samples must be furnished free of charge unless otherwise stated in the invitation for bids, and if not destroyed by testing, will upon written request within any deadline stated in the invitation for bids, be returned at the bidder's expense. Samples must be labeled or otherwise identified as specified in the invitation for bids by the division.

(3) Section R23-1-703 shall apply to protected records.

(4) Bid, payment, and performance bonds or other security may be required for procurement items as set forth in the invitation for bids. Bid, payment, and performance bond amounts shall be as prescribed by applicable law, rule or must be based upon the estimated level of risk associated with the procurement item and may not be increased above the estimated level of risk with the intent to reduce the number of qualified bidders.

R23-1-603. Pre-Bid Conferences and Site Visits.

(1) Pre-bid conferences and site visits are mandatory unless this requirement is waived in writing by the director. Except as authorized in writing by the director, pre-bid conferences and site visits must require mandatory attendance by all bidders.

(a) A pre-bid conference may be attended via the following:

(i) attendance in person;

(ii) teleconference participation;

(iii) webinar participation; or

(iv) participation through other electronic media approved by the director.

(b) Mandatory site visits must be attended in person.

(c) All pre-bid conferences and site visits must be attended by an authorized representative of the person or vendor submitting a bid and as may be further specified in the procurement documents.

(d) The solicitation must state that failure to attend a mandatory pre-bid conference shall result in the disqualification of any bidder that does not have an authorized representative attend the entire duration of the mandatory pre-bid conference.

(e) The solicitation must state that failure to attend a mandatory site visit shall result in the disqualification of any bidder that does not have an authorized representative attend the entire duration of the mandatory site visit.

(f) At the discretion of the conducting procurement unit, audio or video recordings of pre-bid conferences and site visits may be used.

(g) Listening to or viewing audio or video recordings of a mandatory pre-bid conference or site visit may not be substituted for attendance.

(2) If a pre-bid conference or site visit is held, the division shall maintain:

(a) an attendance log including the name of each attendee, the entity the attendee is representing, and the attendee's contact information;

(b) minutes, if there are any, of the pre-bid conference or site visit;

(c) copies of any documents distributed by the division to the attendees at the pre-bid conference or site visit; and

(d) any verbal modifications made to any of the solicitation documents. All verbal modifications to the solicitation documents shall be reduced to writing.

(3) The division shall publish as an addendum to the solicitation, the information in Subsection R23-1-603(2)(a).

R23-1-604. Addenda to Invitation for Bids.

Before the submission of bids, the division may issue addenda which may change any aspect of the invitation for bids.

(1) Addenda shall be distributed within a reasonable time to allow prospective bidders to consider the addenda in preparing bids.

(2) After the due date and time for submitting bids, at the discretion of the director, addenda to the invitation for bids may be limited to bidders that have submitted bids, provided the addenda does not make a substantial change to the invitation for bids that, in the opinion of the director, likely would have impacted the number of bidders responding to the invitation for bids.

R23-1-605. Bids and Modifications to a Bid Received After the Due Date and Time.

(1) Bids and modifications to a bid submitted electronically or by physical delivery, after the established due date and time, will not be accepted for any reason, except as determined in Subsection R23-1-605(5).

(2) When submitting a bid or modification electronically, bidders must allow sufficient time to complete the online forms and upload documents. The solicitation will end at the closing time posted in the electronic system. If a bidder is in the middle of uploading a bid when the closing time arrives, the system will stop the process and the bid or modification to the bid will not be accepted.

(3) When submitting a bid or modification to a bid by physical delivery, U.S. Mail, courier service, hand-delivery, or other physical means, bidders are solely responsible for meeting the deadline. Delays caused by a delivery service or other physical means will not be considered as an acceptable reason for a bid or modification to a bid being late.

(4) All bids or modifications to bids received by physical delivery will be date and time stamped by the division.

(5) To the extent that an error by the division results in a bid or modification to a bid not being received by the established due date and time, the bid or modification to a bid shall be accepted as being on time.

R23-1-606. Errors in Bids.

The following shall apply to the correction or withdrawal of an inadvertently erroneous bid, or the cancellation of an award or contract that is based on an unintentionally erroneous bid. A decision to permit the correction or withdrawal of a bid or the cancellation of any award or a contract under this rule shall be supported in a written document, signed by the director.

(1) Errors attributed to a bidder's error in judgment may not be corrected.

(2) Provided that there is no change in bid pricing or the cost evaluation formula, errors not attributed to a bidder's error in judgment may be corrected if it is in the best interest of the division and correcting the mistake maintains the fair treatment of other bidders.

(a) Examples include:

(i) missing signatures;

(ii) missing acknowledging receipt of an addendum;

(iii) missing copies of professional licenses, bonds, insurance certificates, provided that copies are submitted by the deadline established by the director to correct this mistake;

(iv) typographical errors;

(v) mathematical errors not affecting the total bid price; or

(vi) other errors deemed by the director to be immaterial or inconsequential in nature.

(3) The director shall approve or deny, in writing, a bidder's request to correct or withdraw a bid.

(4) Corrections or withdrawal of bids shall be conducted in accordance with Section 63G-6a-604.

(5) If there is any deficiency or failure to submit a required subcontractor list or bid [~~bond~~]security, the division may request that the bidder who is not in compliance, submit the required subcontractor list or bid [~~bond~~]security by 5 p.m. of the next business day after notice is provided by the division. Failure to cure the deficiency or failure to submit any required subcontractor list or bid [~~bond~~]security by 5 p.m. of the next business day after notice is provided by the division shall make the bidder ineligible for consideration of award of the contract.

R23-1-607. Errors Discovered After the Award of Contract.

(1) Errors discovered after the award of a contract may only be corrected if, after consultation with the director and the Attorney General's Office, it is determined that the correction of the mistake does not violate the requirements of the Utah Procurement Code or this rule.

(2) Any correction made under this subsection must be supported by a written determination signed by the director.

R23-1-608. Re-solicitation of a Bid.

(1) Re-solicitation of a bid may occur only if the director determines that:

(a) a material change in the scope of work or specifications has occurred;

(b) procedures outlined in the Utah Procurement Code were not followed;

(c) additional public notice is desired;

(d) there was a lack of adequate competition; or

(e) other reasons exist that are in the best interests of the division.

(2) Re-solicitation may not be used to avoid awarding a contract to a qualified vendor in an attempt to steer the award of a contract to a favored vendor.

R23-1-609. Only One Bid Received.

(1) If only one responsive and responsible bid is received in response to an invitation for bids, an award may be made to the single bidder if the director determines that the price submitted is fair and reasonable, and that other prospective bidders had a reasonable opportunity to respond, or there is not adequate time for re-solicitation. Otherwise, the bid may be rejected and:

(a) a new invitation for bids solicited;

(b) the procurement cancelled; or

(c) the procurement may be conducted as a sole source under Section 63G-6a-802.

R23-1-610. Multiple or Alternate Bids.

(1) Multiple or alternate bids will not be accepted, unless otherwise specifically required or allowed in the invitation for bids.

(2) If a bidder submits multiple or alternate bids that are not requested in the invitation for bids, the director may only accept the bidder's primary bid and shall not accept any other bids constituting multiple or alternate bids.

R23-1-611. Methods to Resolve Tie Bids.

(1) In accordance with Section 63G-6a-608, in the event of tie bids, the contract shall be awarded to the procurement item offered by a Utah resident bidder, provided the bidder indicated on the invitation to bid form that it is a Utah resident bidder.

(2) If a Utah resident bidder is not identified, an acceptable method when there are two tie bids shall be for the director to toss a coin in the presence of a minimum of three witnesses with the firm first in alphabetical order being "heads."

(3) Other methods to resolve a tie bid described in Section 63G-6a-608 may be used as deemed appropriate by the director.

R23-1-612. Publication of Award.

(1) The division shall, on the day on which the award of a contract is announced, make available to each bidder and to the public a notice that includes:

(a) the name of the bidder to which the contract is awarded and the prices of the procurement items; and

(b) the names and the prices of each bidder to which the contract is not awarded.

R23-1-613. Technology Acquisitions.

(1) The division in an invitation for bids may state that at any time during the term of a contract, that the division may undertake a review in consultation with the Utah Technology Advisory Board and the Department of Technology Services to determine whether a new

technology exists that is in the best interest of the using agency, taking into consideration cost, life-cycle, references, current customers, and other factors and that the using agency reserves the right to:

(a) negotiate with the contractor for the new technology, provided the new technology is substantially within the original scope of work;

(b) terminate the contract in accordance with the existing contract terms and conditions; or

(c) conduct a new procurement for an additional or supplemental contract as needed to take into account new technology.

(2) Subject to Section 63G-6a-802.3, the trial use or testing of new technology may be permitted for a duration not to exceed the maximum time necessary to evaluate the technology.

R23-1-614. Subcontractor Lists.

The division may not consider, or award to, any bid submitted by a bidder if the bidder fails to submit a subcontractor list meeting the requirements of Section 63A-5b-605 and this rule. For purposes of Section R23-1-614, the definitions of Section 63A-5b-605 shall be applicable. Within 24 hours after the bid opening time, not including Saturdays, Sundays, and state holidays, the apparent lowest three bidders, as well as other bidders that desire to be considered, shall submit to the division a list of their first-tier subcontractors that are over the dollar amounts stated in Subsection 63A-5b-605(3)(a)(ii).

(1) The subcontractor list shall include the following:

(a) the type of work the subcontractor is to perform;

(b) the subcontractor's name;

(c) the subcontractor's bid amount;

(d) the license number of the subcontractor issued by the Utah Division of Professional Licensing, if such license is required under Utah law; and

(e) the impact that the selection of any alternate included in the solicitation would have on the information required by Section R23-1-614.

(2) The contract documents for a specific project may require that additional information be provided regarding any contractor, subcontractor, or supplier.

(3) If pursuant to Subsection 63A-5b-605(7), a bidder intends to perform the work of a subcontractor or get at a later date, a bid from a qualified subcontractor, the bidder shall:

(a) comply with the requirements of Section 63A-5b-605 and

(b) clearly list the bidder on the subcontractor list form.

(4) Errors on the subcontractor list will not disqualify the bidder if the bidder can demonstrate that the error is a result of the bidder's reasonable reliance on information that was provided by the subcontractor and was used to meet the requirements of this rule, and, provided that this does not result in an adjustment to the bidder's contract amount.

(5) Pursuant to Sections 63A-5b-605 and 63G-2-305, information contained in the subcontractor list submitted to the division shall be classified public except for the amount of subcontractor bids which shall be classified as protected until a contract has been awarded to the bidder at which time the subcontractor bid amounts shall be classified as public. During the time that the subcontractor bids are classified protected, they may only be made available to procurement and other officials involved with the review and approval of bids.

(6) Change of Listed Subcontractors. 24 hours after the bid opening, the contractor may change the contractor's listed subcontractors only after receiving written permission from the director based on complying with all the following:

(a) The contractor has established in writing that the change is in the best interest of the state and that the contractor establishes an appropriate reason for the change, which may include the following reasons:

(i) the original subcontractor has failed to perform, or is not qualified or capable of performing; or

(ii) the subcontractor has requested in writing to be released.

(b) The circumstances related to the request for the change do not show any bad faith in the original listing of the subcontractors.

(c) The contractor shall comply with any requirement set forth by the director to ensure that the process used to select a new subcontractor does not give rise to bid shopping.

(d) Any increase in the cost of the subject subcontractor's work shall be borne by the contractor.

(e) Any decrease in the cost of the subject subcontractor's work shall result in a deductive change order being issued for the contract for such decreased amount.

R23-1-615. Bids Over Budget.

(1) In the event all bids for a construction project exceed available funds as certified by the appropriate fiscal officer, and the low responsive and responsible bid does not exceed those funds by more than 5%, the director may, where time or economic considerations preclude re-solicitation of work of a reduced scope, negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder to bring the bid within the amount of available funds.

(2) As an alternative to the procedure authorized in Subsection (1), when all bids for a construction project exceed available funds as certified by the director, and the director finds that due to time or economic considerations the re-solicitation of a reduced scope of work would not be in the interest of the state, the director may negotiate an adjustment in the bid price using one of the following methods:

(a) reducing the scope of work in specific subcontract areas and supervising the re-bid of those subcontracts by the low responsive and responsible bidder;

(b) negotiating with the low responsive and responsible bidder for a reduction in scope and cost; or

(c) revising the contract documents and soliciting new bids only from bidders who submitted a responsive bid on the original solicitation. This re-solicitation may have a shorter bid response time than otherwise required.

(3) The use of one of the alternative procedures provided for in Subsection (2) must provide for the fair and equitable treatment of bidders.

(4) The director's written determination, including a brief explanation of the basis for the decision shall be included in the contract file.

(5) This rule does not restrict in any way, the right of the director to use any emergency or sole source procurement provisions, or any other applicable state law or rule which may be used to award the construction project.

R23-1-701. Conducting the Request for Proposals Standard Procurement Process.

Request for proposals shall be conducted in accordance with the requirements set forth in Sections 63G-6a-701 through 63G-6a-712. All definitions in the Utah Procurement Code shall apply to this rule unless otherwise specified in this rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

R23-1-702. Content of the Request for Proposals.

(1) In addition to the requirements set forth under Section 63G-6a-703, the request for proposals solicitation shall include:

(a) a description of the format that offerors are to use when submitting a proposal including any required forms; and

(b) instructions for submitting price.

(2) The division is responsible for all content contained in the request for proposals solicitation documents.

R23-1-703. Protected Records.

(1) An offeror wishing to claim that information in a proposal is a "trade secret" as that term is defined in Section 63G-2-305 and a protected record under Section 63G-2-305 or commercial information or nonindividual financial information and a protected record under Section 63G-2-305 shall, when submitting the offeror's proposal, submit to the division:

(a) a written claim of business confidentiality and a concise statement of the reasons supporting the claim for business confidentiality on the business confidentiality claim form provided on the division's website; and

(b) in addition to the offeror's unredacted proposal, a copy of the offeror's proposal with the confidential business information redacted.

([~~1~~]2) Pricing may not be classified as business confidential and will be considered public information.

(3) An entire proposal may not be designated as "PROTECTED," "CONFIDENTIAL," or "PROPRIETARY."

(4) Failure to provide a claim of business confidentiality pursuant to Subsection (a) or redacted proposal pursuant to Subsection (b) shall result in the offeror's proposal being classified as an unprotected public record.

(5) Provided that an offeror complies with the requirements of Section 63G-2-309 and this rule for protecting confidential business information, in the event of a request for the offeror's proposal under Section 63G-2-204, the division will provide the requestor with a copy of the offeror's redacted proposal.

(6) Provided that an offeror complies with the requirements of Section 63G-2-309 and this rule for protecting confidential business information, in the event of a request for the offeror's proposal under Section 63G-2-204, the division will not provide the requestor with a copy of the offeror's unredacted proposal without notification to the offeror as provided in Section 63G-6a-309 and then only as provided in Section 63G-2-309.

R23-1-704. Pre-Proposal Conferences and Site Visits.

(1) Pre-proposal conferences and site visits are mandatory unless this requirement is waived in writing by the director. Except as authorized in writing by the director, pre-proposal conferences and site visits must require mandatory attendance by all offerors.

(a) A pre-proposal conference may be attended via the following:

(i) attendance in person;

(ii) teleconference participation;

(iii) webinar participation; or

(iv) participation through other electronic media approved by the director.

(b) Mandatory site visits must be attended in person.

(c) All pre-proposal conferences and site visits must be attended by an authorized representative of the person or vendor submitting a proposal and as may be further specified in the procurement documents.

(d) The solicitation must state that failure to attend a mandatory pre-proposal conference shall result in the disqualification of any offeror that does not have an authorized representative attend the entire duration of the mandatory pre-proposal conference.

(e) The solicitation must state that failure to attend a mandatory site visit shall result in the disqualification of any offeror that does not have an authorized representative attend the entire duration of the mandatory site visit.

(f) At the discretion of the division, audio or video recordings of pre-proposal conferences and site visits may be used.

(g) Listening to or viewing audio or video recordings of a mandatory pre-proposal conference or site visit may not be substituted for attendance.

(2) If a pre-proposal conference or site visit is held, the division shall maintain:

(a) an attendance log including the name of each attendee, the entity the attendee is representing, and the attendee's contact information;

(b) minutes, if there are any, of the pre-proposal conference or site visit;

(c) copies of any documents distributed by the division to the attendees at the pre-proposal conference or site visit; and

(d) any verbal modification made to any of the solicitation documents. All verbal modifications to the solicitation documents shall be reduced to writing.

(3) The division shall publish as an addendum to the solicitation, the information in Subsection R23-1-708(2)(a).

R23-1-705. Addenda to Request for Proposals.

(1) Addenda to the request for proposals may be made for:

(a) making changes to:

(i) the scope of work;

(ii) the schedule;

(iii) the qualification requirements;

(iv) the criteria;

(v) the weighting; or

(vi) other requirements of the Request for Proposal.

(b) Addenda shall be published within a reasonable time before the deadline that proposals are due, to allow prospective offerors to consider the addenda in preparing proposals. Publication at least five calendar days before the deadline that proposals are due shall be deemed a reasonable time. Minor addenda and urgent circumstances may require a shorter period.

(2) After the deadline for submitting proposals, the division may, at the discretion of the director, issue a request for proposals addendum only to offerors that have submitted proposals, if the addendum does not change the request for proposals in a way that, in the opinion of the director, would likely have affected the number of proposals submitted in response to the request for proposals had the addendum been included in the original request for proposals.

R23-1-706. Modification or Withdrawal of Proposal Before Deadline.

Proposals may be modified or withdrawn before the established due date and time for responding.

R23-1-707. Proposals and Modifications, Delivery and Time Requirements.

(1) Except as provided in Subsection R23-1-707(5), proposals and modifications to a proposal submitted electronically or by physical delivery, after the established due date and time, will not be accepted for any reason.

(2) When submitting a proposal or modification to a proposal electronically, offerors must allow sufficient time to complete the online forms and upload documents. The solicitation will end at the closing time posted in the electronic system. If an offeror is in the middle of uploading a proposal when the closing time arrives, the system should stop the process and the proposal or modification to a proposal will not be accepted.

(3) When submitting a proposal or modification to a proposal by physical delivery, U.S. Mail, courier service, hand-delivery, or other physical means, offerors are solely responsible for meeting the deadline. Delays caused by a delivery service or other physical means will not be considered as an acceptable reason for a proposal or modification to a proposal being late.

(4) All proposals or modifications to proposals received by physical delivery will be date and time stamped by the division.

(5) To the extent that an error by the division results in a proposal or modification to a proposal not being received by the established due date and time, the proposal or modification to a proposal shall be accepted as being on time.

R23-1-708. Errors in Proposals.

The following shall apply to the correction or withdrawal of an unintentionally erroneous proposal, or the cancellation of an award or contract that is based on an unintentionally erroneous proposal. A decision to permit the correction or withdrawal of a proposal or the cancellation of an award or a contract shall be supported in a written document, signed by the director.

(1) Mistakes attributed to an offeror's error in judgment may not be corrected.

(2) Unintentional errors not attributed to an offeror's error in judgment may be corrected if it is in the best interest of the division and correcting the error maintains the fair treatment of other offerors.

(a) Examples include:

(i) missing signatures;

(ii) missing acknowledgement of an addendum;

(iii) missing copies of professional licenses, bonds, insurance certificates, provided that copies are submitted by the deadline established by the director to correct this mistake;

(iv) typographical errors;

(v) mathematical errors not affecting the total proposed price; or

(vi) other errors deemed by the director to be immaterial or inconsequential in nature.

(3) Unintentional errors discovered after the award of a contract may only be corrected if, after consultation with the director and the Attorney General's Office, it is determined that the correction of the error does not violate the requirements of the Utah Procurement Code or this rule.

R23-1-709. Evaluation of Proposals.

The evaluation of proposals shall be conducted in accordance with Part 7 of the Utah Procurement Code.

R23-1-710. Correction or Withdrawal of Proposal, Subcontractor List, and Bid[~~ond~~] Security [~~e~~]Errors.

(1) In the event an offeror submits a proposal that on its face appears to be impractical, unrealistic, or otherwise in error, the director may contact the offeror to either confirm the proposal, permit a correction of the proposal, or permit the withdrawal of the proposal, in accordance with Section 63G-6a-704.6.

(2) Offerors may not correct errors, deficiencies, or incomplete responses in a proposal that has been determined to be not responsible, not responsive, or that does not meet the mandatory requirements stated in the request for proposals in accordance with Section 63G-6a-703.

(3) If there is any deficiency or failure to submit a required subcontractor list or bid [~~bond~~]security, the division may request that the offeror who is not in compliance submit the required subcontractor list or bid [~~bond~~]security by 5 p.m. of the next business day after notice is provided by the division. Failure to cure the deficiency or failure to submit any required subcontractor list or bid [~~bond~~]security by 5 p.m. of the next business day after notice is provided by the division shall make the offeror ineligible for consideration of award of the contract.

R23-1-711. Interviews and Presentations.

(1) Interviews and presentations may be held as outlined in the request for proposals.

(2) Offerors invited to interviews or presentations shall be limited to those offerors meeting requirements specified in the request for proposals.

(3) Representations made by the offeror during interviews or presentations shall become an addendum to the offeror's proposal and shall be documented. Representations must be consistent with the offeror's original proposal and may only be used for purposes of clarifying or filling in gaps in the offeror's proposal.

(4) The director shall establish a date and time for the interviews or presentations and shall notify eligible offerors of the procedures. Interviews and presentations will be at the offeror's expense.

R23-1-712. Best and Final Offers.

Best and Final Offers shall be conducted in accordance with Section 63G-6a-707.5. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

(1) The best and final offers process is an optional step in the evaluation phase of the request for proposals process in which offerors are requested to change their proposals.

(a) An evaluation committee may request best and final offers when:

(i) no single proposal addresses all the specifications;

(ii) all or a significant number of the proposals received are unclear and the evaluation committee requires further clarification;

(iii) additional information is needed for the evaluation committee to make a decision;

(iv) the differences between proposals in one or more categories are too slight to distinguish;

(v) all cost proposals are too high or over the budget; or

(vi) multiple contract awards are necessary to achieve regional or statewide coverage for a procurement item under a request for proposals and there are insufficient cost proposals within the budget to award the number of contracts needed to provide regional or statewide coverage.

(2) Only offerors meeting the qualifications, or scores described in the request for proposals are eligible to respond to best and final offers.

(3) Proposal modifications submitted in response to a request for best and final offers may only address the specific issues or sections of the request for proposals described in the request for best and final offers.

(4) Offerors may not use the best and final offers process to correct deficiencies in their proposals not addressed in the request for best and final offers issued by the division.

(5) When a request for best and final offers is issued to reduce cost proposals, offerors shall submit itemized cost proposals clearly indicating the tasks or scope reductions that can be accomplished to bring costs within the available budget.

(a) The cost information of one offeror may not be disclosed to competing offerors during the best and final offers process and further, such cost information shall not be shared with other offerors until the contract is awarded.

(b) The division shall ensure that auction tactics are not used in the discussion process, including discussing and comparing the costs and features of other proposals.

(6) The best and final offers process may not be conducted as part of the contract negotiation process. It may only be conducted during the evaluation phase of the request for proposals process.

(7) The division may not use the best and final offers process to allow offerors a second opportunity to respond to the entire request for proposals.

(8) If a proposal modification is made orally during the interview or presentation process, the modification must be confirmed in writing.

(9) A request for best and final offers issued by the division shall:

(a) comply with all public notice requirements provided in Section 63G-6a-112;

(b) include a deadline for submission that allows offerors a reasonable opportunity for the preparation and submission of their responses; and

(c) show how proposal modifications in response to a request for best and final offers will be evaluated.

(10) If an offeror does not submit a best and final offer, its immediately previous proposal will be considered its best and final offer.

(11) Unsolicited best and final offers will not be accepted from offerors.

R23-1-713. Best Value Analysis Exception: Construction Manager/General Contractor.

(1) An evaluation committee is not required to explain how a recommended proposal provides the best value to the division under Section 63G-6a-707 if the contract is awarded solely on the qualifications of the construction manager/general contractor and the management fee described in Section 63G-6a-707 provided:

(a) a competitive process is maintained by the issuance of a request for proposals that requires the offeror to provide, at a minimum:

(i) a management plan;

(ii) references;

(iii) statements of qualifications; and

(iv) a management fee if requested by the division; and

(b) the management fee contains only the following:

(i) preconstruction phase services;

(ii) monthly supervision fees for the construction phase; and

(iii) overhead and profit for the construction phase.

(2) The evaluation committee may, as described in the solicitation, weight and score the management fee as a fixed rate or a fixed percentage of the estimated contract value.

(3) The management fee may not be requested by the division if the management fee is not part of the criteria for the evaluation committee. The division may use a fee table for this management fee.

(4) The contract awarded must be in the best interest of the division.

R23-1-714. Only One Proposal Received.

(1) If only one proposal is received in response to a request for proposals, the evaluation committee may:

(a) conduct a review to determine if:

(i) the proposal meets the requirements;

(ii) pricing and terms are reasonable; and

(iii) the proposal is in the best interest of the division.

(b) if the evaluation committee determines the proposal meets the requirements, pricing and terms are reasonable, and the proposal is in the best interest of the division, the division may make an award.

(2) If an award is not made, the division may either cancel the procurement or re-solicit to obtain additional proposals.

R23-1-715. Publicizing Awards.

(1) In addition to the requirements of Section 63G-6a-112, the following shall be disclosed after receipt of a GRAMA request and payment of any lawfully enacted and applicable fees:

(a) the contracts entered as a result of the selection and the successful proposals, except for those portions that are to be non-disclosed under Section R23-1-703;

(b) the unsuccessful proposals, except for those portions that are to be non-disclosed under Section R23-1-703;

(c) the rankings of the proposals;

(d) the names of the members of any selection committee, reviewing authority;

(e) the final scores used by the selection committee to make the selection, except that the names of the individual scorers shall not be associated with their individual scores or rankings; and

(f) the written justification statement supporting the selection, except for those portions that are to be non-disclosed under Section R23-1-703.

(2) After due consideration and public input, the following has been determined by the division to impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, and will not be disclosed by the governmental entity at any time to the public including under any GRAMA request:

(a) the names of individual scorers or evaluators in relation to their individual scores or rankings;

(b) any individual scorer's or evaluator's notes, drafts, and working documents;

(c) non-public financial statements; and

(d) past performance and reference information, which is not provided by the offeror, and which is obtained as a result of the efforts of the governmental entity. To the extent such past performance or reference information is included in the written justification statement; it is subject to public disclosure.

R23-1-801. Sole Source - Award of Contract Without Competition.

(1) Sole source procurements shall be conducted in accordance with the requirements set forth in Section 63G-6a-802. All definitions in the Utah Procurement Code shall apply to this rule unless otherwise specified in this rule. This administrative rule provides additional requirements and procedures and should be used in conjunction with the Utah Procurement Code.

(2) A sole source procurement may be conducted if:

(a) there is only one source for the procurement item;

(b) the award to a specific supplier, service provider, or contractor is in accordance with the requirements imposed by the source of the funds used to procure the procurement item; or

(c) the procurement item is needed for trial use or testing to determine whether the procurement item will benefit the procurement unit.

(3) An urgent or unexpected circumstance or requirement for a procurement item does not justify the award of a sole source procurement.

(4) Requests for a procurement to be conducted as a sole source shall be submitted in writing to the director for approval.

(5) The sole source request shall be submitted to the director and shall include:

(a) a description of the procurement item;

(b) the total dollar value of the procurement item, including, when applicable, the actual or estimated full life-cycle cost of maintenance and service agreements;

(c) the duration of the proposed sole source contract;

(d) an authorized signature of the requester;

(e) unless the sole source procurement is conducted under Subsection R23-1-801(2)(b) or (c), research completed by the requester documenting that there are no other competing sources for the procurement item; and

(f) any other information requested by the director.

(6) a sole source request form containing all the requirements of Subsection R23-1-801(5) may be available on the division's website or may be described in specifications or other contract documents.

(7) Except as provided in Subsection (b), sole source procurements over $50,000 shall be published in accordance with Section 63G-6a-112.

(a) Sole source procurements under $50,000 are not required to be published but may be published at the discretion of the director.

(b) The requirement for publication of notice for a sole source procurement is waived:

(i) for public utility services;

(ii) if the award to a specific supplier, service provider, or contractor is in accordance with the requirements imposed by the source of the funds used to procure the procurement item;

(iii) when the circumstances of the request are clear that there can only be one source;

(iv) as provided in Section R23-1-806; or

(v) for other circumstances as determined in writing by the director.

(8) A person may contest a sole source procurement before the closing of the public notice period set forth in Section 63G-6a-112, when public notice is required under Section R23-1-801 by submitting the following information in writing to the director:

(a) the name of the contesting person; and

(b) a detailed explanation of the challenge, including documentation showing that there are other competing sources for the procurement item.

(9) Upon receipt of information contesting a sole source procurement, the director shall investigate to determine the validity of the challenge and make a written determination either supporting or denying the challenge.

R23-1-802. Trial Use or Testing of a Procurement Item, Including New Technology.

The trial use or testing of a procurement item, including new technology, shall be conducted as set forth in Section 63G-6a-802.

R23-1-803. Alternative Procurement Methods.

(1) The director may utilize alternative procurement methods to acquire procurement items such as those listed in this section when it is determined in writing by the director, to be more practicable or advantageous to the division:

(a) used vehicles;

(b) livestock;

(c) hotel conference facilities and services;

(d) speaker honorariums;

(e) hosting out-of-state and international dignitaries;

(f) international promotion of the state; and

(g) any other procurement item for which a standard procurement method is not reasonably practicable.

(2) When making this determination, the director may take into consideration whether:

(a) the potential cost of preparing, soliciting, and evaluating bids or proposals is expected to exceed the benefits normally associated with such solicitations;

(b) the procurement item cannot be acquired through a standard procurement process; and

(c) the price of the procurement item is fair and reasonable.

(3) If it is so determined, the director may elect to utilize an alternative procurement method which may include any of the following:

(a) informal price quotations;

(b) direct negotiations; and

(c) direct award.

R23-1-804. Emergency Procurement.

(1) Emergency procurements shall be conducted in accordance with the requirements set forth in Section 63G-6a-803, and this rule.

(2) An emergency procurement is a procurement procedure where the division may obtain a procurement item without using a standard competitive procurement process.

(3) Emergency procurements are limited to those procurement items necessary to mitigate the emergency.

(4) While a standard procurement process is not required under an emergency procurement, when practicable, the division should seek to get as much competition as possible through use of phone quotes, internet quotes, limited invitations to bid, or other selection methods

while avoiding harm, or risk of harm, to the public health, safety, welfare, property, or impairing the ability of a public entity to function or perform required services.

R23-1-805. Declaration of "Official State of Emergency."

Upon a declaration of a state of emergency by the governor under the Utah Emergency Management Act, the director shall implement the division's Continuity of Operations Plan, or COOP. When activated, the division shall follow the procedures outlined in the plan and take appropriate actions as directed by the governor.

R23-1-806. Procurement Items Used for or in Connection with the Establishment of a State Store.

Notwithstanding anything in Rule R23-1 to the contrary, the director may award a contract for a procurement item without engaging in a standard procurement process if the director determines in writing that the procurement item is intended to be used for, or in connection with the establishment of, a state store, as defined in Section 32B-1-102.

(1) Except as provided in Subsection (b), notice of a procurement under this Section R23-1-806 shall be published in accordance with Section 63G-6a-112.

(2) Notice of a procurement under Subsection 63G-6a-802(1)(d) or this rule is not required if:

(a) the cost of the procurement does not exceed $50,000; or

(b) the procurement item is procured from an entity that is developing the state store or developing real property on which the state store will be located or developing real property adjacent to the real property where the state store will be located.

R23-1-901. General Provisions.

An invitation for bids, a request for proposals, or other solicitation may be cancelled before the deadline for receipt of bids, proposals, or other submissions, when it is in the best interests of the division as determined by the director. In the event a solicitation is cancelled, the reasons for cancellation shall be made part of the contract file and shall be available for public inspection and the division may:

(1) re-solicit new bids or proposals using the same or revised specifications; or

(2) withdraw the solicitation for the procurement items.

R23-1-902. Re-solicitation.

(1) In the event there is no initial response to an initial solicitation, the director may:

(a) contact the known supplier community to determine why there were no responses to the solicitation;

(b) research the potential vendor community; and

(c) based upon the information in Subsections (a) and (b) require the division to change the solicitation documents.

(2) If the division has modified the solicitation documents and after the re-issuance of a solicitation, there is still no competition or there is insufficient competition, the director, may:

(a) require the division to further change the procurement documents; or

(b) cancel the solicitation for the procurement items.

R23-1-903. Cancellation Before Award.

(1) Solicitations may be cancelled before award but after opening all bids or offers when the director determines in writing that:

(a) inadequate or ambiguous specifications were cited in the solicitation;

(b) the specifications in the solicitation have been or must be revised;

(c) the procurement items being solicited are no longer required;

(d) the solicitation did not provide for consideration of all factors of cost to the division or using agency, such as cost of transportation, warranties, service, or maintenance;

(e) bids or offers received show that the needs of the division or using agency can be satisfied by a less expensive procurement item differing from that in the solicitation;

(f) except as provided in Section 63G-6a-606, all otherwise acceptable bids or offers received are at unreasonable prices, or only one bid or offer is received, and the director cannot determine the reasonableness of the bid price or cost proposal;

(g) the responses to the solicitation were not independently arrived at in open competition, were collusive, or were submitted in bad faith; or

(h) no responsive bid or offer has been received from a responsible bidder or offeror.

R23-1-904. Alternative to Cancellation.

In the event administrative difficulties are encountered before award but after the deadline for submissions that may delay award beyond the bidders' or offerors' acceptance periods, the bidders or offerors may be requested, before expiration of their bids or offers, to extend in writing the acceptance period, with consent of sureties, if any, to avoid the need for cancellation.

R23-1-905. Continuation of Need.

If the solicitation has been cancelled for the reasons specified in Subsection R23-1-903(1)(f), (g) or (h) and the director has made the written determination in Subsection R23-1-903(1) and the division has an existing contract, the division may permit an extension of the existing contract under Section 63G-6a-802.

R23-1-906. Rejections and Suspension or Debarment.

(1) The division may reject any bids, offers or other submissions, in whole or in part, as may be specified in the solicitation, when it is in the best interest of the division. In the event of a rejection of any bids, offers or other submissions, in whole or in part, the reasons for rejection shall be made part of the contract file and shall be available for public inspection.

(2) Bids, offers, or other submissions, received from any person that is suspended, debarred, or otherwise ineligible as of the due date for receipt of bids, proposals, or other submissions shall be rejected.

R23-1-907. Rejection for Nonresponsibility or Nonresponsiveness.

(1) Subject to Section 63G-6a-903, the director shall reject a bid or offer from a bidder or offeror determined to be nonresponsible. A responsible bidder or offeror is defined in Subsection 63G-6a-103(7[4]6).

(2) In accordance with Subsection 63G-6a-606(3) the director may not accept a bid that is not responsive. Responsive is defined in Subsection 63G-6a-103(7[~~5~~]7).

(3) If there is any deficiency or failure to submit a required subcontractor list or bid security[~~bond~~], the division may request that the bidder or offeror who is not in compliance, submit the required subcontractor list or bid security[~~bond~~] by 5 p.m. of the next business day after notice is provided by the division. Failure to cure the deficiency or failure to submit any required subcontractor list or bid security[~~bond~~] by 5 p.m. of the next business day after notice is provided by the division, shall make the bidder or offeror nonresponsive and therefore ineligible for consideration of award of the contract.

(4) The originals of all rejected bids, offers, or other submissions, and all written findings with respect to such rejections, shall be made part of the contract file and available for public inspection.

R23-1-908. Debarment or Suspension from Consideration for Award of Contracts -- Process -- Causes for Debarment -- Appeal.

The procedures for a debarment or suspension from consideration for award of contracts, including appellate rights, are provided in Section 63G-6a-904. Upon any suspension or debarment, the person that is suspended or debarred shall be considered nonresponsible and ineligible for the award of contracts by the division in accordance with the determination of suspension or debarment.

R23-1-1001. Providers of State Products.

(1) In addition to the reciprocal preference requirements contained in Section 63G-6a-1002 for the providers of procurement items produced, manufactured, mined, grown, or performed in Utah, Section R23-1-10 outlines the process for award of a contract when there is more than one equally low preferred bidder. All definitions in the Utah Procurement Code shall apply to this rule unless otherwise specified in this rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

(2) In the event there is more than one equally low preferred bidder, the director shall consider the preferred bidders as tie bidders and shall follow the process specified in Section 63G-6a-608 and Section R23-1-611.

R23-1-1002. Preference for Resident Contractors.

(1) In addition to the reciprocal preference requirements contained in Section 63G-6a-1003 for resident Utah contractors, this rule outlines the process for award of a contract when there is more than one equally low preferred resident contractor.

(2) In the event there is more than one equally low preferred resident contractor, the director shall consider the preferred resident contractors as tie bidders and shall follow the process specified in Sections 63G-6a-608 and R23-1-611.

R23-1-1003. Exception for Federally Funded Contracts.

This section does not apply to the extent it conflicts with federal requirements relating to a procurement that involves the expenditure of federal assistance, federal contract funds, or federal financial participation funds.

R23-1-1101. Definitions.

(1) When used in this rule, the terms "bid," "bidder," and "bid security" apply to all procurements, including non-construction procurements, when the procurement documents, regardless of the procurement type, require securities or bonds.

(2) All definitions in the Utah Procurement Code shall apply to this rule unless otherwise specified in this rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

R23-1-1102. Bid Security Requirements for Projects.

(1) Application. The requirements for bid security [~~and bonds~~]under this Section R23-1-11 shall apply as follows:

(a) for the division, the award of construction contracts where the face amount of the contract is $100,000 or more.

(b) For other state agencies that are required to use the same or similar documents as the division for their construction contracts, the award of construction contracts where the face amount of the contract is $50,000 or more, unless the director, in writing, approves a $100,000 or more requirement for bid security [~~and bonds~~]similar to the division, based on:

(i) The director's finding that the agency has a selection process for such contracts that are under $100,000, that ensures a responsible, financially solvent contractor is selected; and

(ii) that the agency has the financial capability to absorb the potential responsibility that can occur due to the lack of the bid security [~~and bonding requirements~~]for the contract under $100,000.

(c) At any time, the division or any other state agency can require acceptable bid security [~~as well as performance and payment bonds~~]on contracts that are for amounts below the standard requirements set forth in this rule.

(2) Acceptable Bid Security. The term "bid" as used in this rule shall also be deemed to apply to "offer."

(a) Invitations for bids and requests for proposals shall require the submission of acceptable bid security in an amount equal to at least 5% of the bid, when the bid is submitted and shall, if the bid security is a bid bond, be on the most current version of American Institute of Architects Document A310 Bid Bond, or equivalent. If a contractor fails to accompany its bid with acceptable bid security, the bid shall be deemed nonresponsive, unless this failure is found to be nonsubstantial.

(b) If acceptable bid security is not furnished in accordance with Subsection R23-1-907(3), the bid shall be rejected as nonresponsive, unless the failure to comply is determined by the director to be nonsubstantial. Failure to submit an acceptable bid security may be deemed nonsubstantial if:

(i) if the bid security is a bid bond and is submitted on a form other than the division's required bid bond form and the bid security meets all other requirements including being issued by a surety meeting the requirements of [~~Subsection (5)~~]Subsection R23-1-1103(5);

(ii) the contractor provides acceptable bid security by 5 p.m. of the next business day after notice is provided by the division of the defective bid security; or

(iii) only one bid is received.

[~~(3) Payment and Performance Bonds. Except as provided in this subsection, payment and performance bonds in the amount of 100% of the contract price are required for all contracts over $100,000. These bonds shall cover the division and be delivered by the contractor to the division at the same time the contract is executed. If a contractor fails to deliver the required bonds, the contractor's bid shall be found nonresponsive, and its bid security shall be forfeited.~~

~~(4) Forms of Bonds. Bid bonds, payment bonds, and performance bonds must be from sureties meeting the requirements of Subsection R23-1-1102(5) and must be on:~~

~~(a) for a bid bond, the most current version of American Institute of Architects Document A310 Bid Bond, or equivalent; and~~

~~(b) for a performance bond or payment bond, the most current version of American Institute of Architects form A312 Performance and Payment Bond, or equivalent.~~

~~(5) Surety firm requirements. All surety firms must be authorized to do business in Utah and be listed in the U.S. Department of the Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies for an amount not less than the amount of the bond to be issued. A co-surety may be utilized to satisfy this requirement.~~]

([~~6~~]3) Waiver. The director may waive any bid security[~~bonding~~] requirements set forth in this rule if the director finds circumstances in which the director considers [~~any of~~]the bid security[~~bonds~~] to be unnecessary to protect the division. Any such waiver shall be stated in writing, explaining the circumstances why the [~~bonds are~~]bid security is not necessary to protect the division, and the waiver shall be made part of the project file.

R23-1-1103. Payment and Performance Bond Requirements for Projects.

(1) Under Subsection 1103(5)(b) the division is not required to obtain from a contractor a performance bond or payment bond for a contract administered by the division. Under Subsection 1103(5)(c) the division may require a performance bond, payment bond or both for a construction contract administered by the division if the division determines it necessary to protect the division from financial loss or performance risk.

(2) No project administered by the division shall require a performance bond or a payment bond except as set forth in Subsection (3) of this rule.

(3) The division may require a performance bond, a payment bond or both for a project administered by the division if the division determines a performance bond, payment bond or both is necessary to protect the division from financial loss or performance risk based upon any of the following factors:

(a) complexity of scope -- complex projects, including projects involving specialized construction, multiple interdependent scopes of work, or significant coordination among contractors, subcontractors, or suppliers, may expose the division to greater risk of financial loss or performance risk than simple projects;

(b) the division's familiarity with the type of project being constructed -- specialized projects which the division does not have previous experience with may expose the division to greater risk of financial loss or performance risk than projects of a type familiar to the division;

(c) regional factors such as regional availability of materials, equipment, supplies, labor and subcontractors -- projects located away from the Wasatch Front and St. George metropolitan area and in rural areas of the State may expose the division to greater risk of financial loss or performance risk than projects in urban areas;

(d) unique project site characteristics -- projects with unique project site characteristics, such as limited access, geotechnical issues or wetlands designations may expose the division to greater risk of financial loss or performance risk than projects with no site related issues;

(e) procurement method -- projects procured under part 8 (exceptions to procurement requirements) of the Utah Procurement Code may expose the division to greater risk of financial loss or performance risk than projects procured under part 6 (bidding) or part 7 (requests for proposals) of the Utah Procurement Code;

(f) construction contract management method -- design-build and construction manager/general contractor construction contract management methods may expose the division to greater risk of financial loss or performance risk than design-bid-build projects;

(g) funding source -- the source of funds for non-state funded projects administered by the division may require that the division obtain a performance bond, a payment bond or both;

(h) project budget; and

(i) any other factor associated with the project which the division reasonably determines requires a performance bond, a payment bond or both, to protect the division from financial loss or performance risk.

(4) The decision of whether to require a performance bond, a payment bond or both on a construction project administered by the division under Subsection (3) of this rule shall be made by the director in writing before the solicitation for the construction project.

(5) Where a performance bond, a payment bond, or both are required for a construction contract administered by the division under Subsection (3) of this rule, the form of the bonds shall be the most current version of American Institute of Architects form A312 Performance and Payment Bond, or equivalent and the surety issuing the bonds must be authorized to do business in Utah and be listed in the U.S. Department of the Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies for an amount not less than the amount of the bond to be issued, provided that in no event shall a contractor to whom a contract is awarded be required to obtain a performance bond or payment bond from a specific insurance or surety company, producer, agent, or broker.

R23-1-1201. Required Contract Clauses.

(1) The division shall comply with Section 63G-6a-1202 in establishing standard contract clauses. The division will establish standard contract clauses to assist the division and to help contractors and potential contractors to understand applicable requirements. These standard contract clauses may be modified as needed to meet the requirements of the particular project.

(2) All definitions in the Utah Procurement Code shall apply to this rule unless otherwise specified in this rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

R23-1-1202. Establishment of Terms and Conditions.

The division may use the Standard Terms and Conditions adopted by the Division of Purchasing and General Services for a particular procurement with modifications.

R23-1-1203. Leases of Personal Property.

Leases of personal property are subject to the following:

(1) Leases are subject to Section 63G-6a-1209 and all other laws or rules applicable to the lease.

(2) Executive Branch Procurement Unit Leases with Purchase Option. A purchase option in a lease may be exercised if the lease containing the purchase option was awarded under an authorized procurement process. Before exercising this option, the division shall:

(a) investigate alternative means of procuring comparable procurement items; and

(b) compare estimated costs and benefits associated with the alternative means and the exercise of the option, for example, the benefit of buying new state of the art data processing equipment compared to the estimated, initial savings associated with exercise of a purchase option.

R23-1-1204. Requirements for Cost or Pricing Data.

(1) For contracts that expressly allow price adjustments, cost or pricing data shall be required in support of a proposal leading to the adjustment of any contract pricing.

(2) Cost or pricing data exceptions:

(a) need not be submitted when the terms of the contract state established market indices, catalog prices or other benchmarks are used as the basis for contract price adjustments or when prices are set by law or rule;

(b) if a contractor submits a price adjustment higher than established market indices, catalog prices or other benchmarks established in the contract, the director may request additional cost or pricing data; or

(c) the director may waive the requirement for cost or pricing data provided a written determination is made supporting the reasons for the waiver. A copy of the determination shall be kept in the contract file.

R23-1-1205. Defective Cost or Pricing Data.

(1) If defective cost or pricing data was used to adjust a contract price, the vendor and the division may enter into discussions to negotiate a settlement.

(2) If a settlement cannot be negotiated, either party may seek relief as provided by applicable laws and rules.

R23-1-1206. Cost Analysis.

Cost analysis includes the verification of cost data. Cost analysis may be used to evaluate:

(1) specific elements of costs;

(2) total cost of ownership and life-cycle cost;

(3) supplemental cost schedules;

(4) market basket cost of similar items;

(5) the necessity for certain costs;

(6) the reasonableness of allowances for contingencies;

(7) the basis used for allocation of indirect costs; and

(8) the reasonableness of the total cost or price.

R23-1-1207. Inspections.

Circumstances under which the division may perform inspections include inspections of the contractor's manufacturing or production facility or place of business, or any location where the work is performed to determine:

(1) whether the definition of "responsible," as defined in Subsection 63G-6a-103(7~~6~~[**4**]) and in the solicitation documents, has been met or are capable of being met; and

(2) if the contract is being performed in accordance with its terms.

R23-1-1208. Access to Contractor's Manufacturing or Production Facilities.

The division may enter a contractor's or subcontractor's manufacturing or production facility or place of business to:

(1) inspect procurement items for acceptance by the division pursuant to the terms of a contract;

(2) audit cost or pricing data pursuant to Section 63G-6a-1206 or audit the books and records of any contractor or subcontractor pursuant to Section 63G-6a-1206.3; and

(3) investigate in connection with an action to debar or suspend a person from consideration for award of contracts.

R23-1-1209. Inspection of Supplies and Services.

Contracts may provide that the director or division may inspect procurement items at the contractor's or subcontractor's facility and perform tests to determine whether the procurement items conform to solicitation and contract requirements.

R23-1-1210. Conduct of Inspections.

(1) No inspector may change any provision of the specifications or the contract without written authorization of the director. The presence or absence of an inspector or an inspection shall not relieve the contractor or subcontractor from any requirements of the contract.

(2) When an inspection is made, the contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

R23-1-1301. Purpose.

The purpose of this rule is to comply with Section 63G-6a-1302 All definitions in the Utah Procurement Code shall apply to this rule unless otherwise specified in this rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

R23-1-1302. Construction Management Rule.

As required by Section 63G-6a-1302, this rule contains provisions applicable to:

(1) selecting the appropriate method of management for construction contracts;

(2) documenting the selection of a particular method of construction contract management; and

(3) the selection of a construction manager/general contractor.

R23-1-1303. Application.

Sections R23-1-1302 through R23-1-1307 shall apply to all procurements of construction.

R23-1-1304. Methods of Construction Contract Management.

(1) This rule contains provisions applicable to the selection of the appropriate type of construction contract management.

(2) It is intended that the director have sufficient flexibility in formulating the construction contract management method for a particular project to fulfill the needs of the division. The methods for achieving the purposes set forth in this rule are not to be construed as an exclusive list.

(3) Before choosing the construction contracting method to use, a careful assessment must be made by the director of the requirements the project. The director shall consider, at a minimum, the following factors:

(a) when the project must be ready to be occupied;

(b) the type of project, for example, housing, offices, labs, heavy or specialized construction;

(c) the extent to which the requirements of the division and the way in which they are to be met are known;

(d) the location of the project;

(e) the size, scope, complexity, and economics of the project;

(f) the amount and type of financing available for the project, including whether the budget is fixed or what the source of funding is, for example, general or special appropriation, federal assistance moneys, general obligation bonds or revenue bonds, lapsing or non-lapsing status and legislative intent language;

(g) the availability, qualification, and experience of the division's personnel to be assigned to the project and how much time the division's personnel can devote to the project;

(h) the availability, qualifications and experience of outside consultants and contractors to complete the project under the various methods being considered;

(i) the results achieved on similar projects in the past and the methods used; and

(j) the comparative advantages and disadvantages of the construction contracting method and how they might be adapted or combined to fulfill the needs of the using agencies.

(5) The following descriptions are provided for the more common construction contracting management methods which may be used by the division. The methods described are not all mutually exclusive and may be combined on a project. These descriptions are not intended to be fixed in respect to all construction projects. In each project, these descriptions may be adapted to fit the circumstances of that project.

(a) Single Prime (General) Contractor. The single prime general contractor method is typified by one business, acting as a general contractor, contracting with the division to timely complete an entire construction project in accordance with drawings and specifications

provided by the division. Generally, the drawings and specifications are prepared by an architectural or engineering firm under contract with the division. Further, while the general contractor may take responsibility for successful completion of the project, much of the work may be performed by specialty contractors with whom the general contractor has entered into subcontracts.

(b) Design-Build. In a design-build project, an entity, often a team of a general contractor and a designer, contract directly with the division to meet the division's requirements as described in a set of performance specifications or a program. Design responsibility and construction responsibility both rest with the design-build contractor. This method can include instances where the design-build contractor supplies the site as part of the package.

(c) Construction Manager/General Contractor (Construction Manager at Risk). The division may contract with the construction manager early in a project to assist in the development of a cost-effective design. In a Construction Manager/General Contractor (CM/GC) method, the CM/GC becomes the general contractor and is at risk for all the responsibilities of a general contractor for the project, including meeting the specifications, complying with applicable laws, rules, and regulations, that the project will be completed on time and will not exceed a specified maximum price.

R23-1-1305. Selection of Construction Method Documentation.

The director shall include in the contract file a written statement describing the facts that led to the selection of a particular method of construction contract management for each project.

R23-1-1306. Special Provisions Regarding Construction Manager/General Contractor.

(1) In the selection of a construction manager/general contractor, a standard procurement process as defined in Section 63G-6a-103 may be used or an exception allowed under Part 8 of the Utah Procurement Code.

(2) When the construction manager/general contractor enters into any subcontract that was not specifically included in the construction manager/general contractor's cost proposal, the construction manager/general contractor shall procure the subcontractors by using a standard procurement process as defined in Section 63G-6a-103 or an exception to the requirement to use a standard procurement process, described in Part 8 of the Utah Procurement Code.

R23-1-1307. Special Provisions Regarding Design-Build.

(1) For state building construction projects, the division may use a design-build provider as one method of construction contracting management.

(2) A design-build contract may include a provision for obtaining the site for the construction project.

(3) A design-build contract or a construction manager/general contractor contract may include provision by the contractor of operations, maintenance, or financing.

R23-1-1308. Drug and Alcohol Testing Required for State Contracts: Definitions.

The rules applicable to the division for drug and alcohol testing are in Rule R23-7 of the Utah Administrative Code.

R23-1-1401. Procurement of Design-Build Transportation Project Contracts.

The Utah Department of Transportation is the rulemaking authority for rules under Subsection 63G-6a-1402(3)(a)(ii) governing the procurement of design-build transportation projects and under Subsection 63G-6a-1403(2)(c) establishing requirements for the procurement of tollway development agreements.

R23-1-1501. Architect-Engineer Procurement Process, General Process.

(1) Application. Except as otherwise provided in Section 63G-6a-1502, Part 15 of the Utah Procurement Code apply to every procurement of services within the scope of the practice of architecture as defined by Section 58-3a-102, or professional engineering as defined in Section 58-22-102. All definitions in the Utah Procurement Code shall apply to this rule unless otherwise specified in this rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

(2) Architect-Engineer Evaluation Committee. The director shall designate members of the Architect-Engineer Evaluation Committee. The evaluation committee must consist of at least three members who are qualified under Section 63G-6a-1503.

(3) Request for Statement of Qualifications. The division shall issue a public notice for a request for statement of qualifications to rank architects or engineers. The division shall:

(a) state in the request for statement of qualifications:

(i) the type of procurement item to which the request for statement of qualifications relates;

(ii) the scope of work to be performed;

(iii) the instructions and the deadline for providing information in response to the request for statement of qualifications; and

(iv) criteria used to evaluate statements of qualifications including:

(A) basic information about the person or firm;

(B) experience and work history;

(C) management and staff;

(D) qualifications and certification;

(E) licenses and certifications;

(F) applicable performance ratings;

(G) financial statements; and

(H) other pertinent information.

(b) Key personal identified in the statement of qualifications may not be changed without the advance written approval of the division.

(4) Not include Cost in Response. Architects and engineers shall not include price or a cost component in a response to a request for statement of qualifications.

(5) Evaluation of Statement of Qualifications. The evaluation committee shall evaluate statements of qualifications in accordance with Section 63G-6a-1503.5 to rank or score architects or engineers without considering price or a cost component.

(6) Negotiation and Award of Contract. The director shall negotiate a contract with the most qualified firm for the required services at compensation determined to be fair and reasonable based on the division's rate table or as may be reasonably adjusted by the director for the particular scope of work, location, or other aspects of the services.

(7) Failure to Negotiate Contract with the Highest Ranked Firm.

(a) If fair and reasonable compensation, contract requirements, or contract documents cannot be agreed upon with the highest ranked firm, the director shall advise the firm in writing of the termination of negotiations.

(b) Upon failure to negotiate a contract with the highest ranked firm, the director shall proceed in accordance with Section 63G-6a-1505.

(8) Notice of Award.

(a) The director shall award a contract to the highest ranked firm with which the fee negotiation was successful.

(b) Notice of the award shall be made available to the public.

(9) Written Justification Statements. The division shall issue a statement justifying the ranking of the firm with which fee negotiation was successful.

R23-1-1502. Disclosure of Submittals, Performance Evaluations, and References.

(1) Except as provided in this rule, submittals shall be open to public inspection after notice of the selection results.

(2) The classification of records as protected, and the treatment of such records shall be as provided in Section R23-1-703.

(3) The division finds that it is necessary to maintain the confidentiality of performance evaluations and reference information to avoid competitive injury and to encourage those persons providing the information to respond in an open and honest manner without fear of retribution. Accordingly, records containing performance evaluations and reference information are classified as protected records under Subsection 63G-2-305(6) and shall be disclosed only to those persons involved with the performance evaluation, the architect or engineer that the information addresses and persons involved with the review and selection of submittals. The division may, however, provide reference information to other governmental entities for use in their procurement activities and to other parties when requested by the architect or engineer that is the subject of the information. Any other disclosure of such performance evaluations and reference information shall only be as required by applicable law.

R23-1-1503. Publicizing Selections.

(1) Notice. After the selection of the successful firm, notice of the selection shall be available in the principal office of the division in Taylorsville, Utah and may be available on the internet.

(2) Information Disclosed. The following shall be disclosed with the notice of selection:

(a) the ranking of the firms;

(b) the names of the selection committee members;

(c) the final scores used by the selection committee to make the selection, except that the names of the individual scorers shall not be associated with their individual scores; and

(d) the written justification statement supporting the selection.

(3) Information Classified as Protected. After due consideration and public input, the following has been determined by the division to impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract with the division and shall be classified as protected records:

(a) the names of individual selection committee scorers in relation to their individual scores or rankings; and

(b) non-public financial statements, subject to Sections 63G-2-309 and R23-1-703.

R23-1-1504. Performance Evaluation.

(1) The division shall evaluate the performance of the architectural or engineering firm and shall provide an opportunity for the using agency to comment on the division's evaluation.

(2) This evaluation shall become a part of the record of that architectural or engineering firm within the division. The architectural or engineering firm shall be provided a copy of its evaluation at the end of the project and may enter its response in the file.

(3) Confidentiality of the evaluation information shall be addressed as provided in Sections R23-1-1502 and R23-1-1503.

R23-1-1601. Conduct.

Protests shall be conducted in accordance with the requirements set forth in Sections 63G-6a-1601 through 13G-6a-603. All definitions in the Utah Procurement Code shall apply to this rule unless otherwise specified in this rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

R23-1-1602. Verification of Legal Authority.

A person filing a protest may be asked to verify that the person has legal authority to file a protest on behalf of a public or private corporation, limited liability company, sole proprietorship, partnership, or unincorporated association.

R23-1-1603. Intervention in a Protest.

(1) Application. This rule contains provisions applicable to intervention in a protest, including who may intervene and the time and manner of intervention.

(2) Period of Time to File. After a timely protest is filed in accordance with the Utah Procurement Code, the Protest Officer shall notify awardees of the subject procurement and may notify others of the protest. A Motion to Intervene must be filed with the Protest Officer no later than ten days from the date such notice is sent by the Protest Officer. Only those Motions to Intervene made within the time prescribed in this rule will be considered timely. The division and using agency are automatically considered a Party of Record and need not file any Motion to Intervene.

(3) Contents of a Motion to Intervene. A copy of the Motion to Intervene shall also be mailed or emailed to the person protesting the procurement.

(4) Any Motion to Intervene must state, to the extent known, the position taken by the person seeking intervention and the basis in fact and law for that position. A Motion to Intervene must also state the person's interest in sufficient factual detail to demonstrate that:

(a) the person seeking to intervene has a right to participate which is expressly conferred by statute or by rule, order, or other authority; or

(b) the person seeking to intervene has or represents an interest which may be directly affected by the outcome of the proceeding, including any interest as a:

(i) consumer;

(ii) customer;

(iii) competitor;

(iv) security holder of a party; or

(v) the person's participation is in the public interest.

(5) Granting of Status. If no written objection to the timely Motion to Intervene is filed with the Protest Officer within seven calendar days after the Motion to Intervene is received by the protesting person, the person seeking intervention becomes a party at the end of this seven-day period. If an objection is timely filed, the person seeking intervention becomes a party only when the motion is expressly granted by the Protest Officer based on a determination that a reason for intervention exists as stated in this rule. Notwithstanding this rule, an awardee of the procurement that is the subject of a protest will not be denied their Motion to Intervene, regardless of its content, unless it is not timely filed with the Protest Officer.

(6) Late Motions. If a Motion to Intervene is not timely filed, the motion shall be denied by the Protest Officer.

R23-1-1701. Statutory and Rule Requirements.

Appeals to a protest decision shall be conducted in accordance with the requirements set forth in Sections 63G-6a-1701 through 63G-6a-1705. Sections R33-117-101 through R33-117-105 shall also apply.

R23-1-1801. Process.

(1) A person who receives an adverse decision, or the division may appeal a decision of a procurement appeals panel to the Utah Court of Appeals within seven days after the day on which the decision is issued.

(2) All appeals to the Utah Court of Appeals are subject to the requirements set forth in Section 63G-6a-1802.

(3) The division may only appeal a procurement appeals panel decision in accordance with Subsection 63G-6a-1802(2).

R23-1-1901. Encouraged to Get Legal Advice from Legal Counsel.

(1) All definitions in the Utah Procurement Code shall apply to this rule unless otherwise specified in this rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

(2) Part 19 of the Utah Procurement Code, Sections 63G-6a-901 through 63G-6a-1911 contain provisions regarding:

(a) limitations on challenges of:

(i) a procurement;

(ii) a procurement process;

(iii) the award of a contract relating to a procurement;

(iv) a debarment; or

(v) a suspension; and

(b) the effect of a timely protest or appeal;

(c) the costs to or against a protester;

(d) the effect of earlier determinations by employees, agents, or other persons appointed by the procurement unit;

(e) the effect of a violation found after award of a contract;

(f) the effect of a violation found before the award of a contract;

(g) interest rates; and

(h) a listing of determinations that are final unless they are arbitrary and capricious or clearly erroneous.

(3) Due to the complex nature of protests and appeals, any person involved in the procurement process, protest, or appeal, is encouraged to seek advice from the person's own legal counsel.

R23-1-2001. General Provisions Related to Records.

General provisions related to records are in Part 20 of the Utah Procurement Code.

R23-1-2101. Cooperative Purchasing.

Cooperative purchasing shall be conducted in accordance with the requirements set forth in Section 63G-6a-2105.

R23-1-2201. Reserved.

Part 22 of Title 63G, Chapter 6a, Utah Procurement Code, did not exist at the point in time that this rule was amended. At such time as Part 22 of the Utah Procurement Code contains statutory language, the division will propose corresponding rules, as appropriate, pursuant to the Utah Administrative Rulemaking Act.

R23-1-2301. Reserved.

Part 23 of Title 63G, Chapter 6a, Utah Procurement Code, did not exist at the point in time that this rule was amended. At such time as Part 23 of the Utah Procurement Code contains statutory language, the division will propose corresponding rules, as appropriate, pursuant to the Utah Administrative Rulemaking Act.

R23-1-2401. Unlawful Conduct.

Unlawful conduct shall be governed in accordance with the requirements set forth in Sections 63G-6a-2401 through 63G-6a-2407. All definitions in the Utah Procurement Code shall apply to this rule unless otherwise specified in this rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Utah Procurement Code.

R23-1-2402. Laws and Executive Orders Pertaining to Gifts, Meals, and Gratuities for Executive Branch Procurement Professionals.

A division employee classified as a "Procurement Professional" shall be governed by:

(1) Part 24 of the Utah Procurement Code, "Unlawful Conduct and Penalties:"

(2) Executive Order EO/002/2014 issued by the Governor (http://www.rules.utah.gov/execdocs/2014/ExecDoc155325.htm);

(3) Title 67, Part 16 "Utah Public Officers' and Employees' Ethics Act;"

(4) Section 76-8-105, "Receiving or soliciting a Bribe or Bribery by a Public Servant;" and

(5) any other applicable law.

R23-1-2403. Laws and Executive Orders Pertaining to Gifts, Meals, and Gratuities for Executive Branch Employees.

A division employee not classified as a "Procurement Professional" shall be governed by:

(1) Executive Order EO/002/2014 issued by the Governor (http://www.rules.utah.gov/execdocs/2014/ExecDoc155325.htm);

(2) Title 67, Part 16 "Utah Public Officers' and Employees' Ethics Act;"

(3) Section 76-8-105, "Receiving or soliciting a Bribe or Bribery by a Public Servant;" and

(4) any other applicable law.

R23-1-2404. Socialization with Vendors and Contractors.

(1) A division procurement professional shall not:

(a) participate in social activities with vendors or contractors that will interfere with the proper performance of the division procurement professional's duties;

(b) participate in social activities with vendors or contractors that will lead to unreasonably frequent disqualification of the division procurement professional from the procurement process; or

(c) participate in social activities with vendors or contractors that would appear to a reasonable person to undermine the division procurement professional's independence, integrity, or impartiality.

(2) If a division procurement professional participates in a social activity prohibited under Subsection R23-1-2404(1) or has a close personal relationship with a vendor or contractor, the division procurement professional shall promptly notify their supervisor and the supervisor shall take the appropriate action, which may include removal of the division procurement professional from the procurement or contract administration process that is affected.

R23-1-2405. Financial Conflict of Interests Prohibited.

(1) A procurement conflict of interest is a situation in which the potential exists for a division employee's personal financial interests, or for the personal financial interests of a division employee's family member, to influence, or have the appearance of influencing, the division employee's judgment in the execution of the division employee's duties and responsibilities when conducting a procurement or administering a contract.

(2) To keep the integrity of the division's procurement process, a division employee may not take part in any procurement process, contracting or contract administration decision:

(a) relating to the division employee or a family member of the division employee; or

(b) relating to any entity in which the division employee or a family member of the division employee is an officer, director or partner, or in which the division employee or a family member of the division employee owns or controls 10% or more of the stock of such entity or holds or directly or indirectly controls an ownership interest of 10% or more in such entity.

(3) If a procurement process, contracting or contract administration matter arises relating to a division employee or a family member of division employee, the division employee must advise the division employee's supervisor of the relationship, and must be recused from any discussions or decisions relating to the procurement, contracting or administration matter. The division employee must also comply with all disclosure requirements in Title 67 Chapter 16, Utah Public Officers and Employees' Ethics Act.

R23-1-2406. Professional Relationships and Social Acquaintances Not Prohibited.

It is not a violation for a division employee who participates in discussions or decisions relating to the procurement, contracting or administration process to have a professional relationship or social acquaintance with a person, contractor or vendor responding to a solicitation, or that is under contract with the state, provided that there is compliance with Section R33-124-107.

KEY: contracts, procurement, public buildings
Date of Last Change: 2026[~~August 8, 2024~~]
Notice of Continuation: January 10, 2022
Authorizing, and Implemented or Interpreted Law: 63A-5b-305; 63G-2-101 et seq.; 63G-6a-101 et seq.

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: New	**Filing ID: 58329**
Rule or section number:	**R23-35**

1. Agency Information

Title catchline:	Government Operations, Facilities Construction and Management
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W, 3rd Floor
City, state:	Taylorsville, UT
Mailing address:	PO Box 141160
City, state and zip:	Salt Lake City, UT 84114-1160

2. Contact Persons

Name:	Phone:	Email:
Mike Kelley	801-957-7239	mkelley@agutah.gov

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

3. General Information

A. Rule or section catchline:

R23-35. Public School Construction Oversight

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

SB 164, now codified at Sections 63A-5b-1201 through 63A-5b-1222, gives the Division of Facilities Construction and Management (DFCM) responsibility for oversight of public school construction throughout the State.

Subsection 63A-5b-1222(1)(a) states: "[b]efore January 1, 2027, [DFCM] shall ... in accordance with Title 63G,Chapter 3, Utah Administrative Rulemaking Act, adopt comprehensive rules implementing this part...."

C. Summary of the new rule or change:

As directed by Section 63A-5b 1202, the new rule establishes comprehensive standards for public school construction that include:
1) minimum and maximum real property requirements;
2) cost per square foot parameters;
3) building material quality and cost standards;
4) parking and access requirements;
5) standardized cost reporting requirements;
6) mandatory plan review and approval procedures;
7) qualified reviewer certification requirements;
8) a process for permitting of public school construction in accordance with Section 63A-5b-1218;
9) a process for a school district to report project related issues;
10) other construction related requirements;
11) transition and replacement of existing State Board of Education rules related to school construction;
12) facility condition assessment requirements, including:
i) frequency of assessments;

ii) qualifications for third-party engineering firms conducting assessments;
iii) standardized assessment methodologies; and
iv) reporting and database requirements;
13) building maintenance standards for public school facilities;
14) building commissioning requirements, including:
i) commissioning scope and procedures;
ii) qualified commissioning agent requirements;
iii) functional performance testing standards;
iv) commissioning documentation and closeout requirements; and
v) ongoing commissioning for major building systems;
15) construction delivery method criteria and approval procedures consistent with Section 63G-6a-1302;
16) construction manager or general contractor use restrictions and oversight requirements in accordance with Subsections 63G-6a-1302(4) and (5);
17) factors to be considered in selecting appropriate delivery methods under Subsection 63G-6a-1302(3);
18) standards for school district coordination with municipalities and counties regarding school siting, traffic impacts, and site safety considerations; and
19) cost matrix establishment and application, including:
i) cost per square foot parameters by building type and region;
ii) allowable cost ranges and variance thresholds;
iii) factors for adjusting costs based on project complexity;
iv) pre-construction approval procedures and timelines; and
v) appeal procedures for cost matrix determinations.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	SB 164 (2026 General Session)

5. Fiscal Information

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

A. State budget:

Costs or savings to the state budget are the result of the legislation mandating this rule, not of the resultant rule.

As stated in the Fiscal Note attached to SB 164 (2026):
Enactment of this legislation could generate ongoing revenue beginning in FY 2027 to the Public School Construction Oversight Restricted Account created in this bill from fees or penalties paid by school districts to DFCM for their services.

The bill directs DFCM to develop and set these fees according to rule and subject to approval by a rate committee.

The proposed rates would be as follows:
1) projects with a budget of $0 - $99,999, 2% (max $2,000);
2) projects with a budget of $100,000 - $499,999, $2,000 + .18% over $100,000 ($2,700 max);
3) projects with a budget of $500,000 - $2,499,999, $2,700 + .18% over $500,000 ($6,300 max);
4) projects with a budget of $2,500,000 - $9,999,999, $6,300 + .15% over $2,500.000 ($21,300 max);
5) projects with a budget of $10,000,000 - $49,999,999, $21,300 + .13% over $10,000,000 ($52,000 max); and
6) projects with a budget of greater than $50,000,000, $52,000 + .11% over $50,000,000 ($107,000 max).

Revenues collected by DFCM for managing projects will vary based on the size of the project and the services provided. Based on prior construction expenditures for school districts, revenue to the new fund could be $1,400,900 in FY 2027.

Enactment of this legislation could cost the Department of Government Operations $900 one-time in FY 2026 and $1,900 ongoing in FY 2027, both from the General Fund, for costs related to creating and maintaining the restricted account proposed in this bill.

Enactment of this legislation could also cost DFCM $1,400,900 ongoing beginning in FY 2027 from the Public School Construction Oversight Restricted Account for costs related to oversight of local school district building projects.

B. Local governments:

Costs or savings to local governments are the result of the legislation mandating this rule, not of the resultant rule.

As stated in the Fiscal Note attached to SB 164 (2026):
Enactment of this legislation could increase costs for Local Education Agencies (LEAs) to the extent they use DFCM project managers for their construction projects and pay construction oversight fees set by DFCM based on the level of services used, which in aggregate could be $1,400,900 beginning in FY 2027.

Penalties in the legislation range from $1,000 to $25,000.

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

None. Costs or savings to small businesses, if any, would be the result of the legislation mandating this rule, not of the resultant rule, and in any case, the Fiscal Note attached to SB 164 (2026) identified no costs or savings to small businesses.

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

None. Costs or savings to non-small businesses, if any, would be the result of the legislation mandating this rule, not of the resultant rule, and in any case, the Fiscal Note attached to SB 164 (2026) identified no costs or savings to non-small businesses.

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

None. Costs or savings to persons other than small businesses, non-small businesses, state, or local government entities, if any, would be the result of the legislation mandating this rule, not of the resultant rule, and in any case, the Fiscal Note attached to SB 164 (2026) found no costs or savings to small businesses, non-small businesses, state, or local government entities.

F. Compliance costs for affected persons:

Costs or savings in compliance costs for affected persons are the result of the legislation mandating the rule, not of the resultant rule.

As stated in the Fiscal Note attached to SB 164 (2026):
Enactment of this legislation could result in a small increase in the regulatory burden for Utah residents or businesses.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	See 5A above	inestimable	inestimable	inestimable	inestimable
Local Governments	See 5B above	inestimable	inestimable	inestimable	inestimable
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	See 5A&B above	inestimable	**$** inestimable	inestimable	inestimable
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	See 5A above	inestimable	inestimable	inestimable	inestimable
Local Governments	$0	inestimable	inestimable	inestimable	inestimable
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**See 5A above.**	inestimable	inestimable	inestimable	inestimable
Net Fiscal Benefits	**$0**	inestimable	inestimable	inestimable	inestimable

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Government Operations, Marvin Dodge, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Subsection 63A-5b-305(2)(c)	Subsection 63G-6a-1202(1)	Subsection 63G-6a-1222(1)(a)

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	01/01/2027

13. Agency Authorization Information

Agency head or designee and title:	Andy Marr, Director	**Date:**	10/09/2026

R23. Government Operations, Facilities Construction and Management.

R23-35. Public School Construction Oversight.

R23-35-101. Purpose.

The purpose of Rule R23-35 is to establish comprehensive standards for public school construction oversight, including planning, design, permitting, cost controls, inspection, and occupancy requirements for public school construction projects in Utah.

R23-35-102. Authority.

Rule R23-35 is authorized under Sections 63A-5b-1202 and 63A-5b-1222, which directs the Division of Facilities Construction and Management to adopt rules establishing comprehensive standards for public school construction. The division has administrative rulemaking authority under Sections 63A-5b-305, 63A-5b-1202 and 63A-5b-1222. Pursuant to Subsection 63A-5b-1222(1)(e), this rule replaces Utah State Board of Education Rule R277-471 effective January 1, 2027.

R23-35-103. Implementation, Transition, and Remedial Audits.

(1) Effective Date. This rule takes effect January 1, 2027. All projects with a construction start date on or after January 1, 2027 shall comply fully with this rule.

(2) In-Progress Projects. Projects with a construction start date before January 1, 2027 shall be administered under applicable USBE rules through substantial completion or December 31, 2027, whichever occurs first.

(3) Inspection Contract Transition. Active inspection contracts executed before January 1, 2027 may continue through substantial completion or December 31, 2027, whichever occurs first.

(4) Remedial Audits. Pursuant to Subsection 63A-5b-1222(4), the division shall conduct remedial audits of projects completed in 2024, 2025, and 2026.

R23-35-201. Definitions.

Terms used in this rule are defined in Section 63A-5b-1201. In addition:

(1) "Capital development project" has the same meaning as defined in Section 63A-5b-401;

(2) "Capital improvement project" has the same meaning as defined in Section 63A-5b-401;

(3) "Certificate of Completion" means the formal certificate issued by the division that confirms permitted construction work on an existing public school facility is complete and complies with applicable code requirements, where the occupancy classification of the facility does not change as a result of the work. A certificate of completion is issued for capital improvement projects consisting of alterations, renovations, system replacements, or repairs to an existing school building in active educational use. The division's certificate of completion has the same exclusive effect under Section 63A-5b-1208 as a certificate of occupancy for the scope of work covered;

(4) "Certificate of Occupancy" means the formal certificate issued by the division that authorizes an LEA to occupy and use a new public school facility, an addition to an existing facility that creates new occupiable space, an existing facility where the occupancy classification has changed, or an existing facility that has undergone alterations of sufficient scope that the division determines a new certificate of occupancy is required. The division's certificate of occupancy is the exclusive certificate required for public school facilities subject to this part and satisfies all municipal and county occupancy requirements consistent with Sections 10-20-304 and 17-79-305;

(5) "Construction Management Portal" or "Portal" means the online platform maintained by the division for project intake, Project Notifications, AE contract fee verification, monthly cost reporting, change order notifications, and closeout reconciliations under Section 63A-5b-1207;

(6) "Construction start date" means the date on which an LEA or its contractor first commences any work requiring a permit under the International Building Code as adopted under Section 15A-2-103;

(7) "Cost matrix" means the schedule of presumptive allowable cost-per-square-foot ranges by school type and region established by the division under Subsection 63A-5b-1202(1)(s). The cost matrix is a planning benchmark, not a mandatory project cost cap;

(8) "Electronic Document Management System" or "EDMS" means the online platform maintained by the division for plan review submissions, permit issuance, inspection logs, and certificate of occupancy and completion issuances under Section 63A-5b-1207;

(9) "Soft costs" means all non-direct construction costs including pre-design and planning, AE design fees, furniture fixtures and equipment (FF&E), information technology, utility and impact fees, hazardous materials assessment and abatement, testing and inspection, contingency, moving and occupancy, builder's risk insurance, legal services, management fees, and commissioning, reported in the categories established under Section R23-35-406;

(10) "Total construction cost" or "TCC" means the sum of direct facility construction costs for new and remodel work, additional construction costs, and site development costs, reported in CSI MasterFormat and excluding soft costs. TCC is the basis for cost-per-square-foot benchmark comparisons, cost matrix conformity determinations, and AE fee schedule calculations.

R23-35-301. Division Authority, Standards, and Local Autonomy.

(1) Division Jurisdiction. The division exercises primary building official and administrative authority over public school construction standards, document review, permitting, inspector and plan reviewer rosters, and certificates of occupancy and completion under Section 63A-5b-1202.

(2) Local Autonomy Preserved. Pursuant to Subsection 63A-5b-1202(8), division oversight ensures standardized cost controls, safety, and accountability while preserving local autonomy. Division oversight does not extend to an LEA's internal funding mechanisms, educational programming, instructional design decisions, or aesthetic design choices, including visual expression, material and finish selections, and design quality, provided those choices remain within the cost matrix and comply with applicable building codes. The division's plan review authority does not extend to aesthetic design judgments that have no bearing on structural integrity, life safety, or code compliance.

(3) Inter-Agency Coordination. Pursuant to Subsection 63A-5b-1205(7), the division shall coordinate with:

(a) the state board through the school construction liaison pursuant to Section 63A-5b-1212;

(b) the State Fire Marshal and State Security Chief pursuant to Section 53-22-102, through concurrent EDMS review during plan review; and

(c) local municipalities and counties regarding land use and permitting pursuant to Sections 10-9a-305, 17-27a-305, and 63A-5b-1218.

(4) Scope of Inspection Authority and Outside Exclusions.

(a) Building Code Jurisdiction Only: division inspections and plan reviews apply solely to verification of compliance with state building, mechanical, electrical, plumbing, energy, and fire codes adopted under Title 15A, State Construction and Fire Codes Act, and mandatory school safety standards under Section 53-22-102.

(b) Non-Division Outside Approvals Excluded: division inspections, permits, and certificates do not constitute, cover, or replace operational licensing, health clearances, or utility service authorizations governed by local municipalities, county health departments, or utility providers.

(c) LEA and Contractor Responsibility: The LEA, through its construction manager or general contractor, remains solely responsible for independently coordinating, scheduling, securing, and paying for all non-building-code inspections and operational approvals.

R23-35-302. School Construction Liaison Coordination.

Pursuant to Section 63A-5b-1212, the division shall coordinate with the school construction liaison designated by the state board and execute a memorandum of understanding establishing oversight roles, data sharing protocols, safety review coordination, joint training, and dispute resolution procedures.

R23-35-303. Training, Resource Manual and Technical Assistance.

(1) Resource Manual. Pursuant to Section 63A-5b-1211, the division shall develop and maintain a school construction resource manual in collaboration with the school construction liaison. The manual shall include:

(a) current legal requirements;

(b) construction and inspection rules;

(c) compliance procedures, and documentation standards; and

(d) standardized forms.

(2) Pursuant to Subsection 63A-5b-1202(1)(a), the resource manual shall include minimum and maximum real property requirements.

(3) Pursuant to Subsection 63A-5b-1202(1)(d), the resource manual shall include parking and access requirements.

(4) Pursuant to Subsection 63A-5b-1202(1)(m), the resource manual shall include building maintenance standards for public school facilities.

(5) The division shall review and update the manual at least every three years or when significant building code changes occur.

(6) Annual LEA Training. Pursuant to Subsection 63A-5b-1211(3)(a), the division shall conduct annual training for LEA officials. Pursuant to Subsection 63A-5b-1211(3)(b), the division may not contract with third-party vendors to fulfill this training obligation. The division shall co-sponsor an annual school construction conference with USBE consistent with this requirement.

(7) Technical Assistance. The division shall provide technical assistance to LEAs, including published submission checklists for every required form, delivery method selection guidance, and pre-application consultation on request.

R23-35-401. Pre-Construction Applications and Cost Matrix Reviews.

(1) Pre-Development Exception. Pre-development professional services, including programming, feasibility studies, long-range facility planning, bond election preparation, and cost modeling, entered before a specific public school construction project has been identified are not subject to Project Notification or AE contract fee verification requirements under this rule.

(2) Required Submission Sequence. An LEA shall complete the following submissions through the Portal in order before reaching the construction start date:

(a) Project Notification shall be submitted before entering any design agreement for a specific project. The Project Notification shall identify the project description, selected delivery method, and team contacts. The division shall assign a project number and PMA contact upon receipt and review the selected delivery method within 15 business days.

(b) AE Contract Submission shall be submitted before executing any design professional contract. The division shall complete fee verification within 15 business days. The LEA may not execute a design contract before receiving written fee verification.

(c) Pre-Construction Application shall be submitted and approved before reaching the construction start date. The application shall confirm the selected delivery method, identify inspector designations and the special inspection program, confirm contractor registry compliance for contracts exceeding $500,000, and for capital development projects include a final cost matrix submission demonstrating conformity with division benchmarks.

(3) Cost Matrix Review --- Capital Development Projects.

(a) Stage 1 --- Preliminary Conformity Determination. For capital development projects, the division shall issue a written preliminary conformity determination within ten business days of a complete Project Notification. The determination confirms whether the project is generally consistent with division cost benchmarks for the applicable school type, region, and scope. An LEA may not contract with a design professional for a capital development project until the preliminary conformity determination is received. A preliminary conformity determination is not a final cost approval and does not fix project cost or scope.

(b) Stage 2 --- Final Conformity Confirmation. Final cost matrix compliance is demonstrated at the pre-construction application stage. The division shall evaluate TCC only against the applicable benchmark, excluding soft costs, land acquisition, financing costs, and owner-direct equipment purchases.

(c) Benchmark vs. Cap. Projects within the applicable range are approved without further cost justification. Projects exceeding the range are subject to the variance process under Subsection (4) and are not automatically disqualified.

(4) Cost Matrix Variances. An LEA whose project costs are expected to exceed the applicable cost matrix range may proceed through schematic design before submitting a variance request. A complete variance request shall be submitted and approved before the LEA proceeds beyond schematic design. The request shall provide a written explanation of the project-specific circumstances requiring costs above the matrix range. The division may request supporting documentation and a proposed alternative cost parameter with justification. The division shall respond in writing within 15 business days. If approved, the alternative cost parameter becomes the applicable benchmark for that project. If denied, the LEA shall modify the project scope to conform to the cost matrix or appeal under Section R23-35-902.

(5) Resubmission Threshold. An LEA shall submit an amended pre-construction application if project scope or TCC changes by more than ten percent following the preliminary conformity determination.

(6) Emergency Repairs. Pursuant to the emergency work provisions of the International Building Code as adopted under Section 15A-2-103, the division's Regional Code Official may authorize emergency repair work to proceed before a construction permit is issued when an immediate threat to public health, safety, or continuity of educational operations exists. An LEA commencing emergency repair work shall:

(a) notify the Regional Code Official before commencing work, or within 24 hours if advance notification is not practicable;

(b) submit a Project Notification through the Portal within five business days of commencing work;

(c) submit a permit application through EDMS within five business days of commencing work; and

(d) comply with all applicable inspection and closeout documentation requirements of this rule following permit issuance.

The division shall process emergency permit applications within ten business days of receipt. All other requirements of this rule apply to emergency repair projects following permit issuance.

R23-35-402. Design Professional Cost Oversight.

(1) Fee Schedule. Pursuant to Section 63A-5b-1204, the division shall establish and publish maximum allowable fee schedules for architect and design professional services based on project size and complexity, regional market conditions, industry standards, and historical cost data. The fee schedule establishes a maximum allowable fee and does not substitute for qualifications-based selection required under Section 63G-6a-1502. Selection shall be based on qualifications; fee negotiation occurs after selection within the published maximum.

(2) Fee Schedule Review. The division shall review and update the fee schedule on a rolling basis with a full review completed at least every three years, or sooner if regional market conditions or historical cost data indicate the current schedule no longer reflects fair and reasonable fees.

(3) AE Contract Fee Verification. Pursuant to Subsection 63A-5b-1204(2)(b), an LEA shall submit all proposed design professional contracts through the Portal for fee verification before execution. The division shall complete fee verification within 15 business days and issue written confirmation of compliance or written notice of non-compliance. The LEA may not execute a design contract before receiving written fee verification.

(4) Fee Variances. An LEA negotiating fees above the published schedule shall submit a written variance request documenting unique project complexity or regional market factors before executing the contract. The division shall respond within 15 business days.

R23-35-403. Construction Delivery Methods.

(1) Authorized Methods. Pursuant to Section 63A-5b-1203, LEAs may use the following delivery methods authorized under Section 63G-6a-1302:

(a) design-bid-build shall be the default method, requiring no additional documentation beyond the Project Notification and pre-construction application;

(b) design-build which shall be selected through qualifications-based selection consistent with Section 63G-6a-1302; or

(c) Construction Manager/General Contractor (CM/GC) which shall be subject to division pre-approval under Subsection (4).

(2) Delivery Method Documentation. At Project Notification, an LEA shall identify its selected delivery method. If undecided, design-bid-build is the default. An LEA may change the selected method between Project Notification and pre-construction application by notifying the division through the Portal. The division shall review the selected delivery method and issue written acknowledgment or approval within 15 business days.

(3) Projects Under $3,000,000. Design-bid-build is the default for projects under $3,000,000. An LEA selecting an alternative method for a project under $3,000,000 shall include written justification in the Project Notification and may not begin procurement before receiving written division approval.

(4) CM/GC Pre-Approval. Pursuant to Subsection 63A-5b-1203(2), an LEA may use CM/GC delivery only after receiving written division approval. The LEA shall submit with the Project Notification:

(a) project description including type, budget, square footage, and site context;

(b) written justification identifying specific project conditions supporting CM/GC delivery;

(c) project manager qualifications, including name and qualifications demonstrating personal hands-on CM/GC management experience, including: a list of prior CM/GC projects personally managed with project name, owner, budget, and role;

(d) a project management plan describing pre-construction oversight, GMP development, subcontractor procurement, contingency and allowance management, and open-book cost reporting.

(5) CM/GC Denial Grounds. Pursuant to Subsection 63A-5b-1203(2)(b), the division may deny CM/GC approval only if:

(a) the LEA lacks sufficient expertise to manage the project;

(b) the project does not meet criteria under Subsection 63G-6a-1302(3); or

(c) another delivery method would provide better cost control and outcomes.

(6) CM/GC Enhanced Oversight. Pursuant to Subsection 63A-5b-1203(3)(c), approved CM/GC projects are subject to:

(a) division review of the Guaranteed Maximum Price (GMP) before execution, the division shall respond within 15 business days;

(b) division notification and pre-execution approval for individual change orders exceeding 5% of the GMP or adding square footage; and

(c) open-book cost reporting throughout construction available to the division on request.

(7) Alternative Delivery Methods. An LEA wishing to use a delivery method not described in Subsection (1), including progressive design-build or other methods authorized under Section 63G-6a-1302, shall identify the proposed method in the Project Notification. The division shall apply the same 15 business day review and CM/GC-equivalent enhanced oversight requirements to approved alternative methods.

R23-35-404. Technical Compliance Requirements.

Pursuant to Section 63A-5b-1206, the division shall verify compliance with:

(1) the International Code Council I-Codes as adopted in Utah under Section 15A-2-103, including all applicable chapters of the International Building Code, International Mechanical Code, International Energy Conservation Code, and International Fire Code;

(2) structural engineering requirements for Risk Category III buildings as defined in the International Building Code, including IBC Chapter 17 special inspection and structural observation requirements;

(3) mandatory safety and security standards under Section 53-22-102, coordinated through concurrent EDMS review with the school construction liaison; and

(4) any other applicable building or construction codes the division determines relevant. The division shall publish and maintain a current list of all codes incorporated under this provision on the division's website.

R23-35-405. Exclusive Construction Permitting Authority.

(1) Exclusive Authority. Pursuant to Section 63A-5b-1218, the division exercises exclusive authority to issue permits for public school construction. Division permits satisfy all municipal and county building permit requirements pursuant to Sections 10-20-304 and 17-79-305. Municipalities and counties may not require separate local building permits for projects subject to this rule.

(2) Phased Permits. The division may issue phased construction permits allowing foundation and site work to proceed under an initial permit while the full construction document set is under review. Each phase requires its own permit before work begins. Where project schedule or complexity require submission of construction documents in phases, the division's standard phased permit sequence is:

(a) Bid Package 1 for site work, including earthwork, excavation, utilities, site clearing, and dewatering. Deep foundations may be included with adequate structural calculations and drawings for structural review;

(b) Bid Package 2 for building structure and envelope, including footings, foundations, structural steel, concrete, core and shell, stairs, elevators, and exterior envelope;

(c) Bid Package 3 consisting of the full conformed construction document set, incorporating Bid Packages 1 and 2 and all interior finish work. An LEA requiring a phased sequence other than the standard sequence described in Subsection (2) shall submit a written request to its assigned code official describing the project conditions requiring the alternative sequence. The division shall respond in writing within ten business days. An LEA may not proceed with an alternative phased sequence without written division approval.

(3) Permit Expiration. A construction permit issued under this section may be extended by the division upon written request for good cause, and expires upon the earlier of:

(a) 180 days from permit issuance if construction has not commenced; or

(b) 180 days from the date of the last completed inspection if construction has commenced but no further inspections have been conducted.

(4) Permit Amendments. An LEA shall submit a permit amendment application if, after permit issuance, the project scope changes in a manner that affects: occupancy classification or occupant load of any space; means of egress, including exit locations, exit widths, travel distance, or corridor ratings; fire protection or life safety systems, including sprinkler design, fire alarm zones, or rated assemblies; structural systems or load-bearing elements, including any change affecting the structural calculations submitted with the original permit; or the building envelope, including any addition of occupiable floor area regardless of size. The division shall review permit amendment applications within seven business days.

R23-35-406. Building Commissioning.

(1) Projects $5,000,000 or Less: For public school construction projects with a total project cost of $5,000,000 or less, the LEA shall determine the appropriate scope and level of building commissioning. The LEA shall comply with applicable building commissioning requirements established by building codes adopted under Title 15A, State Construction and Fire Codes Act, and with the LEA's owner's project requirements.

(2) Projects Exceeding $5,000,000: Pursuant to Subsection 63A-5b-1202(11)(a), for public school construction projects with a total project cost exceeding $5,000,000, the LEA shall require comprehensive building commissioning.

(3) Comprehensive Commissioning Requirements: At a minimum, comprehensive building commissioning shall:

(a) be performed by a qualified commissioning agent who holds a current commissioning certification from a recognized credentialing body such as the BCxA or ASHRAE;

(b) verify that commissioned systems perform in accordance with the owner's project requirements and basis of design;

(c) include at a minimum the commissioning of:

(i) mechanical, heating, ventilation, air conditioning, and refrigeration (HVAC&R) systems;

(ii) electrical power, emergency backup power, and lighting control systems;

(iii) domestic plumbing and water heating systems; and

(iv) building automation and control systems;

(d) include functional performance testing of all commissioned systems before occupancy;

(e) include a warranty-phase commissioning scope, including seasonal functional testing of HVAC and environmental control systems during heating, cooling, and shoulder seasons;

(f) provide training to LEA facility operations and maintenance staff on the operation and maintenance of commissioned systems; and

(g) result in a comprehensive commissioning and closeout report documenting commissioning activities, deficiencies, corrective actions, testing results, and final system acceptance, which shall be provided to the LEA and the division before final project closeout.

R23-35-407. Inspection Verification, Monitoring, and Occupancy Certificates.

(1) Inspection Execution. Pursuant to Section 63A-5b-1208, an LEA shall ensure all required inspections are performed by inspectors listed on the division's roster under Section R23-35-802. No work may be concealed before logged inspection approval in EDMS.

(2) Certificate of Occupancy. The division shall issue a Certificate of Occupancy for new construction and projects involving a change of occupancy within ten business days of receiving complete closeout documentation. Prerequisites include: final trade inspection sign-offs from rostered inspectors logged in EDMS; IBC Chapter 17 special inspection and structural observation reports; State Security Chief compliance confirmation under Section 53-22-102 through concurrent EDMS review; and State Fire Marshal clearance through concurrent EDMS review.

(3) Temporary Certificate of Occupancy. The division may issue a Temporary Certificate of Occupancy for partial occupancy for up to 180 days where safety separation between occupied and unfinished areas is maintained and documented.

(4) Certificate of Completion. The division shall issue a Certificate of Completion for alterations to existing facilities with no change of occupancy within ten business days of receiving complete closeout documentation, subject to the same prerequisites as Subsection (2). A Certificate of Completion is the appropriate closeout instrument for capital improvement projects.

(5) Distribution. Pursuant to Subsection 63A-5b-1208(6)(d), the division shall distribute certificates to the LEA, the municipality or county, and the local fire authority.

(6) Significant Deficiency Notice. An LEA shall notify the division in writing within five business days of discovering any significant structural failure, construction deficiency, or safety hazard.

R23-35-501. Online Document Management System.

(1) Integrated System Structure. Pursuant to Section 63A-5b-1207, the online document management system comprises two integrated platforms:

(a) the Construction Management Portal --- for project intake, delivery method review, cost matrix reviews, AE fee verification, monthly progress reporting, change order notifications, and closeout cost reconciliation; and

(b) the Electronic Document Management System (EDMS) --- for plan review submissions, concurrent state agency reviews, permit issuance, inspection logs, and certificates of occupancy and completion.

(2) Project Identification. All submissions shall reference the DFCM project number assigned at Project Notification. Projects shall maintain matching records across both platforms linked by that number.

(3) USBE Access. The school construction liaison designated under Section 63A-5b-1212 shall have read access to project records in both platforms consistent with the memorandum of understanding required by Subsection 63A-5b-1212(3).

R23-35-601. Standardized Cost Reporting and Deferred Maintenance.

(1) Standardized Cost Reporting. LEAs shall report TCC using the division's standardized payment application in CSI MasterFormat. Soft costs shall be reported separately using the division's published CBE form or equivalent structure. The division shall publish and maintain standardized forms on its website.

(2) Reporting Stages and Deadlines.

(a) Project Notification: preliminary estimated TCC and soft costs by category; basis of estimate.

(b) Pre-construction application: detailed estimated TCC in CSI MasterFormat; estimated soft costs; comparison to division benchmarks; explanation of variances exceeding ten percent.

(c) Monthly construction reports: pursuant to Subsection 63A-5b-1202(5)(d), LEAs shall submit monthly construction progress reports through the Portal by the 15th of each month, including percent complete by CSI division, current budget status, change orders executed in the period, and any significant issues.

(d) Final cost reconciliation: final TCC in CSI MasterFormat and final soft costs submitted within 90 days of certificate issuance. Required for project closeout in EDMS.

(e) Deferred maintenance report: effective July 1, 2029, each LEA shall annually report maintenance items exceeding $25,000 pursuant to Subsection 63A-5b-1210(5).

(i) Facilities over 20 years old shall include a facility condition assessment, updated every five years, conducted by a qualified architectural or engineering firm or an individual holding a recognized facilities management credential such as those offered by APPA, BOMA, or an equivalent credentialing body recognized by the division.

(ii) The assessment shall be conducted using a standardized methodology published by the division before July 1, 2028. Until the division publishes the standardized methodology under this Subsection, facility condition assessments required by this Section shall be conducted in accordance with Subsection R23-3-12(17).

(3) Change Order Threshold Notifications. LEAs shall separately notify the division through the Portal of change orders exceeding:

(a) Ten percent cumulatively on capital improvement projects, or any change order adding square footage;

(b) Two percent cumulatively on capital development projects, or any change order adding square footage; or

(c) Five percent of the GMP individually on CM/GC projects, requiring pre-execution division approval.

R23-35-602. Historical Project Documentation Requests.

Pursuant to Section 63A-5b-1209, upon written request from the division an LEA shall provide cost data, construction documents, contract selection documentation, change order logs, inspection records, as-built drawings, and warranty records within 90 days. This obligation applies to projects in process or completed after May 6, 2026. The division may use historical project data from projects completed after January 1, 2025 to populate the construction cost database under Section 63A-5b-1210.

R23-35-701. Division-Managed Construction Services.

(1) Fee-for-Service Management. Pursuant to Section 63A-5b-1213, an LEA may request division project management services for projects exceeding $3,500,000 or where internal capacity is lacking. Administrative fees are in lieu of, not in addition to, the standard oversight fee under Section R23-35-702, and are capped at three percent of total project costs for projects over $3,500,000. Fee schedules for division-managed services shall be published annually in division rules pursuant to Subsection 63A-5b-1213(4)(a)(iii).

(2) Mandatory Management. The division may require mandatory management services for LEAs demonstrating repeated compliance failures, defined as three or more substantiated violations within a 24-month period. An LEA may appeal a mandatory management determination under Section R23-35-902.

R23-35-702. Construction Oversight Fee Schedule.

(1) Fee Structure. Pursuant to Section 63A-5b-1214, LEAs shall pay a construction oversight fee based on Total Construction Cost (TCC) in accordance with the fee schedule approved annually through the state rate committee process under Section 63A-1-114.

(2) Payment Installments. Fees are payable in two equal installments: 50% at permit issuance and 50% at certificate of occupancy or certificate of completion issuance.

(3) Fee Schedule Publication. The division's construction oversight fee schedule shall be published annually on the division's official website and in the annual state legislative appropriations budget. Fee schedules for division-managed construction services are published annually separately under Section R23-35-701.

R23-35-703. Delegated Oversight Authority for Qualified LEAs.

(1) Delegation Eligibility. Pursuant to Section 63A-5b-1217, the division may delegate plan review and construction oversight authority to an LEA demonstrating sufficient internal management capacity, including qualified in-house staff, established internal QA procedures, and a compliance record free of substantiated violations in the prior 36 months.

(2) Reduced Fees. If the division grants delegated oversight authority, the division shall adjust, reduce, or waive the construction oversight fee to reflect the scope and level of oversight performed by the division, consistent with Subsection 63A-5b-1217(4). The division shall publish a fee schedule proportional to oversight services provided.

R23-35-801. Qualified Contractor Pre-Qualification Registry.

(1) Registry Mandate. Pursuant to Section 63A-5b-1216, for projects exceeding $500,000, LEAs shall award original construction contracts only to contractors listed on the division's pre-qualification registry.

(2) Qualifications and Standards. Pre-qualification standards are established and published by the division in its registry application materials maintained on the division's website. Standards address active Utah licensure, insurance and bonding, financial capacity, relevant construction experience, and safety record as evaluated against the division's published criteria. Loss of required Utah licensure results in immediate registry suspension without prior notice.

(3) Terms and Directory Maintenance.

(a) Individual contractor pre-qualification registry listings are valid for 18 months from the date of approval, unless suspended or revoked.

(b) Pursuant to Subsection 63A-5b-1216(6)(d), the division shall maintain and update the publicly accessible registry directory on its website at least annually.

(c) LEAs shall verify current registry status before awarding any contract exceeding $500,000.

R23-35-802. Qualified Inspector and Plan Reviewer Roster.

(1) Unified Roster. Pursuant to Section 63A-5b-1220, the division shall maintain a unified roster of qualified inspectors and plan reviewers, published on the division's website. Qualification standards are established in the division's published Public School Construction Code Inspector and Plan Reviewer Requirements document.

(2) Direct Contracting Required. LEAs shall contract directly with rostered plan reviewers and inspectors. LEAs may not delegate inspector hiring, compensation, or scope management to a contractor, architect, or construction manager engaged on the same project.

(3) LEA In-House Personnel. Qualified LEA employees meeting roster standards may serve as inspectors or plan reviewers for their own district's projects or for neighboring districts through interlocal agreements, provided they did not substantially contribute to the design documents. For purposes of this section, "substantially contributes" means preparing, reviewing, approving, or sealing any portion of the design documents, specifications, or construction details for the project in a professional design capacity, that is, exercising licensed professional judgment to develop, verify, or take technical responsibility for design content. Owner review and approval of design packages as the project owner does not constitute involvement in design for purposes of this Subsection.

(4) Removal. Loss of required Utah licensure results in immediate roster suspension. The division shall notify affected LEAs within ten business days of removing an active inspector or plan reviewer from the roster.

R23-35-901. Enforcement, Penalties, and Audits.

(1) Enforcement Authority. Pursuant to Section 63A-5b-1215, the division may issue compliance orders, suspend or revoke construction permits, require additional inspections at the LEA's expense, assess administrative penalties, and refer matters to appropriate authorities.

(2) Penalty Caps. Pursuant to Subsection 63A-5b-1215(2), administrative penalties may not exceed:

(a) $1,000 for minor violations, such as late administrative reporting or minor recordkeeping omissions;

(b) $5,000 for significant violations, such as unapproved work deviation or failure to obtain required inspection; and

(c) $25,000 for willful violations posing a safety risk, such as intentional bypass of safety inspections or unpermitted occupancy.

(3) Penalty Determination Criteria. In determining the penalty amount within the limits established in Subsection (2), the division shall consider:

(a) the gravity of the violation and potential health and safety risks;

(b) the LEA's history of compliance or prior violations; and

(c) good faith efforts by the LEA to achieve rapid compliance.

(4) Due Process Before Penalties. Before imposing any administrative penalty, the division shall:

(a) provide written notice of the alleged violation with specific citation to the rule or statute violated; and

(b) allow a reasonable cure period of not less than 30 days for the LEA to correct the violation, except for violations posing imminent safety risks.

(5) Mandatory Compliance Audits. Pursuant to Subsection 63A-5b-1215(6), the division shall conduct mandatory compliance audits of at least ten percent of all projects annually, selected randomly. Audit scope focuses on cost reporting accuracy, inspection compliance, and permit condition adherence.

R23-35-902. Appeals Panel Composition and Procedures.

(1) Appeals Panel. Pursuant to Section 63A-5b-1221, an appeals panel is created comprising the DGO Commissioner or designee (chair), the school construction liaison designated under Section 63A-5b-1212, and a jointly selected construction or legal expert.

(2) Procedures. An LEA may appeal division decisions within 30 days of written notice. Proceedings shall comply with Title 63G, Chapter 4, Utah Administrative Procedures Act. Written decisions shall be issued within 45 days for standard reviews and 20 days for expedited reviews. Panel decisions are final and binding subject to judicial review under Section 63G-4-401.

(3) Eligible Appeals. An LEA may appeal: permit denials or conditions; cost matrix determinations and variance denials; AE fee verification denials; CM/GC delivery method denials; contractor registry determinations; inspector or plan reviewer roster determinations; enforcement orders and penalty assessments; and fee schedule assessments.

R23-35-1001. Public School Construction Oversight Restricted Account.

Pursuant to Section 63A-5b-1219, oversight fees, division-managed services revenues, and penalty assessments shall be deposited into the Public School Construction Oversight Restricted Account and used exclusively for public school construction oversight activities. The division shall report annually to the Legislature on fee revenue, expenditures, and program performance.

KEY: construction, contracts, design, educational facilities, procurement
Date of Last Change: 2026
Authorizing, and Implemented or Interpreted Law: Title 63A, Chapter 5b, Part 12

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: New	**Filing ID: 58331**
Rule or section number:	**R66-40**

1. Agency Information

Title catchline:	Agriculture and Food, Specialized Products
Building:	TSOB, South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

2. Contact Persons

Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Trevor Eckhoff	385-549-9937	teckhoff@utah.gov

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

3. General Information

A. Rule or section catchline:

R66-40. Specialized Product Retailer License

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

The purpose of this filing is to establish standards for specialized product retailer licenses as required by Section 4-45a-105 and HB 385, Specialized Product Sales Amendments, passed in the 2026 General Session.

C. Summary of the new rule or change:

This filing:
1) assists in the implementation of Title 4, Chapter 45a, as required by Section 4-45a-105;
2) establishes how a person can apply for and renew a specialized product retailer license in Section R66-40-3;
3) establishes the Department of Agriculture and Food's (department) ability to inspect and require certain records from a specialized product retailer in Section R66-40-4'
4) establishes the department's ability to sample and test a specialized product from a specialized product retailer in Section R66-40-5;
5) provides information the department requires for a specialized product to be sold in Section R66-40-6; and

6) establishes department-created education on specialized products and identifying generally recognized as safe ingredients in Section R66-40-7.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 385 (2026 General Session)

5. Fiscal Information

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
This filing is not anticipated to result in fiscal impact on the state's budget because the department already licenses and inspects specialized product retailers, per statute.
B. Local governments:
This filing is not anticipated to result in fiscal impact on local governments because they do not issue specialized product retailer licenses.
C. Small businesses ("small business" means a business employing 1-49 persons)**:**
This filing may cause minimal impact on small businesses because the department may sample a specialized product at no charge per Section 4-1-105 and Subsection 4-45a-104(3). However, sampling is not universal and is conducted in specific circumstances.
D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This filing may cause minimal impact on non-small businesses because the department may sample a specialized product at no charge per Section 4-1-105 and Subsection 4-45a-104(3). However, sampling is not universal and is conducted in specific circumstances.
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 filing is not anticipated to result in fiscal impact on other persons because it only applies to specialized product retailers and the department.
F. Compliance costs for affected persons:
Compliance costs are not changing.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**

Fiscal Benefits	FY2027	FY2028	FY2029	FY2030	FY2031
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Agriculture and Food, Kelly Pehrson, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 4-45a-105		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Kelly Pehrson, Commissioner	**Date:**	10/14/2026

R66. Agriculture and Food, Specialized Products.

R66-40. Specialized Product Retailer License.

R66-40-1. Authority and Purpose.

Pursuant to Section 4-45a-105, this rule establishes the standards, practices, procedures, and requirements for participation in the sale of specialized products in Utah.

R66-40-2. Definitions.

(1) The definitions in Section 4-45a-101 apply to this rule.
(2) "Brand name" means a name under which a specialized product is advertised or sold.
(3) "Person" means the same as defined in Subsection 4-1-109(10).
(4) "Retail establishment" means an individual store with an address in Utah or an online retailer.
(5) "Specialized product" means the same as defined in Subsection 4-45a-101(10) and does not include:
(a) an alcoholic product as defined in Subsection 32B-1-102(4); or
(b) a drug approved by the United States Food and Drug Administration (FDA), including over-the-counter drugs.
(c) "Specialized product retailer" means the same as defined in Subsection 4-45a-101(11).

R66-40-3. Specialized Product Retailer License.

(1) A person who sells or stores a specialized product at a retail establishment shall submit the following to the department:
(a) an application on a form provided by the department; and
(b) the license fee required under Subsection 4-45a-102(2).

(2) The department may deny a specialized product retailer license if an application is incomplete.
(3) A person shall renew a specialized product retailer license by submitting the following to the department on or before April 30 of each year:
(a) an application; and
(b) a renewal fee.

R66-40-4. Inspection.
The department may:
(1) inspect a retail establishment where a specialized product is sold or stored including records of receipt, inventory, and invoices; and
(2) require a specialized product retailer to provide:
(a) an organizational chart; and
(b) a background check to verify that the requirements of Section 4-45a-103 are met.

R66-40-5. Testing.
(1) The department may sample, analyze, and test any specialized product distributed in this state for compliance with registration, labeling requirements, and consistency with the advertised ingredients.
(2) A specialized product that the department samples is the official sample.
(3) Under Section 4-1-105 and Subsection 4-45a-104(3), the department may sample a specialized product without charge.
(4) The department shall provide testing methodology and test results to a specialized product retailer upon request.

R66-40-6. Specialized Product List.
(1) Under Section 4-45a-104, a specialized product retailer shall provide the department a list containing the following for each specialized product the specialized product retailer intends to sell or store at a retail establishment:
(a) product name; and
(b) brand name;
(2) Under Subsection (1), a specialized product retailer may alternatively provide the department a list containing all products the specialized product retailer sells or stores.

R66-40-7. Department Responsibilities.
The department shall provide guidance to the public on:
(1) specialized product categories, ingredients, or substances; and
(2) methods to identify ingredients that are generally recognized as safe by the FDA.

KEY: specialized products, specialized product retailer, retailer license, retailer
Date of Last Change: 2026
Authorizing, and Implemented or Interpreted Law: 4-45a-105

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58352**
Rule or section number:	**R156-37**

1. Agency Information

Title catchline:	Commerce, Professional Licensing
Building:	Heber M Wells Building
Street address:	160 E 300 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 146741
City, state and zip:	Salt Lake City, UT 84114-6741

2. Contact Persons

Name:	Phone:	Email:
Lauren Harvey	801-530-6654	laureneharvey@utah.gov

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

3. General Information

A. Rule or section catchline:

R156-37. Utah Controlled Substances Act Rule

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

The Division of Professional Licensing (Division) in collaboration with the Utah Bureau of Emergency Medical Services within the Utah Department of Public Safety is filing these amendments in accordance with statutory changes made by HB 402, EMS Controlled Substance Licensing Amendments, in the 2026 General Session.

HB 402 (2026) created a controlled substance license for an emergency medical services agency and authorized the Division to make rules relating to the licensing and control of the distribution, dispensing, and administration of controlled services by an emergency medical services agency.

C. Summary of the new rule or change:

Section R156-37-101 is amended to conform the catchline to Division standards and update the catchline and citations in accordance with the controlled substance recodification enacted by HB 301 in the 2026 General session.

Section R156-37-102 is amended to add definitions for "EMS Agency", "Responsible individual", "Self-audit", and "Stationhouse", updates citations, and renumbers to accommodate the new definitions.

Section R156-37-301 is amended to add that the Division may issue a controlled substance license to an EMS agency that is licensed in good standing with the Utah Bureau of Emergency Medical Services and the license must be associated with a single registered address. This section is also amended to update citations and renumber.

Section R156-37-302 is amended to identify the application requirements for an EMS Agency controlled substance license and notes the Division may review an application with the Bureau of Emergency Medical Services. This section is also amended to update citations and renumber.

Section R156-37-305 is amended to update citations, and to add the requirement that an EMS Agency controlled substance licensee must maintain active licensure with the Bureau of Emergency Medical Services in good standing.

Section R156-37-306 is amended to shorten the catchline, update citations, and to except from the licensure requirement an EMS Agency that is operating under a hospital DEA registration under 21 USC 823(k)(3).

Section R156-37-307 is added to establish the renewal and reinstatement procedures for EMS Agency controlled substance licensees, and the notification requirements for changes in address, email address, or responsible individual.

Section R156-37-401 is amended to include a subsection that establishes the applicable disciplinary proceedings for EMS Agency controlled substance licensees. This section is also rewritten for clarity.

Section R156-37-402 is amended to update citations.

Section R156-37-502 is amended to update citations and rewrite language for clarity.

Section R156-37-601 is amended to include a subsection that establishes a self-audit requirement for EMS Agency controlled substance licensees and is renumbered to accommodate this new subsection.

Section R156-37-602 is amended to update language for clarity and renumber.

Section R156-37-603 is amended to update citations and update language and structure for clarity.

Section R156-37-605 is amended to update citations.

Section R156-37-607 is amended to update citations and clarify the mechanism for surrendering a license.

Section R156-37-608 is amended to update citations.

Section R156-37-609 is amended to update citations.

Section R156-37-610 is amended to update citations.

Section R156-37-611 is added to establish the EMS Agency requirements for distributing, dispensing, and administering controlled substances, in accordance with the federal requirements.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 301 (2026 General Session); HB 402 (2026 General Session)

5. Fiscal Information

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
The Division does not anticipate any fiscal impact to the state budget beyond that determined by the fiscal note for HB 402, at https://le.utah.gov/~2026/bills/static/HB0402.html, because the proposed amendments are made in accordance with the statutory changes and requirements of HB 402 (2026) or they reorganize, streamline, and update this rule to provide more utility to existing controlled substance licensees and EMS Agencies who will be applying for licensure and subsequently licensed under this statute and rule.
B. Local governments:
The Division does not anticipate any fiscal impact to local governments beyond that determined by the fiscal note for HB 402, at https://le.utah.gov/~2026/bills/static/HB0402.html, because the proposed amendments are made in accordance with the statutory changes and requirements of HB 402 (2026) or they reorganize, streamline, and update this rule to provide more utility to existing controlled substance licensees and EMS Agencies who will be applying for licensure and subsequently licensed under this statute and rule.
C. Small businesses ("small business" means a business employing 1-49 persons)**:**
There are approximately 128 small businesses in Utah that may perform the functions of EMS agencies (combined NAICS codes 621910, 621493, and 622110). However, the proposed amendments are not expected to have any measurable impact on small businesses' revenues or expenditures beyond that determined by the fiscal note for HB 402 (2026) because the amendments implement the new license and the statutory changes enacted by HB 402 (2026) and reorganize, streamline, and update this rule to provide more utility to existing controlled substance licensees and EMS agencies who will be applying for licensure and subsequently licensed under this statute and rule.
D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
There are approximately 53 non-small businesses in Utah that may perform the functions of EMS agencies (combined NAICS codes 621910, 621493, and 622110). However, the proposed amendments are not expected to have any measurable impact on non-small businesses' revenues or expenditures beyond that determined by the fiscal note for HB 402 (2026) because the amendments implement the new license and the statutory changes enacted by HB 402 (2026) and reorganize, streamline, and update this rule to provide more utility to existing controlled substance licensees and EMS agencies who will be applying for licensure and subsequently licensed under this statute and rule.
E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
There are approximately 801 locations in Utah that may be required to obtain a controlled substance license according to the fiscal note for HB 402 (2026). However, the Division does not anticipate any additional cost or savings from these proposed amendments beyond that determined by the fiscal note for HB 402 (2026) to these persons or to additional persons other than small businesses, non-small businesses, the state, or local government entities, because the amendments implement the new license and the statutory

changes enacted by HB 402 (2026) and reorganize, streamline, and update this rule to provide more utility to existing controlled substance licensees and EMS agencies who will be applying for licensure and subsequently licensed under this statute and rule.
F. Compliance costs for affected persons:
As described in Box 5E for other persons, no compliance costs are expected for affected persons beyond that determined by the fiscal note for HB 402 (2026).

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Commerce, Margaret W. Busse, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	Section 58-37-105

10. Incorporation by Reference Information

Incorporation by Reference:	
A. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*)**:**	
Official Title of Materials Incorporated (from title page)	21 USC 823(k)
Publisher	U.S. Code
Issue Date	December 2, 2022

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

B. A public hearing (optional) will be held (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.)**:**		
Date:	**Time:**	**Place** (physical address or URL)**:**
11/24/2026	12:00 PM	Anchor Meeting Location: Heber M Wells Building Room 402 160 E 300 S Salt Lake City, UT Google Meet joining info: Video call link: https://meet.google.com/caz-kqzk-jtz Or dial: (US) +1 405-277-8839 PIN: 215 641 334# More phone numbers: https://tel.meet/caz-kqzk-jtz? pin=4836561669726

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Deborah Blackburn, Assistant Director	**Date:**	10/15/2026

R156. Commerce, Professional Licensing.
R156-37. [~~Utah~~]Controlled Substances [~~Act~~]Rule.
R156-37-101. Title - Authority - Relationship to Rule R156-1.

(1) This rule is known as the "Utah Controlled Substances Act Rule."

(2) This rule is adopted by the Division under the authority of Subsections 58-1-106(1)(a) and 58-37-[~~6~~]105(1)(a) to enable the Division to administer Title 58, Chapter 37, Utah Controlled Substances Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-101.

R156-37-102. Definitions.

Terms used in this rule are defined in Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 37, Utah Controlled Substances Act. In addition:

(1) "DEA" means the Drug Enforcement Administration of the United States Department of Justice.

(2) "Electronic Controlled Substance Prescribing Extension" means the prescribing practitioner or pharmacy has a controlled substance designation class indicated on the license, approved by the Division under Section R156-37-610, and does not participate in electronic prescriptions for controlled substances.

(3) "EMS Agency" means an emergency medical services agency as defined in Subsection 58-37-310(1)(d).

([~~3~~]4) "Emergency situation" for purposes of Subsection 58-37-[~~6(7)(e)(iii)~~]304(3)(c) and Section R156-37-605 for emergency verbal prescriptions, Subsection 58-37-[~~6(7)(d)~~]304(4) for prescription signature and information requirements, and Subsection 58-37-[~~22~~]302(1)(e) for electronic prescription requirements:

(a) means a situation in which the prescribing practitioner who intends to prescribe a controlled substance, or the pharmacy that intends to dispense a controlled substance, has determined that:

(i) the controlled substance prescription cannot be issued, filled, compounded, dispensed, or transmitted electronically as an electronic prescription in compliance with the statutory requirement without causing a delay;

(ii) the delay would adversely impact the patient's medical condition; and

(iii) the prompt prescribing or dispensing of the controlled substance is necessary for the proper treatment of the patient; and

(b) includes a situation when a prescription is written for an emergent or urgent condition:

(i) at a time when the prescribing practitioner is not reasonably able to transmit an electronic prescription to the patient's desired pharmacy for dispensing; or

(ii) after normal pharmacy business hours including weekends, holidays, late evening or overnight, and the patient cannot fill the prescription secondary to limited access to 24-hour pharmacy locations and no access to their regular pharmacy.

([4]5) "Forward" in Subsection R156-37-609(4)(a) means an original unfilled electronic controlled substance prescription.

([~~5~~]6) "NABP" means the National Association of Boards of Pharmacy.

([~~6~~]7) "Principal place of business or professional practice" in Subsection 58-37-[~~6~~]105(2)(e), means any location where controlled substances are received or stored.

(8) "Responsible individual" means an EMS Agency's local agency chief, fire chief, operational director, or designee whose responsibility is to oversee the operation of the EMS Agency.

([~~7~~]9) "Schedule II controlled stimulant" means any material, compound, mixture, or preparation listed in Subsection 58-37-[4]108(2)(b)(iii).

([~~8~~]10) "SBIRT training" means training in the Screening, Brief Intervention, and Referral to Treatment approach used by the federal Substance Abuse and Mental Health Services Administration, as defined in Subsection 58-37-[~~6.5~~]303(1)(e)[-].

(11) "Self-audit" means an internal evaluation of an EMS Agency to determine compliance with this chapter.

(12) "Stationhouse" as defined in Subsection 58-37-310(1)(l) is further defined to mean an enclosed structure that may house emergency medical services vehicles at its premises, and which is actively and primarily being used by the Registered Agency.

([~~9~~]13) "Technical difficulty or electronic failure" in Subsection 58-37-[~~22~~]302(1)(d) means a loss of electrical power or internet service, a failure of a computer system, application, or device, or other service interruption to a computer system that reasonably prevents:

(a) a practitioner from transmitting an electronic controlled substance prescription to a pharmacy;

(b) a pharmacy from receiving an electronic controlled substance prescription or transmitting an electronic controlled substance prescription to a different pharmacy in accordance with Subsection 58-37-[~~22~~]302(3); or

(c) compliance by a practitioner or a pharmacy with the requirements of state or federal law, including 21 CFR Part 1311 (April 1, 2024), which is incorporated by reference.

([~~10~~]14) "Unprofessional conduct" as defined in Title 58, Occupations and Professions, is further defined in accordance with Subsections 58-1-203(1)(e), [~~and~~]58-37-[~~6~~]105(1)(a), and 58-37-310(2)(c)(v) in Section R156-37-502.

R156-37-301. License Classifications - Restrictions.

(1) Under Subsection 58-37-[~~6~~]105(2), the Division may issue a controlled substance license to:

(a) a qualified person licensed in good standing in the classification of:

(i) pharmacist;

(ii) optometrist;

(iii) podiatric physician;

(iv) dentist;

(v) osteopathic physician and surgeon;

(vi) physician and surgeon;

(vii) physician assistant;

(viii) veterinarian;

(ix) advanced practice registered nurse or advanced practice registered nurse-certified registered nurse anesthetist;

(x) certified nurse midwife;

(xi) naturopathic physician;

(xii) anesthesiologist assistant;

(xiii) Class A pharmacy under Subsection R156-17b-302(1);

(xiv) Class B pharmacy under Subsection R156-17b-302(2);

(xv) Class C pharmacy under Subsection R156-17b-302(3);

(xvi) Class D pharmacy under Subsection R156-17b-302(4); or

(xvii) Class E pharmacy under Subsection R156-17b-302(5); or

([~~xvii~~]b) the Utah Department of Corrections, for the conduct of execution by the administration of lethal injection in accordance with Section 77-18-113.

(2)(a) Under Section 58-37-310, the Division may issue a controlled substance license to an Emergency Medical Services Agency that is licensed in good standing by the Utah Bureau of Emergency Medical Services created in Section 53-2d-102.

(b) Under Subsection 58-37-310(3), each EMS Agency controlled substance license shall be associated with a single registered location address.

([~~2~~]3)(a) Under Section 58-1-304 and Subsection 58-37-105(1) or 58-37-310(5), the [~~The~~]Division may restrict a controlled substance license to the extent the Division[~~, in collaboration with the appropriate licensing boards,~~] determines necessary to protect the health, safety, or welfare of:

([~~a~~]i) the public; or

([~~b~~]ii) the licensee.

([~~3~~]b) A person holding a restricted controlled substance license may use the license only to the extent of the restricted terms and conditions.

R156-37-302. Qualifications for Licensure - Application Requirements.

(1) An applicant for a controlled substance license shall:

(a) submit an application in a form prescribed by the Division;

(b) pay the fee established by the Division under Section 63J-1-504; and

[~~(c) be currently licensed in good standing by the state in a classification in Section R156-37-301.~~]

(c) if applying for an EMS Agency controlled substance license:

(i) identify the EMS Agency's designated responsible individual;

(ii) submit verification of licensure in good standing with the Bureau of Emergency Medical Services;

(iii) identify the single, specific address for the EMS Agency's registered location; and

(iv) provide a unique email address to be used by the EMS Agency for communication with the Division, including for notices, self-audits, and alerts initiated by the Division.

([~~3~~]2) The Division [~~and the reviewing board~~]may request from the applicant information that is reasonable and necessary to permit an evaluation of:

(a) the applicant's qualifications to engage in practice with controlled substances; and

(b) the public interest in the issuance of a controlled substance license to the applicant.

([~~4~~]3) To determine if an applicant is qualified for licensure, the Division may:

(a) assign the application to a qualified and appropriate licensing board for review and recommendation to the Division;[~~ and~~]

(b) for an applicant for licensure as an EMS Agency, review the application with a compliance officer for the Utah Bureau of Emergency Medical Services; or

([~~b~~]c) conduct site inspections, review research protocol, conduct interviews with persons knowledgeable about the applicant, and conduct any other investigation that is reasonable and necessary to determine the applicant is qualified to receive a controlled substance license.

R156-37-305. Qualifications for Licensure -- Drug Enforcement Administration (DEA) Registration - Active License.

(1)(a) Except as specified in Subsection (1)(b), a[~~n individual~~] person who obtains a controlled substance license shall obtain a DEA registration within 120 days of the date the controlled substance license is issued.

(b) An individual controlled substance licensee who has written consent from the licensee's employer to use the employer's hospital or institution DEA registration to administer or prescribe controlled substances, or both, is not required to obtain an individual practitioner DEA registration.

(2) A person who holds a controlled substance license shall maintain their professional license[-] under Subsection R156-37-301(1) or Utah Bureau of Emergency Medical Services license under Subsection R156-37-301(2) active and in good standing.

(3) If a person's license under Subsection R156-37-301(1) or (2) expires or is revoked, surrendered, or suspended, the Division shall:

(a) immediately suspend the person's controlled substance license; and

(b) reinstate the person's controlled substance license only upon reinstatement of the underlying license, without further administrative action that would be grounds for the continued denial of the controlled substance license.

R156-37-306. Exemptions from Licensure[~~ -- Law Enforcement Personnel, University Research, Narcotic Detection Training of Animals, and Animal Control~~].

Under Subsection 58-37-[~~6~~]105(2)(d) and Section 58-37-310, the following persons are exempt from licensure under Title 58, Chapter 37, Utah Controlled Substances Act:

(1)(a) except as specified in Subsection R156-37-306(1)(b), law enforcement agencies and their sworn personnel, to the extent their official duties require them to possess controlled substances, if they:

(i) act within the scope of their enforcement responsibilities;

(ii) maintain accurate records of controlled substances that come into their possession; and

(iii) maintain an effective audit trail;

(b) law enforcement personnel may not purchase or possess controlled substances for administration to animals unless the purchase or possession is in accordance with a controlled substance license;

(2) [~~individuals and entities~~]a person engaged in research using pharmaceuticals as defined in Subsection 58-17b-102(6[~~6~~]7)[~~ within a research facility as defined in Subsection R156-17b-102(48)~~];[~~ and~~]

(3) an individual[~~s~~] employed by a facility who is engaged in the following activities, if the facility [~~employing that individual~~]has a controlled substance license in Utah and a DEA registration number, and uses the controlled substances according to a written protocol:

(a) narcotic detection training of animals for law enforcement use; or

(b) animal control, including:

(i) animal euthanasia; or

(ii) animal immobilization[~~-~~]; or

(4) an EMS Agency that is operating under a hospital DEA registration in accordance with Subsection 21 USC 832(k)(3).

R156-37-307. EMS Agency Controlled Substance License Term - Renewal and Reinstatement - Notifications.

(1) Under Subsection 58-37-310(6), the renewal date for the two-year renewal cycle for an EMS Agency controlled substance license is established as September 30 of even years.

(2)(a) Subject to Section 58-37-310, renewal and reinstatement procedures shall be in accordance with Sections R156-1-308a through R156-1-308k.

(b) Except as otherwise governed by the terms of an order issued by the Division, a license issued to an applicant for reinstatement or relicensure during the last 12 months of a renewal cycle shall, upon payment of the appropriate fees, be issued for the rest of the current renewal cycle plus the next full renewal cycle.

(3)(a) On or before July 1, 2028, an EMS Agency that is operating under a physician or other non-hospital DEA registration to distribute, dispense, or administer a controlled substance within Utah shall apply to the Division for a controlled substance license as required by Section 58-37-310, and transition DEA registration in accordance with Subsection 21 USC 823(k) and DEA recommendations.

(b) Subsection (3)(a) does not apply to a hospital-based EMS Agency that is exempt from licensure under Subsections R156-37-306(4) and 21 USC 823(k)(3).

(4)(a) A licensed EMS Agency may update, by request to the Division, its registered location address to a new address if the licensee:

(i) submits documentation that the new address is a registered location of the EMS Agency; or

(ii) requests the change of address at least 90 days before the day on which the licensee begins using the new address as a registered location.

(b) If an EMS Agency does not meet or comply with the requirements of Subsection (4)(a) for requesting a change in its registered location address, an EMS Agency changing its registered location address shall:

(i) apply for a new controlled substance license; and

(ii) upon approval of the application by the Division and the issuance of a new license, surrender its original license to the Division.

(5) A licensed EMS Agency shall notify the Division of the following changes, on a form provided by the Division, within 30 days of the day of the change:

(a) a change in email address; or

(b) a change in responsible individual.

R156-37-401. Grounds for Denial of License - Disciplinary Proceedings.

[~~Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.~~]

(1) Grounds for the following shall be in accordance with Section 58-1-401 and with Subsections 58-37-105(4) and 58-37-310(7), as applicable:

(a) refusing to issue a license to an applicant;

(b) refusing to renew the license of a licensee;

(c) revoking, suspending, restricting, or placing on probation a license;

(d) issuing a public reprimand to a licensee; and

(e) issuing a cease and desist order.

(2)(a) Under Subsections 58-37-310(2)(c) and (7), proceedings to deny, suspend, place on probation, or revoke an EMS Agency license shall be conducted pursuant to this section and in accordance with the procedures in Title 58, Chapter 1, Division of Professional Licensing Act and Rule R156-1.

(b) Unless otherwise designated in writing by the director, the presiding officer to serve as fact finder at the evidentiary hearing in a formal adjudicative proceeding for an EMS Agency is the Utah Board of Pharmacy created in Section 58-17b-201.

(c) When proceeding under Section 63G-4-502 and Subsection 58-1-108(2) or under Subsection 58-37-310(7) or (8) the Division shall review the proposed action with the compliance officer for the Utah Bureau of Emergency Medical Services.

R156-37-402. Continuing Education for Controlled Substance Prescribers.

Under Section 58-37-[~~6.5~~]303, qualified continuing professional education requirements for a controlled substance prescriber[~~s~~] are further established as follows:

(1) Continuing education under this section shall:

(a) be prepared and presented by individuals who are qualified by education, training, and experience to provide the controlled substance prescriber continuing education; and

(b) have a method of verification of attendance and a post-course knowledge assessment or examination.

(2) Under Subsections 58-37-[~~6.5~~]303(2)(b), 58-37-[~~6.5~~]303(5), 58-37-[~~6.5~~]303(7), and 58-37-[~~6.5~~]303(8), the controlled substance prescribing classes and SBIRT training that satisfy the Division's continuing education requirements for license renewal, and that are delivered by an accredited or approved continuing education provider recognized by the Division as offering appropriate continuing education, are posted on the Division's website at dopl.utah.gov.

(3) The Division shall recognize credit for continuing education as follows:

(a) allow unlimited hours for continuing education completed in blocks of time of at least 50 minutes;

(b) prorate from date of licensure continuing education hours for a licensee[~~s~~] who [~~have~~]has not been licensed for the entire two-year period; and

(c) under Subsection 58-37f-304(3), waive the required [~~1/2~~]half hour of continuing education for the online tutorial and test relating to the controlled substance database if the prescriber attests on the license renewal form that:

(i) in the past license period, the prescriber accessed the controlled substance database; and

(ii) upon the prescriber's information and belief, the prescriber's use of the database reduced the prescribing, dispensing, and use of opioids in an unprofessional or unlawful manner, or in quantities or frequencies inconsistent with generally recognized standards of dosage for an opioid.

(4)(a) A licensee shall maintain documentation sufficient to prove the licensee's compliance with Section 58-37-[~~6.5~~]303 and this section, for a period of two years after the end of the renewal cycle for which the continuing education is due.

(b) The Division may review controlled substance database usage by the prescriber or proxy to audit an attestation under Subsection (3)(c).

R156-37-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) as a licensee with authority to prescribe or administer controlled substances:

(a) prescribing or administering to oneself any Schedule II or III controlled substance that is not lawfully prescribed by another licensed practitioner having authority to prescribe the drug;

(b) prescribing or administering a controlled substance for a condition that the licensee is not licensed or competent to treat;

(2) violating a federal or state law or rule relating to controlled substances;

(3) failing to deliver to the Division each controlled substance license certificate issued by the Division upon an action that revokes, suspends, or limits the license;

(4) failing to maintain controls over controlled substances that a prudent licensee would maintain as effective against diversion, theft, or shortage of controlled substances;

(5) failing to account for shortages of controlled substance inventory for which the licensee has responsibility;

(6) knowingly prescribing, selling, giving away, or administering, directly or indirectly, or offering to prescribe, sell, furnish, give away, or administer any controlled substance to a drug dependent person, as defined in Subsection 58-37-[~~2~~]101(1)([~~s~~]r), except for legitimate medical purposes as permitted by law;

(7) refusing to make [~~available for inspection~~]controlled substance stock, inventory, records, or a facility or establishment available for inspection[~~or records~~] as required under [~~Rule R156-37 or other law~~]federal or state laws and rules regulating controlled substances and controlled substance records, including under Rule R156-37;

(8) failing to submit controlled substance prescription information to the Database Manager [~~after being notified in writing by the Division to do so~~]upon written request by the Division;

(9) failing to get a DEA registration within the time frame in Section R156-37-305;

(10) as a prescribing practitioner, failing to seek to correct a technical difficulty or electronic failure under Subsection 58-37-[~~22~~]302(1)(d) that is reasonably within the prescribing practitioner's control; or

(11) as a pharmacy, failing to seek to correct a technical difficulty or electronic failure under Subsection 58-37-[~~22~~]302(1)(d) that is reasonably within the pharmacy's control.

R156-37-601. Access to Records, Facilities, and Inventory.

(1) During regular business hours, and at other reasonable times, each applicant for licensure and licensee shall make available for inspection to a person authorized to conduct an administrative inspection under federal law, Title 58, Chapter 37, Utah Controlled Substances Act, or Rule R156-37, their:

([~~1~~]a) controlled substance stock or inventory;

([~~2~~]b) records required in accordance with state and federal laws and rules; and

([~~3~~]c) facilities related to activities involving controlled substances.

(2)(a) Under Section 58-37-310, to determine compliance with Title 58, Chapter 37, Controlled Substances, Rule R156-37, or other applicable provisions of state or federal laws and rules, the Division may require a self-audit from an EMS Agency:

(i) that is licensed under or is applying for licensure under Title 58, Chapter 37, Controlled Substances; or

(ii) that is engaged in activities that require a license under Title 58, Chapter 37, Controlled Substances.

(b) An EMS Agency shall conduct a self-audit on a form provided by the Division, within 30 days of Division request.

(c) An EMS Agency shall maintain each self-audit form for two years from the date of the self-audit, and provide an electronic or hard copy of the self-audit form to the Division upon request.

R156-37-602. Records.

(1)(a) Records of controlled substances shall be kept in accordance with state and federal laws and rules for their:

(i) purchase;

(ii) distribution;

(iii) dispensing;

(iv) prescribing and

(v) administration.

(b) [~~Prescribing~~]A prescribing practitioner[~~s~~] shall keep accurate records for each patient reflecting:

(i) examination;

(ii) evaluation; and

(iii) treatment.

(c) Patient medical records shall:

(i) accurately reflect the prescription or administration of controlled substances in the treatment of the patient;

(ii) the purpose for which the controlled substance is utilized; and

(iii) information upon which the diagnosis is based.

(d) [~~Practitioners~~]A licensee shall keep records apart from patient records of:

(i) each controlled substance purchased[~~,~~]; and
(ii) with respect to each controlled substance;[~~, its~~]
(A) disposition, whether by administration or any other means[~~,~~];
(B) date of disposition[~~,~~];
(C) to whom given[~~,~~]; and
(D) [~~the~~]quantity given.

(2) A licensee who experiences any theft, including diversion, or significant loss of controlled substances shall immediately:

(a) file the appropriate forms with the DEA, with a copy to the Division directed to the attention of the Investigation Bureau; and

(b) report the incident to the local law enforcement agency.

(3)(a) Each record required by federal and state laws or rules shall be maintained by the licensee for five years.

(b) If a licensee sells or transfers ownership of records in any way, those records shall be maintained separately from other records of the new owner.

(4) Prescription records may be maintained electronically if:

(a) the original of each prescription, including telephone prescriptions, is maintained in a physical file and contains the information required by federal and state law; and

(b) an automated data processing system is used for the storage and immediate retrieval of refill information for prescription orders for controlled substances in Schedule III and IV, in accordance with federal guidelines.

(5) Each record relating to Schedule II controlled substances received, purchased, administered, or dispensed by the practitioner shall be maintained separately from other records of the pharmacy or practice.

(6) Each record relating to Schedules III, IV, and V controlled substances received, purchased, administered, or dispensed by the practitioner shall be maintained separately from other records of the pharmacy or practice.

R156-37-603. Restrictions Upon the Prescription, Dispensing, and Administration of Controlled Substances.

(1) A practitioner may prescribe or administer the Schedule II controlled substance cocaine hydrochloride only as:

(a) a topical anesthetic for mucous membranes in surgical situations in which it is indicated; and

(b) as local anesthetic for the repair of facial and pediatric lacerations, if the controlled substance is mixed and dispensed by a licensed pharmacist in the proper formulation and dosage.

(2) A practitioner may not prescribe or administer a controlled substance without taking into account the drug's potential for abuse, and the possibility that:

(a) [~~that~~]the drug may lead to dependence;

(b) [~~that~~]the patient may get the drug for a nontherapeutic use or to distribute to others; and

(c) [~~that~~]an illicit market exists for the drug.

(3) Under Subsection 58-37-[~~6(7)(f)(vii)~~]304(6)(h), unless the prescribing practitioner determines there is a valid medical reason to allow an earlier dispensing date, the dispensing date of a second or third prescription shall be at least 30 days from the dispensing date of the previous prescription, to allow for receipt of the subsequent prescription before the previous prescription runs out.

(4)(a) If a practitioner fails to document the practitioner's intentions relative to refills of controlled substances in Schedules III through V on a prescription form, it shall mean no refills are authorized.

(b) A refill is not permitted on a prescription for a Schedule II controlled substance.

(5) Refills of controlled substance prescriptions shall be permitted for the following periods from the original date of the prescription:

(a) Schedules III and IV, for six months from the original date of the prescription; and

(b) Schedule V, for one year from the original date of the prescription.

(6) A refill may not be dispensed until sufficient time has passed since the date of the last dispensing that 80% of the medication in the previous dispensing should have been consumed if taken according to the prescribing practitioner's instruction.

(7) A controlled substance prescription may not be issued or dispensed without specific instructions from the prescribing practitioner on how and when the drug is to be used.

(8) Refills after expiration of the original prescription term shall require issuance of a new prescription by the prescribing practitioner.

(9) Each prescription for a controlled substance and the number of refills authorized shall be documented in the patient records by the prescribing practitioner.

(10) A practitioner may prescribe, dispense, or administer a Schedule II controlled stimulant when indicated if, before initiating treatment using the Schedule II controlled stimulant, the practitioner:

(a) obtains an appropriate history and physical examination;

(b) rules out the existence of recognized contraindications; and

(c) has no reason to believe that the patient has consumed or disposed of any controlled stimulant other than in compliance with the treating practitioner's directions.

R156-37-604. Prescribing of Controlled Substances for Weight Reduction or Control.

(1) A practitioner may not prescribe, dispense, or administer a Schedule II or Schedule III controlled substance for weight reduction or control.

(2) A prescribing practitioner may prescribe or administer a Schedule IV controlled substance in treating excessive weight leading to increased health risks only if the prescribing practitioner complies with each of the following conditions:

(a) medication is used only as an adjunct to a comprehensive weight loss program based on supplemental weight loss activities including changing lifestyle counseling, nutritional education, and a regular, individualized exercise regimen;

(b) before initiating treatment the prescribing practitioner:

(i) determines through thorough review of past medical records that the patient has made a substantial good-faith effort to lose weight in a comprehensive weight loss program without the use of controlled substances, and the previous regimen has not been effective;

(ii) obtains a complete history, performs a complete physical examination of the patient, and rules out the existence of recognized contraindications to the use of the medication;

(iii) determines and documents the assessment in the patient's medical record, that the health benefit to the patient greatly outweighs the possible risks of the medications prescribed; and

(iv) discusses with the patient the possible risks associated with the medication, and has on record an informed consent that clearly documents that the long[-]-term effects of using controlled substances for weight loss or weight control are not known;

(c) throughout the prescribing period, the prescribing practitioner:

(i) supervises, oversees, and regularly monitors the patient, including the patient's participation in supplemental weight loss activities, efficacy of the medication, and advisability of continuing to prescribe the weight loss or weight control medication; and

(ii) maintains a central medical record that contains at least the following information:

(A) the goal of treatment or target weight;

(B) the ongoing progress toward that goal or maintenance of the weight loss;

(C) the patient's supplemental weight loss activities with documentation of compliance with the comprehensive weight loss program; and

(d) the prescribing practitioner shall immediately discontinue the weight loss medication if:

(i) the practitioner knows or should know that the patient is pregnant;

(ii) the patient has consumed or disposed of any controlled substance other than in compliance with the prescribing practitioner's directions;

(iii) the patient is abusing the controlled substance being prescribed for weight loss;

(iv) the patient develops a contraindication of therapy;

(v) the medication is not effective; or

(vi) the patient is not complying with the agreed upon comprehensive weight loss program.

R156-37-605. Emergency Verbal Prescription of Schedule II Controlled Substances.

(1) Under Subsection 58-37-[~~6(7)~~]304(3)(c), in an emergency situation a prescribing practitioner may give an oral prescription for a Schedule II controlled substance if:

(a) the quantity dispensed is only sufficient to cover the patient for the emergency period, not to exceed 72 hours;

(b)(i) the prescribing practitioner has examined the patient within the past 30 days;

(ii) the patient is under the continuing care of the prescribing practitioner for a chronic disease or ailment; or

(iii) the prescribing practitioner is covering for another practitioner and has knowledge of the patient's condition; and

(c) a written prescription is delivered to the pharmacist within seven business days of the oral order.

(2) Under Subsection 58-37-[~~6(7)~~]304(3)(c), in an emergency situation a pharmacist may fill an oral prescription from a prescribing practitioner for a Schedule II controlled substance if:

(a) the amount does not exceed a 72 hour supply; and

(b) the pharmacist reasonably believes, or makes a reasonable effort to determine, that the prescribing practitioner is licensed to prescribe the controlled substance.

R156-37-606. Disposal of Controlled Substances.

(1) A licensee shall dispose of controlled substances in accordance with 21 CFR Part 1317 (July 26, 2022) which is incorporated by reference.

(2) A licensee who disposes of controlled substances shall:

(a) maintain records of the disposal for five years from the date of disposal; and

(b) make the records available for inspection upon request to the Division or its agents.

R156-37-607. Surrender of Suspended or Revoked License.

(1) A licensee whose license has been restricted, suspended, or revoked shall surrender the license to the Division by forwarding to the Division a surrender notice on a form provided by the Division within 30 days of the effective date of the order.

(2) The Division shall consider compliance with this section in evaluating an application for relicensing.

R156-37-608. Restricted Applicability - Herbs, Herbal Products, or Food Supplements.

Under Section 58-37-[~~2.5~~]111, the Division may not apply Title 58, Chapter 37, Utah Controlled Substance Act or Rule R156-37 to restrict citizens or practitioners, regardless of their license status, from the sale or use of herbs, herbal products, or food supplements that are not scheduled as controlled substances by state or federal law.

R156-37-609. Electronic Prescriptions for Controlled Substances.

(1) Under Subsection 58-37-[~~22~~]302(2)(a), a prescribing practitioner or pharmacy experiencing a temporary technical difficulty or electronic failure under Subsection 58-37-[~~22~~]302(1)(d) shall document the nature of the technical difficulty or electronic failure on the prescription's hard copy.

(2) A pharmacist who receives a written, oral, or faxed controlled substance prescription is not required to verify that the prescription qualifies for an exemption under this section, and may dispense and deliver medication from an otherwise valid written, oral, or faxed controlled substance prescription.

(3) Under Subsection 58-37-[~~22~~]302(2)(c), a prescribing practitioner or pharmacy is exempt from the electronic prescription requirements of Section 58-37-[~~22~~]302 if:

(a)(i)(A) the prescribing practitioner is licensed in a jurisdiction other than Utah; and

(B) the receiving pharmacy orally confirms the prescription with the prescribing practitioner;

(ii) the prescribing practitioner and dispensing pharmacy are the same entity;

(iii) the prescription is a Schedule II oral prescription issued in an emergency situation under Section R156-37-605;

(iv) the federal Food and Drug Administration requires the prescription to contain elements that cannot be included in an electronic prescription;

(v) the prescription drug is under a research protocol;

(vi) the prescription is for a medication that requires compounding two or more ingredients;

(vii) the prescribing practitioner or pharmacy is located in the geographic area of an emergency or disaster that is identified by the Centers for Medicaid (CMS) as a qualifying emergency or disaster on the CMS Electronic Prescribing for Controlled Substances (EPCS) website; or

(viii) the prescribing practitioner qualifies for a small prescriber exemption under Section R156-37-610; and

(b) the prescribing practitioner or pharmacy documents the exemption on the prescription's hard copy.

(4) Under Subsection 58-37-[~~22~~]302(2)(e), if an originating pharmacy that has received an electronic controlled substance prescription cannot fill the prescription, the following protocol shall apply:

(a) if the pharmacy can electronically transmit the prescription, the pharmacy shall:

(i) contact the ultimate user to determine a pharmacy to receive the forward prescription; and

(ii) document in the automated pharmacy system the identity of the pharmacy receiving the forward prescription;

(b) if the pharmacy cannot electronically transmit the prescription:

(i) the pharmacy shall:

(A) contact the prescribing practitioner and state the pharmacy cannot fill or transmit the prescription;

(B) document in the automated pharmacy system the individual contacted at the prescribing office; and

(C) void the prescription; and

(ii) the prescribing practitioner may electronically transmit a new prescription to a different pharmacy.

(5) Under Subsection 58-37-[~~22~~]302(2)(f), an electronic prescription shall be issued and dispensed in accordance with 21 CFR Part 1311 (April 1, 2024), which is incorporated by reference.

R156-37-610. Small Prescriber Exemption.

(1)(a) A prescribing practitioner is automatically exempt from the electronic prescription requirements of Section 58-37-[~~22~~]302 if the prescribing practitioner issues:

(i) 300 or fewer controlled substance prescriptions in a calendar year; or

(ii) 25 or fewer controlled substance prescriptions in a calendar month.

(b) The measurement in Subsection (1)(a) does not include or count any prescription in a measured calendar year or month that:

(i) is otherwise exempt from the electronic prescription requirement; or

(ii) is a prescription refill, except for a refill that is the first occurrence of the unique prescription in a measured calendar year.

(2) A prescribing practitioner does not need to register with or report data to the Division to be eligible for the small prescriber exemption of this section.

(3) The Division shall measure a prescribing practitioner's compliance with the small prescriber exemption based on the prescribing practitioner's National Provider Identifier (NPI) and by analyzing the prescribing practitioner's prescriptions recorded in the Controlled Substances Database created in Section 58-37f-201.

(4) A prescribing practitioner is responsible for monitoring their compliance with the small prescriber exemption, and may check their eligibility by accessing the Controlled Substance Database and reviewing their issued prescriptions.

(5)(a) If the Division determines that a prescribing practitioner is noncompliant with this section, the Division may send the prescribing practitioner a notice of noncompliance, and may take action against the prescribing practitioner for unprofessional conduct under Section R156-37-502.

(b) The Division may notify any prescribing practitioner at any time that the prescribing practitioner is not eligible for a small prescriber exemption under this section.

(c) A prescribing practitioner who receives notice from the Division under Subsection (5)(b) may not use the small prescriber exemption unless the prescribing practitioner receives subsequent written approval from the Division.

R156-37-611. Distribution, Dispensing, and Administration of Controlled Substances by Registered Agency.

Under Subsections 58-37-310(2)(a), (c)(i) through (iii), and 58-37-310(4) and (5), a licensed EMS Agency shall distribute, dispense, and administer controlled substances, and store, restock, and create and maintain records and inventories of controlled substances in accordance with the requirements of 21 USC 823(k) (December 2, 2022), which is incorporated by reference, and applicable federal rules.

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1. Agency Information

Title catchline:	Commerce, Professional Licensing
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2. Contact Persons

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

3. General Information

A. Rule or section catchline:

R156-41. Speech-Language Pathology and Audiology Licensing Act Rule

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

The Division of Professional Licensing (Division) in collaboration with the Utah Speech Language Pathologist and Audiologist Licensing Board is filing these amendments in accordance with statutory changes made by HB 374, Speech, Language, and Hearing Occupations Licensing Amendments, passed in the 2026 General Session.

HB 374 (2026) created an alternative path for licensure as an audiologist and as a speech-language pathologist, repealed the credentialing through the State Board of Education pathway, and added language about invasive procedures.

The proposed amendments also align the rule with the Office of Administrative Rules (OAR) drafting requirements and Division standards.

C. Summary of the new rule or change:

Section R156-41-101 is amended to conform the introductory section to Division standards.

Section R156-41-102 is amended to remove the definitions of "audio electronic equipment," "clinical externship," "evoked potentials evaluation," "legal holder of an AuD in audiology," "professional training," "substitute supervisor," and "supervision" because these phrases were either no longer used in statute or rule or the phrases were defined and clarified in statute.

The proposed amendments add definitions of "electrophysiologic measurements of neural function" and "non-operative" to clarify what activities may be included in that definition and to clarify the limitations on invasive procedures respectively.

The proposed amendments also conform the section to Division and OAR standards.

Section R156-41-103 is removed as it was added to Section R156-41-101.

Section R156-41-104 is removed as it was added to Section R156-41-101.

Section R156-41-302a is removed because the requirements are more clearly spelled out in a new section.

Section R156-41-301 is added to enumerate the qualifications for licensure as an audiologist and speech-language pathologist required by statutory changes in the same section.

Section R156-41-302 is added to enumerate the requirements a speech-language pathologist must meet to be able to perform invasive procedures as defined in Subsection 58-41-101(12)(a).

Section R156-41-303 is added to combine the existing renewal and reinstatement language in the rule with subsections explaining the process for those credentialed by the State Board of Education to become licensed by the Division.

Section R156-41-304a (was sections R156-41-302b and R156-41-302c) is amended to add a requirement that a supervisor have completed at least two hours of supervisor/preceptor training and to conform the section to OAR and Division standards.

Section R156-41-305 (was Section R156-41-304) is amended to conform the section to Division and OAR standards.

Section R156-41-501 (was Section R156-41-502) is amended to conform the section to Division and OAR standards, restructure a subsection to make it clearer, update the date of the code of ethics incorporated by reference, and add as unprofessional conduct failing to comply with the requirements for invasive procedures.

Section R156-41-601 is amended to change the term "aide" to "assistant" because this was changed in statute. The proposed amendments also conform the section to OAR and Division standards.

Section R156-41-602 is removed because it does not add anything that is not already in statute and the Division will place an example written informed consent form on the Division's website for licensees to use.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 374 (2026 General Session)

5. Fiscal Information

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

A. State budget:

The Division does not anticipate any fiscal impact to the state budget beyond that determined by the fiscal note for HB 374 (2026), at https://le.utah.gov/~2026/bills/static/HB0374.html, because the proposed amendments clarify and update this rule to reflect the changes implemented in statute and make this rule current and accurate for licensees.

B. Local governments:

The Division does not anticipate any cost or savings to local governments from the proposed amendments because the proposed amendments do not apply to local governments.

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

There are approximately 461 small businesses in Utah with audiologists or speech-language pathologists (NAICS 621340) and other similar licensees and who may employ those engaged in audiology or speech-language pathology (this NAICS code covers professions beyond audiologists and speech-language pathologists as well; NAICS 6213401 is specific to audiologists and speech-language pathologists, but the most recent census data is from 2012).

However, the proposed amendments are not expected to have any measurable impact on small businesses' revenues or expenditures beyond the fiscal note for HB 374 (2026) because the amendments merely implement the new training and experience requirements for invasive procedures and the additional pathways to licensure, and update this rule to provide more utility to licensees and to comply with OAR and Division standards.

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

There are approximately 8 non-small businesses in Utah with audiologists or speech-language pathologists (NAICS 621340) and other similar licensees and who may employ those engaged in audiology or speech-language pathology (this NAICS code covers professions beyond audiologists and speech-language pathologists as well; NAICS 6213401 is specific to audiologists and speech-language pathologists, but the most recent census data is from 2012).

However, the proposed amendments are not expected to have any measurable impact on non-small businesses' revenues or expenditures beyond the fiscal note for HB 374 (2026) because the amendments merely implement the new training and experience requirements for invasive procedures and the additional pathways to licensure, and update this rule to provide more utility to licensees and to comply with OAR and Division standards.

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***)**:**

In Utah, there are approximately 445 licensed audiologists, 1,736 licensed speech-language pathologists, and 8 individuals licensed as both.

There are also approximately 95 individuals with temporary speech-language pathology licenses.

Additionally, some individuals are credentialed by the Utah State Board of Education, so these numbers are likely to increase as these individuals become licensed by the Division.

However, the Division does not anticipate any cost or savings from these proposed amendments to these persons or to additional persons other than small businesses, non-small businesses, the state, or local government entities because the amendments merely implement the requirements enacted by HB 374 (2026) and update this rule to provide more utility to licensees and to comply with OAR and Division standards.

F. Compliance costs for affected persons:

As described in Box 5E for other persons, no compliance costs are expected for effected persons.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Commerce, Margaret W. Busse, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	Section 58-41-101 et seq.

10. Incorporation by Reference Information

Incorporation by Reference:	
A. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*)**:**	
Official Title of Materials Incorporated (from title page)	American Speech-Language-Hearing Association Code of Ethics
Publisher	American Speech-Language-Hearing Association (ASHA)
Issue Date	March 1, 2023

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

B. A public hearing (optional) will be held (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.)**:**

Date:	**Time:**	**Place** (physical address or URL)**:**
11/24/2026	09:00 AM	Anchor Meeting Location: Heber M. Wells Building Room 402 160 E. 300 S. Salt Lake City, UT Google Meet joining info: Video call link: https://meet.google.com/yzd-mtgi-yri Or dial: (US) +1 304-621-9705 PIN: 560 095 642# More phone numbers: https://tel.meet/yzd-mtgi-yri?pin=9384977331383

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Deborah Blackburn, Assistant Director	**Date:**	10/14/2026

R156. Commerce, [~~Occupational and~~]Professional Licensing.
R156-41. Speech-Language Pathology and Audiology Licensing Act Rule.
R156-41-101. Title - Authority - Relationship to Rule R156-1.

(1) This rule is known as the "Speech-Language Pathology and Audiology Licensing Act Rule."[~~.~~]

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-101.

R156-41-102. Definitions.

[~~In addition to the definitions in Title 58, Chapters 1 and 41, as used in Title 58, Chapters 1 and 41, or this rule~~]Terms used in this rule are defined in Title 58, Chapter 1, Division of Professional Licensing Act and Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act. In addition:

[~~(1) "Audio electronic equipment" as used in Subsection 58-41-2(3) means equipment proven in use, accepted and standard to the profession, of known quality and function, well maintained, in current calibration and presenting no hazard to the operator or client.~~

~~(2) "Clinical externship", as used in Section R156-41-302b, means the same as a clinical fellowship as used in Subsection 58-41-5.5(1)(a)(ii).~~]

([~~3~~]1) "Direct supervision" [~~as used in Subsections 58-41-2(5)(e), 58-41-2(20)(e), and this rule,~~]means supervision as defined in Subsection R156-1-102a([~~4~~]1)(a).

([4]2) [~~"Evoked potentials evaluation", as used in Subsection 58-41-2(4), includes neurophysiological intraoperative monitoring.~~]"Electrophysiologic measurements of neural function" as used in Subsection 58-41-101(5)(b) includes use of evoked potentials and neurophysiological intraoperative monitoring.

[~~(5) "Legal holder of an AuD in audiology", as used in Subsection 58-41-5(1)(c), means an applicant for temporary licensure as an audiologist who holds a letter from an accredited university or college, verifying the applicant is currently enrolled and has completed all the course work in a program of studies necessary to complete a doctors degree in audiology except for the completion of a clinical externship.~~

~~(6) "Professional training" as set forth in Subsection 58-41-12(2) means continuing professional education that meets the standards set forth in Section R156-41-304.~~]

(3) "Non-operative" as used in Section R156-41-302 means a procedure that does not involve incision, excision, or penetration of tissue, beyond a natural body orifice or an existing stoma.

[~~(7) "Substitute supervisor", as used in this rule, means a licensee who is designated by the supervisor to provide limited supervision to an aide. The substitute supervisor shall be licensed in the same discipline in which the aide is functioning.~~

~~(8) "Supervision", as used in this rule, means a supervisor-supervisee relationship requiring the supervisor to be responsible for the professional performance by the supervisee. This includes a substitute supervisor-supervisee relationship.~~]

([~~9~~]4) "Unprofessional conduct"[~~, as defined in Title 58, Chapters 1 and 41,~~] is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-41-50[~~2~~]1.

[~~R156-41-103. Authority - Purpose.~~

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 41.~~

~~R156-41-104. Organization - Relationship to Rule R156-1.~~

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.~~

~~R156-41-302a. Qualifications for Licensure - Application Requirements.~~

~~In accordance with Section 58-41-5, ASHA certification as a speech-language pathologist or audiologist is one acceptable method to document that an individual has completed the requirements of Subsections 58-41-5(1)(f) and (4)(e).~~]

R156-41-301. Licensure Requirements.

(1) An applicant for licensure as an audiologist under Subsection 58-41-301(2)(c)(ii) shall:

(a) submit evidence of experience under Subsection 58-41-301(2)(c)(ii)(C) by obtaining and submitting to the Division a completed and signed experience attestation using the form available on the Division's website at https://www.commerce.utah.gov/dopl/audiology/; and

(b) under Subsection 58-41-301(2)(c)(ii)(D), pass the Praxis Examination in Audiology.

(2) An applicant for licensure as a speech-language pathologist under Subsection 58-41-301(5)(c)(ii) shall:

(a) submit evidence of experience under Subsection 58-41-301(5)(c)(ii)(C) by obtaining and submitting to the Division a completed and signed experience attestation using the form available on the Division's website at https://www.commerce.utah.gov/dopl/audiology; and

(b) under Subsection 58-41-301(5)(c)(ii)(D), pass the Praxis Examination in Speech-Language Pathology.

R156-41-302. Invasive Procedures - Speech-Language Pathologist.

Under Subsections 58-41-101(12) and 58-41-301(6), a licensed speech-language pathologist who performs an invasive procedure shall:

(1) have the education, training, and supervised clinical experience to perform the procedure with reasonable skill and safety;

(2) maintain documentation of the licensee's education and training for review by the Division upon request;

(3) maintain current certification in basic life support;

(4) perform only non-operative components of a procedure, and not perform an incision, excision, or penetration of tissue;

(5) before performing an invasive procedure, determine that the procedure is not contraindicated for the patient; and

(6) maintain a written protocol for obtaining emergency medical assistance appropriate to each setting in which the procedure is performed.

R156-41-303. Licensing Term - Renewal and Reinstatement Procedures.

(1) Under Subsections 58-41-303(1) and 58-1-308(1)(a), the renewal date for the two-year renewal cycle for individuals licensed under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act is established in Section R156-1-308a.

(2) Under Subsections 58-41-301(3)(b), 58-41-303(1)(c), and 58-1-106(1)(a), an individual who holds a credential issued by the State Board of Education on or after July 1, 2020, and before May 6, 2026, and who performs the functions of an audiologist or a speech-language pathologist shall apply to the Division for licensure:

(a) before performing those functions other than under the exemption in Subsection 58-41-305(1)(d); or

(b) if the individual performs those functions solely under the exemption in Subsection 58-41-305(1)(d), at least 90 days before the day on which the individual's credential expires, so the Division may issue the license and establish the individual's first renewal period under Subsection (3) before the credential expires.

(3) Under Subsection 58-41-303(1)(c), the first renewal period for an individual described in Subsection 58-41-301(3)(b) begins on the day the Division issues the individual's license and ends on the next renewal date established in Rule R156-1.

(4) Renewal and reinstatement procedures shall be in accordance with Sections R156-1-308a through R156-1-308l.

R156-41-30[~~2b~~]4. Qualifications for Temporary Licensure[~~ - Temporary Licensure - Audiology~~].

[~~In accordance with~~](1) Under Section 58-41-[~~5.5~~]304 and Subsection 58-1-106(1)(a), the Division may issue a temporary license to an applicant for [~~an audiology license~~]licensure for [~~not more than~~]up to 12 months to complete a clinical [~~externship~~]fellowship. [~~required for an AuD under the following conditions:~~]in accordance with the conditions established in this section.

([~~1~~]2) [~~The~~]A temporary audiology licensee shall work under the general supervision, as defined in Subsection R156-1-102a([~~4~~]1)(c), of an audiologist licensed in good standing in Utah[~~- and approved by the Division~~].

(3) A temporary speech-language pathology licensee shall work under the general supervision, as defined in Subsection R156-1-102a(1)(c), of a speech-language pathologist licensed in good standing in Utah.

([~~2~~]4) [~~The supervising audiologist~~]Each supervisor shall:

(a) be preapproved in writing by the Division before the start of any supervision;

([~~a~~]b) have been licensed for [~~not less than~~]at least two years;

(c) supervise at one time up to two temporary licensees;

[~~(b) not have been disciplined for any unprofessional or unlawful conduct within two years of the start of any supervision of a clinical externship program;~~

~~(c) assume responsibility for all audiology activities and services performed by the temporary licensee;~~

~~(d) not begin the supervision until the applicant holds a temporary license; and~~

~~(e) supervise no more than two temporary licensees at any given time.~~]

(d) assume responsibility for each audiology or speech-language pathology activity and service performed by the temporary licensee; and

(e) have completed at least two hours of preceptor training.

(3) A supervisor may not:

(a) have engaged in any unprofessional or unlawful conduct within two years of the start of any supervision;

(b) begin supervision before the applicant holds a temporary license; or

(c) supervise more than two temporary licensees at any given time.

([~~3~~]4) Any change in the supervising audiologist shall be preapproved in writing by the Division.

[~~R156-41-302c. Qualifications for Licensure - Temporary Licensure - Speech-Language Pathology.~~

~~In accordance with Section 58-41-5.5, the Division may issue a temporary license to an applicant for a speech-language pathology license for a period of not more than 12 months to complete a clinical fellowship as required by ASHA under the following conditions:~~

~~(1) The licensee shall work under the general supervision, as defined in Subsection R156-1-102a(4)(c), of a speech-language pathologist licensed in Utah and approved by the Division.~~

~~(2) The supervision speech-language pathologist shall:~~

~~(a) have been licensed for not less than two years;~~

~~(b) not have been disciplined for any unprofessional or unlawful conduct within two years of the start of any supervision of a clinical externship program;~~

~~(c) assume responsibility for all speech-language pathology activities and services performed by the temporary licensee;~~

~~(d) not begin the supervision until the applicant holds a temporary license; and~~

~~(e) supervise no more than two temporary licensees at any given time.~~

~~(3) Any change in the supervising speech-language pathologist shall be preapproved by the Division.~~]

[~~R156-41-303. Renewal Cycle - Procedures.~~

~~(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 41, is established by rule in Section R156-1-308a.~~

~~(2) Renewal procedures shall be in accordance with Section R156-1-308a.~~]

R156-41-30[4]5. Continuing [~~Professional~~]Education.

[~~In accordance with Subsection 58-41-12(2), continuing professional education requirements are established as follows:~~

~~(1) During each two year period an individual licensed as a speech-language pathologist, speech-language pathologist/audiologist or audiologist shall be required to complete not less than 20 hours of continuing professional education directly related the licensee's professional practice.~~]

(1) Under Subsection 58-41-303(2)(a), an individual licensed as an audiologist or speech-language pathologist shall complete at least 20 hours of continuing education directly related to the licensee's professional practice during each two-year renewal cycle.

(2) [~~The required number of hours of continuing professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.~~]If a licensee first becomes licensed during the two-year renewal cycle, the licensee's required number of continuing education hours under Subsection (1)(a) shall be decreased proportionately according to the date of licensure.

(3) Continuing [~~professional~~]education under this section shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of speech-language pathology, audiology or both;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training, and experience; and

(e) [~~have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.~~]have a method for maintaining records of individuals who completed the continuing education program.

(4) Credit for continuing [~~professional~~]education during each two-year renewal cycle shall be recognized for continuing education completed in blocks of time of at least 30 minutes.[~~in accordance with the following:~~

~~(a) unlimited hours shall be recognized for continuing professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences.~~]

(5) A licensee shall [~~be responsible for maintaining competent records of completed continuing professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain information with respect to continuing professional education to demonstrate it meets the requirements under this section.~~]maintain documentation sufficient to prove compliance with this section for a period of two years after the end of the renewal cycle for which the continuing education is due.

(6) [~~A licensee who documents he is engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.~~]The Division may defer or waive continuing education requirements as provided in Section R156-1-308d.

R156-41-50[~~2~~]1. Unprofessional Conduct.

Under Subsections 58-41-101(22) and 58-1-203(1)(e), "[~~U~~]unprofessional conduct" for an individual licensed under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act includes:

(1) using an educational title conferred by an organization or institution that is not an [~~regionally~~]accredited college or university;

(2) engaging in sexual intercourse or other sexual contact with a client or patient;

(3) exercising undue influence in a manner as to exploit the client, patient, or supervisee for financial or other personal advantage to the practitioner or a third party;

(4) failing to follow the standards in Section R156-41-601 when using or training an audiology assistant or a speech-language pathology [~~aides~~]assistant as defined in Subsections 58-41-[~~2(5)~~]101(6) and (20)[~~and inappropriately failing to follow the standards set forth in Section R156-41-601~~];

(5) failing to comply with the American Speech-Language Hearing Association's (ASHA) Code of Ethics, March 1, 20[~~10~~]23 edition, which is [~~hereby~~]incorporated by reference;

(6) supervising more than two audiology or speech-language pathology temporary licensees at one time;

(7) failing as an audiologist supervisor to comply with any of the requirements of Subsections R156-41-30[~~2b~~]4([~~2~~]4) and (5);[~~and~~]

(8) failing as a speech-language pathologist supervisor to comply with any of the requirements of Subsection R156-41-30[~~2c~~]4b(2) and (3); and[~~.~~]

(9) as a licensed speech-language pathologist, failing to comply with the requirements in Section R156-41-302 when performing an invasive procedure.

R156-41-601. Speech-Language Pathology and Audiology [~~Aides~~]Assistants.

(1) [~~In accordance with~~]Under Subsections 58-41-[~~2(5)~~]101(6) and (20), an individual licensed to [~~engage in~~]practice as a speech-language pathologist or audiologist may employ as an [~~aide~~]assistant an individual who has graduated from an accredited high school or obtained a certificate of equivalency approved by the Division.

(2) A licensee shall directly supervise[~~ing~~] an [~~aide~~]assistant and[~~shall be responsible for the direct supervision of an aide.~~

~~(3) A licensee supervising an aide must~~] have a current written utilization plan outlining the specific manner in which the [~~aide~~]assistant will be employed[~~and the manner in which the aide will be supervised~~].

([~~4~~]3) A licensee [~~shall be permitted to~~]may not supervise [~~not~~]more than three [~~aides~~]assistants at any one time.

([~~5~~]4) An [~~aide~~]assistant shall not[~~engage in the following~~]:

(a) prepare[~~ing~~] diagnostic statements or clinical management plans, strategies, or procedures;

(b) communicate[~~ing~~] obtained observations or results to anyone other than the [~~aide's~~]assistant's supervising speech-language pathologist or audiologist;

(c) determine[~~ing~~] case selection;

(d) independently compose[~~ing~~] or sign[~~ing~~] clinical reports[~~;~~] except that an [~~aide~~]assistant may enter progress notes into [~~the~~]a patient's file reflecting the results of the [~~aide's~~]assistant's assigned duties;

(e) independently diagnose[~~ing~~], treat[~~ing~~], discharge[~~ing~~] [~~of~~]a patient, or advise[~~ing~~] [~~of~~]on a patient's disposition; [~~and~~]or

(f) refer[~~ral of~~] a patient to other professionals or agencies.

(6) Upon the request of the Division, a licensee who employs an [~~aide~~]assistant must provide documentation that the [~~aide~~]assistant has met the qualifications as listed in Subsection (1), and that the [~~aide~~]assistant is functioning under a utilization plan.

~~**[R156-41-602. Form of Written Informed Consent.**~~

~~(1) In accordance with Section 58-41-17, a speech-language pathologist or audiologist licensed under this chapter who offers to sell a hearing aid to a consumer shall include the patient's informed consent in substantially the following form.~~

~~TABLE~~

~~ACKNOWLEDGEMENT OF INFORMED CONSENT~~

~~As a consumer of a hearing aid, you are required to be informed of certain information as provided in Section 58-41-17 of the Utah Code.~~

~~1. I (the consumer) have been informed regarding hearing aids that work with assistive listening systems that are compliant with the ADA Standards for Accessible Design adopted by the United States Department of Justice in accordance with the Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.~~

~~2. I (the consumer) have been provided with a written receipt or a written contract that provides the consumer with a 30-day right to cancel the purchase and to obtain a refund if the consumer returns the hearing aid to the seller in the same condition as when purchased, excluding ordinary wear and tear.~~

~~I hereby acknowledge being informed of the above and consent to the receive the hearing aid.~~
~~Patient's Signature and Date~~

~~Patient's Authorized Representative Signature and Date~~
~~Relationship to Patient~~

~~(2) A patient's informed consent form shall meet the following requirements:~~
~~(a) The 30-day written receipt or contract shall be written in at least 12-point font.~~
~~(b) The 30-day right to cancel shall commence from the date the hearing aid is originally delivered to the consumer or the date the written receipt or contract is delivered to the consumer, whichever is later.~~
~~(c) The 30-day period shall be tolled for any period during which the hearing aid seller, dealer, or fitter has possession or control of the hearing aid after its original deliver.~~
~~(d) Upon exercise of the 30-day right to cancel a hearing aid purchase, the seller of the hearing aid is entitled to a cancellation fee equal to the actual cost that will be incurred by the seller in order to return the hearing aid to the manufacturer, provided that the written receipt or contract states the exact amount that will be retained by the seller as a cancellation fee.~~]

KEY: licensing, speech-language pathology, audiology
Date of Last Change: [~~November 10, 2015~~]2026
Notice of Continuation: August 21, 2026
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-41-1

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58316**
Rule or section number:	**R156-71**

1. Agency Information

Title catchline:	Commerce, Professional Licensing
Building:	Heber M Wells Building
Street address:	160 E 300 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 146741
City, state and zip:	Salt Lake City, UT 84114-6741

2. Contact Persons

Name:	**Phone:**	**Email:**
Rich Oborn	801-530-6628	rjoborn@utah.gov

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

3. General Information

A. Rule or section catchline:

R156-71. Naturopathic Physician Practice Act Rule

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

The Division of Professional Licensing (Division) is filing these proposed amendments to clean up citations to statute and rule and remove references to the Naturopathic Physician Licensing Board which was dissolved by the legislature in 2023 by SB 123.

The proposed amendments also update examination, continuing education, and residency program language to match industry practice.

Additionally, the proposed amendments align the rule with the Office of Administrative Rules (OAR) drafting requirements and Division standards.

C. Summary of the new rule or change:

Section R156-71-101 is amended to incorporate the language of Sections R156-71-103 and R156-71-104 to conform to the structure of other Division rules. As such, Sections R156-71-103 and R156-71-104 are removed from this rule.

Section R156-71-102 is amended to more clearly define what an approved clinical experience program or residency program is. This section is also amended to conform to the structure of other Division rules and OAR drafting standards.

Section R156-71-302 is amended to more clearly state reporting and examination requirements for licensure and the approval process for residency programs. This section is also amended to update the name of the accreditation organization for naturopathic physician programs and schools.

Section R156-71-303 is amended to update the language to reflect Division standards for renewal and reinstatement procedures.

Section R156-71-304 is amended to match Division standards, remove references to the Utah Naturopathic Physicians Licensing Board as it no longer exists, and clarify the required continuing education.

Section R156-71-502 is amended to be more concise and update a citation to statute.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	SB 123 (2023 General Session)

5. Fiscal Information

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

A. State budget:

The Division does not anticipate any fiscal impact to the state budget beyond that determined by the fiscal note for SB 123 (2023), at https://le.utah.gov/Session/2023/bills/static/SB0123.html, because the proposed amendments clarify this rule to be current and accurate for licensees.

B. Local governments:

The Division does not anticipate any cost or savings to local governments from the proposed amendments because the proposed amendments do not apply to local governments.

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

There are approximately 551 small businesses in Utah with naturopathic physicians (NAICS 621399) and other similar licensees and who may employ those practicing naturopathic medicine (this NAICS code covers professions beyond naturopathic physicians as well).

However, the proposed amendments are not expected to have any measurable impact on small businesses' revenues or expenditures because the amendments merely update this rule to provide more utility and accuracy to licensees.

The amendments also streamline and update this rule to comply with OAR drafting requirements and Division standards.

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

There is approximately one non-small business in Utah with naturopathic physicians (NAICS 621399) and other similar licensees and who may employ those practicing naturopathic medicine (this NAICS code covers professions beyond naturopathic physicians as well).

However, the proposed amendments are not expected to have any measurable impact on non-small businesses' revenues or expenditures because the amendments merely update this rule to provide more utility and accuracy to licensees.

The amendments also streamline and update this rule to comply with OAR drafting requirements and Division standards.

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***)**:**

In Utah, there are 115 licensed naturopathic physicians and 3 licensed temporary naturopathic physicians.

The Division does not anticipate any cost or savings from these proposed amendments to these persons or to additional persons other than small businesses, non-small businesses, the state, or local government entities because the amendments merely update the rule to provide more utility and accuracy to licensees.

The proposed amendments also will not create new obligations for other persons or increase the costs associated with any existing obligations for other persons.

F. Compliance costs for affected persons:

As described in Box 5E for other persons, no compliance costs are expected for affected persons.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	FY2027	FY2028	FY2029	FY2030	FY2031
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0

Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Commerce, Margaret W. Busse, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	Section 58-71-101

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

B. A public hearing (optional) will be held (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.)**:**

Date:	**Time:**	**Place** (physical address or URL)**:**
11/24/2026	10:30 AM	Anchor Meeting Location: Heber M Wells Building Room 402 160 E 300 S Salt Lake City, UT Google Meet joining info: Video call link: https://meet.google.com/iyo-wpnf-xcs Or dial: (US) +1 470-655-0259 PIN: 897 102 835# More phone numbers: https://tel.meet/iyo-wpnf-xcs? pin=3368750304924

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Deborah Blackburn, Assistant Director	**Date:**	10/06/2026

R156. Commerce, Professional Licensing.
R156-71. Naturopathic Physician Practice Act Rule.
R156-71-101. Title - Authority - Relationship to Rule R156-1.

(1) This rule is known as the "Naturopathic Physician Practice Act Rule."

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 71, Naturopathic Physician Practice Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-101.

R156-71-102. Definitions.

[~~The following definitions supplement the definitions~~]Terms used in this rule are defined in Title 58, Chapter 1, Division of [~~Occupational and~~]Professional Licensing Act[~~,~~] and Title 58, Chapter 71, Naturopathic Physician Practice Act. In addition:

(1) "Approved clinical experience program" or "residency program" as used in Subsections 58-71-302(1)(d) and 58-71-304.2(1)(b)[~~,~~] mean a residency program that is either:

[~~(a) at least one year in length; and~~]

([~~b~~]a) a program that is at least 12 months in length and approved by the Council of Naturopathic Medical Education (CNME), or its successor organization, [~~meaning it is under the auspices of a~~]as CNME-accredited or sponsored by a CNME candidate Naturopathic Doctor program[~~that is recognized by the CNME as a residency program sponsor.~~]; or

(b) a program that is at least 12 months in length that:

(i) is hosted under the preceptorship of a naturopathic physician who is licensed and practicing full-time in Utah;

(ii) is pre-approved by the Division under Subsection R156-71-302(3);

(iii) is considered a full-time program;

(iv) involves direct clinical patient care;

(v) includes regular availability from the host naturopathic physician; and

(vi) is associated with a naturopathic medical school or college.

(2) "Direct supervision" as used in Subsection 58-71-304.2(1)(b)[~~,~~] means the supervising naturopathic physician, physician and surgeon, or osteopathic physician is:

(a) responsible for the naturopathic activities and services performed by the naturopathic physician intern; and

(b) normally present in the facility, and when not present in the facility is available by voice communication to direct and control the naturopathic activities and services performed by the naturopathic physician intern.

(3) "Direct and immediate supervision" of a [~~medical~~]naturopathic medical assistant as used in Subsections 58-71-102([7]6) and 58-71-305(7)[~~,~~] means that the licensed naturopathic physician is:

(a) responsible for the activities and services performed by the [~~medical~~]naturopathic medical assistant; and

(b) present in the facility and immediately available for advice, direction, and consultation.

[~~(4) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing technologies and other forms of learning at a distance, including internet, audio-visual recordings, mail, or other correspondence.~~]

([~~5~~]4) "Naturopathic physician intern" or "intern" means an individual who qualifies for a temporary license under Section 58-71-304.2 to engage in a naturopathic physician residency program recognized by the Division, under the direct supervision of an approved naturopathic physician, physician and surgeon, or osteopathic physician.

([~~6~~]5) "NPLEX" means the Naturopathic Physicians Licensing Examinations.

([~~7~~]6) "Primary health care" as [~~referenced~~]used in Subsection 58-71-102(13)[~~,~~] means basic or general health care provided at the patient's first contact with the naturopathic physician.

([~~8~~]7) "Qualified continuing education" means continuing education that meets the standards in Section R156-71-304.

([~~9~~]8) "Unprofessional conduct" as defined in Subsection 58-71-102(18)[~~,~~] is further defined in Section R156-71-502.

~~[**R156-71-103. Authority - Purpose.**~~

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 71, Naturopathic Physician Practice Act.~~

~~**R156-71-104. Organization - Relationship to Rule R156-1.**~~

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.~~]

R156-71-203. Drug Category Review.

Reserved.

R156-71-302. Qualifications for Licensure.

(1) Under Subsection 58-71-302(1)(a)(i), an applicant shall submit[~~submissions by the applicant of information maintained by practitioner data banks~~] National Practitioner Data Bank records pertaining to the applicant.[~~shall include the following:~~

~~(a) Federation Credentials Verification (FCVS) report; and~~

~~(b) National Practitioner Data Bank Report of Action.~~]

(2) Under Subsections 58-71-302(1)(e) and 58-71-302(2)(a)(iii), the licensing examination sequence required for licensure is as follows:

(a)[~~(i)~~] NPLEX Basic Science Series;

[~~(ii) State of Washington Basic Science Series; or~~
~~(iii) State of Oregon Basic Science Series;~~]
(b) NPLEX Clinical Series; and
(c) NPLEX Minor Surgery.
(3) Before beginning any residency program described in Subsection R156-71-102(1)(b), an applicant shall obtain pre-approval as required under Subsection R156-71-102(1)(b)(ii) by submitting to the Division a written description of how the program:
(a) complies with statute and rule; and
(b) provides adequate training to produce qualified naturopathic physicians.
([3]4) Under Subsection 58-71-302(2)(b), satisfactory documentation of compliance with the licensure education requirements for graduates of naturopathic physician programs or schools in a foreign country or district or territory of the United States, shall be a report submitted to the Division by the [~~International Credentialing Associates, Inc. (ICA)~~]CNME, or its successor organization, confirming that the applicant's naturopathic physician program or school [~~has met~~]meets the accreditation standards.

R156-71-303. License Term[~~,~~] - Renewal[~~,~~] and Reinstatement[-] Procedures.
(1) Under Subsection 58-1-308(1) and Section 58-71-303, the renewal date for the two-year renewal cycle for licensees under Title 58, Chapter 71, Naturopathic Physician Practice Act[~~,~~] is established in Subsection R156-1-308a[~~(1)~~].
(2) Renewal and reinstatement procedures shall be in accordance with Sections R156-1-308[~~e~~]b through R156-1-308l[~~, except as provided in Subsection (3).~~
~~(3) Under Subsections 58-71-303(3) and 58-1-308(5)(a)(ii)(B), an applicant whose license was active and in good standing at the time of expiration may apply for reinstatement between two years and five years after the date of expiration by:~~
~~(a) submitting a reinstatement application demonstrating compliance with requirements and condition of license renewal;~~
~~(b) paying license renewal and reinstatement fees for the current renewal period; and~~
~~(c) submitting documentation that the applicant has successfully completed:~~
~~(i) at least 48 hours of qualified continuing professional education for the current two-year licensure cycle; and~~
~~(ii) any additional hours of qualified continuing professional education determined necessary by the Division in collaboration with the Board to clearly demonstrate the applicant is currently competent to engage in naturopathic medicine~~].

R156-71-304. Qualified Continuing Professional Education.
(1) Under Subsections 58-1-203(1)(g) and 58-1-308(3)(b) and Section 58-71-304, the qualified continuing professional education requirements for renewal or reinstatement of licensure as a naturopathic physician under Title 58, Chapter 71, Naturopathic Physician Practice Act are established in this section.
(2) A continuing education course shall meet the following standards:
(a) consist of clinically oriented seminars, lectures, conferences, workshops, mediated instruction, or programmed learning provided by:
(i) a professional health care licensing agency, hospital, or institution accredited by the Accreditation Council of Continuing Medical Education (ACCME);
(ii) a program sponsored by the American Council of Pharmaceutical Education (ACPE);
(iii) an accredited college or university;
(iv) a professional association or organization representing a licensed profession whose program objectives are related to naturopathic training; or
(v) any other provider providing a program related to naturopathic education, if the provider has submitted an application to and received approval from the Division[~~Utah Naturopathic Physicians Licensing Board~~];
(b) have reasonably and clearly stated learning objectives;
(c) have clearly stated and appropriate teaching methods;
(d) have faculty qualified both in experience and in teaching expertise;
(e) have a written post course or program evaluation;
(f) provide documentation of attendance; and
(g) have content relevant to naturopathic practice, and consistent with Utah laws and rules.
(3)[~~(a)~~] Each licensee shall complete 48 hours of qualified continuing professional education during each two-year licensure cycle[~~,~~] that shall include at least:
(a) ten hours of category 1 credit hours as established by the ACCME; and
(b) 20 hours specific to pharmacy or pharmacology.
[~~(b)(i) At least 20 of the 48 continuing professional education hours shall be specific to pharmacy or pharmacology as it pertains to the Naturopathic Physician Formulary, Section R156-71-202.~~
~~(ii) A minimum of ten of the 20 hours specific to pharmacy or pharmacology shall be recognized as category 1 credit hours as established by the ACCME.~~
~~(c) Up to 20 hours of continuing professional education in each two-year licensure cycle may be through distance learning.~~]
(4) A licensee shall maintain documentation sufficient to prove compliance with this section[~~,~~] for a period of two years after the end of the renewal cycle for which the continuing professional education is due.
(5) The Division [~~in collaboration with the Board~~]may defer or waive continuing professional education requirements [~~for a licensee pursuant to~~]as provided in Section R156-1-308d[~~, for a period of up to four years~~].

R156-71-502. Unprofessional Conduct.

"Unprofessional conduct" includes failure to comply with the drug categories [~~consistent with the practice of naturopathic medicine,~~]under Subsection 58-71-102([~~9~~]8) and Section R156-71-203.

KEY: licensing, naturopaths, naturopathic physician
Date of Last Change: [~~October 20, 2022~~]2026
Notice of Continuation: July 13, 2026
Authorizing, and Implemented or Interpreted Law: 58-71-101; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: New	**Filing ID: 58338**
Rule or section number:	**R156-93**

1. Agency Information

Title catchline:	Commerce, Professional Licensing
Building:	Heber M Wells Building
Street address:	160 E 300 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 14641
City, state and zip:	Salt Lake City, UT 84114-6741

2. Contact Persons

Name:	Phone:	Email:
Tracy Taylor	801-530-6628	trtaylor@utah.gov

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

3. General Information

A. Rule or section catchline:

R156-93. General Rule of the Division of Professional Licensing

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

The Division of Professional Licensing (Division) is filing this proposed new rule in accordance with statutory changes made by SB 149 during 2026 General Session that moved the administration of bail bond enforcement personnel licensing from the Department of Public Safety to the Division.

C. Summary of the new rule or change:

This filing enacts proposed new Rule R156-93, Bail Bond Licensing Act Rule, under new Title 58, Chapter 93, Bail Bond Licensing Act.

The proposed rule establishes:
1) definitions;
2) license terms, application procedures, and renewal periods; and
3) required qualifications, scopes of practice, and operating standards for bail enforcement agents, bail recovery agents, and bail enforcement apprentices.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	SB 149 (2026 General Session)

5. Fiscal Information

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
The Division does not believe this proposed rule will impact the state budget. This proposed rule is required under SB 149 (2026). All costs associated with that legislation, including the promulgation of this proposed rule, are included in the fiscal note for that legislation which can be found here: https://le.utah.gov/~2026/bills/static/SB0149.html.
B. Local governments:
The Division does not believe this proposed rule will generate cost or savings for local governments. This proposed rule is required under SB 149 (2026). All costs associated with that legislation, including the promulgation of this proposed rule, are included in the fiscal note for that legislation which can be found here: https://le.utah.gov/~2026/bills/static/SB0149.html.
C. Small businesses ("small business" means a business employing 1-49 persons)**:**
The Division does not believe this proposed rule will generate cost or savings for small businesses. This proposed rule is required under SB 149 (2026). All costs associated with that legislation, including the promulgation of this proposed rule, are included in the fiscal note for that legislation which can be found here: https://le.utah.gov/~2026/bills/static/SB0149.html.
D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
The Division does not believe this proposed rule will generate cost or savings for non-small businesses. This proposed rule is required under SB 149 (2026). All costs associated with that legislation, including the promulgation of this proposed rule, are included in the fiscal note for that legislation which can be found here: https://le.utah.gov/~2026/bills/static/SB0149.html.
E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The Division does not believe this proposed rule will generate cost or savings for persons other than small businesses, non-small businesses, state, or local government entities. This proposed rule is required under SB 149 (2026). All costs associated with that legislation, including the promulgation of this proposed rule, are included in the fiscal note for that legislation which can be found here: https://le.utah.gov/~2026/bills/static/SB0149.html.
F. Compliance costs for affected persons:
The Division does not believe this proposed rule creates new compliance costs for affected persons. This proposed rule is required under SB 149 (2026 General Session). All costs associated with that legislation, including the promulgation of this proposed rule, are included in the fiscal note for that legislation which can be found here: https://le.utah.gov/~2026/bills/static/SB0149.html.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0

Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Commerce, Margaret Busse, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Subsection 58-1-106(1)(a)	Section 58-1-308	Subsection 58-1-501(2)
Section 58-93-201	Subsection 58-93-302(1)(a)(vi)	Subsection 58-93-303(1)(d)

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

B. A public hearing (optional) will be held (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.)**:**

Date:	**Time:**	**Place** (physical address or URL)**:**
11/13/2026	3:00 PM	Commerce, Professional Licensing Heber M Wells Building 160 E 300 S Room 402 Salt Lake City, UT Google Meet joining info: Video call link: https://meet.google.com/iyy-iaov-ykg Or dial: (US) +1 520-282-4933 PIN: 748 158 942# More phone numbers: https://tel.meet/iyy-iaov-ykg? pin=5147363734061

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2027

13. Agency Authorization Information

Agency head or designee and title:	Adam Watson, Assistant Division Director	**Date:**	10/09/2026

R156. Commerce, Professional Licensing.
R156-93. Bail Bond Licensing Act Rule.
R156-93-101. Title - Authority - Organization of Rules -- Statement of Purpose and Conflicts.

(1) This rule is known as the "Bail Bond Licensing Act Rule".

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 93, the Bail Bond Licensing Act.

(3) The organization of this rule and its relationship to Rule R156-1 is described in Section R156-1-107.

(4) The Division finds that the purpose of this rule, Title 58, Chapter 93, the Bail Bond Licensing Act, and the portions of SB 149 (2026 General Session), Licensing Modifications, that deal with bail enforcement professionals is:

(a) to regulate the professions of bail enforcement professionals regulated under Title 53, Chapter 11, the Bail Bond Recovery Act before September 1, 2026; and

(b) to neither override nor replace Title 31A, Chapter 35, the Bail Bond Act except where expressly stated.

(c) any interpretation of this rule or Title 58, Chapter 93, the Bail Bond Licensing Act that contradicts the requirements of Title 31A, Chapter 35, the Bail Bond Act, or any rule made to enforce Title 31A, Chapter 35, the Bail Bond Act, shall be interpreted in favor of Title 31A, Chapter 35, the Bail Bond Act.

R156-93-102. Definitions.

This section establishes definitions to supplement the definitions in Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 93, the Bail Bond Licensing Act.

(1) "Applicant" unless otherwise specified, shall mean an applicant for a license under Title 58, Chapter 93, the Bail Enforcement Professional Licensing Act including an applicant for an initial license, renewal of a license, and reinstatement of a license.

(2) "Approved basic firearms training program" means a firearms education and training program that:

(a) meets the standards for content and instruction under Section R156-93-306b; and

(b) is approved by the Division as either

(i) An approved basic firearms course for Bail Enforcement Professionals; or

(ii) an approved basic firearms training program for armed private security officers under Section R156-63a-604.

(3) "Restricted Terms" shall mean any word, term, or phrase that, regardless of intent, is reasonably likely to suggest that a bail enforcement professional is a member of any official state or federal law enforcement agency including:

(a) "State of Utah";

(b) "United States", "US", "USA", or "Federal";

(c) "Police";

(d) "Patrolman" or "Patrol Officer";

(e) "Deputy";

(f) "Marshal";

(g) "Agent" except:

(i) If used conjunction with "bail enforcement agent" or "bail recovery agent"; and

(ii) The words "bail enforcement agent" or "bail recovery agent" appears on the same line.

(h) "Trooper"; or

(i) "Sheriff".

(4) "Supervision Declaration" shall mean a written declaration by a Bail Enforcement Agent or a Bail Recovery Agent when training a Bail Recovery Apprentice that includes:

(a) state the name and license number of the Bail Enforcement Agent or Bail Recovery Agent;

(b) the name and contact information of the Bail Recovery Apprentice;

(c) a declaration the supervising agent has reviewed the supervision requirements in Subsection R156-93-305(2).

R156-93-301. Term of License - Expiration of License - Renewal of License - Reinstatement of License - Application Procedures.

This section establishes the term of licensure for licenses issued under Title 58 Chapter 93, the Bail Bond Licensing Act under Section 58-1-102.

(1) Under Subsections 58-1-308(1) and 58-93-201(6), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 93, Bail Bond Licensing Act, shall be in August of each odd-numbered year;

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

(3) All valid and current licenses described under Section 58-93-312 issued before September 1, 2026 under Title 53, Chapter 11, the Bail Bond Recovery Act:

(a) shall expire on the date shown on the license; and

(b) a licensee with a license issued under Title 53, Chapter 11, the Bail Bond Recovery Act, shall relicense under Title 58, Chapter 1, Division of Professional Licensing Act, Title 58, Chapter 93 Bail Bond Licensing Act, and this rule.

(4) Under Subsection 58-1-308(3)(b)(i) a licensee under Title 58, Chapter 93 Bail Bond Licensing Act applying for renewal shall:

(a) meet the CE requirements under Section 58-93-306 and Subsection R156-93-306a(4); and
(b) submit to the Division:
(i) a Division-approved renewal form;
(ii) A renewal application fee;
(ii) a photograph meeting the standards described in Subsection R156-93-302(1)(d);
(iii) a photocopy of the licensee's government issued picture identification described in Subsection R156-302(1)(c); and
(iv) if a surety bond is required, evidence that the licensee has a current and valid surety bond.
(c) In addition to the requirements of Subsection R156-93-301(4)(a), a bail bond agency under Subsection 58-93-101(1), must submit to the Division evidence that the PI agency has current and valid:
(i) comprehensive general liability insurance meeting the minimum requirements of Subsection R156-93-303(3)(a); and
(ii) workers compensation policy or an affidavit conforming to Subsection R156-93-303(3)(b).

R156-93-302. General Qualifications.
This section describes the general qualifications for all applicants and licensees under Title 38, Chapter 93, the Bail Bond Licensing Act.
(1) All applicants for licensure under Title 58, Chapter 93 shall:
(a) use the form of application approved by the Division under Subsection 58-93-302(1)(a);
(b) pay the non-refundable processing fee;
(c) provide the Division with a copy of a state-issued photo identification that lists the applicant's name and birthday;
(d) provide one color photograph of the applicant:
(i) taken no more than six months before the application;
(ii) of passport quality;
(iii) containing the applicant's name written on the back of the photograph; and
(iv) in physical form or a digital format compatible with the online application described in Subsection R156-93-302a(1)(a).
(2) Under Subsections 58-1-301.5(5) and 58-93-302(1)(v), an applicant shall submit the following:
(a) two fingerprint cards or a digital fingerprint file in a form acceptable to the Division;
(b) the fee established in accordance with Section 63J-1-504 equal to the cost of conducting a check of records for each individual required to provide a fingerprint card under Subsection(1)(a) with:
(i) the Federal Bureau of Investigation(FBI); and
(ii) the Bureau of Criminal Identification(BCI) of the Utah Department of Public Safety.
(3) Under Subsection 58-93-302(2), an applicant shall disclose all professional licenses issued to the applicant in the last ten years by any other state or jurisdiction, regardless of the type or status of such license.

R156-93-303. Bail Bond Agency -- Application.
This section describes the qualifications for a Bail Bond Agency under Section 58-93-303 in addition to the general licensing requirements of under Section R156-93-302.
(1) A bail bond agency applicant shall identify the bail bond agency's qualifier under Subsection 58-93-303(1)(c) by providing the Division the qualifiers:
(a) full legal name and all previous names;
(b) social security number;
(c) date of birth;
(d) residential address within the State; and
(e) personal phone and email contact information;
(2) In addition to the requirements of Subsection R156-93-303(1), the bail bond agency's qualifier shall provide the Division with:
(a) a copy of the proposed qualifiers driver's license or state-issued identification;
(b) description of the proposed qualifier's association with the agency; and
(c) a declaration under penalty of perjury that the qualifier meets the requirements of Subsection 58-93-303(1)(c).
(3) A bail bond agency applicant must provide the Division with evidence of the following insurance policies:
(a) a liability insurance including:
(i) the policy number;
(ii) the expiration date of the policy;
(iii) the insurance company name and contact information; and
(iv) coverage amounts of at least $100,000 for each incident and $500,000 in total comprehensive general liability insurance requirements; and
(b) Either:
(i) A workers' compensation insurance policy naming the Division as a certificate holder, including the policy number, the expiration date of the policy, the insurance company name and contact information; or
(ii) an affidavit that the applicant does not hire employees and is therefore exempt from the requirement to have workers' compensation insurance as evidenced by a valid Workers' Compensation Coverage Waiver issued by the Utah Labor Commission.
(4) Bail bond agency applicant shall provide the Division evidence its qualifier's valid surety bond meeting the requirements of Subsection R156-93-304(1).

R156-93-304. Bail Enforcement Agent -- Bail Recovery Agent.

This section describes the qualifications for a Bail Enforcement Agent under Subsection 58-93-101(2) or Bail Recovery Agent under Subsection 58-93-101(4) applicants in addition to the general licensing requirements of Section R156-93-302.

(1) Surety Bond. Under Subsection 58-93-304(1)(c), an applicant for Bail Enforcement Agent or Bail Recovery Agent will provide the Division evidence of a valid surety bond meeting the following criteria:

(a) in the amount of $10,000;

(b) that is in effect throughout the entire licensing period; and

(c) that provides that the issuer of the surety bond will notify the Division if the bond is cancelled or expired.

(2) Experience. An applicant for Bail Enforcement Agent or Bail Recovery Agent will provide the Division with proof of adequate experience under Subsection 58-93-307(1).

R156-93-305. Bail Recovery Apprentice.

This section describes the qualifications for a Bail Recovery Apprentice applicant under Subsection 58-93-101(4) in addition to the general licensing requirements of Section R156-93-302.

(1) A Bail Recovery Apprentice applicant will provide the Division with the following information in a form the Division approves:

(a) The name and license number of the Bail Enforcement Agency employing the applicant;

(b) The name and license number of the Bail Enforcement Agent or Bail Recovery Agent supervising the applicant; and

(c) A signed supervision declaration.

(2) Supervision under subsection R156-93-305(1) shall be:

(a) Direct supervision, as described in Subsection R156-1-102a(1)(a) for the first 500 hours of supervised time;

(b) indirect supervision, as described in Subsection R156-1-102a(1)(b) for the 500 hours following the direct supervision period under Subsection R156-93-305(2)(a); and

(c) general supervision, as described in Subsection R156-1-102a(1)(c) for any hours after hours described in Subsections R156-93-305(2)(a) and R156-93-305(2)(b).

R156-93-306a. Initial and Continuing Training Requirements for Applicants.

(1) To satisfy the requirements of Section 58-93-306 initial and continuing training programs must

(a) have been approved by the Department of Public Safety to provide training services of bail enforcement agents, bail bond agents before September 1, 2026; or

(b) receive approval from the Division in collaboration with the board before offering training services to the public;

(2) Training programs must meet the following criteria:

(a) If approved under Subsection R156-93-306a(1)(a) must re-certify under Subsection R156-93-306a(1)(b), no later than September 1, 2027;

(b) fulfill the curriculum requirements under Subsection R156-93-306a(4);

(c) taught either:

(i) in-person; or

(ii) through electronic means in real time that provides a means for immediate engagement between the instructor and the participant.

(3) An applicant shall disclose to the Division:

(a) the name of the program completed;

(b) the name of the trainer who provided the training;

(c) the email address of the trainer;

(d) the total course hours;

(e) the applicant's exam score;

(f) the date of the applicant's completion of the training course; and

(g) a signed affidavit from training stating that the information provided by the applicant under Subsection R156-93-306a(3)(a) through Subsection 306a(3)(f) is true and accurate.

(4) Continuing education under Subsection 58-93-306(3) shall:

(a) be relevant to the licensee's professional practice;

(b) provided by a person qualified under Subsection R156-93-306a(1); and

(c) include at least tow hours of education exclusively on Utah law, including Title 58, Chapter 93, the Bail Bond Licensing Act and Rule R156-93, the Bail Bond Licensing Act Rule.

R156-93-306b. Firearms Training and Instruction.

This Section establishes the minimum qualifications for firearms training programs under Title 58, Chapter 93, Bail Bond Licensing Act.

(1) Firearms Training. If the applicant seeks to carry a firearm as a licensee under Title 58, Chapter 93, the Bail Bond Licensing Act, the applicant shall provide documentation that:

(a) the applicant completed an approved basic firearms training program under Subsection R156-93-102(2) indicating that the applicant has completed the 12-hour firearms training course required in Subsection 53-11-108(5) within 6 months of the initial application; or

(b) before August 31, 2026 the applicant:

(i) held an active license as a bail enforcement agent, bail recovery agent, or bail recovery apprentice in good standing under Title 53, Chapter 11 the Bail Bond Recovery Act;

(ii) had completed the requirements for a concealed carry permit under Rule R722-300; and
(iii) had completed an additional 16-hour firearms training course required under Subsection 53-11-108(5).
(2) Firearms Training Instruction. An approved basic firearms training program under Subsection R156-93-102(2) shall be taught by an instructor holding the following qualifications:
(a) current Peace Officers Standards and Training firearms instructor certification; or
(b) current certification as a firearms instructor by:
(i) the National Rifle Association;
(ii) a Utah law enforcement agency;
(iii) a Federal law enforcement agency;
(c) a branch of the United States military; or
(d) other qualification or certification found by the Division, in collaboration with the Board, to be equivalent.
(3) Shall include the following curriculum:
(a) at least six hours of classroom firearms instruction to include the following:
(i) the firearm and its ammunition;
(ii) care and cleaning of the firearm;
(iii) the prohibition against alterations of the firearm's firing mechanism;
(iv) firearm inspection review procedures;
(v) firearm safety on duty;
(vi) firearm safety at home;
(vii) firearm safety on the range;
(viii) legal and ethical restraints on firearms use;
(ix) explanation and discussion of target environment;
(x) stop failure drills;
(xi) explanation and discussion of stance, draw stroke, cover and concealment, and other firearm fundamentals;
(xii) armed patrol techniques;
(xiii) use of deadly force under Utah law and Title 76, Chapter 2, Part 4, Justification Excluding Criminal Responsibility and a discussion of 18 USC 44 Section 922, Unlawful Acts; and
(xiv) instruction that Bail Enforcement Agent or Bail Recovery Agent shall not fire the officer's weapon unless there is an imminent threat to life, and at no time shall the weapon be drawn as a threat or means to force compliance with any verbal directive not involving imminent threat to life;
(b) a final examination that demonstrates the competency of the participant on the subjects included in the six hours of classroom firearms instruction, with a passing score requirement of 80%; and
(c) at least six hours of firearms range instruction to include the following:
(i) basic firearms fundamentals and marksmanship;
(ii) demonstration and explanation of the difference between sight picture, sight alignment, and trigger control; and
(iii) a recognized practical pistol course on which the applicant achieves a minimum score of 80% using regular and low light conditions.

R156-93-307. Proof of Experience.
(1) The name and contact information for all companies or institutions with whom the applicant was employed;
(2) The time periods during which the applicant was employed;
(3) The total hours of experience claimed; and
(4) The name and contact information for a supervisor who can validate the hours of experience.

R156-93-308. Qualified Credit for Specified Training.
Under Section 58-93-308, an applicant seeking credit for specified training must submit to the Division:
(1) Proof of successful completion in a degree described under Subsection 58-93-308(1) to receive credit for:
(a) 1,000 hours of experience if the applicant is seeking a license as a bail enforcement agent under Subsection 58-93-307(1); or
(b) 500 hours of experience if the applicant is seeking a license as a bail recovery agent under Subsection 58-93-307(2).
(2) Proof of successful completion of the training described under Subsection 58-93-308(2) to receive credit for:
(a) 1,000 hours of experience if the applicant is seeking a license as a bail enforcement agent under Subsection 58-93-307(1); or
(b) 500 hours of experience if the applicant is seeking a license as a bail recovery agent under Subsection 58-93-307(2).
(3) Applicants seeking credit for substantially similar experience or training under Subsection 58-93-310(3) may submit a written petition to the Division describing the experience or training for which qualified credit is sought.

R156-93-310. Operating Standards -- Representation -- Implying an Association with Public Law Enforcement Prohibited.
(1) A bail enforcement professional or agency may not use restricted terms under Subsection R156-93-102(3) in the agency's name, advertising materials, uniform, signage, correspondence, online media posts, or publications or imply any connection to or association with a public law enforcement or government agency
(2) A bail enforcement professional or agency may not use a logo that bears markings similar to the seal, emblem, acronym, or configuration of a public law enforcement agency of the federal government, a state government, a state political subdivision, a municipal, or a military branch in advertising materials, uniform, signage, correspondence, online media posts, or publications.

R156-93-311. Operating Standards - Proper Identification of Bail Enforcement Professionals.

(1) When performing the duties of a bail enforcement professional, the licensee shall carry the licensee's:

(a) Division-issued license; and

(b) current government-issued driver license or identification card.

(2) Upon request, a licensee shall produce the documents listed under Subsection(1).

R156-93-313. Badges and Insignia.

This section describes the design and use of badges under Subsection 58-93-504(2).

(1) A bail enforcement professional may not use any badge or insignia that has not been approved by the Division.

(2) The design of a badge may not contain any restricted terms under Subsection R156-93-102(3).

(3) A bail enforcement professional

(a) may display a badge approved by the Division under Subsection 58-93-102(3) only while actively engaging in licensed work under this Title 58, Chapter 93, the Bail Bond Licensing Act.

(b) A bail enforcement professional or agency may obtain a badge from any source, so long as it complies with the following specifications:

(i) the badge shall be 2.55 inches high and 2.66 inches wide;

(ii) the badge shall be in the shape of a five-point star on a circle;

(iii) the star shall be gold in color and the circle must be silver in color;

(iv) the center of the star shall be black in color and contain the phrase "Bail Enforcement";

(v) other than the text required under Subsection R156-93-313(b)(iv) the text of the badge shall be written in block lettering and must be black;

(vi) the silver circle shall contain two panels with writing stating whether the agent is a bail enforcement agent or bail recovery agent; and

(vii) the badge shall contain two gold panels with the word "Utah" on the top panel and the agent's license number on the bottom panel.

(4) Badges shall:

(a) Be worn on the outer-most layer of clothing; and

(b) not be worn or presented in a way intended to obscure any portion of the badge.

(5) A badge design approved by the Bureau of Criminal Identification under Section 53-11-121 before September 1, 2026 shall be deemed approved under Subsection 58-93-504(2).

R156-93-502. Unprofessional Conduct.

Under Subsection 58-1-203(1)(e), "unprofessional conduct" includes:

(1) fraudulent reporting experience hours under Section R156-93-307;

(2) an Bail Recovery Apprentice failing to update the supervisor declaration under Section R156-93-305;

(3) failing to replace qualifier within the periods required under Section 58-93-309;

(4) engaging in fraud or misrepresentation in applying for an original license or renewal or reinstatement of an existing license;

(5) is convicted of any act involving illegally using, carrying, or possessing a dangerous weapon;

(6) is convicted of threatening to commit any act of personal violence or force against any person;

(7) commits or permits any employee or independent contractor to commit any act during the period when the license is expired or suspended;

(8) employs or contracts with any unlicensed or improperly licensed person or agency to conduct activities regulated under this chapter if the licensure status was known or could have been ascertained by reasonable inquiry;

(9) engages bail enforcement professional services regulated by this chapter on a revoked or suspended license;

(10) advertises in a false, deceptive, or misleading manner;

(11) refuses to display the identification card issued by the Division to any person having reasonable cause to verify the validity of the license;

(12) is convicted of any act of illegally obtaining or disseminating private, controlled, or protected records under Section 63G-2-801;

(13) fails to notify the Division of a change of name or address within 60 days of the change; or

(14) failing to disclose the existence and status of any professional license under Subsection 58-93-302(2).

R156-93-503. Penalties.

(1) In addition to the penalties in Section 58-93-503, the penalties under Sections 58-1-502 and R156-1-502 shall apply to a violation of Title 58, Chapter 93, Bail Bond Licensing Act

(2) Citation procedures shall be in accordance with Sections 58-1-502 and 58-93-503 and Rule R156-1.

KEY: licensing, bail bond agency, bail enforcement agents, bail recovery agents, bail recovery apprentices
Date of Last Change: 2026
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-308; 58-1-501(2); 58-93-201; 58-93-302(1)(a)(vi); 58-93-303(1)(d)

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58354**
Rule or section number:	**R162-2f**

1. Agency Information

Title catchline:	Commerce, Real Estate
Building:	Heber M Wells
Street address:	160 E 300 S
City, state:	Salt Lake City, UT
Mailing address:	PO Box 146711
City, state and zip:	Salt Lake City, UT 84114-6711

2. Contact Persons

Name:	Phone:	Email:
Justin Barney	801-530-6603	justinbarney@utah.gov
Tyler Huff	801-530-6284	tylerhuff@utah.gov

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

3. General Information

A. Rule or section catchline:

R162-2f. Real Estate Licensing and Practices Rules

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

The purpose of this rule amendment is to conform the Real Estate Licensing and Practices Rules consistent with recent legislative amendments to the Real Estate Licensing and Practices Act (Act).

The bill numbers which amended the Act are identified in Section 4B of this rule analysis.

C. Summary of the new rule or change:

This amendment conforms the Real Estate Licensing and Practices Rules to recent statutory enactments and coordinates regulatory jurisdiction with the newly established residential property management framework in Rule R162-2i.

The changes impact regulated practitioners by clarifying that Rule R162-2f governs real estate sales, exchanges, brokerage operations, and property management of real estate other than residential rental units, while delineating supervisory responsibilities for mixed-use properties.

The amendment removes the obsolete Property Management Sales Agent designation, updates references to the Division's online license management system, and adds court findings of noncompliance under the Utah Fit Premises Act and Fair Housing Act as competency review factors.

Additionally, this rule refines licensee affirmative disclosures in non-residential leasing, harmonizes permissible support services for unlicensed assistants across practice areas, and updates trust account standards by removing obsolete 501(c)(3) interest remittance restrictions and authorizing federally insured sweep and deposit placement arrangements.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 1002 (2025 Special Session), HB 337 (2025 General Session), HB 377 (2026 General Session)

5. Fiscal Information

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

A. State budget:
The Division of Real Estate (Division) does not expect any costs or savings in the aggregate to the state budget due to this amended rule. If there are costs or savings that result from administering the new property manager license, these costs or savings result from the legislative action that created the property manager license, not from this rule. The legislature considered the costs and savings when it adopted the legislation identified in Section 4B of this rule analysis.
B. Local governments:
Local governments are not required to comply with or enforce the Residential Property Management Licensing and Practices Rule. Because compliance and enforcement of this rule are not required of local governments, the proposed amendments will not result in any cost or savings to local governments.
C. Small businesses ("small business" means a business employing 1-49 persons)**:**
The Division does not expect any costs or savings in the aggregate to small businesses due to this amended rule. If there are costs or savings that result from administering the new property manager license, these costs or savings result from the legislative action that created the property manager license, not from this rule. The legislature considered the costs and savings when it adopted the legislation identified in Section 4B of this rule analysis.
D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
The Division does not expect any costs or savings in the aggregate to non-small businesses due to this amended rule. If there are costs or savings that result from administering the new property manager license, these costs or savings result from the legislative action that created the property manager license, not from this rule. The legislature considered the costs and savings when it adopted the legislation identified in Section 4B of this rule analysis.
E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The Division does not expect any costs or savings in the aggregate to persons other than small businesses, non-small businesses, state, or local government entities due to this amended rule. If costs or savings result from administering the new property manager license, those costs or savings stem from the legislative action that created the license, not from this rule. The legislature considered the costs and savings when it adopted the legislation identified in Section 4B of this rule analysis.
F. Compliance costs for affected persons:
The Division has no way to estimate the number of persons who will choose to qualify for and become licensed as a property manager as authorized by the legislature beginning 01/01/2027. However, the Division does not expect any compliance costs for these affected persons due to this amended rule. If any compliance costs result from obtaining a property manager license, those costs stem from the legislative action that created the license, not from this rule. The legislature considered the costs and savings when it adopted the legislation identified in Section 4B of this rule analysis.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Commerce, Margaret W. Busse, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Subsection 61-2f-103(2)(a)	Subsection 61-2f-204(d)(vi)	

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Leigh Veillette, Director, Division of Real Estate	**Date:**	10/15/2026

R162. Commerce, Real Estate.
R162-2f. Real Estate Licensing and Practices Rules.
R162-2f-101. Title and Authority.

(1) This [~~chapter~~]rule is known as the "Real Estate Licensing and Practices Rules."
(2) The authority to establish rules for real estate licensing and practices is granted by Section 61-2f-103.
(3) The authority to establish rules governing undivided fractionalized long-term estates is granted by Section 61-2f-307.
(4) The authority to collect fees is granted by Section 61-2f-105.

(5) This rule does not govern the licensing of a property manager, the designation of a principal property manager, the registration of a property management company that engages in residential property management, or the conduct of an individual who is engaged in residential property management. Rule R162-2i governs those subjects, as provided in Section R162-2i-103.

R162-2f-102. Definitions.

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

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

(b) pays applicable nonrefundable license fees; and

(c) affiliates with a principal brokerage.

(2) "Advertising" means a commercial message through:

(a) newspaper;

(b) magazine;

(c) Internet;

(d) email;

(e) radio;

(f) television;

(g) direct mail promotions;

(h) business cards;

(i) door hangers;

(j) signs;

(k) other electronic communication; or

(l) any other medium.

(3) "Affiliate:"

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

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

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

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

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

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

(a) record of an offer to purchase real estate;

(b) record of a real estate transaction, regardless of whether the transaction closed;

(c) licensing records;

(d) banking and other financial records;

(e) independent contractor agreements;

(f) trust account records, including:

(i) deposit records in the form of a duplicate deposit slip, deposit advice, or equivalent document; and

(ii) conveyance records in the form of a check image, wire transfer verification, or equivalent document; and

(g) records of the brokerage's contractual obligations.

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

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

(a) establish and operate a school that provides courses approved for prelicensing education or continuing education; or

(b) function as an instructor for courses approved for prelicensing education or continuing education.

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

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

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

(a) core topics identified in Subsection R162-2f-206c(6)(c);

(b) elective topics identified in Subsection R162-2f-206c(6)(e); or

(c) mandatory courses identified in Subsection R162-2f-206c(6)(f).

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

(a) is not distance or traditional education; and

(b) fails to meet real estate educational course certification standards because:

(i) it is primarily student initiated; and

(ii) the interaction between the instructor and student lacks substance or is irregular.

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

(15)(a) "Distance education" means education in which the instruction does not take place in a traditional classroom setting, but occurs through other interactive instructional methods where teacher and student are separated by distance and sometimes by time, including the following:

(i) computer conferencing;
(ii) satellite teleconferencing;
(iii) interactive audio;
(iv) interactive computer software;
(v) Internet-based instruction; and
(vi) other interactive online courses.
(b) "Distance education" does not include home study and correspondence courses.
(16) "Division" means the Utah Division of Real Estate.
(17) "Double contract" means executing two or more purchase agreements, one of which is not made known to the prospective lender or loan funding entity.
(18) "Expired license" means a license that is not renewed pursuant to Section 61-2f-204 and Section R162-2f-204 by:
(a) the close of business on the expiration date, if the expiration date falls on a day when the division is open for business; or
(b) the next business day following the expiration date, if the expiration date falls on a day when the division is closed.
(19) "Guaranteed sales plan" means:
(a) a plan in which a seller's real estate is guaranteed to be sold; or
(b) a plan whereby a licensee or anyone affiliated with a licensee agrees to purchase a seller's real estate if it is not purchased by a third party:
(i) in the specified period of a listing; or
(ii) within some other specified period[~~ of time~~].
(20) "Inactive license" means a license that has been issued pursuant to Sections R162-2f-202a through R162-2f-202c or renewed pursuant to Section R162-2f-204, but that may not be used to conduct the business of real estate because the license holder is not affiliated with a principal broker. Pursuant to Section R162-2f-203, a license may be inactivated:
(a) voluntarily, with the assent of the license holder; or
(b) involuntarily, without the assent of the license holder.
(21) "Inducement gift" means any gift given by a principal broker, or a licensee affiliated with the principal broker, to a buyer or seller, lessor or lessee, in a real estate transaction as an incentive to use the services of a real estate brokerage.
(22) "Informed consent" means written authorization, obtained from both principals to a single transaction, to allow a licensee to act as a limited agent.
(23) "Limited agency" means the representation of each of the principals in the same transaction to negotiate a mutually acceptable agreement:
(a) subject to the terms of a limited agency agreement; and
(b) with the informed consent of each principal to the transaction.
(24) "Net listing" means a listing agreement under which the real estate commission is the difference between the actual selling price of the property and a minimum selling price as set by the seller.
(25)(a) "Non-certified education" means a continuing education course offered outside of Utah, but for which a licensee may apply for credit pursuant to Subsection R162-2f-206c(1)(b).
(b) "Non-certified education" does not include:
(i) home study courses; or
(ii) correspondence courses.
(26) "Nonresident applicant" means a person:
(a) whose primary residence is not in Utah; and
(b) who qualifies under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, and this rule for licensure as a principal broker, associate broker, or sales agent.
(27) "Online license management system" means the system the division uses to gather, store, index, and retrieve information related to licensing, registration, and certification.
([~~27~~]28) "Principal brokerage" means the main real estate or property management office of a principal broker.
([~~28~~]29) "Principal" in a transaction means an individual who is represented by a licensee and may be:
(a) the buyer or lessee;
(b) an individual having an ownership interest in the property;
(c) an individual having an ownership interest in the entity that is the buyer, seller, lessor, or lessee; or
(d) an individual who is an officer, director, partner, member, manager, or employee of the entity that is the buyer, seller, lessor, or lessee.
([~~29~~]30) "Provider" means an individual or business that is approved by the division to offer continuing education.
([~~30~~]31) "Property management" is defined in Section 61-2f-102.
([~~31~~]32) "Registration" means authorization from the division to engage in the business of real estate as:
(a) a corporation;
(b) a partnership;
(c) a limited liability company;
(d) an association;
(e) a dba;
(f) a professional corporation;
(g) a sole proprietorship; or

(h) another legal entity of a real estate brokerage.

([~~32~~]33) "Reinstatement" is defined in Section 61-2f-102.

([~~33~~]34) "Reissuance" is defined in Section 61-2f-102.

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

(35) "Renewal" is defined in Section 61-2f-102.

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

(37) "School" means:

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

(b) any community college or vocational-technical school;

(c) any local real estate organization that has been approved by the division as a school; or

(d) any proprietary real estate school.

(38) "Sponsor" means:

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

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

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

(a) mortgage brokers;

(b) mortgage lenders;

(c) loan originators;

(d) title service providers;

(e) attorneys;

(f) appraisers;

(g) providers of document preparation services;

(h) providers of credit reports;

(i) property condition inspectors;

(j) settlement agents;

(k) real estate brokers;

(l) marketing agents;

(m) insurance providers; and

(n) providers of any other services for which a principal or investor will be charged.

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

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

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

R162-2f-201. Qualification for Licensure.

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

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

(i) criminal convictions with particular consideration given to any such acts involving:

(A) a felony conviction occurring within the five years preceding the date of application;

(B) a jail or prison term resulting from a felony conviction with a release date falling within the five years preceding the date of application;

(C) a conviction of a class A or class B misdemeanor, or similar offense, involving fraud, misrepresentation, theft, or dishonesty occurring within the three years preceding the date of application; or

(D) a jail term resulting from a conviction of a class B or class A misdemeanor, or similar offense, involving fraud, misrepresentation, theft, or dishonesty with a release date falling within the three years preceding the date of application;

(ii) plea agreements;

(iii) past acts related to honesty or truthfulness, with particular consideration given to any such acts involving the business of real estate, that would be grounds under Utah law for sanctioning an existing license;

(iv) civil judgments in lawsuits brought on grounds of fraud, misrepresentation, or deceit;

(v) court findings of fraudulent or deceitful activity;

(vi) evidence of non-compliance with court orders or conditions of sentencing; and

(vii) evidence of non-compliance with:

(A) terms of a diversion agreement not yet closed and dismissed;

(B) a probation agreement; or

(C) a plea in abeyance.

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

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

(A) assault, including domestic violence;

(B) rape;

(C) sex abuse of a child;

(D) sodomy on a child;

(E) battery;

(F) interruption of a communication device;

(G) vandalism;

(H) robbery;

(I) criminal trespass;

(J) breaking and entering;

(K) kidnapping;

(L) sexual solicitation or enticement;

(M) manslaughter; and

(N) homicide.

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

(2) In evaluating an applicant for competency, the division and commission may consider evidence including:

(a) civil judgments, with particular consideration given to any such judgments involving the business of real estate;

(b) failure to satisfy a civil judgment that has not been discharged in bankruptcy;

(c) suspension or revocation of a professional license;

(d) sanctions placed on a professional license;[~~and~~]

(e) investigations conducted by regulatory agencies;[~~.~~]

(f) a finding by a court or an administrative tribunal of non-compliance with Title 57, Chapter 21, Utah Fair Housing Act, the fair housing laws of another state, or federal fair housing laws; and

(g) a finding by a court of non-compliance with Title 57, Chapter 22, Utah Fit Premises Act.

(3) An applicant shall be at least 18 years of age.

(4) The minimum education required for an applicant for licensure is:

(a) a high school diploma;

(b) a GED; or

(c) equivalent education as approved by the commission.

R162-2f-202d. [~~Property Management Sales Agent Licensing Fees and Procedures~~]Reserved.

[~~(1) A sales agent affiliated with a dual broker through a property management company may act as a property management sales agent if:~~

~~(a) the dual broker designates the sales agent as a property management sales agent, and~~

~~(b) the sales agent pays to the division the property management sales agent designation fee.~~

~~(2) A property management sales agent may simultaneously provide both property management services and real estate sales services under the supervision of the dual broker if the property management sales agent:~~

~~(a) provides property management services only through the property management company overseen by the dual broker, and~~

~~(b) provides real estate sales services only through the real estate brokerage overseen by the dual broker.~~]

Reserved.

R162-2f-203. Inactivation and Activation.

(1) Inactivation.

(a) To voluntarily inactivate the license of a sales agent or an associate broker, the holder of the license shall complete and submit a change form through [~~RELMS~~]the online license management system pursuant to Section R162-2f-207.

(b) To voluntarily inactivate a principal broker license, the principal broker shall:

(i) before inactivating the license:

(A) give written notice to each licensee affiliated with the principal broker of the date on which the principal broker proposes to inactivate the license; and

(B) provide to the division evidence that the licensee has complied with Subsection (1)(b)(i)(A); and

(ii) complete and submit a change form through [~~RELMS~~]the online license management system pursuant to Section R162-2f-207.

(c) The license of a sales agent or associate broker is involuntarily inactivated upon:

(i) termination of the licensee's affiliation with a principal broker;

(ii) expiration, suspension, revocation, inactivation, or termination of the license of the principal broker with whom the sales agent or associate broker is affiliated; or

(iii) inactivation or termination of the registration of the entity with which the licensee's principal broker is affiliated.

(d) The registration of an entity is involuntarily inactivated upon:

(i) termination of the entity's affiliation with a principal broker; or

(ii) expiration, suspension, revocation, inactivation, or termination of the license of the principal broker with whom the entity is affiliated.

(e) The license of a principal broker is involuntarily inactivated upon termination of the licensee's affiliation with a registered entity.

(f) If the division or commission orders that a principal broker's license is to be suspended or revoked:

(i) the order shall state the effective date of the suspension or revocation; and

(ii) before the effective date, the entity shall:

(A)(I) affiliate with a new principal broker; and

(II) submit change forms through [~~RELMS~~]the online license management system to affiliate each licensee with the new principal broker; or

(B)(I) provide written notice to each licensee affiliated with the principal broker of the pending suspension or revocation; and

(II) comply with Subsection R162-2f-207(3)(c)(ii)(B).

(2) Activation.

(a) To activate a license, the holder of the inactive license shall:

(i) complete and submit a change card through [~~RELMS~~]the online license management system pursuant to Section R162-2f-207;

(ii) submit proof of:

(A) having been issued an active license at the time of last renewal;

(B) having completed, within the two-year period preceding the date on which the licensee requests activation, 18 hours of continuing education, including nine hours of core topics of which three hours shall include the Mandatory 3-Hour CE course; or

(C) having passed the licensing examination within the six-month period before the date on which the licensee requests activation;

(iii)(A) if applying to activate a sales agent or associate broker license, evidence affiliation with a principal broker; or

(B) if applying to activate a principal broker license, evidence affiliation with a registered entity; and

(iv) pay a nonrefundable activation fee.

(b) A licensee who submits continuing education to activate a license may not use the same continuing education to renew the license at the time of the licensee's next renewal.

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

(1)~~.~~(a) A license issued under this rule is valid for a period of two years from the date of licensure.

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

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

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

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

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

(2) Qualification for renewal or reinstatement.

(a) Character and competency.

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

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

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

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

(b) Continuing education.

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

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

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

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

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

(II) acceptable to the division pursuant to Subsection (2)(b)(ii)(B).

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

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

(I) certified by the division;

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

(III) taken during the previous license period; or

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

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

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

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

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

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

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

(I) filing a complaint against the provider; and

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

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

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

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

(3) Renewal and reinstatement procedures.

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

(i) complete the online renewal of the license in the [~~applicant's password protected RELMS account~~]online license management system; and

(ii) pay a nonrefundable renewal fee.

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

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

(ii) pay a nonrefundable reinstatement fee.

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

R162-2f-205. Registration Required.

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

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

(b) a branch office;

(c) a[~~n assumed name~~] D.B.A.; or

(d) a separate property management company;

without first registering the entity, branch office, [~~assumed name~~]D.B.A., or separate property management company with the division.

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

(a) a model home;

(b) a project sales office; and

(c) a facility established for 12 months or less as a temporary site for marketing activity, such as an exhibit booth.

(3) To register with the division, a principal broker shall:

(a) evidence that the name of the registrant is registered with the Division of Corporations;

(b) certify that the registrant is affiliated with a principal broker or, if the registrant is a property management company, with a principal broker or a principal property manager, who:

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

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

(c) if registering a branch office, submit an application that identifies:

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

(ii) the physical address of the branch office;

(iii) the name and license number of the branch broker;

(iv) the names of associate brokers and sales agents assigned to the branch office; and

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

(d) if the applicant is not a branch office, submit an application that identifies:

(i) the location and account number of each operating account used by the registrant; and

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

(e) pay a nonrefundable application fee.

(4) Restrictions.

(a)(i) The division may not register a registrant proposing to use a business name that:

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

(B) closely resembles the name of another registrant of the division; or

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

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

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

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

(d) Each trust account and operating account used by a registrant shall be maintained in a bank or credit union located in the state.

(5) Registration not transferable.

(a) A registrant may not transfer the registration to any other person.

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

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

(d) The dissolution or termination of an entity, branch office, assumed name, or separate property management company registered with the division terminates the registration.

[~~(6) The division may not bring an action for enforcement of this section after the expiration of four years following the occurrence of the violation.~~](6) Registration of a property management company that engages in residential property management is governed by Section R162-2i-205, and Subsection (3) of this section applies to that registration as modified by this section.

R162-2f-206b. Certification Prelicensing Course.

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

(a) a comprehensive course outline including:

(i) a description of the course, including a statement of whether the course is designed for:

(A) sales agents;[~~ or~~]

(B) brokers; or

(C) property managers;

(ii) the number of class periods spent on each subject area;

(iii) a minimum of three to five learning objectives for every three hours of class time; and

(iv) a reference to the course outline approved by the commission for each topic;

(b) the number of quizzes and examinations;

(c) the grading system, including methods of testing and standards of grading;

(d)(i) a copy of at least two final examinations to be used in the course;

(ii) the answer key used to determine if a student has passed the exam; and

(iii) an explanation of procedure if the student fails the final examination and thereby fails the course; and

(e) a list of the titles, authors and publishers of each required textbook.

(2) To certify a prelicensing course for distance education, a person shall, no later than 60 days before the date on which the course is proposed to begin, provide the following to the division:

(a) each item listed in this Subsection (1);

(b) description of each method of course delivery;

(c) description of any media to be used;

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

(e) description of specific and regularly scheduled interactive events included in the course and appropriate to the delivery method that will contribute to the students' achievement of the stated learning objectives;

(f) description of how the students' achievement of the stated learning objectives will be measured at regular intervals;

(g) description of how and when certified prelicensing instructors will be available to answer student questions;

(h) attestation from the school director of the availability and adequacy of the equipment, software, and other technologies needed to achieve the course's instructional claims; and

(i) a description of the complaint process to resolve student grievances.

(3) As a minimum standard each prelicensing course shall:

(a) address each topic required by the course outline as approved by the commission;

(b) meet the minimum hourly requirement as established by Subsection 61-2f-203(1)(d)(i) and this rule;

(c) limit the credit that students may earn to no more than eight credit hours per day;

(d) be taught in an appropriate classroom facility unless approved for distance education;

(e) allow a maximum of 10% of the required class time for testing, including:

(i) practice tests; and

(ii) a final examination;

(f) use only texts, workbooks, and supplemental materials that are appropriate and current in their application to the required course outline; and

(g) reflect the current statutes and rules of the division.

(4) A prelicensing course certification expires at the same time as the school certification and is renewed automatically when the school certification is renewed.

(5) This section applies to a prelicensing course for a property manager license as it applies to a prelicensing course for a sales agent or broker license, except that the course shall address the content required by Subsection R162-2i-206(1)(c) and shall meet the hourly requirement of Subsection 61-2f-203(1)(d)(iv).

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

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

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

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

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

(b) name and contact information of the entity that will provide the course;

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

(d) course title;

(e) number of credit hours;

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

(i) knowledge;

(ii) professionalism; and

(iii) ability to protect and serve the public;

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

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

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

(j) copies of materials to be distributed to participants;

(k) signed statement in which the course provider and each instructor:

(i) agree not to market personal sales products;

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

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

(A) course name;

(B) course certificate number assigned by the division;

(C) dates the course was taught;

(D) number of credit hours; and

(E) names and license numbers of each student receiving continuing education credit;

(l) procedure for preregistration;

(m) tuition or registration fee;

(n) cancellation and refund policy;

(o) procedure for taking and maintaining control of attendance during class time;

(p) sample of the completion certificate;

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

(r) any other information the division requires.

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

(a) comply with Subsection (2);

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

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

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

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

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

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

(a) comply with Subsection (2);

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

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

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

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

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

(5)(a) Traditional continuing education courses shall be taught in an appropriate classroom facility and not in a private residence.

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

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

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

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

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

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

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

(d) The minimum length of a course shall be one credit hour.

(e) The procedure for taking attendance shall be more extensive than having the student sign a class roll.

(f) The completion certificate shall include the following information:

(i) licensee's name;

(ii) type of license;

(iii) license number;

(iv) date of course;

(v) name of the course provider;

(vi) course title;

(vii) number of credit hours awarded;

(viii) course certification number;

(ix) course certification expiration date;

(x) signature of the course sponsor; and

(xi) signature of the licensee.

(6) Certification procedures.

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

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

(c) Core topics include the following:

(i) state-approved forms and contracts;

(ii) other industry used forms or contracts;

(iii) ethics;

(iv) agency, agency agreements, and fiduciary duties;

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

(vi) environmental hazards;

(vii) property management;

(viii) prevention of real estate and mortgage fraud, including wire fraud;

(ix) federal and state real estate laws;

(x) fair housing, diversity, identifying bias, promoting equity, and inclusion;

(xi) division administrative rules;

(xii) broker trust accounts;

(xiii) water law, rights and transfer; and

(xiv) multiple offers.

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

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

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

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

(e) Elective topics include the following:

(i) real estate financing, including mortgages and other financing techniques;

(ii) real estate investments;

(iii) real estate market measures and evaluation;

(iv) real estate appraising;

(v) market analysis;

(vi) measurement of homes or buildings;

(vii) accounting and taxation as applied to real property;

(viii) estate building and portfolio management for clients;

(ix) settlement statements;

(x) real estate mathematics;
(xi) real estate law;
(xii) contract law;
(xiii) agency and sub-agency;
(xiv) real estate securities and syndications;
(xv) regulation and management of timeshares, condominiums, and cooperatives;
(xvi) resort and recreational properties;
(xvii) farm and ranch properties;
(xviii) real property exchanging;
(xix) legislative issues that influence real estate practice;
(xx) real estate license law;
(xxi) division administrative rules;
(xxii) land development;
(xxiii) land use;
(xxiv) planning and zoning;
(xxv) construction;
(xxvi) energy conservation in buildings;
(xxvii) water rights;
(xxviii) landlord-tenant relationships;
(xxix) property disclosure forms;
(xxx) Americans with Disabilities Act;
(xxxi) affirmative marketing;
(xxxii) commercial real estate;
(xxxiii) tenancy in common;
(xxxiv) professional development;
(xxxv) business success;
(xxxvi) customer relation skills;
(xxxvii) sales promotion, including:
(A) salesmanship;
(B) negotiation;
(C) sales psychology;
(D) marketing techniques related to real estate knowledge;
(E) servicing clients; and
(F) communication skills;
(xxxviii) personal and property protection for licensees and their clients;
(xxxix) any topic that focuses on real estate concepts, principles, or industry practices or procedures, if the topic enhances licensee professional skills and thereby advances public protection and safety;
(xl) any other topic that directly relates to the real estate brokerage practice and directly contributes to the objective of continuing education; and
(xli) technology courses that utilize the majority of the time instructing students how the technology:
(A) directly benefits the consumer; or
(B) enables the licensee to be more proficient in performing the licensee's agency responsibilities.
(f) Mandatory Courses include the following:
(i) the Mandatory Residential Course;
(ii) the Mandatory Property Management Course; or
(iii) the Mandatory Commercial Course.
(g) Unacceptable topics include the following:
(i) offerings in mechanical office and business skills, including:
(A) typing;
(B) speed reading;
(C) memory improvement;
(D) language report writing;
(E) advertising; and
(F) technology courses with a principal focus on technology operation, software design, or software use;
(ii) physical well-being, including:
(A) personal motivation;
(B) stress management; and
(C) dress-for-success;
(iii) meetings held in conjunction with the general business of the licensee and the licensee's broker, employer, or trade organization, including:
(A) sales meetings;
(B) in-house staff meetings or training meetings; and

(C) member orientations for professional organizations;

(iv) courses in wealth creation or retirement planning for licensees; and

(v) courses that are specifically designed for exam preparation.

(g) If an application for certification of a continuing education course is denied by the division, the person making application may appeal to the commission.

(h) A course offered to satisfy the continuing education requirement of a property manager license shall be drawn from the topics listed in Subsection R162-2i-206(5). A course certified under Subsection R162-2i-206(5) may also be taken by a sales agent, associate broker, or principal broker to satisfy a continuing education requirement under Section R162-2f-204.

(7)(a) A continuing education course certification expires 24 months after the date of issuance and must be renewed before the expiration date to remain active.

(b) To renew a continuing education course certification, an applicant shall:

(i) complete a renewal application as provided by the division; and

(ii) pay a nonrefundable renewal fee.

(c) To reinstate an expired continuing education course certification within 30 days following the expiration date, a person shall:

(i) comply with the requirements for a timely renewal; and

(ii) pay a nonrefundable late fee.

(d) To reinstate an expired continuing education course certification after 30 days and within six months following the expiration date, a person shall:

(i) comply with the requirements for a timely renewal; and

(ii) pay a nonrefundable reinstatement fee.

(e) A certification that is expired for more than six months may not be reinstated. To obtain a certification, a person must apply as a new applicant.

(f) If a deadline specified in this section falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

R162-2f-207. Reporting a Change of Information.

(1) Individual notification requirements.

(a) An individual licensed as a sales agent, associate broker, or principal broker shall report the following to the division:

(i) a change in licensee's name; and

(ii) a change in licensee's business, home, email, or mailing address.

(b) In addition to complying with Subsection (1)(a):

(i) an individual licensed as a sales agent or associate broker shall report to the division a change in affiliation with a principal broker; and

(ii) an individual licensed as a principal broker shall report to the division:

(A) the termination of a sales agent, associate broker, or branch broker, if the change is not reported pursuant to Subsection (1)(b)(i);

(B) a change in assignment of branch broker; and

(C) the termination of the principal broker's affiliation with an entity.

(2) A registered entity shall report the following to the division:

(a) a change in entity's name;

(b) a change in entity's affiliation with a principal broker;

(c) a change in corporate structure;

(d) the dissolution of incorporation; and

(e) a change of location where brokerage records are kept.

(3) Notification procedures.

(a) To report a change in name, a person shall submit to the division a change form and:

(i) if the person is an individual, attach to it official documentation such as a:

(A) marriage certificate;

(B) divorce decree;

(C) court order; or

(D) driver license; and

(ii) if the person is an entity:

(A) obtain prior approval from the division of the new entity name; and

(B) attach to the change form proof that the new name as approved by the division pursuant to Subsection (3)(a)(ii)(A) is registered with, and approved by, the Division of Corporations.

(b) To report a change in address, a person shall enter the change into [~~RELMS~~]the online license management system.

(c) Affiliation.

(i) To terminate an affiliation between an individual and a principal broker, a person shall submit a change form through [~~RELMS~~]the online license management system to inactivate or transfer the individual's license; and

(A)(I) obtain the electronic affirmation of the other party to the terminated affiliation; or

(II) comply with Subsection (4); and

(B) if a sales agent, associate broker, or branch broker simultaneously establishes an affiliation with a new principal broker, obtain the electronic affirmation of the new principal broker on a change form.

(ii) To terminate an affiliation between a principal broker and an entity:

(A) the principal broker shall submit a change form to the division to inactivate or transfer the principal broker's license; and

(B) if the entity does not simultaneously affiliate with a new principal broker, the entity shall:

(I) cease operations;

(II) submit to the division a company or branch change form to inactivate the entity registration;

(III) submit change forms through [~~RELMS~~]the online license management system to inactivate the license of any licensee affiliated with the entity;

(IV) advise the division as to the location where records will be stored;

(V) notify each listing and management client that the entity is no longer in business and that the client may enter into a new listing or management agreement with a different brokerage;

(VI) notify each party and cooperating broker to any existing contracts; and

(VII) retain money held in trust under the control of a signer on the trust account, or an administrator or executor, until each party to every transaction agrees in writing to the disposition or until a court of competent jurisdiction issues an order relative to the disposition.

(iii) To change an assignment of branch broker, a principal broker shall submit a change form to the division.

(d) Corporate structure.

(i) To report a change in corporate structure of a registered entity, the affiliated principal broker shall:

(A) if the change does not involve a new business license, or a new registration with the Utah Division of Corporations and Commercial Code, submit a letter to the division, fully explaining the change; and

(B) if the change involves a new business license or a new registration with the Utah Division of Corporations and Commercial Code for a purpose other than a company name change, obtain a new registration.

(ii) To report the dissolution of an entity registered with the division, a person shall comply with Subsection (3)(c)(ii)(B).

(e) To report a change in the location where brokerage records are kept, the principal broker of the registered entity shall submit to the division a letter on brokerage letterhead.

(4) If an individual is unavailable to sign or electronically affirm a change form, the person responsible to report the change may do so by:

(a) sending a letter by certified mail to the last known address of the individual to notify that individual of the change and, as applicable:

(i) entering the certified mail reference number into the appropriate field on the electronic change form; or

(ii) providing to the division a copy of the certified mail receipt; or

(b) sending an email to notify the individual.

The division may not bring an action for enforcement of this subsection after the expiration of four years following the occurrence of the violation.

(5) The termination of affiliation by sending an email is effective 10 days after the date that the email was sent.

(6) The division may require a notification submitted pursuant to this section to be accompanied by a nonrefundable change fee.

(7) Deadlines.

(a) A change in affiliation shall be reported to the division before the change is made.

(b) A change in branch manager shall be reported to the division when the change is made.

(c) Any other change shall be reported to the division within ten business days of the change taking effect.

(d) As to a change that requires submission of a paper form or document, if the deadline specified in this Section R162-2f-207 falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

(8) A change reported in compliance with this section becomes effective with the division the day on which the properly executed change form is received by the division.

R162-2f-401a. Affirmative Duties Required of Licensed Individuals.

An individual licensee engaged in residential property management shall comply with Rule R162-2i as to that conduct. An individual licensee shall:

(1) uphold the following fiduciary duties in the course of representing a principal:

(a) loyalty, which obligates the agent to place the best interests of the principal above any other interest, including the agent's own;

(b) obedience, which obligates the agent to obey any lawful instructions from the principal;

(c) full disclosure, which obligates the agent to inform the principal of any material fact the agent learns about:

(i) the other party; or

(ii) the transaction;

(d) confidentiality, which prohibits the agent from disclosing, without permission, any information given to the agent by the principal that would likely weaken the principal's bargaining position if it were known, but excepting any known material fact concerning:

(i) a defect in the property; or

(ii) the client's ability to perform on the contract;

(e) reasonable care and diligence;

(f) holding safe and accounting for any money or property entrusted to the agent; and

(g) any additional duties created by the agency agreement;

(2) define the scope of the individual's agency by executing[~~-execute~~] a written agency agreement between the individual and the individual's principal, including:

(a) sellers the individual represents;

(b) buyers the individual represents;

(c) buyers and sellers the individual represents as a limited agent in the same transaction pursuant to Subsection (4);[

~~(d) the owner of a property for which the individual will provide property management services; and~~

~~(e) a tenant whom the individual represents;~~]

(d) the owner of a property for which the individual will provide property management services other than residential property management; and

(e) a tenant whom the individual represents in a lease of real estate that is not a residential rental unit;

(3) if representing both principals in a transaction as a limited agent, obtain prior informed consent by:

(a) clearly explaining in writing to both parties:

(i) that each may be represented by a separate agent;

(ii) the type of information that will be held confidential;

(iii) the type of information that will be disclosed; and

(iv) the circumstances under which the withholding of information would constitute a material misrepresentation regarding the property or regarding the abilities of the parties to fulfill their obligations;

(b) obtaining a written acknowledgment from each party affirming that the party waives the right to:

(i) undivided loyalty;

(ii) absolute confidentiality; and

(iii) full disclosure from the licensee; and

(c) obtaining a written acknowledgment from each party affirming that the party understands that the licensee will act in a neutral capacity to advance the interests of each party;

(4) when acting under a limited agency agreement:

(a) act as a neutral third party; and

(b) uphold the following fiduciary duties to both parties:

(i) obedience, which obligates the limited agent to obey any lawful instructions from the parties, consistent with the agent's duty of neutrality;

(ii) reasonable care and diligence;

(iii) holding safe any money or property entrusted to the limited agent; and

(iv) any additional duties created by the agency agreement;

(5) when making an offer or solicitation to buy, sell, lease or rent real property as a principal, either directly or indirectly, or as an agent for a client, a licensee shall disclose in the initial contact with the other party the fact that the licensee holds a license with the division, whether the license status is active or inactive;

(6) Except as provided in Section R162-2i-401f, before the execution of a binding purchase or lease agreement, disclose in writing to clients, agents for other parties, and unrepresented parties:

(a) the licensee's position as a principal in any transaction where the licensee operates either directly or indirectly to buy, sell, lease, or rent real property;

(b) the fact that the licensee holds a license with the division, whether the license status is active or inactive, in any circumstance where the licensee is a principal in an agreement to buy, sell, lease, or rent real property;

(c) the licensee's agency relationships; and

(d)(i) the existence or possible existence of a due-on-sale clause in an underlying encumbrance on real property; and

(ii) the potential consequences of selling or purchasing a property without obtaining the authorization of the holder of an underlying encumbrance;

(7) before offering any property for sale or lease, make reasonable efforts to verify the accuracy and content of the information and data to be used in the marketing of the property;

(8) before offering a residential property for sale, disclose the source on which the licensee relies for any square footage data that will be used in the marketing of the property:

(a) in the written agreement, executed with the seller, through which the licensee acquires the right to offer the property for sale; and

(b) in a written disclosure provided to the buyer, at the licensee's direction, at or before the deadline for the seller's disclosure per the contract for sale;

(9) upon initial contact with another agent in a transaction, disclose the agency relationship between the licensee and the client;

(10) when executing a binding agreement in a sales transaction, confirm the prior agency disclosure:

(a) in the currently approved Real Estate Purchase Contract; or

(b) in a separate provision with substantially similar language incorporated in or attached to the binding agreement;

(11) when executing a lease or rental agreement for real estate that is not a residential rental unit, confirm the prior agency disclosure by:

(a) incorporating it into the agreement; or

(b) attaching it as a separate document;

(12) if the licensee desires to act as a sub-agent for showing property owned by a seller who is under contract with another brokerage, before showing the seller's property:

(a) notify the listing brokerage that sub-agency is requested; and

(b) enter into a written agreement with the listing brokerage with which the seller has contracted:

(i) consenting to the sub-agency; and

(ii) defining the scope of the agency;

(c) obtain from the listing brokerage any available information about the property; and

(d) uphold the same fiduciary duties outlined in Subsection (1);

(13) provide copies of a lease or purchase agreement, properly signed by each party, to the party for whom the licensee acts as an agent;

(14)(a) in identifying the seller's brokerage in paragraph 5 of the approved Real Estate Purchase Contract, use:

(i) the principal broker's individual name; or

(ii) the principal broker's brokerage name; and

(b) personally fulfill the licensee's agency relationship with the client, notwithstanding the information used to complete paragraph 5;

(15) timely inform the licensee's principal broker or branch broker of real estate transactions in which:

(a) the licensee is involved as agent or principal;

(b) the licensee has received funds on behalf of the principal broker; or

(c) an offer has been written;

(16)(a) disclose in writing to each party to a transaction any compensation in addition to any real estate commission that will be received in connection with a real estate transaction; and

(b) ensure that any such compensation is paid to the licensee's principal broker;

(17)(a) in negotiating and closing a transaction, a licensee may fill out those legal forms as provided for in Section 61-2f-306;

(18) use an approved addendum form to make a counteroffer or any other modification to a contract;

(19) before signing or initialing a document on behalf of a principal in a sales transaction:

(a) obtain prior written authorization in the form of a power of attorney executed by the principal;

(b) retain in the file for the transaction a copy of said power of attorney;

(c) attach said power of attorney to any document signed or initialed by the individual on behalf of the principal;

(d) sign as follows: "(Principal's Name) by (Licensee's Name), Attorney-in-Fact;" and

(e) initial as follows: "(Principal's Initials) by (Licensee's Name), Attorney-in-Fact for (Principal's Name);"

(20) before signing or initialing a document on behalf of a principal in a property management transaction that is not residential property management:

(a) obtain prior written authorization executed by the principal which specifically identifies the actions that are authorized to be taken on behalf of the principal;

(b) retain in the file for the transaction a copy of the written authorization;

(c) sign as follows: "by (Licensee's Name), on behalf of Owner;" and

(d) initial as follows: "by (Licensee's initials), on behalf of Owner;"

(21) if employing an unlicensed individual to provide assistance in connection with real estate transactions, adhere to Section R162-2f-401g, or, in connection with residential property management, Section R162-2i-401g;

(22) strictly adhere to advertising restrictions as outlined in Section R162-2f-401h;

(23) as to a guaranteed sales agreement, provide full disclosure regarding the guarantee by executing a written contract that contains:

(a) the conditions and other terms under which the property is guaranteed to be sold or purchased;

(b) the charges or other costs for the service or plan;

(c) the price for which the property will be sold or purchased; and

(d) the approximate net proceeds the seller may reasonably expect to receive;

(24) immediately deliver money received in a real estate transaction to the principal broker for deposit; and

(25) as contemplated by Subsection 61-2f-401(18), when notified by the division that information or documents are required for investigation purposes, respond with the required information or documents in full and within ten business days. The division may not bring an action for enforcement of this subsection after the expiration of four years following the occurrence of the violation.

R162-2f-401b. Prohibited Conduct As Applicable to Licensed Individuals.

(1) An individual licensee may not:

(a) engage in any of the practices described in Section 61-2f-401 and the following sections, whether acting as agent or on the licensee's own account, in a manner that:

(i) fails to conform with accepted standards of the real estate sales, leasing, or management industries;

(ii) could jeopardize the public health, safety, or welfare; or

(iii) violates [~~any provision of~~]Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or [~~the rules of~~]this [~~chapter~~]rule;

(b) require parties to acknowledge receipt of a final copy of any document prepared by the licensee before each party has signed a contract evidencing agreement to the contract terms;

(c) make a misrepresentation to the division:

(i) in an application for license renewal; or

(ii) in an investigation.

(d)(i) propose, prepare, or cause to be prepared a document, agreement, settlement statement, or other device that the licensee knows or should know does not reflect the true terms of the transaction; or

(ii) knowingly participate in a transaction in which such a false device is used;

(e) participate in a transaction in which a buyer enters into an agreement that:

(i) is not disclosed to the lender; and

(ii) if disclosed, might have a material effect on the terms or the granting of the loan;

(f) use or propose the use of a double contract;

(g) place a sign on real property without the written consent of the property owner;

(h) take a net listing;

(j) sell listed properties other than through the listing broker;

(j) subject a principal to paying a double commission without the principal's informed consent;

(k) enter or attempt to enter into a concurrent agency representation when the licensee knows or should know that the principal has an existing agency representation agreement with another licensee;

(l) pay a finder's fee or give any valuable consideration to an unlicensed person or entity for referring a prospect, except that:

(i) a licensee may give a gift valued at $250 or less to an individual in appreciation for an unsolicited referral of a prospect that results in a real estate transaction;[~~ and~~

~~(ii) as to a property management transaction, a licensee may compensate an unlicensed employee or previous or current tenant up to $250 per lease for assistance in retaining an existing tenant or securing a new tenant;~~] (ii) a payment in connection with residential property management is governed by Section R162-2i-401i; and

(iii) as to a property management transaction that is not residential property management, a licensee may compensate an unlicensed employee or a previous or current tenant up to $250 per lease for assistance in retaining an existing tenant or securing a new tenant;

(m) accept a referral fee from:

(i) a lender; or

(ii) a mortgage broker;

(n) act as a real estate agent or broker in the same transaction in which the licensee also acts as a:

(i) mortgage loan originator, associate lending manager, or principal lending manager;

(ii) appraiser or appraiser trainee;

(iii) escrow agent; or

(iv) provider of title services;

(o) act or attempt to act as a limited agent in any transaction in which:

(i) the licensee is a principal in the transaction; or

(ii) any entity in which the licensee is an officer, director, partner, member, manager, employee, or stockholder is a principal in the transaction;

(p) make a counteroffer by striking out, whiting out, substituting new language, or otherwise altering:

(i) the boilerplate provisions of the Real Estate Purchase Contract; or

(ii) language that has been inserted to complete the blanks of the Real Estate Purchase Contract;

(q) advertise or offer to sell or lease property without the written consent of:

(i) the owners of the property; and

(ii) if the property is currently listed, the listing broker;

(r) advertise or offer to sell or lease property at a lower price than that listed without the written consent of the seller or lessor;

(s) represent on any form or contract that the individual is holding client funds without actually receiving funds and securing them pursuant to Subsection R162-2f-401a(24);

(t) when acting as a limited agent, disclose any information given to the agent by either principal that would likely weaken that party's bargaining position if it were known, unless the licensee has permission from the principal to disclose the information;

(u) disclose, or make any use of, a short sale demand letter outside of the purchase transaction for which it is issued;

(v) in a short sale, have the seller sign a document allowing the licensee to lien the property; or

(w) charge any fee that represents the difference between:

(i) the total concessions authorized by a seller and the actual amount of the buyer's closing costs; or

(ii) in a short sale, the sale price approved by the lender and the total amount required to clear encumbrances on title and close the transaction.

[~~(2) The division may not bring an action for enforcement of either Subsection (1)(g) or Subsection (1)(q) after the expiration of four years following the occurrence of the violation.~~](2) An individual licensee engaged in residential property management is subject to Section R162-2i-401b as to that conduct.

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

(1) A principal broker shall:

(a) strictly comply with the record retention and maintenance requirements of [~~Section R162-2f-401k~~]Section 61-2f-309;

(b) provide to the person whom the principal broker represents in a real estate transaction:

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

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

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

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

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

(A) the principal broker;

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

(C) the sales agent who is:

(I) affiliated with the principal broker; and

(II) representing the principal in the transaction; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) another authorized escrow entity; and

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

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

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

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

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

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

(I) names the seller as payee; and

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

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

(ii) be personally responsible for deposits held in the principal broker's trust account;

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

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

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

(I) trust account deposit records; and

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

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

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

(A) in separate files; or

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

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

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

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

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

(2) A branch broker shall:

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

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

(3) Active and reasonable supervision includes:

(a) the establishment of:

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

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

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

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

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

(D) the handling of trust funds;

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

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

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

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

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

(b) being reasonably available to the public to discuss or resolve complaints and disputes that may arise during a real estate transaction involving the broker or affiliated licensee;

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

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

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

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

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

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

(a) the supervising broker had in place when the violation occurred, specific written policies or instructions to prevent such a violation;

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

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

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

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

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

(7) A principal broker whose brokerage engages in residential property management shall, as to that activity, comply with Section R162-2i-401c in addition to this section.

R162-2f-401g. Use of [~~Personal~~]Unlicensed Assistants.

To employ an unlicensed individual to provide assistance in connection with a real estate transaction that is not residential property management, an individual licensee shall:

(1) obtain the permission of the licensee's principal broker before employing the individual;

(2) supervise the assistant to ensure that the duties of an unlicensed assistant are limited to those that do not require a real estate license, including the following:

(a) performing clerical duties, including making appointments for prospects to meet with real estate licensees, but only if the contact is initiated by the prospect and not by the unlicensed assistant;

(b) at an open house, distributing preprinted literature written by a licensee, where a licensee is present and the unlicensed person provides no additional information concerning the property or financing, and does not become involved in negotiating, offering, selling or completing contracts;

(c) acting only as a courier service in delivering documents, picking up keys, or similar services, so long as the courier does not engage in any discussion or completion of forms or documents;

(d) placing brokerage signs on listed properties;

(e) having keys made for listed properties; and

(f) securing public records from a county recorder's office, zoning office, sewer district, water district, or similar entity;

(3) compensate a personal assistant at a predetermined rate that is not:

(a) contingent upon the occurrence of real estate transactions; or

(b) determined through commission sharing or fee splitting; and

(4) prohibit the assistant from engaging in telephone solicitation or other activity calculated to result in securing prospects for real estate transactions, except as provided in Subsection (2)(a).

(5) Employment of an unlicensed individual to provide assistance in connection with residential property management is governed by Section R162-2i-401g.

(6)(a) An unlicensed individual employed by a real estate brokerage or a property management company may perform, in connection with property management that is not residential property management, the support services described in Subsection R162-2i-401g(2), subject to the restrictions in Subsection R162-2i-401g(3).

(b) For purposes of Subsection (6)(a), a reference in Subsection R162-2i-401g(2) or (3) to a residential rental unit, to a unit, or to a renter means, respectively, the real estate that is managed and a tenant or prospective tenant of that real estate.

R162-2f-401h. Requirements and Restrictions in Advertising.

(1) Except as provided in Section R162-2i-401f, except as provided for in Subsections (2) and (3), a licensee shall not advertise or permit any person employed by or affiliated with the licensee to advertise real estate services or property in any medium without clearly and conspicuously identifying in the advertisement the name of the brokerage with which the licensee is affiliated. The division may not bring an action for enforcement of this subsection after the expiration of four years following the occurrence of the violation.

(2) When it is not reasonable for a licensee to identify the name of the brokerage in an electronic advertisement, the licensee shall ensure the electronic advertisement directly links to a display that clearly and conspicuously identifies the name of the brokerage.

(3) A licensee is not required to identify the name of the brokerage with which the licensee is affiliated, or the property management company for which the licensee works, if:

(a) the licensee advertises a property not currently listed with the brokerage with which the licensee is affiliated or the property management company for which the licensee works;

(b) the licensee has an ownership interest in the property; and

(c) the advertisement identifies the name of the individual licensee as "owner-agent", [~~or~~]"owner-broker[~~,~~]", or "owner-property manager."

(4) Advertising of a residential rental unit for rent is governed by Section R162-2i-401f, and Subsections (1) through (3) of this section do not apply to that advertising.

([4]5) The name of the brokerage identified by a licensee in an advertisement shall be the name of the brokerage as shown on division records.

([~~5~~]6) A team, group, or other marketing entity which includes one or more licensees shall be subject to the same requirements and restrictions with regard to advertising as is an individual licensee.

([~~6~~]7)(a) If a licensee advertises a guaranteed sales plan, the advertisement shall include, in a clear and conspicuous manner:

(i) a statement that costs and conditions may apply; and

(ii) information about how to contact the licensee offering the guarantee so as to obtain the disclosures required under Subsection R162-2f-401a(23).

(b) Any radio or television advertisement of a guaranteed sales plan shall include a conspicuous statement advising if any conditions and limitations apply.

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

(1) This section applies to property management that is not residential property management, including property management of the portion of a property that is not a residential rental unit. Residential property management is governed by Rule R162-2i.

[~~(1)~~](2) Property management performed by a real estate brokerage, or by licensees or unlicensed assistants affiliated with the brokerage, shall be done under the name of the brokerage as registered with the division unless the principal broker holds a dual broker license and obtains a separate registration pursuant to Section R162-2f-205 for a separate business name.

[~~(2)~~](3) In addition to fulfilling each duty related to supervision per Subsection 61-2f-401([~~12~~]13), the principal broker of a registered entity, and the branch broker of a registered branch, shall implement training to ensure that each sales agent, associate broker, property manager, and unlicensed employee who is affiliated with the licensee has the knowledge and skills necessary to perform assigned property management tasks within the boundaries of this rule, including Section R162-2f-401g[~~, including Subsection R162-2f-401j(3)~~].

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

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

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

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

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

~~(e) serving or receiving legal notices;~~

~~(f) addressing tenant or neighbor complaints; and~~

~~(g) inspecting units.~~]

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

R162-2f-401k. [~~Recordkeeping Requirements~~]Reserved.

[~~A principal broker shall:~~

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

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

~~(b) any document submitted by a licensee affiliated with the principal broker to a lender or underwriter as part of a real estate transaction;~~
~~(c) any document signed by a seller or buyer with whom the principal broker or an affiliated licensee is required to have an agency agreement; and~~
~~(d) any document created or executed by a licensee over whom the principal broker has supervisory responsibility pursuant to Subsection R162-2f-401c(1)(c);~~
~~(2) maintain the records identified in Subsection R162-2f-401k(1):~~
~~(a)(i) physically:~~
~~(A) at the principal business location designated by the principal broker on division records; or~~
~~(B) where applicable, at a branch office as designated by the principal broker on division records; or~~
~~(ii) electronically, in a storage system that complies with Title 46 Chapter 04, Utah Uniform Electronic Transactions Act; and~~
~~(b) for at least three calendar years following the year in which:~~
~~(i) an offer is rejected;~~
~~(ii) the transaction either closes or fails; or~~
~~(iii) in a lease transaction, the termination of the lease agreement;~~
~~(3) upon request of the division, make any record identified in Subsection (1) available for inspection and copying by the division;~~
~~(4) notify the division in writing within ten business days after terminating business operations as to where business records will be maintained; and~~
~~(5) upon filing for brokerage bankruptcy, notify the division in writing of:~~
~~(a) the filing; and~~
~~(b) the current location of brokerage records.~~]
Reserved.

R162-2f-403a. Trust Accounts - Real Estate Company.

(1) The principal broker of a real estate company shall:

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

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

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

(i) the account number;

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

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

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

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

(b) the parties to the transaction designate in writing the person to whom the interest will be paid upon completion or failure of the sale[~~:~~].

[~~(c) the person designated under Subsection (2)(b):~~
~~(i) qualifies at the time of payment as a non-profit organization under Section 501(c)(3) of the Internal Revenue Code; and~~
~~(ii) operates exclusively to provide grants to affordable housing programs in Utah; and~~
~~(d) the affordable housing program that is the recipient of the grant under Subsection (2)(c)(ii) qualifies at the time of payment as a non-profit organization under Section 501(c)(3) of the Internal Revenue Code.~~]

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

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

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

(b) identification of payee and payor;

(c) amount of deposit;

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

(e) date and place of deposit.

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

(a) the business name of the registered entity;

(b) the address of the registered entity;

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

(i) account name; and

(ii) account number;

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

(iv) date of disbursement;

(v) clear identification of payee and payor;

(vi) amount disbursed;

(vii) notation identifying the purpose for disbursement; and

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

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

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

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

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

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

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

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

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

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

(9) If a principal broker [~~is unable to~~]cannot disburse trust funds within three years after the failure of a transaction, the principal broker shall remit the funds to the State Treasurer's Office as unclaimed property pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act .

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

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

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

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

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

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

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

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

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

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

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

(12) A real estate trust account shall be used [~~for the purpose of securing~~]to secure client funds:

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

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

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

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

(a) the principal broker:

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

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

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

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

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

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

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

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

(b) closing or otherwise terminating the transaction;

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

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

(e) making a record of each disbursement; and

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

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

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

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

(c) this section; or

(d) court order.

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

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

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

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

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

(20) A trust account does not fail to comply with Subsection (1)(a)(i) because the bank or credit union at which the account is held places funds deposited in the account with one or more other federally insured depository institutions, through a deposit placement or sweep arrangement, to increase the deposit insurance available to the funds, if:

(a) the licensee deposits all client funds into, and disburses all client funds from, the trust account;

(b) the records of the bank or credit union at which the trust account is held identify the funds as held in trust for the licensee's clients;

(c) the licensee can obtain the full balance of the funds through the trust account; and

(d) the trust account complies with Subsection (2) as to any interest the funds earn.

(21) Subsection (1)(b) applies to the trust account described in Subsection (20) and not to an account at another depository institution in which funds are placed through an arrangement described in Subsection (20).

R162-2f-403b. Trust Accounts - Property Management Company.

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

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

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

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

(i) the account number;

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

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

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

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

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

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

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

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

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

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

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

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

(b) identification of payee and payor;

(c) amount of deposit;

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

(e) date and place of deposit.

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

(a) the business name of the registered entity;

(b) the address of the registered entity;

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

(i) account name;

(ii) account number;

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

(iv) date of disbursement;

(v) clear identification of payee and payor;

(vi) amount disbursed;

(vii) notation identifying the purpose for disbursement; and

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

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

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

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

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

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

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

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

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

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

(9) If a principal broker [~~is unable to~~]cannot disburse trust funds within three years after the funds are due to be disbursed, the principal broker shall remit the funds to the State Treasurer's Office as unclaimed property pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

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

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

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

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

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

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

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

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

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

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

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

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

(a) tenant security deposits;

(b) rents;

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

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

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

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

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

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

(b) the principal broker:

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

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

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

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

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

(c) this section; or

(d) court order.

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

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

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

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

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

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

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

(17) This section governs a property management trust account maintained by a principal broker. Section R162-2i-403 governs the handling of client funds in residential property management and applies this section to a trust account maintained under that section. An amendment to this section applies to a trust account maintained under Section R162-2i-403 unless Section R162-2i-403 provides otherwise.

(18) A trust account does not fail to comply with Subsection (1)(a)(i) because the bank or credit union at which the account is held places funds deposited in the account with one or more other federally insured depository institutions, through a deposit placement or sweep arrangement, to increase the deposit insurance available to the funds, if:

(a) the licensee deposits all client funds into, and disburses all client funds from, the trust account;

(b) the records of the bank or credit union at which the trust account is held identify the funds as held in trust for the licensee's clients;

(c) the licensee can obtain the full balance of the funds through the trust account; and

(d) the trust account complies with Subsection (2) as to any interest the funds earn.

(19) Subsection (1)(b) applies to the trust account described in Subsection (18) and not to an account at another depository institution in which funds are placed through an arrangement described in Subsection (18).

KEY: real estate business, operational requirements, trust account records, notification requirements
Date of Last Change: 2026[~~August 16, 2023~~]
Notice of Continuation: February 5, 2025
Authorizing, and Implemented or Interpreted Law: 61-2f-103(1); 61-2f-105; 61-2f-203(1)(e); 61-2f-206(3); 61-2f-206(4)(a); 61-2f-306; 61-2f-307

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: New	**Filing ID: 58353**
Rule or section number:	**R162-2i**

1. Agency Information

Title catchline:	Commerce, Real Estate
Building:	Heber M Wells
Street address:	160 E 300 S
City, state:	Salt Lake City, UT
Mailing address:	PO Box 146711
City, state and zip:	Salt Lake City, UT 84114-6711

2. Contact Persons

Name:	Phone:	Email:
Justin Barney	801-530-6603	justinbarney@utah.gov
Tyler Huff	801-530-6284	tylerhuff@utah.gov

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

3. General Information

A. Rule or section catchline:

R162-2i. Residential Property Management Licensing and Practices Rule

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

The purpose of this new rule is to establish an administrative rule for the administration of Title 61, Chapter 2f, that is consistent with the chapter as it was amended with HB 337 during the 2025 General Session of the Utah Legislature, which established a new property manager license.

C. Summary of the new rule or change:

This rule establishes licensing and practice standards governing residential property management pursuant to Title 61, Chapter 2f.

This rule impacts the regulated public by establishing requirements to obtain and maintain a property manager license, including 24 hours of prelicensing education, an examination, criminal history and competency qualifications, and biennial renewals requiring mandatory property-management-specific continuing education.

It also requires property management companies to register with the Division of Real Estate (Division), designate a principal property manager, and maintain documented systems of active supervision over all personnel.

Functionally, licensees must execute written property management agreements before performing services, allow prospective renters at least 48 hours to review lease agreements prior to taking adverse action, adhere to specific advertising and review-solicitation restrictions, and retain denied rental applications for at least three calendar years.

Finally, this rule delineates permissible support services for unlicensed assistants, authorizes referral bonuses, and mandates monthly reconciliation and trust accounting procedures to safeguard client and tenant funds.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 1002 (2025 Special Session), HB 337 (2025 General Session), HB 377 (2026 General Session)

5. Fiscal Information

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

A. State budget:

The Division does not expect any costs or savings in the aggregate to the state budget due to this new rule.

If there are costs or savings that result from administering the new property manager license, these costs or savings result from the legislative action that created the property manager license, not from this rule. The legislature considered the costs and savings when it adopted the legislation identified in Section 4B of this rule analysis.

B. Local governments:

Local governments are not required to comply with or enforce the Residential Property Management Licensing and Practices Rule.

Because compliance and enforcement of this rule are not required of local governments, the proposed rule will not result in any cost or savings to local governments.

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

The Division does not expect any costs or savings in the aggregate to small businesses due to this new rule.

If there are costs or savings that result from administering the new property manager license, these costs or savings result from the legislative action that created the property manager license, not from this rule. The legislature considered the costs and savings when it adopted the legislation identified in Section 4B of this rule analysis.

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

The Division does not expect any costs or savings in the aggregate to non-small businesses due to this new rule.

If there are costs or savings that result from administering the new property manager license, these costs or savings result from the legislative action that created the property manager license, not from this rule. The legislature considered the costs and savings when it adopted the legislation identified in Section 4B of this rule analysis.

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

The Division does not expect any costs or savings in the aggregate to persons other than small businesses, non-small businesses, state, or local government entities due to this new rule.

If costs or savings result from administering the new property manager license, those costs or savings stem from the legislative action that created the license, not from this rule. The legislature considered the costs and savings when it adopted the legislation identified in Section 4B of this rule analysis.

F. Compliance costs for affected persons:

The Division has no way to estimate the number of persons who will choose to qualify for and become licensed as a property manager as authorized by the legislature beginning 01/01/2027.

However, the Division does not expect any compliance costs for these affected persons due to this new rule.

If any compliance costs result from obtaining a property manager license, those costs stem from the legislative action that created the license, not from this rule. The legislature considered the costs and savings when it adopted the legislation identified in Section 4B of this rule analysis.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Commerce, Margaret W. Busse, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Subsection 61-2f-103(2)(a)	Subsection 61-2f-204(d)(vi)	

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.

A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Leigh Veillette, Director, Division of Real Estate	**Date:**	10/26/2026

R162. Commerce, Real Estate.
R162-2i. Residential Property Management Licensing and Practices Rule.
R162-2i-101. Title and Authority.
(1) This rule is known as the "Residential Property Management Licensing and Practices Rule."
(2) This rule is made by the commission, with the concurrence of the division, under Subsection 61-2f-103(2)(a), and in particular Subsections 61-2f-103(2)(a)(i)(E), (ii)(D), (iii), (iv), (v), (vi), (vii), (viii), (ix), and (xii).
(3) This rule implements Sections 61-2f-201, 61-2f-202.5, 61-2f-203, 61-2f-204, 61-2f-206, 61-2f-302, 61-2f-309, 61-2f-401, 61-2f-404, and 61-2f-411.
(4) The authority to collect a fee is granted by Section 61-2f-105.

R162-2i-102. Definitions.
(1) A term used in this rule that is defined in Section 61-2f-102, and not otherwise defined in this rule, has the meaning given in Section 61-2f-102.
(2) "Active license" means a license granted to an applicant who:
(a) qualifies for licensure under Section 61-2f-203 and this rule;
(b) pays the applicable nonrefundable license fees; and
(c) complies with Section 61-2f-302 and Section R162-2i-302, if affiliation is required.
(3) "Client" means a property owner on whose behalf an individual performs residential property management.
(4) "Client funds" means money belonging to a client or to a tenant that comes into the possession or control of an individual engaged in residential property management, or of a property management company, and includes rent, a security deposit, prepaid rent, a reserve fund, and money tendered for the payment of an expense.
(5) "Inactive license" means a license issued or renewed under this rule that may not be used to conduct activity for which a license is required under Title 61, Chapter 2f, Real Estate Licensing and Practices Act.
(6) "Online license management system" means the system the division uses to gather, store, index, and retrieve information related to licensing, registration, and certification.
(7) "Residential property management" means property management, as defined in Subsection 61-2f-102(32), of one or more residential rental units.
(8) "Support services" means an activity described in Subsection R162-2i-401g(2).

R162-2i-103. Scope and Application.
(1) This rule governs:
(a) licensure as a property manager;
(b) designation of a principal property manager;
(c) registration of a property management company that engages in residential property management; and
(d) the conduct of an individual licensed, or required to be licensed, under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, while the individual is engaged in residential property management.
(2) Sections R162-2i-401a through R162-2i-403 apply to a principal broker, an associate broker, a sales agent, a dual broker, a property manager, and a principal property manager alike, according to the conduct in which the individual is engaged and without regard to the type of license the individual holds.
(3) Rule R162-2f governs:
(a) conduct in a transaction other than residential property management, including a sale, purchase, exchange, auction, or option, and including property management of real estate that is not a residential rental unit;
(b) licensure as a principal broker, associate broker, or sales agent; and
(c) certification and conduct of a school, course provider, a course, and an instructor, as applied by Section R162-2i-206.
(4) If a provision of this rule and a provision of Rule R162-2f each apply to the same conduct in residential property management, this rule governs.
(5) If a single property contains both one or more residential rental units and real estate that is not a residential rental unit, this rule governs a licensee's conduct as to the residential rental units, and Rule R162-2f governs the licensee's conduct as to the remainder of the property.

(6) This rule does not limit the authority of another state agency, including the authority of the Division of Consumer Protection under Title 13, Chapter 11, Utah Consumer Sales Practices Act.

(7) An individual licensed as a property manager may engage in residential property management only, as provided in Subsection 61-2f-201(4).

R162-2i-200. Exempt Individuals.

(1) For purposes of Subsection 61-2f-202.5(1), "owner or lessor" does not include a person described in Subsection 61-2f-202(1).

(2) For purposes of Subsection 61-2f-202.5(2), "immediate family member" means a property owner's parent, grandparent or grandchild, spouse, child or sibling, stepparent, stepchild, stepbrother, or stepsister.

(3) For purposes of Subsection 61-2f-202.5(3), an individual is an unlicensed remote assistant of a property manager only while the individual's activity is limited to an activity described in Subsection R162-2i-401g(2).

(4) For purposes of Subsection 61-2f-202(2)(a)(vi), "support services" performed by a regular salaried employee of a licensed property management company or real estate brokerage means an activity described in Subsection R162-2i-401g(2) whether or not the property management performed by the employer is residential property management.

R162-2i-201. Qualification for Licensure -- Property Manager.

(1) Under Subsection 61-2f-203(1), an applicant for a property manager license shall evidence honesty, integrity, truthfulness, reputation, and competency.

(2) An applicant may be denied a license, or issued a restricted license, for an incident in the applicant's past that reflects negatively on the applicant's honesty, integrity, truthfulness, reputation, or competency.

(3)(a) In evaluating an applicant for honesty, integrity, truthfulness, and reputation, the division and commission may consider:

(i) a criminal conviction, with particular consideration given to:

(A) a felony conviction occurring within the five years preceding the date of application;

(B) a jail or prison term resulting from a felony conviction, with a release date falling within the five years preceding the date of application;

(C) a conviction of a class A or class B misdemeanor, or similar offense, involving fraud, misrepresentation, theft, or dishonesty, occurring within the three years preceding the date of application; or

(D) a jail term resulting from a conviction of a class A or class B misdemeanor, or similar offense, involving fraud, misrepresentation, theft, or dishonesty, with a release date falling within the three years preceding the date of application;

(ii) a plea agreement;

(iii) a past act related to honesty or truthfulness, with particular consideration given to an act involving the business of real estate or property management, that would be grounds under Utah law for sanctioning an existing license;

(iv) a civil judgment in a lawsuit brought on grounds of fraud, misrepresentation, or deceit;

(v) a court finding of fraudulent or deceitful activity;

(vi) evidence of noncompliance with a court order or a condition of sentencing; and

(vii) evidence of noncompliance with:

(A) the terms of a diversion agreement not yet closed and dismissed;

(B) a probation agreement; or

(C) a plea in abeyance.

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

(ii) For purposes of this rule, a crime that contains an element of violence or physical coercion is: assault, including domestic violence; rape; sex abuse of a child; sodomy on a child; battery; interruption of a communication device; vandalism; robbery; criminal trespass; breaking and entering; kidnapping; sexual solicitation or enticement; manslaughter; and homicide.

(iii) The commission shall review information and documents submitted under this Subsection (3) and may exercise discretion in determining whether the applicant qualifies for licensure.

(4) In evaluating an applicant for competency, the division and commission may consider evidence including:

(a) a civil judgment, with particular consideration given to a judgment involving the business of real estate or property management;

(b) failure to satisfy a civil judgment that has not been discharged in bankruptcy;

(c) suspension or revocation of a professional license;

(d) a sanction placed on a professional license;

(e) an investigation conducted by a regulatory agency;

(f) a finding by a court or an administrative tribunal of noncompliance with Title 57, Chapter 21, Utah Fair Housing Act, the fair housing laws of another state, or federal fair housing laws; and

(g) a finding by a court of noncompliance with Title 57, Chapter 22, Utah Fit Premises Act.

(5) An applicant shall be at least 18 years of age.

(6) There is no minimum general education requirement for licensure as a property manager. An applicant shall complete the prelicensing education required by Section R162-2i-206 unless the applicant qualifies for a waiver or an exemption under Section R162-2i-202.

R162-2i-202. Property Manager Licensing Fees and Procedures.

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

(a) evidence honesty, integrity, truthfulness, reputation, and competency under Section R162-2i-201;

(b)(i) successfully complete 24 hours of approved prelicensing education under Section R162-2i-206;

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

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

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

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

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

(B) pay a nonrefundable examination fee to the testing service; or

(ii) apply to the division for a modification of the licensing examination requirement under Subsection 61-2f-203(1)(e)(iii);

(d) pass the licensing examination;

(e) submit to the division an application for licensure including:

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

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

(iii) the applicant's business, home, and email addresses;

(f) comply with the criminal background check requirements of Subsection 61-2f-204(1)(d);

(g) if applying for an active license, affiliate with a principal broker if affiliation is required under Section 61-2f-302 and Section R162-2i-302; and

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

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

(a) comply with Subsections (1)(a) and (1)(c) through (1)(h);

(b)(i) successfully complete division-approved prelicensing education relating to Utah law and administrative rules;

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

(i) apply to the division for a waiver of all or part of the education requirement by virtue of having been licensed in a state with substantially equivalent prelicensing education requirements; and

(c) provide, from each state in which the applicant is or has been licensed:

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

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

(3) Under Subsection 61-2f-203(7), an individual holding an active principal broker, associate broker, or sales agent license may obtain a property manager license without completing the prelicensing education described in Section R162-2i-206 and without passing the licensing examination. The individual shall:

(a) submit to the division an application for licensure including the applicant's business, home, and email addresses;

(b) if applying for an active license, affiliate with a principal broker if affiliation is required under Section 61-2f-302 and Section R162-2i-302; and

(c) pay the nonrefundable fees required for licensure.

(4) The deadlines for property manager licensing are as follows:

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

(b) An application for licensure shall be submitted within 90 days of the date on which the individual achieves a passing score on the licensing examination.

(c) If a deadline in this section falls on a day when the division is closed for business, the deadline is extended to the next business day.

(5) Holding more than one license.

(a) An individual may hold an active property manager license and an active principal broker, associate broker, or sales agent license at the same time.

(b) An individual described in Subsection (5)(a) who engages in residential property management is governed by this rule, and the individual's conduct in residential property management is evaluated under this rule without regard to which license the individual considers the individual to be acting under.

(c) Subsection (5)(a) does not relieve an individual of the affiliation requirements of Section 61-2f-302, and does not limit the authority of a principal broker to restrict, by agreement, the activity of a licensee affiliated with that principal broker.

R162-2i-202a. Designation of a Principal Property Manager.

(1) A property management company registered with the division shall have a principal property manager designated with the division at all times.

(2) An individual designated as a principal property manager shall hold an active license as a property manager or as a principal broker, as required by Subsection 61-2f-102(31).

(3) A dual broker serves as the principal property manager of the property management company the dual broker supervises.

(4) A property management company shall report a change in its designated principal property manager under Section R162-2i-207.

(5)(a) A property management company shall designate a replacement within 30 days of a change in the designation of the principal property manager.

(b) The division may inactivate the registration of a property management company that fails to comply with Subsection (5)(a).

(c) A property management company remains responsible under Section 61-2f-404 for the conduct of each licensee and unlicensed staff member it employs during a period in which no principal property manager is designated.

(6) The registration of a property management company may be involuntarily inactivated upon expiration, suspension, revocation, inactivation, or termination of the license of the principal broker or principal property manager with whom the company is affiliated.

(7) If the division or commission orders that a principal property manager's license be suspended or revoked:

(a) the order shall state the effective date of the suspension or revocation; and

(b) before the effective date, the property management company shall designate a new principal property manager or affiliate with a principal broker, and shall provide written notice to each licensee it employs.

R162-2i-203. Inactivation and Activation.

(1) Inactivation.

(a) To voluntarily inactivate a property manager license, the holder shall submit a change form through the online license management system under Section R162-2i-207.

(b) The license of a property manager who is required to affiliate with a principal broker under Section 61-2f-302 is involuntarily inactivated upon:

(i) termination of the property manager's affiliation with a principal broker;

(ii) expiration, suspension, revocation, inactivation, or termination of the license of the principal broker with whom the property manager is affiliated; or

(iii) inactivation or termination of the registration of the entity with which the property manager's principal broker is affiliated.

(c) The license of a property manager is involuntarily inactivated if the division or commission orders the license suspended or revoked.

(2) Activation. To activate an inactive property manager license, the holder shall:

(a) submit a change form through the online license management system under Section R162-2i-207;

(b) submit proof of:

(i) having held an active license at the time of the last renewal;

(ii) having completed, within the two-year period preceding the date of the activation request, the continuing education required by Subsection R162-2i-204(2)(b) for a renewal; or

(iii) having passed the licensing examination within the six-month period before the date of the activation request;

(c) if affiliation is required under Section 61-2f-302, evidence affiliation with a principal broker; and

(d) pay a nonrefundable activation fee.

(3) A licensee who submits continuing education to activate a license may not use the same continuing education to renew the license at the licensee's next renewal.

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

(1)(a) A property manager license is valid for two years from the date of licensure.

(b) To renew on time without incurring a late fee, an applicant for renewal shall complete the required continuing education by the 15th day of the month of expiration, so that a provider has time to bank the hours before the license expires.

(c) An applicant for renewal shall complete the renewal through the online license management system by the license expiration date, unless the applicant's circumstances require a "yes" answer to a disclosure question, in which case the division may require a paper application.

(2) Qualification for renewal or reinstatement.

(a) Character and competency.

(i) An applicant for renewal or reinstatement shall evidence that the applicant maintains the character and competency required for initial licensure under Section R162-2i-201.

(ii) An applicant for renewal or reinstatement may not have, since the last date of licensure:

(A) a felony conviction; or

(B) a finding of fraud, misrepresentation, or deceit entered against the applicant by a court of competent jurisdiction or a government agency, related to activity requiring a license under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, unless the division explicitly considered the finding in a previous application.

(iii) An applicant for renewal or reinstatement shall comply with the criminal background check requirements of Subsection 61-2f-204(2)(f).

(b) Continuing education. To renew at the end of a renewal cycle, an actively licensed property manager shall:

(i) complete the hours of non-duplicative continuing education required under Section 61-2f-204 that is:

(A) certified by the division;

(B) drawn from the topics listed in Subsection R162-2i-206(5);

(C) inclusive of three hours for completion of the Mandatory Property Management Course; and

(D) taken during the previous license period; or

(ii) apply to the division, by the 15th day of the month of expiration, for a waiver of all or part of the required hours by virtue of having completed non-certified courses that were not required to be certified under Subsection R162-2f-206c(1)(a) and that meet the continuing education objectives listed in Subsection R162-2f-206c(2)(f).

(3) Renewal and reinstatement procedures.

(a) To renew a license, an applicant shall, before the license expires, complete the online renewal and pay a nonrefundable renewal fee.

(b) To reinstate an expired license, an applicant shall, according to the deadlines in Subsections 61-2f-204(2)(b) through 61-2f-204(2)(d), submit any form the division requires, including proof of the continuing education required by Subsection (2)(b), and pay a nonrefundable reinstatement fee.

R162-2i-205. Registration of a Property Management Company.

(1) A property manager or principal broker may not engage in residential property management through an entity, a D.B.A., or a separate property management company without first registering the entity, D.B.A., or separate property management company with the division under Section 61-2f-206.

(2) In addition to the requirements of Section 61-2f-206, an applicant for registration of a property management company shall:

(a) identify the individual who will serve as the company's principal property manager, and certify that the individual:

(i) holds an active license as a property manager or as a principal broker;

(ii) may use the name of the registrant; and

(iii) will exercise active and reasonable supervision under Section R162-2i-401c over each licensee and unlicensed staff member the company employs;

(b) identify the service address of the property management company, which may not be a post office box, and a mailing address, which may be a post office box;

(c) identify the location where records required by Section 61-2f-309 and Section R162-2i-401h will be kept; and

(d) identify the location and account number of:

(i) each trust account in which the company will hold client funds; and

(ii) each operating account the company uses.

(3) Restrictions.

(a) The division may not register a property management company proposing to use a business name that:

(i) is likely to mislead the public into thinking the registrant is not a property management company or real estate brokerage;

(ii) closely resembles the name of another registrant of the division; or

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

(b) Approval of a business name does not grant the registrant a legal right to use or operate under that name.

(c) A registrant may not transfer its registration, and may not allow an unlicensed person to use the registration to perform work for which licensure is required.

(d) If a change in the structure of a registrant creates a separate and unique legal entity, D.B.A., or separate property management company, the property manager or principal broker shall obtain a unique registration.

(e) Dissolution or termination of a registered entity or D.B.A. terminates the registration.

(4) Residential property management performed by a registrant, or by a licensee or unlicensed staff member the registrant employs or with whom the registrant is affiliated, shall be conducted under the registrant's name as shown on division records.

(5) A property management company is not required to register a property it manages, to designate a principal property manager for an individual property, or to file a periodic list of the properties it manages.

R162-2i-206. Education.

(1) Prelicensing education.

(a) The division shall create and maintain a prelicensing education program for a property manager license that:

(i) requires at least 24 hours of instruction;

(ii) covers the subjects the division determines necessary; and

(iii) establishes the proportion of hours allocated to each subject.

(b) An hour means 50 minutes of instruction in each 60 minutes, and a student may not earn more than eight program hours per day.

(c) The program shall address, at a minimum:

(i) Title 61, Chapter 2f, Real Estate Licensing and Practices Act, and this rule;

(ii) fiduciary duties owed to a property owner, and the affirmative duties and prohibited conduct in Sections R162-2i-401a and R162-2i-401b;

(iii) the written property management agreement required by Section R162-2i-401d;

(iv) rent and fee disclosure, including under Section 57-22-4 and the Federal Trade Commission Act, 15 U.S.C. Sec. 41 et seq;

(v) advertising under Section R162-2i-401f;

(vi) handling of client funds, trust accounts, and reconciliation under Section R162-2i-403;

(vii) Title 57, Chapter 22, Utah Fit Premises Act;

(viii) Title 57, Chapter 17, Residential Renters' Deposits;

(ix) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer;

(x) Title 57, Chapter 21, Utah Fair Housing Act, and federal fair housing law;

(xi) recordkeeping under Section 61-2f-309 and Section R162-2i-401h; and

(xii) the boundary between licensed activity and support services under Section R162-2i-401g, and the exemptions in Section 61-2f-202.5.

(2) The licensing examination for a property manager license shall cover the topics in the prelicensing education program and shall match the proportion of questions for each topic to the proportion of hours the division designates, as required by Subsection 61-2f-203(1)(e)(iv).

(3) A prelicensing course for a property manager license shall be certified under Section R162-2f-206b, which applies to a property management prelicensing course as it applies to a real estate prelicensing course.

(4) Continuing education courses shall be certified under Section R162-2f-206c, except that Subsection (5) of this section supplies the qualifying topics for a course offered to satisfy the continuing education requirement of a property manager license.

(5) Approved topics for property management continuing education are:

(a) lease and rental agreement forms and contracts;

(b) ethics;

(c) agency, agency agreements, and fiduciary duties;

(d) environmental hazards;

(e) residential property management practices and procedures;

(f) prevention of fraud, including wire fraud;

(g) federal and state landlord and tenant law;

(h) fair housing, diversity, identifying bias, promoting equity, and inclusion;

(i) division administrative rules;

(j) trust accounts and the handling of client and tenant money;

(k) habitability and Title 57, Chapter 22, Utah Fit Premises Act;

(l) residential renters' deposits under Title 57, Chapter 17, Residential Renters' Deposits;

(m) eviction and Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer;

(n) disclosure of rent and fees;

(o) maintenance, repair, and vendor management;

(p) tenant screening and the criteria described in Subsection 57-22-4(3)(a)(iv); and

(q) any other topic that focuses on residential property management, or on landlord and tenant law and related industry practices or procedures, if the topic enhances licensee professional skills and thereby advances public protection and safety.

(6) A school, a course provider, and an instructor shall be certified and shall conduct themselves under Sections R162-2f-206a, R162-2f-206b, R162-2f-206c, R162-2f-206d, R162-2f-206e, R162-2f-401d, and R162-2f-401e, which apply to property management education as they apply to real estate education.

(7) A course certified under Subsection (5) may be taken by any licensee to satisfy a continuing education requirement, whether the licensee holds a property manager license or a real estate license.

R162-2i-207. Reporting a Change of Information.

(1) An individual licensed as a property manager shall report to the division:

(a) a change in the licensee's name;

(b) a change in the licensee's business, home, email, or mailing address; and

(c) if affiliation is required under Section 61-2f-302, a change in the licensee's affiliation with a principal broker.

(2) A registered property management company shall report to the division:

(a) a change in the company's name;

(b) a change in the company's designated principal property manager or affiliated principal broker;

(c) a change in corporate structure;

(d) dissolution of the entity;

(e) a change in the location where records are kept; and

(f) a change to any other information provided in the company's registration application.

(3) Notification procedures.

(a) To report a change in name, an individual shall submit a change form with supporting documentation such as a marriage certificate, divorce decree, court order, or driver license.

(b) To report a change in name, an entity shall obtain prior division approval of the new name and attach proof that the new name is registered with and approved by the Division of Corporations and Commercial Code.

(c) To report a change of address, a person shall enter the change into the online license management system.

(4) A change required to be reported under this section shall be reported within ten business days after the day on which the change takes effect.

(5) The division may require a notification submitted under this section to be accompanied by a nonrefundable change fee.

R162-2i-302. Affiliation with a Principal Broker.

(1) An individual licensed as a property manager who is engaged, as an employee or an independent contractor, to perform real estate-related services by or on behalf of a principal broker, associate broker, or sales agent shall affiliate with a principal broker before engaging in residential property management, as required by Subsection 61-2f-302(6).

(2) An individual described in Subsection (1) shall affiliate the individual's property manager license with:

(a) the same principal broker with whom the associate broker or sales agent for whom the property manager performs real estate-related services is affiliated; or

(b) the principal broker with whom the individual's employer, or the person with whom the individual contracts, is affiliated.

(3) Under Subsection 61-2f-302(8), an individual is not required to affiliate with a principal broker if the individual holds a property manager license and:

(a) is not subject to Subsection 61-2f-302(6);

(b) is employed by a property management company that managed at least 750 residential rental units in this state in any of the three previous calendar years; or

(c) is employed by a housing authority as defined in Section 35A-8-401.

(4) A property management company that relies on Subsection (3)(b) shall, upon request of the division, produce records sufficient to establish the number of residential rental units the company managed in this state in each of the three previous calendar years.

(5) A principal broker with whom a property manager is affiliated may limit by agreement the activity in which the property manager engages. A limitation imposed by a principal broker is enforceable as a matter of the affiliation agreement and does not alter the requirements of this rule.

R162-2i-401a. Affirmative Duties in Residential Property Management.

(1) An individual engaged in residential property management shall:

(a) uphold the following fiduciary duties in the course of representing a principal, whether directly or on behalf of an entity:

(i) loyalty, which obligates the licensee to place the best interests of the principal above any other interest, including the licensee's own;

(ii) obedience, which obligates the licensee to obey a lawful instruction from the principal;

(iii) full disclosure, which obligates the licensee to inform the principal of a material fact the licensee learns about the other party or the transaction;

(iv) confidentiality, which prohibits the licensee from disclosing without permission information given to the licensee by the principal that would likely weaken the principal's bargaining position if it were known, excepting a known material fact concerning a defect in the property or the client's ability to perform;

(v) reasonable care and diligence;

(vi) holding safe and accounting for money or property entrusted to the licensee; and

(vii) any additional duty created by the property management agreement;

(b) engage in residential property management only under a written property management agreement that complies with Section R162-2i-401d;

(c) before offering a residential rental unit for lease, make reasonable efforts to verify the accuracy and content of the information and data to be used in marketing the unit;

(d) if a prospective renter of a residential rental unit requests additional time to review a lease, allow the prospective renter at least 48 hours after the day on which the licensee provides the lease before the licensee takes adverse action against the prospective renter on the ground that the prospective renter did not sign within the time the licensee allowed;

(e) provide a copy of a lease or rental agreement, signed by each party, to the client within 30 days after the day on which the client requests a copy of the agreement;

(f) before signing or initialing a document on behalf of a principal:

(i) obtain prior written authorization, executed by the principal, that specifically identifies the actions authorized;

(ii) retain a copy of the written authorization in the file;

(iii) sign as follows: "by (Licensee's Name), on behalf of Owner"; and

(iv) initial as follows: "by (Licensee's initials), on behalf of Owner";

(g) account for money belonging to a client or a renter, whether or not the licensee is required to maintain a trust account under Section 61-2f-411, and regardless of the account in which the money is held, by:

(i) maintaining a record of each receipt and each disbursement of money belonging to a client or a renter that identifies:

(A) the date of the receipt or disbursement;

(B) the client and the property to which the receipt or disbursement relates;

(C) the amount;

(D) the client ledger, renter ledger, or lease to which the licensee credited or charged the amount; and

(E) for a disbursement, the person to whom the money was paid;

(ii) maintaining the records described in Subsection (1)(g)(i) so that the records may be produced in date sequence;

(iii) if the account in which the money is held is owned or controlled by the licensee or by the property management company or brokerage with which the licensee is affiliated:

(A) maintaining a current running balance for the account;

(B) reconciling the records of the account with the records of the bank or credit union at least monthly; and

(C) reconciling the records of the account with the balance attributable to each client and each renter whose money is held in the account, at least monthly;

(iv) if the money is held in an account that the property owner owns and controls:

(A) maintaining a record of each deposit the licensee makes to the account and each disbursement the licensee makes or directs from the account; and

(B) reconciling the records described in Subsection (1)(g)(iv)(A), at least monthly, with each account statement or transaction record the licensee receives or can access;

(v) providing the client a statement of account:

(A) at the interval stated in the property management agreement;

(B) within 30 days after the day on which the client requests a statement; and

(C) within 30 days after the day on which the property management agreement ends; and

(vi) upon request, making the records described in this Subsection (1)(g) available to the division for audit or investigation;

(h) timely inform the licensee's principal broker or principal property manager of a residential property management transaction in which the licensee is involved as agent or principal, or in which the licensee has received funds on behalf of the property management company or brokerage;

(i) if employing an unlicensed individual to provide assistance, adhere to Section R162-2i-401g;

(j) adhere to Section R162-2i-401f in advertising;

(k) when notified by the division that information or documents are required for investigation purposes, respond with the required information or documents in full and within ten business days, as contemplated by Subsection 61-2f-401(18);

(l) within 30 days after the day on which a property management agreement terminates:

(i) deliver any money held for the property owner to the property owner, the property owner's designated agent, or another party designated in the agreement; and

(ii) transfer or deliver to the property owner or the owner's designee each document pertinent to the management of the property that relates to a current tenant; and

(m) upon request, and subject to Section 61-2f-309, transfer or deliver to the property owner or the owner's designee each document pertinent to the management of the property that relates to a former tenant.

(2) An individual licensed as a property manager shall, in addition to Subsection (1) immediately deliver money received in a residential property management transaction:

(a) to the principal property manager or other person the property management company designates, for deposit; or

(b) if the property manager is affiliated with a principal broker, to the principal broker for deposit.

(3) For purposes of Subsection (1)(g):

(a) A licensee may maintain the information described in Subsection (1)(g)(i) in more than one record or system, including by cross-reference from one record to another. A licensee complies with Subsection (1)(g)(i) if the licensee can assemble and produce that information for each receipt and each disbursement.

(b) Subsection (1)(g) does not prescribe the form, medium, software, or account structure a licensee uses to keep a record.

(c) The identification described in Subsection (1)(g)(i)(D) is the licensee's application of the money under the lease or the property management agreement. A licensee does not violate Subsection (1)(g)(i) by recording an application that differs from a payor's characterization of the payment.

(d) "Reconcile" means to compare two records, identify each difference between them, and document the reason for each difference. A licensee does not violate Subsection (1)(g)(iii) or Subsection (1)(g)(iv) because a reconciliation identifies a difference, if the licensee documents the difference and resolves it within 30 days after the day on which the licensee performs the reconciliation.

(e) A licensee shall notify the division within 30 days after the day on which the licensee determines that an account holding money belonging to a client or a renter is out of balance and that the licensee cannot cure the imbalance within that period.

(f) The duties described in Subsection (1)(g)(iii) are performed by the principal property manager or principal broker of the entity that owns or controls the account. A licensee affiliated with that entity complies with Subsection (1)(g)(iii) by following the entity's procedures for recording and transmitting money and records.

(4) For purposes of Subsection (1)(d):

(a) A copy provided under Subsection (1)(d) is not an offer and does not bind the licensee, the property management company, the brokerage, or the property owner as to a term that depends on information the prospective renter has not provided or an option the prospective renter has not selected, including an optional service or amenity. A licensee may mark the copy to state that fact.

(b) A prospective renter waives the time described in Subsection (1)(d) by signing the lease.

(c) "Adverse action" means to reject the prospective renter's application or to withdraw an offer to lease to the prospective renter.

(d) A licensee provides a document under Subsection (1)(d) when the licensee delivers it to the prospective renter in person, sends it to an email address or telephone number the prospective renter provided, or makes it available through an online portal the prospective renter can access and notifies the prospective renter that it is available.

(e) Subsection (1)(d) does not limit a duty of a property owner under Section 57-22-4.

(5) The duties described in Subsection (1)(l) are performed by the principal property manager or principal broker of the entity that owns or controls the account and controls the documents. A licensee affiliated with that entity complies with Subsection (1)(l) by following the entity's procedures for recording and transmitting money and records.

R162-2i-401b. Prohibited Conduct in Residential Property Management.

(1) An individual engaged in residential property management may not:

(a) engage in a practice described in Section 61-2f-401 in a manner that:

(i) fails to conform with accepted standards of the residential property management industry;

(ii) could jeopardize the public health, safety, or welfare; or

(iii) violates Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or this rule;

(b) require a party to acknowledge receipt of a final copy of a document prepared by the licensee before each party has signed a contract evidencing agreement to its terms;

(c) make a misrepresentation to the division in an application for licensure, in an application for renewal, or in an investigation;

(d) propose, prepare, or cause to be prepared a document, agreement, settlement statement, or other device that the licensee knows or should know does not reflect the true terms of the transaction, or knowingly participate in a transaction in which the false device is used;

(e) place a sign on real property without the written consent of the property owner;

(f) advertise or offer to lease a residential rental unit without the written consent of the owner of the property;

(g) advertise or offer to lease a residential rental unit at a price lower than the price the owner has authorized, without the written consent of the owner;

(h) engage the services of a person on behalf of a property owner without informing and obtaining consent from the person obligated to pay for the services;

(i) assign, or attempt to assign, a property management agreement to another licensee, brokerage, or property management company without the property owner's express written consent;

(j) post, provide, or cause to be posted a review or other public statement concerning the licensee, the property management company, the brokerage, or a residential rental unit that the licensee knows or should know materially misrepresents, expressly or by implication:

(i) that the reviewer exists;

(ii) that the reviewer used or otherwise had experience with the licensee, the property management company, the brokerage, or the residential rental unit; or

(iii) the reviewer's experience with the licensee, the property management company, the brokerage, or the residential rental unit;

(k) pay or provide anything of value to a person in exchange for, or conditioned expressly or by implication on, the writing or creation of a review expressing a particular sentiment, whether positive or negative, regarding the licensee, the property management company, the brokerage, or a residential rental unit, except that a licensee may offer a gift, giveaway, or entry in a drawing to a person who writes a review if eligibility does not depend on the sentiment of the review;

(l) fail to comply with Title 57, Chapter 22, Utah Fit Premises Act, as evidenced by court findings; or

(m) fail to comply with Title 57, Chapter 21, Utah Fair Housing Act, or federal fair housing laws, as evidenced by court or administrative tribunal findings.

(2) A property management company or brokerage may not adopt or maintain a policy, procedure, or contract provision that requires or induces a licensee to violate this section.

R162-2i-401c. Duties of a Principal Property Manager and a Principal Broker in Residential Property Management.

(1) A principal property manager shall:

(a) strictly comply with the record retention and maintenance requirements of Section 61-2f-309 and Section R162-2i-401h;

(b) except as provided in Subsections 61-2f-411(4) and (5), within three business days after receiving money from a client or a tenant, deposit the money into a trust account maintained under Section R162-2i-403 or forward or deposit the money into an account maintained by the property owner;

(c) maintain at the principal business location of the property management company a complete record of consideration received or escrowed in residential property management;

(d) be personally responsible for deposits held in the property management company's trust account; and

(e) exercise active and reasonable supervision over the conduct of each licensee and unlicensed staff member employed by the property management company for which the individual is the principal property manager.

(2) A principal broker whose brokerage engages in residential property management shall comply with Subsection

(1) with respect to that activity, in addition to the duties imposed by Section R162-2f-401c.

(3) Active and reasonable supervision includes:

(a) establishing written policies, rules, and procedures, and systems that allow the principal property manager or principal broker to review, oversee, inspect, and manage:

(i) residential property management performed by a licensee employed by or affiliated with the supervisor;

(ii) documents that may have a material effect on the rights or obligations of a party to a transaction;

(iii) the filing, storage, and maintenance of those documents;

(iv) the handling of client funds, including the reconciliation required by Subsection R162-2i-401a(1)(f);

(v) advertising of any service for which a license is required;

(vi) familiarizing licensees with the requirements of federal and state law governing residential property management, including prohibitions against discrimination and the requirements of Title 57, Chapter 22, Utah Fit Premises Act, and Title 57, Chapter 17, Residential Renters' Deposits;

(vii) ensuring that each person conducting licensed activity on behalf of the property management company or brokerage holds an active license; and

(viii) ensuring that each licensee can maintain reasonable and timely communication with the supervisor or a competent designee;

(b) maintaining adequate, reasonable, and regular contact with each licensee engaged in residential property management, so as to prevent or curtail a practice that would violate this rule;

(c) being reasonably available to the public to discuss or resolve a complaint or dispute arising during a transaction involving the supervisor, an affiliated licensee, or a licensee the property management company employs;

(d) providing guidance to, and instruction and oversight of, each licensee and unlicensed staff member regarding the policies, rules, procedures, and systems of the property management company or brokerage;

(e) documenting the instruction and oversight provided under Subsection (3)(d); and

(f) establishing a system for monitoring compliance by licensees and unlicensed staff members.

(4) A principal property manager or principal broker may use a licensee or an unlicensed staff member to assist in administering Subsection (3), but may not relinquish overall responsibility for active and reasonable supervision.

(5) In establishing policies, rules, procedures, and systems, a principal property manager shall consider the number of property managers supervised and the number and location of the properties the property management company manages.

(6) A principal property manager or principal broker is responsible for a violation of Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or of this rule, by a licensee or unlicensed staff member the individual supervises, except that the individual is not in violation of the duty to exercise active and reasonable supervision if:

(a) the individual, or the property management company or brokerage, had in place when the violation occurred specific written policies or instructions to prevent the violation;

(b) reasonable procedures were established to ensure that licensees receive active and reasonable supervision, and the individual followed those procedures;

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

(d) the individual did not participate in the violation;

(e) the individual did not ratify the violation; and

(f) the individual did not attempt to avoid learning of the violation.

R162-2i-401d. Written Property Management Agreement.

(1) An individual may engage in residential property management for a property owner only under a written property management agreement, signed by the property owner or the owner's authorized representative and by the licensee, the property management company, or the brokerage.

(2) The agreement shall be executed before the licensee performs a service under it, except that a licensee may perform an emergency repair necessary to protect the property or the health or safety of an occupant before execution, if the licensee documents the circumstances and obtains a written agreement promptly afterward.

R162-2i-401e. Reserved.

Reserved.

R162-2i-401f. Requirements and Restrictions in Advertising a Residential Rental Unit.

(1) An advertisement of a residential rental unit shall identify the name of the property management company or brokerage as shown on division records. When it is not reasonable to identify that name in an electronic advertisement, the advertisement shall directly link to a display that clearly and conspicuously identifies it.

(2)(a) An advertisement of a residential rental unit is not required to disclose:

(i) that a licensee has an ownership interest in the unit; or

(ii) the agency relationship between a licensee and the owner of the unit.

(b) Subsection (2)(a) applies to any individual licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, without regard to the type of license the individual holds.

(c) Subsection (2)(a) does not apply to an advertisement offering a residential rental unit for sale, exchange, or auction.

(3) An advertisement of a residential rental unit shall provide a link to, or other means of contacting, a person from whom a prospective renter may obtain current information on rates and availability.

(4) An advertisement that remains posted after the advertised unit has been rented shall clearly and conspicuously disclose that the unit may or may not be available and shall provide the means of contact described in Subsection (3).

(5) A photograph, floor plan, or other depiction used in an advertisement shall accurately depict the residential rental unit advertised, or shall clearly and conspicuously identify itself as representative of a unit type rather than of the unit advertised.

R162-2i-401g. Unlicensed Assistants and Support Services.

(1) To employ an unlicensed individual to provide assistance in connection with residential property management, a licensee shall:

(a) obtain the permission of the licensee's principal property manager or principal broker before employing the individual; and

(b) supervise the individual to ensure that the individual's duties are limited to the activities listed in Subsection (2).

(2) An unlicensed individual may perform the following support services in connection with residential property management:

(a) clerical duties, including making an appointment for a prospective renter to meet with a licensee;

(b) acting as a courier in delivering documents, picking up keys, or providing a similar service, so long as the individual does not discuss or complete a form or document;

(c) placing signs at a property;

(d) having keys made;

(e) securing public records from a county recorder's office, zoning office, sewer district, water district, or similar entity;

(f) providing a prospective tenant access to a residential rental unit;

(g) providing secretarial, bookkeeping, accounting, maintenance, or repair services;

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

(i) completing a pre-printed lease or rental agreement, except as to a term that may be determined through negotiation of the principals;
(j) serving or receiving a legal notice;
(k) addressing a tenant or neighbor complaint; and
(l) inspecting a unit.
(3) An unlicensed individual may not:
(a) sign a lease agreement or an addendum with a tenant;
(b) negotiate a term of a lease or rental agreement;
(c) advertise, offer, attempt, or otherwise hold the individual out as engaged in property management;
(d) show a residential rental unit to a prospective renter to secure a rental, other than providing access under Subsection (2)(f); or
(e) perform any other activity described in Subsection 61-2f-102(32)(a).
(4) Whether an individual is required to be licensed is determined by the activity the individual performs, not by the individual's job title or by the individual's designation as an assistant.

R162-2i-401h. Recordkeeping.
(1) In addition to complying with Section 61-2f-309, an individual engaged in residential property management, and the property management company or brokerage through which the individual acts, shall maintain and safeguard:
(a) each property management agreement and each amendment to it;
(b) each lease or rental agreement and each addendum to it;
(c) each written authorization obtained under Subsection R162-2i-401a(1)(f);
(d) each record of client funds required by Subsection R162-2i-401a(1)(g), including each reconciliation; and
(e) records sufficient to establish the content of an advertisement of a residential rental unit and the period during which it was posted.
(2) A record identified in Subsection (1) shall be maintained for at least three calendar years after the year in which the lease agreement commences or the term of the property management agreement ends, as provided in Subsection 61-2f-309(2)(b).
(3) A record may be maintained physically at the registered business location or electronically in a storage system that complies with Title 46, Chapter 4, Uniform Electronic Transactions Act.
(4) Upon request of the division, a record identified in Subsection (1) shall be made available for inspection and copying.

R162-2i-401i. Gifts, Inducements, Referral Fees, and Leasing Bonuses.
(1) An inducement or gift offered or given in connection with residential property management, including an inducement or gift offered to a prospective client or a prospective renter, is permissible and is not an illegal sharing of commission.
(2) A gift given upon the execution, renewal, or extension of a lease or rental agreement is permissible and is not an illegal sharing of commission.
(3) As provided in Subsections 61-2f-411(2)(b) and (c), an individual engaged in residential property management may pay a finder's fee, a leasing bonus, or other valuable consideration to any unlicensed person, including a client, a renter, a former renter, or an employee, for referring a prospective client, and may accept a referral fee from an individual whether licensed or unlicensed.
(4)(a) For purposes of Subsection (3) and Subsection 61-2f-411(2)(b), "prospective client" includes:
(i) a prospective renter; and
(ii) an existing renter who renews or extends a lease.
(b) Subsection (3) does not permit an unlicensed person to engage in an activity for which a license is required under Section 61-2f-201.

R162-2i-401j. Protection of Personal Information.
(1) As used in this section, "breach of system security," "personal information," and "record" mean the same as those terms are defined in Section 13-44-102.
(2) To the extent Title 13, Chapter 44, Protection of Personal Information Act, applies to the person, an individual engaged in residential property management, a property management company, and a brokerage shall comply with Section 13-44-201 and Section 13-44-202 with respect to the personal information of a client, a renter, a prospective renter, or an owner of a residential rental unit.
(3) An individual engaged in residential property management may not take or omit an action that causes a property management company or a brokerage to fail to comply with Section 13-44-201 or Section 13-44-202.
(4) A principal broker, a branch broker, and a principal property manager shall include, within the supervision required under Subsection 61-2f-401(13), reasonable procedures for the handling, storage, and destruction of a record containing personal information by the licensed and unlicensed staff the individual supervises.
(5)(a) Section 61-2f-309 governs the period for which a record is retained.
(b) An individual engaged in residential property management, a property management company, and a brokerage shall destroy a record containing personal information that the person is not required to retain under Section 61-2f-309, Subsection (5)(c), or another applicable law, by a method described in Subsection 13-44-201(2).
(c) An individual engaged in residential property management, a property management company, and a brokerage shall retain a rental application, and each document submitted in support of the rental application, of a prospective renter whose application is denied or withdrawn until the later of:
(i) the end of the third calendar year after the year in which the application is denied or withdrawn; or

(ii) the final resolution of a complaint, investigation, or legal action concerning the application, if the individual, property management company, or brokerage receives notice of the complaint, investigation, or legal action before the period described in Subsection (5)(c)(i) ends.

(6) This section does not:

(a) impose a duty on a person to whom Title 13, Chapter 44, Protection of Personal Information Act, does not apply;

(b) enlarge, narrow, or otherwise modify a duty imposed by Title 13, Chapter 44, Protection of Personal Information Act;

(c) limit the authority of the attorney general under Section 13-44-301; or

(d) create a private right of action.

R162-2i-403. Handling of Client Funds and Trust Accounts.

(1) Except as provided in Subsections (2) and (3), and as required by Subsection 61-2f-411(3), an individual engaged in residential property management shall associate with at least one trust account in a bank or credit union located within the state.

(2) As provided in Subsection 61-2f-411(4), a property manager is not required to maintain client funds in a trust account if:

(a) the property owner agrees in the property management agreement that the property manager is not required to hold property management client funds in a trust account; and

(b) a lease agreement states that the property manager is not required to hold property management client funds in a trust account.

(3) As required by Subsection 61-2f-411(5), and except as provided in Subsection (5)(b), a property manager who is affiliated with a principal broker shall keep client funds in the principal broker's trust account, in accordance with Section R162-2f-403b and the requirements the principal broker establishes. Subsection (2) does not apply to a property manager affiliated with a principal broker.

(4) A licensee who is not required to maintain a trust account under Subsection (2) remains subject to Subsection R162-2i-401a(1)(g).

(5)(a) A licensee or a property management company may not hold client funds in an account held in the name of the licensee or of the property management company unless that account is a trust account maintained under this section.

(b) Consistent with Subsection 61-2f-411(3)(b), a property management agreement may provide that client funds are paid directly into an account that the property owner owns and controls. Client funds paid into that account are not required to be held in a trust account under this section, whether or not the licensee has authority to deposit into or disburse from the account.

(c) A licensee who deposits client funds into, or disburses client funds from, an account described in Subsection (5)(b) shall account for the funds as required by Subsection R162-2i-401a(1)(g)(iv), and Subsection R162-2i-401a(2) does not apply to a deposit the licensee makes into that account.

(6) Unless otherwise modified by the property management agreement, as provided in Subsection 61-2f-411(3)(b), a trust account maintained under this section shall be used to secure:

(a) tenant security deposits;

(b) rent;

(c) money tendered by a property owner as a reserve fund or for payment of an unexpected expense; and

(d) any other purpose the commission designates.

(7)(a) A trust account in which client funds are held for residential property management, including a principal broker's trust account described in Subsection (3), shall be non-interest bearing unless the parties to the property management agreement comply with Subsection 61-2f-411(3)(c).

(b) Subsection R162-2f-403b(2) does not apply to a trust account described in Subsection (7)(a).

(8) Section R162-2f-403b applies to a trust account maintained under this section, including its requirements for:

(a) records of deposits;

(b) the contents of an instrument by which funds are disbursed;

(c) voided instruments;

(d) competing claims to funds and the interpleader and mediation options;

(e) remittance of undisbursed funds to the State Treasurer as unclaimed property;

(f) reconciliation;

(g) notification of an out-of-balance account;

(h) deposit of the licensee's own funds and the limits on doing so;

(i) permitted disbursements; and

(j) transfer of an earned management fee into an operating account before further disbursement.

(9) Money received in connection with the rental of a tourist accommodation for a period of less than 30 consecutive days may not be deposited into a trust account maintained under this section.

(10) Within ten business days after establishing a trust account under this section, or after the account is moved to another bank or credit union or the account number changes, a licensee shall notify the division in writing of the account number, the address of the bank or credit union, and the type of activity for which the account is used.

(11) A trust account does not fail to comply with Subsection (1) because the bank or credit union at which the account is held places funds deposited in the account with one or more other federally insured depository institutions, through a deposit placement or sweep arrangement, to increase the deposit insurance available to the funds, if:

(a) the licensee deposits all client funds into, and disburses all client funds from, the trust account;

(b) the records of the bank or credit union at which the trust account is held identify the funds as held in trust for the licensee's clients;

(c) the licensee can obtain the full balance of the funds through the trust account; and

(d) the trust account complies with Subsection (7) as to any interest the funds earn.

(12) Subsection (10) applies to the trust account described in Subsection (11) and not to an account at another depository institution in which funds are placed through an arrangement described in Subsection (11).

R162-2i-501. Enforcement.

A violation of this rule is subject to sanction under Section 61-2f-404 and to Section R162-2f-407, which governs administrative proceedings.

R162-2i-502. Reserved.

Reserved.

KEY: residential property management, operational requirements, trust account records, property manager licensing
Date of Last Change: 2026
Authorizing, and Implemented or Interpreted Law: 61-2f

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: New	**Filing ID: 58299**
Rule or section number:	**R251-701**

1. Agency Information

Title catchline:	Corrections, Administration
Building:	Administration Building
Street address:	14717 S Minuteman Dr
City, state:	Draper, UT 84020

2. Contact Persons

Name:	Phone:	Email:
Stefanie Coombs	801-707-4413	scoombs@utah.gov
Rusty Phelps	385-535-6790	rphelps@utah.gov

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

3. General Information

A. Rule or section catchline:

R251-701. Undercover Roles of Offenders

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

The purpose of this filing is to enact a previously expired rule for the Department of Corrections (department) (Rule R251-103, Undercover Roles of Offenders – expired 9/13/2023), and Rule R251-716, Undercover Roles of Offenders – emergency rule that was not enacted).

It appears the expiration was due to technical changes not submitted in the correct form, followed by administrative delay in enacting the rule. A new rule was submitted (Rule R251-701) but lapsed due to a notice of effective date not being filed in the required timeframe. The department has an internal policy related to these provisions; however, an administrative rule is necessary for provisions that impact outside agencies.

The provisions establish the parameters for the use of offenders under department jurisdiction in confidential or undercover roles.

C. Summary of the new rule or change:

This filing sets the rule for the department on using offenders (inmates, parolees, probationers) in undercover roles.

All requests must be made in writing and approved by the Law Enforcement Bureau (LEB) Chief.

Decisions are made case-by-case, focusing on the offender's risk/safety, correctional goals, and public safety importance.

Coercion is prohibited.

Any agreements or promises to the offender are invalid unless agreed to in writing by the department or other involved entities.

5. Fiscal Information

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
None. The proposed new rule enacts previously expired rule provisions on the use of offenders under department jurisdiction in an undercover role.
B. Local governments:
None. The proposed new rule enacts previously expired rule provisions on the use of offenders under department jurisdiction in an undercover role.
C. Small businesses ("small business" means a business employing 1-49 persons)**:**
None. The proposed new rule enacts previously expired rule provisions on the use of offenders under department jurisdiction in an undercover role.
D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
None. The proposed new rule enacts previously expired rule provisions on the use of offenders under department jurisdiction in an undercover role.
E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
None. The proposed new rule enacts previously expired rule provisions on the use of offenders under department jurisdiction in an undercover role.
F. Compliance costs for affected persons:
None. The proposed new rule enacts previously expired rule provisions on the use of offenders under department jurisdiction in an undercover role.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Corrections, Jared Garcia, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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)(k)	Section 64-13-14
Section 64-13-10		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Jared Garcia, Commissioner	**Date:**	10/02/2026

R251. Corrections, Administration.
R251-701. Undercover Roles of Offenders.
R251-701-1. 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)(k).

(2) The purpose of this rule is to provide the Department's policy and requirements governing the use of offenders in undercover roles.

R251-701-2. Definitions.

(1) "Department" means Utah Department of Corrections.

(2) "Entity" means agency, department, court, 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.

R251-701-3. 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;

(e) the importance of the assignment to maintaining public safety; and

(f) consultation with the BOPP for inmates and parolees, or with the court for probationers, if their concurrence is required to effect and enforce an agreement between the offender and the Department or other entities.

(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.

KEY: corrections, probationers, parolees
Date of Last Change: 2026
Authorizing, and Implemented or Interpreted Law: 63G-3-201; 64-13-10

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58332**
Rule or section number:	**R277-212**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-212. UPPAC Hearing Procedures and Reports

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

The amendments are needed due to the passage of SB 312 passed in the 2026 General Session.

C. Summary of the new rule or change:

The amendments specifically change procedures related to suspension of an educator's license. The amendments require that hearing reports address the issues raised by the bill when a suspension is recommended.

The amendments also remove the oversight categorization of "exempt".

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	SB 312 (2026 General Session)

5. Fiscal Information

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 new language requires Utah Professional Practices Advisory Commission (UPPAC) hearing reports to include recommendations on the restrictions placed on a suspended educator's involvement in public schools.

The stricken language removes the rule's "exempt" oversight categorization.

Because these changes solely adjust internal administrative reporting procedures for existing UPPAC hearings, they do not require additional state expenditures or generate state revenues.

B. Local governments:

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

The amendments apply to state-level UPPAC hearing procedures and reports, resulting in a $0 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.

The amendments address the licensing of public educators and internal hearing procedures, which do not interact with or financially burden small business operations.

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.

There are no aggregate incremental costs or savings for other persons. This rule specifically modifies administrative and reporting duties for hearing officers regarding suspended educators and does not impose fees, fines, or aggregate financial costs on educators or other individuals as a class.

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

The average cost to an individual educator will be $0 because the new language only dictates the terms and conditions the hearing officer must include in the suspension report, rather than mandating any new fee-generating compliance actions from the educators themselves.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0

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

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Section 53E-6-506	Subsection 53E-3-401(4)

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-212. UPPAC Hearing Procedures and Reports.
R277-212-1. Authority[~~,~~] and Purpose[~~, and Oversight Category~~].

(1) This rule is authorized by:

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

(b) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

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

(2) The purpose of this rule is to establish procedures regarding UPPAC hearings and hearing reports.

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

(4) Hearings conducted in accordance with this rule are formal adjudicatory proceedings.

[~~(5) This rule is categorized as exempt as described in Rule R277-111.~~
]

R277-212-2. Scheduling a Hearing.

(1)(a) Following receipt of an answer by a respondent requesting a hearing, or at the direction of the Board to give the respondent an opportunity to have a hearing:

(i) UPPAC shall select panel members;

(ii) the Executive Secretary shall appoint a hearing officer from among a list of hearing officers identified by the state procurement process and approved by UPPAC; and

(iii) The Executive Secretary shall schedule the date, time, and place for the hearing.

(b) The Executive Secretary shall schedule a hearing for a date that is not less than 45 days nor more than 180 days from the date the Executive Secretary receives the answer unless otherwise stipulated by the parties.

(c) The required scheduling periods may be waived by mutual written consent of the parties or by the hearing officer for good cause shown.

(2)(a) Any party may request a change of hearing date by submitting a request in writing that shall:

(i) include a statement of the reasons for the request; and

(ii) be submitted to the hearing officer at least five days before the scheduled date of the hearing.

(b) The hearing officer shall determine whether the reasons stated in the request are sufficient to warrant a change.

(c) If the hearing officer finds that the reasons for the request for a change of hearing date are sufficient, the hearing officer shall promptly direct the Executive Secretary to reschedule the hearing and send notice to the parties.

(d) If the hearing officer does not find the reasons for the request for a change of hearing date to be sufficient, the hearing officer shall immediately notify the parties that the request has been denied.

(e) The hearing officer may, upon stipulation of the parties or upon motion, waive the time period required for requesting a change of hearing date for good cause shown.

(3) An educator is entitled to a hearing on any matter in which an action is recommended.

(4) An educator is not entitled to a hearing on a matter in which a letter of education, letter of warning, or dismissal is recommended.

R277-212-3. Appointment and Duties of the Hearing Officer and Hearing Panel.

(1)(a) The Executive Secretary shall appoint a hearing officer to chair the hearing panel and conduct the hearing.

(b) The Executive Secretary shall select a hearing officer on a random basis from a list of available contracted hearing officers, subject to availability and conflict of interest.

(c) The Executive Secretary shall provide such information about the case as necessary to determine whether the hearing officer has a conflict of interest and shall disqualify any hearing officer that cannot serve under the Utah Rules of Professional Conduct.

(d) A hearing officer:

(i) may require the parties to submit a brief and a list of witnesses before the hearing;

(ii) presides at the hearing and regulates the course of the proceeding;

(iii) administers an oath to a witness as follows: "Do you swear or affirm that the testimony you will give is the truth?";

(iv) may take testimony, rule on a question of evidence, and ask a question of a witness to clarify a specific issue; and

(v) prepares and submits a hearing report to the Executive Secretary at the conclusion of the proceedings in consultation with panel members and the timelines of this rule.

(2)(a) UPPAC shall select three or more individuals to serve as members of the hearing panel.

(b) The majority of panel members shall be current UPPAC members.

(c) A licensed educator or member of the community may serve as a panel member, if needed.

(d) UPPAC shall select panel members on a rotating basis to the extent practicable.

(e) UPPAC shall accommodate each prospective panel member based on the availability of the panel member.

(f) If the respondent is a teacher, at least one panel member shall be a current classroom teacher.

(g) If the respondent is a non-teacher licensed educator, at least one panel member shall be a non-teacher licensed educator.

(3) The requirements of Subsection (2) may be waived only upon the stipulation of both the UPPAC attorney and the respondent.

(4)(a) A UPPAC panel member shall:

(i) assist a hearing officer by providing information concerning professional standards and practices of educators in the respondent's particular field of practice and in the situations alleged;

(ii) ask a question of a witness to clarify a specific issue;

(iii) review all evidence and briefs, if any, presented at the hearing;

(iv) make a recommendation to UPPAC as to the suggested disposition of a complaint; and

(v) assist the hearing officer in preparing the hearing report.

(b) A panel member may only consider the evidence approved for admission by the hearing officer.

(c) The Executive Secretary may make an emergency substitution of a panel member for good cause shown or with the consent of the parties.

(d) An agreement to substitute a panel member shall be in writing.

(e) Parties may agree to a two-member UPPAC panel in an emergency situation.

(5)(a) A party may request that the Executive Secretary disqualify a hearing officer by submitting a written request for disqualification to the Executive Secretary.

(b) A party shall submit a request to disqualify a hearing officer to the Executive Secretary at least 15 days before a scheduled hearing.

(6)(a) The Executive Secretary shall review a request described in Subsection (5) and supporting evidence to determine whether the reasons for the request are substantial and compelling.

(b) If the Executive Secretary determines that the hearing officer should be disqualified, the Executive Secretary shall appoint a new hearing officer and, if necessary, reschedule the hearing.

(7) A hearing officer shall recuse [~~himself or herself~~]themselves from a hearing if the hearing officer's participation would violate any of the Utah Rules of Professional Conduct consistent with the Supreme Court Rules of Professional Practice.

(8)(a) If the Executive Secretary denies a request to disqualify a hearing officer described in Subsection (5), the Executive Secretary shall notify the party within ten days before the date of the hearing.

(b) The requesting party may submit a written appeal of the Executive Secretary's denial to the Superintendent no later than five days before the hearing date.

(c) If the Superintendent finds that the appeal is justified, the Superintendent shall direct the Executive Secretary to appoint a new hearing officer and, if necessary, reschedule the hearing.

(d) The decision of the Superintendent described in Subsection (8)(c) is final.

(e) If a party fails to file an appeal within the time requirements of Subsection (8)(b), the appeal shall be deemed denied.

(f) If the Executive Secretary fails to meet the time requirements described in Subsection (6) or (8), the request or appeal is approved.

(9)(a) A UPPAC member shall recuse [~~himself or herself~~]themselves as a panel member due to any known financial or personal interest, prior relationship, personal and independent knowledge of the persons or issues in the case, or other association that the panel member believes would compromise the panel member's ability to make an impartial decision.

(b) A party may request that a UPPAC panel member be disqualified by submitting a written request to the hearing officer.

(c) A party shall submit a request described in Subsection (9)(b) no less than 15 days before a scheduled hearing.

(d) The hearing officer shall:

(i) review a request described in Subsection (9)(b) and supporting evidence to determine whether the reasons for the request are substantial and compelling enough to disqualify the panel member; and

(ii) if the reasons for the request described in Subsection (9)(b) are substantial and compelling, disqualify the panel member.

(e) If a panel member is disqualified:

(i) UPPAC shall appoint a replacement; and

(ii) the Executive Secretary shall, if necessary, reschedule the hearing.

(f) If a request described in Subsection (9)(b) is denied, the hearing officer, shall notify the party requesting the panel member's disqualification no less than ten days before the date of the hearing.

(10) The Executive Secretary may, when the Executive Secretary selects a hearing officer or panel member, select an alternate hearing officer or panel member following the process for selecting those individuals.

(11) The Executive Secretary may substitute a panel member with an alternate panel member if the Executive Secretary notifies the parties of the substitution.

R277-212-4. Preliminary Instructions to Parties to a Hearing.

(1) A hearing shall be scheduled no less than 45 days after receipt of an answer, unless otherwise stipulated by the parties.

(2) No later than 25 days before the date of a hearing, the Executive Secretary shall provide the parties with the following information:

(a) date, time, and location of the hearing;

(b) names and LEA affiliations of each panel member, and the name of the hearing officer; and

(c) instructions for accessing Rules R277-210 through R277-217.

(3) No later than 20 days before the date of the hearing, the respondent and the complainant shall provide the following to the other party and to the hearing officer:

(a) a brief, if requested by the hearing officer containing:

(i) any procedural and evidentiary motions along with the party's position regarding the allegations; and

(ii) relevant laws, rules, and precedent;

(b) the name of the person who will represent the party at the hearing;

(c) a list of witnesses expected to be called, including a summary of the testimony that each witness is expected to present;

(d) a summary of documentary evidence that the party intends to submit; and

(e) following receipt of the other party's witness list, a list of anticipated rebuttal witnesses and evidence no later than ten days before the hearing.

(4)(a) Except as provided in Subsection (4)(b), a party may not present a witness or evidence at the hearing if the witness or evidence has not been disclosed to the other party as required in Subsection (3).

(b) A party may present a witness or evidence at the hearing even if the witness or hearing has not been disclosed to the other party if:

(i) the parties stipulate to the presentation of the witness or evidence at the hearing; or

(ii) the hearing officer makes a determination of good cause to allow the witness or evidence.

(5) If a party fails to comply in good faith with a directive of the hearing officer, including time requirements, the hearing officer may prohibit introduction of the testimony or evidence or take other steps reasonably appropriate under the circumstances.

(6) A party shall provide materials to the hearing officer, panel members, and UPPAC as directed by the hearing officer.

R277-212-5. Hearing Parties' Representation.

(1) A UPPAC attorney shall represent the complainant.

(2) A respondent may represent [~~himself or herself~~]themselves or be represented, at the respondent's own cost, by legal counsel.

(3) An informant has no right to:

(a) individual representation at the hearing; or

(b) to be present or heard at the hearing unless called as a witness.

(4) A respondent shall notify the Executive Secretary in a timely manner and in writing if the respondent chooses to be represented by legal counsel.

R277-212-6. Discovery Prior to a Hearing.

(1) Discovery is permitted to the extent necessary to obtain relevant information necessary to support claims or defenses, as determined by the hearing officer.

(2) Unduly burdensome legalistic discovery may not be used to delay a hearing.
(3) A hearing officer may limit discovery:
(a) at the discretion of the hearing officer; or
(b) upon a motion by either party.
(4) A hearing officer rules on all discovery requests and motions.
(5) The Executive Secretary shall issue a subpoena to secure the attendance of a witness pursuant to Subsection 53E-6-606(1) if:
(a) requested by either party; and
(b) notice of intent to call the witness has been timely provided as required by Section R277-212-4.
(6) The Executive Secretary shall issue a subpoena to produce evidence if timely requested by either party.
(7)(a) A party may not present an expert witness report or expert witness testimony at a hearing unless the requirements of Section R277-212-10 have been met.
(b) A respondent may not subpoena the UPPAC attorney or investigator as an expert witness.

R277-212-7. Burden and Standard of Proof for UPPAC Proceedings.
(1) In matters other than those involving applicants for licensing, and excepting the presumptions under Section R277-212-11, the Board shall have the burden of proving that an action against the license is appropriate.
(2) An applicant for licensing has the burden of proving that licensing is appropriate.
(3) The standard of proof in all UPPAC hearings is a preponderance of the evidence.
(4) The Utah Rules of Evidence are not applicable to UPPAC proceedings.
(5) The criteria to decide an evidentiary question are:
(a) reasonable reliability of the offered evidence;
(b) fairness to both parties; and
(c) usefulness to UPPAC in reaching a decision.
(6) The hearing officer has the sole responsibility to determine the application of the hearing rules and the admissibility of evidence.

R277-212-8. Deportment.
(1) Parties, their representatives, witnesses, and other persons present during a hearing shall conduct themselves in an appropriate manner during a hearing, giving due respect to members of the hearing panel and complying with the instructions of the hearing officer.
(2) A hearing officer may exclude a person from the hearing room who fails to conduct [~~himself or herself~~]themselves in an appropriate manner and may, in response to extreme instances of noncompliance, disallow the person's testimony.
(3) Parties, attorneys for parties, or other participants in the professional practices investigation and hearing process may not harass, intimidate, or pressure witnesses or other hearing participants, nor may they direct others to harass, intimidate, or pressure witnesses or participants.

R277-212-9. Hearing Record.
(1) A hearing shall be recorded at UPPAC's expense, and the recording shall become part of the UPPAC case file, unless otherwise agreed upon by all parties.
(2) An individual party may, at the party's own expense, make a recording or transcript of the proceedings if the party provides notice to the Executive Secretary.
(3) If an exhibit is admitted as evidence, the record shall reflect the contents of the exhibit.
(4) All evidence and statements presented at a hearing shall become part of the UPPAC case file and may not be removed except by direction of the Executive Secretary or by order of the Board.
(5)(a) Upon request of an educator, UPPAC will provide an electronic or paper copy of the UPPAC case file to the educator.
(b) UPPAC may charge fees in accordance with Section R277-103-5 if the educator requests a paper copy.

R277-212-10. Expert Witnesses in UPPAC Proceedings.
(1) A hearing officer may allow testimony by an expert witness.
(2) A party may call an expert witness at the party's own expense.
(3) A party shall provide a hearing officer and the opposing party with the following information at least 15 days before the hearing date:
(a) notice of intent of a party to call an expert witness;
(b) the identity and qualifications of an expert witness;
(c) the purpose for which the expert witness is to be called; and
(d) any prepared expert witness report.
(4) Defects in the qualifications of an expert witness, once a minimum threshold of expertise is established, go to the weight to be given the testimony and not to its admissibility.
(5) An expert witness who is a member of the complainant's staff or staff of an LEA may testify and have the testimony considered as part of the record in the same manner as the testimony of any other expert.

R277-212-11. Evidence and Participation in UPPAC Proceedings.
(1) A hearing officer may not exclude evidence solely because the evidence is hearsay.

(2) Each party has a right to call witnesses, present evidence, argue, respond, cross-examine witnesses who testify in person at the hearing, and submit rebuttal evidence.

(3) Testimony presented at the hearing shall be given under oath if the testimony is offered as evidence to be considered in reaching a decision on the merits.

(4) On the hearing officer's own motion or upon objection by a party, the hearing officer:

(a) may exclude evidence that the hearing officer determines to be irrelevant, immaterial, or unduly repetitious;

(b) shall exclude evidence that is privileged under law applicable to administrative proceedings in the state unless waived;

(c) may receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all pertinent portions of the original document;

(d) may take official notice of any facts that could be judicially noticed under judicial or administrative laws of the state, or from the record of other proceedings before the agency.

(5)(a) In addition to a rebuttable presumption described in Subsection 53E-6-506(3)(e), a rebuttable evidentiary presumption exists that a person has committed a sexual offense against a minor if the person has:

(i) been found, pursuant to a criminal, civil, or administrative action to have committed a sexual offense against a minor; or

(ii) failed to defend [~~himself or herself~~]themselves against the charge when given a reasonable opportunity to do so.

(b) A rebuttable evidentiary presumption exists that a person is unfit to serve as an educator if the person has been found pursuant to a criminal, civil, or administrative action to have exhibited behavior evidencing unfitness for duty, including immoral, unprofessional, or incompetent conduct, or other violation of standards of ethical conduct, performance, or professional competence.

(c) Evidence of behavior described in Subsection (11)(b) may include:

(i) conviction of a felony;

(ii) a felony charge and subsequent conviction for a lesser related charge pursuant to a plea bargain or plea in abeyance;

(iii) an investigation of an educator's license, certificate, or authorization in another state; or

(iv) the expiration, surrender, suspension, revocation, or invalidation of an educator's license for any reason.

R277-212-12. Testimony of a Minor Victim or Witness.

(1) For purposes of this section, a "minor victim or witness" is an individual who is less than 18 years old at the time of hearing.

(2) If a case involves allegations of child abuse or of a sexual offense against a minor under applicable federal or state law, either party, or the hearing officer, may request that a minor victim or witness be allowed to testify outside of the respondent's presence.

(3) If the hearing officer determines that a minor victim or witness would suffer undue emotional or mental harm, or that the minor victim or witness's testimony in the presence of the respondent would be unreliable, the minor victim or witness's testimony may be admitted as described in this section.

(4) An oral statement of a minor victim or witness that is recorded before the filing of a complaint is admissible as evidence in a hearing regarding the offense if:

(a) no attorney for either party is in the minor victim or witness's presence when the statement is recorded;

(b) the recording is visual and aural and is recorded;

(c) the recording equipment is capable of making an accurate recording;

(d) the operator of the equipment is competent;

(e) the recording is accurate and has not been altered; and

(f) each voice in the recording is identified.

(5) The testimony of a minor victim or witness may be taken in a room other than the hearing room, and may be transmitted by closed circuit equipment to another room where it can be viewed by the respondent if:

(a) only the hearing officer, hearing panel members, attorneys for each party, persons necessary to operate equipment, and a person approved by the hearing officer whose presence contributes to the welfare and emotional well-being of the minor victim or witness may be with the minor victim or witness during the testimony;

(b) the respondent is not present during the minor victim or witness's testimony;

(c) the hearing officer ensures that the minor victim or witness cannot hear or see the respondent;

(d) the respondent is permitted to observe and hear, but not communicate with the minor victim or witness; and

(e) only hearing panel members, the hearing officer, and the attorneys question the minor victim or witness.

(6)(a) If a witness testifies under circumstances described in Subsection (5), a pro se educator, may submit written questions to the hearing officer to ask on the educator's behalf.

(b) A hearing officer shall take appropriate recesses to ensure a pro se educator is allowed to ask all needed follow up questions.

(7) If the hearing officer determines that the testimony of a minor victim or witness may be taken consistent with Subsections (2) through (5), the minor victim or witness may not be required to testify in any proceeding where the recorded testimony is used.

R277-212-13. Hearing Report.

(1) Within 20 days after the hearing, or within 20 days after the deadline imposed for the filing of any post-hearing materials as permitted by the hearing officer, the hearing officer shall sign and issue a hearing report consistent with the recommendations of the panel that includes:

(a) detailed findings of fact and conclusions of law based upon the evidence of record or on facts officially noted;

(b) a statement of relevant precedent, if available;

(c) a statement of applicable law and rule;

(d) presumptions applied by UPPAC;

(e) mitigating and aggravating circumstances considered by UPPAC;

(f) a recommended disposition of UPPAC panel members that shall be one of the following:

(i) dismissal of the complaint;

(ii) letter of education;

(iii) letter of warning;

(iv) reprimand;

(vii) suspension, to include the following terms and conditions:

(A) a recommended minimum time period consistent with Rule R277-215 after which an educator may request a reinstatement hearing under Rule R277-213;[~~ and~~]

[~~(B)~~] (B) a recommendation as to what restrictions should be placed on the educator's involvement in public schools in accordance with Sections 53E-6-603 and 53E-6-604.5; and

(C) any recommended conditions precedent to requesting a reinstatement hearing under Section R277-213-2; or

(viii) revocation; and

(g) notice that UPPAC's recommendation is subject to approval by the Board and judicial review as may be allowed by law.

(2) Findings of fact may not be based solely upon hearsay, and conclusions shall be based upon competent evidence.

(3)(a) A hearing officer shall circulate a draft report to hearing panel members before the 20 day completion deadline of the hearing report.

(b) Hearing panel members shall notify the hearing officer of any changes to the report:

(i) as soon as possible after receiving the report; and

(ii) before the 20 day completion deadline of the hearing report.

(c) The hearing officer shall file the completed hearing report with the Executive Secretary, who shall review the report with UPPAC.

(d) The Executive Secretary may participate in UPPAC's deliberation as a resource to UPPAC in explaining the hearing report and answering any procedural questions raised by UPPAC members.

(e) The hearing officer may confer with the Executive Secretary or the panel members or both while preparing the hearing report.

(f) The hearing officer may request the Executive Secretary to confer with the hearing officer and panel following the hearing.

(g) The Executive Secretary may return a hearing report to a hearing officer if the report is incomplete, unclear, or unreadable, or missing essential components or information.

(h) UPPAC shall vote to uphold the hearing officer's and panel's report if UPPAC finds that:

(i) there are no significant procedural errors;

(ii) the hearing panel's recommendations are based upon a preponderance of the evidence presented at the hearing; and

(iii) that all issues explained in the hearing report are adequately addressed in the conclusions of the report.

(i) After the UPPAC review, the Executive Secretary shall send a copy of the hearing report to:

(i) the Board for further action;

(ii) the respondent; and

(iii) the UPPAC case file.

(4) If the Board does not approve a UPPAC hearing report, the Board may:

(a) remand the case to UPPAC with direction to cure due process issues; or

(b) direct the Executive Secretary to make other evidence available pursuant to Section R277-212-14 before issuing a final decision with official findings; or

(c) issue findings based on the UPPAC hearing record and report:

(i) specifying the reasons, including the evidence, presumptions, and the mitigating and aggravating circumstances the Board considered, for the Board's failure to accept the hearing report;

(ii) adopting the Board's decision on the matter; and

(iii) directing the Executive Secretary to include the findings as an addendum to the hearing report, which findings constitute final Board action; or

(d) take other appropriate action consistent with due process and Rule R277-215.

(5) Following Board adoption of a hearing report or the Board's decision under Subsection (4)(c), the Executive Secretary shall:

(a) notify the educator;

(b) notify the educator's employer;

(c) update CACTUS or USIMS to reflect the Board's action; and

(d) report the action to the NASDTEC Educator Information Clearing house if the action results in:

(i) a revocation;

(ii) a suspension; or

(iii) reprimand.

(6) The hearing report is a public document under Title 63G, Chapter 2, Government Records Access and Management Act after final action is taken in the case, but may be redacted if it is determined that the hearing report contains particular information, the dissemination of which is otherwise restricted under the law.

(7) A respondent's failure to comply with the terms of a final disposition may result in additional discipline against the educator license.

(8) If a hearing officer fails to satisfy the hearing officer's responsibilities under this rule, the Executive Secretary may:

(a) notify the Utah State Bar of the failure;

(b) reduce the hearing officer's compensation consistent with the failure;

(c) take timely action to avoid disadvantaging either party; or

(d) preclude the hearing officer from further employment by the Board for UPPAC purposes.

(9) The Executive Secretary may waive the deadlines within this section if the Executive Secretary finds good cause.

(10) All criteria of letters of warning and reprimand, probation, suspension, and revocation apply to the comparable sections of the final hearing report.

R277-212-14. Additional Relevant Evidence.

(1) If the Board directs the Executive Secretary to make additional relevant evidence available to the Board for review, before the Board issues a final decision with official findings, the Executive Secretary shall give the educator a notice that includes:

(a) what additional relevant evidence the Board directed UPPAC to make available to review;

(b) the opportunity to file a response described in Subsection (2); and

(c) a statement that the educator's failure to file either a timely written response or request for hearing would be a waiver of the right to either respond, or request a hearing.

(2) An educator who receives a notice described in Subsection (1) may submit one of the following within 30 days of the notice described in Subsection (1) was sent:

(a) a written response to the additional relevant evidence that the Board directed the Executive Secretary to make available for review; or

(b) a written request for a hearing before the Board to respond to the additional relevant evidence.

(3) If the educator fails to timely respond as provided in Subsection (2):

(a) the Executive Secretary shall notify the respondent that the respondent waived the right to respond or request a hearing; and

(b) the Board may proceed to view the additional relevant evidence.

(4) If the educator files a timely written response, the Executive Secretary shall submit the written response to the Board for consideration before the Board issues a final decision.

(5) If the educator files a timely hearing request, before the Board issues a final decision, the Executive Secretary shall:

(a) request a hearing before the Board, as described in Subsection (7);

(b) provide the respondent notice of the hearing meeting the requirements of Section 53E-6-607;

(c) include a copy of the Board rules that apply; and

(d) notify the respondent that if the respondent fails to attend or participate in the hearing:

(i) that the respondent has waived the right to appear and respond to the additional relevant evidence; and

(ii) that the Board may proceed to review the additional relevant evidence.

(6) The Board shall schedule a hearing described in Subsection (5)(b) within no less than 45 days and no more than 90 days from the date the Executive Secretary receives the respondent's written request for a hearing.

(7) If the Board conducts a hearing described in Subsection (6), Sections R277-212-4, R277-212-5, and R277-212-7 through R277-212-12 apply.

(8) The Executive Secretary shall issue a subpoena to secure the attendance of a witness pursuant to Subsection 53E-6-506(3)(c)(i) if:

(a) requested by either party; and

(b) notice of intent to call the witness has been timely provided as required by Section R277-212-4.

(9) Subsection R277-212-3(1) governs the appointment of a hearing officer to conduct a hearing under this section, but no hearing report is required.

(10) After the hearing or viewing the additional relevant evidence, the Board will prepare findings that support the reasons for the Board's decision, including the presumptions and mitigating and aggravating circumstances described in Rule R277-215 that the Board applied.

(11) Findings issued by the Board as described in Subsection (11) may not be based solely upon hearsay.

R277-212-15. Default.

(1)(a) The Executive Secretary shall prepare an order of default if:

(i) the respondent fails to file an answer as described in Subsection R277-211-6(4);

(ii) the respondent fails to attend or participate in a properly scheduled hearing after receiving proper notice; or

(iii) the hearing officer recommends default as a sanction as a result of misconduct by the respondent or the respondent's representative during the course of the hearing process.

(b) The hearing officer may determine that the respondent has failed to attend a properly scheduled hearing if the respondent has not appeared within 30 minutes of the appointed time for the hearing to begin, unless the respondent shows good cause for failing to appear in a timely manner.

(2) The recommendation of default may be executed by the Executive Secretary following all applicable time periods, without further action by UPPAC.

(3) The Executive Secretary shall make a recommendation to the Board for discipline in accordance with Rule R277-215.

R277-212-16. Rights of Victims at Hearings.

(1) If the allegations that gave rise to the underlying allegations involve abuse of a sexual or physical nature, UPPAC shall make reasonable efforts to:

(a) advise the alleged victim that a hearing has been scheduled;

(b) notify the alleged victim of the date, time, and location of the hearing; and

(c) notify the alleged victim of the right to attend the hearing alone or with a victim advocate present.
(2) An alleged victim or guardian entitled to notification of a hearing is permitted, but is not required, to attend the hearing.
(3) An alleged victim or witness may have a criminal justice victim advocate or support person attend the hearing with them.

KEY: hearings, reports, educators
Date of Last Change: [~~February 9,~~]2026
Notice of Continuation: December 15, 2025
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-506; 53E-3-401(4)

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58334**
Rule or section number:	**R277-311**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-311. Specialized Endorsements

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

The amendments are necessary to make updates to the requirements for driver education endorsement.

C. Summary of the new rule or change:

The amendments update the requirements for driver education endorsement to include the Driver License Division (DLD) of the Department of Public Safety (DPS) health requirements.

The amendments also remove the oversight "Category 4".

5. Fiscal Information

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

A. State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The amendments strictly remove the rule's "Category 4" oversight categorization and require the Superintendent to review a Functional Ability Evaluation Medical Report before issuing or renewing a driver education endorsement.

Because these changes solely modify administrative application requirements and internal rule categorizations, they are not expected to have fiscal impacts on state government revenues or expenditures.

B. Local governments:

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

The stricken and new language only updates state-level educator endorsement standards, which does not require mandatory actions, generate revenues, or impose expenditures on local education agencies.

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

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

The amendments address individual educator licensing standards for driver education, which do not interact with, govern, or financially impact small business operations.

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

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

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

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

The new language requires educators seeking or maintaining a driver education endorsement to undergo a physical examination and submit a Functional Ability Evaluation Medical Report annually.

The Utah State Board of Education (USBE) does not believe this rule change has a direct fiscal impact as these are already DLD standards.

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

The new language requires educators seeking or maintaining a driver education endorsement to undergo a physical examination and submit a Functional Ability Evaluation Medical Report annually. The USBE does not believe this rule change has a direct fiscal impact as these are already DLD standards.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0

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

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Section 53E-3-401	Section 53E-3-501
Section 53G-10-507		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-311. Specialized Endorsements.
R277-311-1. Authority[~~,~~] and Purpose[~~, and Oversight Category~~].

(1) This rule is authorized by:

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

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

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

(d) Section 53G-10-507, which directs the Board to establish procedures and standards to certify teachers of driver education classes as driver license examiners.

(2) The purpose of this rule is establish standards for earning specialized endorsements in:

(a) driver education; and

(b) physical education.

[~~(3) This rule is categorized as Category 4 as described in Rule R277-111.~~]

R277-311-2. Definitions.

(1) "Driver License Division" or "DLD" means the Driver License Division of the Department of Public Safety.

(2) "Endorsement" means a designation on a license area of concentration earned through demonstrating required competencies established by the Superintendent that qualifies the individual to:

(a) provide instruction in a specific content area; or

(b) apply a specific set of skills in an education setting.

(3) "Satisfactory driving record" means that an educator:

(a) holds a valid Utah automobile operator's license;

(b) has not had an automobile operator's license suspended or revoked during the three years immediately before applying for the endorsement;

(c) has not received an automobile operator's license suspension from a court for a non-traffic related issue;

(d) has not been convicted of more than one moving violation under Title 41, Chapter 6a, Traffic Code in any 12 month period over the last 36 months before applying for a driver education endorsement;

(e) has not been convicted of any moving violation under Title 41, Chapter 6a, Traffic Code, which resulted in a fatality;

(f) has not been convicted of a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving during the five years immediately before applying for a driver education endorsement;

(g) has not been convicted of two or more violations of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(h) has not been convicted of a violation of Section 53-3-227 during the five years immediately before applying for a driver education endorsement.

R277-311-3. Driver Education Endorsement.

(1) The Superintendent shall issue a driver education endorsement to a licensee that meets the requirements of this Section R277-311-3 and holds a license area of concentration in one or more of the following areas:

(a) Secondary Education;

(b) Special Education;

(c) School Counselor; or

(d) Career and Technical Education.

(2) A driver education endorsement shall be valid for the same term as the underlying educator license.

(3) The Superintendent shall award a driver education endorsement if an educator:

(a) has a satisfactory driving record; and

(b) completes the following professional preparation:

(i) a minimum of 12 semester hours of professional learning in the area of driver and safety education, including a practicum covering classroom, on-street, simulator, and driving range instruction;

(ii) a minimum of two semester hours of driver education state law and policy through Utah Education Network;

(iii) a minimum of one semester hour of current first aid and CPR training approved by the Superintendent; and

(iv) a minimum of one semester hour of DLD online examiners training.

(4) Prior to receiving a driver education endorsement, an educator shall submit to the Superintendent a Functional Ability Evaluation Medical Report on a form provided by the DLD, completed by a health care professional, as defined in Subsection 53-3-302(2).

(5) The physical examination associated with the completion of the Functional Ability Evaluation Medical Report shall take place no earlier than three months prior to application.

(6) An educator with a driver education endorsement shall submit an updated report under Subsection (4) annually.

(7) The Superintendent shall refuse to issue a driver education endorsement, and shall rescind a driver education endorsement if a medical condition exists that would result in:

(a) a restriction being imposed on the educator's driving privileges, with the exception of a corrective lenses restriction; or

(b) the denial of the educator's driving privileges.

([~~4~~]8) An educator shall hold a current driver education endorsement to administer written and driving tests for driver education classes under Section 53G-10-507.

([~~5~~]9) An educator shall hold a current driver education endorsement to be certified as a driver license examiner by the DLD.

([~~6~~]10) To renew a driver education endorsement, an educator shall:

(a) complete:

(i) eight hours of professional development training every year; or

(ii) 40 hours of professional development training every five years before license renewal, which shall include at least one hour of DLD online examiners training; and

(b) provide proof of current first aid and CPR certification from a provider approved by the Superintendent.

([~~7~~]11) An educator may complete professional development under Subsection (6), as follows:

(a) workshops provided by the DLD; or

(b) driver education and traffic safety training pre-approved by the Superintendent through:

(i) a state agency;

(ii) college or university; or

(iii) a professional education organization.

([~~8~~]12)(a) The Superintendent shall administratively dissolve a driver education endorsement if an educator fails to maintain a satisfactory driving record.

(b) An administrative dissolution under Subsection (8)(a) shall have no effect on the underlying educator license or license area absent further Board action in accordance with Section 53E-6-604.

([~~9~~]13) An educator whose endorsement was administratively dissolved under Subsection (8)(a), may apply for reinstatement of the endorsement upon re-obtaining a satisfactory driving record and meeting the renewal requirements of Subsection (6).

R277-311-4. Physical Education Endorsement.

(1) The Superintendent shall issue a physical education endorsement or adapted physical education endorsement to a licensee that meets the requirements of this Section R277-311-4 and holds a license area of concentration in one or more of the following areas:

(a) Elementary Education;

(b) Secondary Education; or

(c) Special Education.

(2) A physical education endorsement or adapted physical education endorsement shall be valid for the same term as the underlying educator license.

(3) The Superintendent shall issue a physical education endorsement or adapted physical education endorsement if an educator:

(a)(i) completes university and professional development courses as required by the Superintendent; or

(ii) demonstrates competency, as required by the Superintendent; and

(b) provides proof of current first aid and CPR certification from a provider approved by the Superintendent.

(4) To renew a physical education endorsement or adapted physical education endorsement, an educator must provide proof of current first aid and CPR certification from a provider approved by the Superintendent.

KEY: endorsement; driver education; physical education
Date of Last Change: [~~January 7,~~] 2026
Notice of Continuation: November 14, 2025
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-3-501; 53G-10-507

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58335**
Rule or section number:	**R277-421**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-421. Out-of-State Tuition Reimbursement

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

The amendments are needed to update and simplify the process for reimbursements under this rule.

C. Summary of the new rule or change:

The amendments update the calculation requirements for out-of-state tuition reimbursement and remove the definitions for Minimum School Program (MSP), "Utah eTranscript and Records Exchange" or "(UTREx), and Weighted Pupil Unit (WPU).

5. Fiscal Information

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

A. State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The amendments update the calculation requirements the Superintendent uses for out-of-state tuition reimbursement, removing obsolete definitions for MSP, UTREx, and WPU.

The stricken language removes specific funding calculation line items, including Professional Staff Costs, District Administrative Costs, the Gifted and Talented program, and the K-3 Reading Improvement program.

The amendments also replace "Flexible Allocation" with "Teacher and Classroom Salary Support", and remove the August 30 deadline for the Superintendent to review reimbursement requests.

Because these changes solely update administrative calculation formulas to align with current funding structures (removed programs have been removed in statute) and simplify internal evaluation timelines, they do not require additional state expenditures or generate state revenues.

B. Local governments:

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

The stricken language removes the June 30 deadline for districts to submit out-of-state tuition agreements and reimbursement requests to the Superintendent.

The amendments eliminate the provision allowing the Superintendent to include district-reimbursed parent mileage costs in the tuition calculation and remove the prohibition against districts including out-of-state tuition payments in other MSP formulas.

Because these amendments simply adjust internal state-level reimbursement calculations and simplify the paperwork submission timeline rather than mandating new operational expenditures or directly generating new revenues for LEAs, the incremental fiscal impact is $0.

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 rule governs state and local education agency procedures for out-of-state tuition reimbursement, which falls under the Elementary and Secondary Schools industry (NAICS 611110).

Because there are no small businesses providing service delivery within this specific public education framework, this rule change does not interact with, govern, or financially impact small business operation.

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

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

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

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

This rule strictly modifies administrative reporting duties and state-level funding calculations between school districts and the Superintendent.

Because the amendments do not impose fees, fines, or aggregate financial costs on individuals, families, or students, the aggregate fiscal impact is $0.

F. Compliance costs for affected persons:
There are no compliance costs for affected persons. The average compliance cost to an individual will be $0 because the stricken and new language strictly dictates the procedural terms, deadlines, and calculation metrics used by school districts and the Superintendent. The rule amendments do not mandate any new fee-generating compliance actions, applications, or direct expenditures from private individuals or affected persons.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	FY2027	FY2028	FY2029	FY2030	FY2031
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Subsection 53E-3-401(4)	Section 53G-6-305

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-421. Out-of-State Tuition Reimbursement.
R277-421-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Section 53G-6-305, which outlines when a school district may pay out-of-state tuition for a resident student to attend a school district out-of-state.

(2) The purpose of this rule is to establish procedures for:

(a) obtaining Board approval for reimbursement of out-of-state tuition expenses;

(b) calculating reimbursement costs; and

(c) recording out-of-state students in district records.

R277-421-2. Definitions.

(1) "ADM" means average daily membership.

[~~(2) "Minimum school program" or "MSP" means the same as that term is defined in Section 53F-2-102.~~]

([~~3~~]2) "NESS" means the Necessarily Existent Small Schools [~~Fund~~]program.

[~~(4) "Utah eTranscript and Records Exchange" or "UTREx" means a system that allows individual detailed student records to be exchanged electronically between public education districts and the Superintendent, 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.~~

~~(5) "WPU" means the weighted pupil unit.~~]

R277-421-3. Review of Out-of-State Tuition Agreements.

(1) A district shall submit to the Superintendent an agreement to pay tuition to an out-of-state district in accordance with Subsection 53G-6-305(1)[~~by June 30~~].

(2) A district requesting reimbursement for excess tuition costs under Subsection 53G-6-305(3) shall submit a request to the Superintendent, [~~by June 30~~]including:

(a) an estimate of ADM for out-of-state students for the upcoming school year; and

(b) an estimate of tuition payment amounts for the upcoming school year.

(3)[~~(a) The Superintendent shall review a request submitted under Subsection (2) no later than August 30.~~

~~(b)~~] The Superintendent may deny a request submitted under Subsection (2) if there are insufficient funds to cover the reimbursement.

R277-421-4. Calculation of Out-of-State Tuition Reimbursement.

(1) The Superintendent shall calculate out-of-state reimbursement to a district by subtracting state funds [~~that are calculated based on the WPU~~]generated by an out-of-state resident student's ADM from the total tuition payment [~~per student~~]for the following programs:

(a) Kindergarten[~~WPU~~];

(b) Grade 1-12[~~WPU~~];

[~~(c) Professional Staff Costs;~~]

([~~d~~]c) NESS;

[~~(e) District Administrative Costs;~~]

([~~f~~]d) Class-Size Reduction;

([~~g~~]e) [~~Flexible Allocation~~]Teacher and Classroom Salary Support;

[~~(h) Gifted and Talented program;~~

~~(i) K-3 Reading Improvement program;~~]

([~~j~~]f) Voted and Board Local Levy Guarantee programs; and

([~~k~~]g) Applicable Special Education programs.

[~~(2) A district shall not include out-of-state tuition payments in any other MSP formula.~~

~~(3) The Superintendent may include in a calculation under Subsection (1) mileage costs reimbursed by a district to parents for transporting students to the nearest bus stop in accordance with Section R277-600-7.~~

~~(4) The Superintendent shall reserve the estimated funds identified by a district under Subsection R277-421-3(2)(a) from the new year NESS appropriation, and pay Board-authorized reimbursement payments from reserved funds.~~]

R277-421-5. Recording Student Membership for Out-of-State Students.

(1) A district shall record student membership for students receiving out-of-state tuition reimbursement in accordance with District enrollment and membership policies.

(2) A district shall report students [~~in UTREx~~]for whom they are paying out-of-state tuition using codes identified by the Superintendent.

(3) A district shall report ADM for students attending school out-of-state pursuant to a tuition agreement under Section 53G-6-305 in the same manner as the district calculates ADM for students attending the district's schools.

KEY: out-of-state, tuition, reimbursements
Date of Last Change: 2026[~~December 9, 2021~~]
Notice of Continuation: October 1, 2026
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-6-305

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58336**
Rule or section number:	**R277-424**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-424. Indirect Costs for State Programs

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

The amendments are needed to update this rule so that it is consistent with best practices and indirect cost rules for federal programs.

C. Summary of the new rule or change:

The amendments specifically update definitions, adding a definition for "Modified Total Direct Costs (MTDC)" and "Subaward".

The amendments also update several Utah State Board of Education (USBE) standards for claiming indirect costs for state programs.

5. Fiscal Information

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

A. State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The amendments update definitions (introducing "MTDC" and "Subaward") and align state indirect cost rules with federal standards under 2 C.F.R. Part 200. The changes modify how local education agencies (LEAs) and regional education service agencies (RESAs) calculate indirect cost drawdowns against state grant allocations by applying negotiated rates to an MTDC base rather than total grant expenditures.

Because state grant appropriations remain fixed and these changes only govern internal accounting distributions between direct program expenses and administrative overhead within existing program allocations, this rule change does not require additional state expenditures or generate state revenues.

B. Local governments:

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

The amendments strike the mandate that recovery of indirect costs is mandatory ("Recovery of indirect costs is not optional for state programs") and allow LEAs and RESAs the option to elect whether to recover indirect costs on state programs. For LEAs and RESAs that choose to recover indirect costs, the new language requires applying negotiated rates to an MTDC base (excluding equipment, capital expenditures, and subaward amounts exceeding $50,000).

While using an MTDC base may adjust the specific dollar split between direct program spending and indirect administrative reimbursement within a given grant, total state funding awarded to LEAs remains unchanged. A specific dollar figure for individual LEAs cannot be determined because choices to recover indirect costs, grant award sizes, and specific subaward or capital expenditure structures vary by LEA and program.

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 rule governs indirect cost accounting methods for public LEAs and RESAs in the Elementary and Secondary Schools industry (NAICS 611110).

Because small businesses do not account for service delivery in this public education sector, this rule change does not interact with, govern, or financially impact small business operations.

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

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

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

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

The amendments exclusively regulate financial accounting and grant administration procedures between USBE, LEAs, and RESAs.

Because this rule does not impose fees, taxes, or financial mandates on private individuals, families, or external entities, the aggregate fiscal impact is $0.

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

The average cost to an individual entity or person is $0 because this rule changes only adjust administrative calculation formulas for state grant fund drawdowns.

No fee-generating compliance actions, applications, or out-of-pocket purchases are required from individuals or affected entities.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	FY2027	FY2028	FY2029	FY2030	FY2031
State Budget	$0	$0	$0	$0	$0

Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Subsection 53E-3-501(1)(e)	Subsection 53E-3-401(4)

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-424. Indirect Costs for State Programs.
R277-424-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Article X, Section 3 of the Utah Constitution, 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) Subsection 53E-3-501(1)(e), which directs the Board to adopt rules for financial, statistical, and student accounting requirements.

(2) The purpose of this rule is to establish Board standards for claiming indirect costs for state programs.

R277-424-2. Definitions.

(1) "Direct costs" mean costs that can be easily, obviously, and conveniently identified by the Superintendent with a specific program.

(2) "Indirect costs" mean the costs of providing indirect services.

(3) "Indirect Services" mean services that cannot be identified with a specific program.

(4)(a) Modified Total Direct Costs or "MTDC" means:

(i) all direct salaries and wages;

(ii) applicable fringe benefits;

(iii) materials and supplies;

(iv) services;

(v) travel; and

(vi) up to the first $50,000 of each subaward.

(b) MTDC excludes:

(i) equipment;

(ii) capital expenditures;

(iii) charges for patient care;

(iv) rental costs;

(v) tuition remission;

(vi) scholarships and fellowships;

(vii) participant support costs; and

(viii) the portion of each subaward in excess of $50,000.

([~~4~~]5) "Regional education service agency" or "RESA" the same as that term is defined in Section 53G-4-410.

([~~5~~]6) "Restricted indirect cost rate" means:

(a) for an LEA, a rate assigned to each LEA annually based on the ratio of restricted indirect costs to modified total direct costs as reported in the annual financial report for the specific LEA; and

(b) for a RESA, a rate determined by the RESA, up to the de-minimis rate when allowable.

(7)(a) "Subaward" means an award to a subrecipient for the subrecipient to carry out part of an award received by the pass-through entity.

(b) A "subaward" may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

([~~6~~]8) "Unallowable costs" mean expenditures [~~directly attributable to governance, including:~~

~~(a) salaries;~~

~~(b) expenditures of the office of the district superintendent, the governing board, and election expenses; and~~

~~(c) expenditures for fringe benefits, which are associated with unallowable salary expenditures.~~]that are prohibited under federal or state costs principles from being charged as either direct or indirect costs to any public award as outlined in 2 C.F.R. Part 200, Subpart E, including:

(a) expenditures of the office of the district superintendent or governing board;

(b) election expenses;

(c) bad debts;

(d) fundraising;

(e) lobbying;

(f) alcoholic beverages;

(g) entertainment expenses; and

(h) costs of prosecutorial activities unless treated as a direct for a specific state program if authorized by statute or regulation.

([~~7~~]9) "Unrestricted indirect cost rate" means:

(a) for an LEA, a rate assigned to each LEA annually, based on the ratio of unrestricted indirect costs to modified total direct costs as reported in the annual financial report for the specific LEA; and

(b) for a RESA, a rate determined by the RESA, up to the de-minimis rate when allowable.

R277-424-3. Standards.

(1)(a) An LEA or RESA may charge indirect costs to state funded programs unless prohibited by Utah Code or Board Rule.

(b) An LEA or RESA may charge indirect costs to federally funded programs in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(2) The Superintendent may not authorize or pay indirect costs to higher education institutions for state funded contractual work.

(3)(a) Prior to the beginning of each fiscal year, the Superintendent shall publish a schedule of the indirect cost rates for state programs.

(b) The Superintendent shall develop the schedule from information contained in the annual financial reports and specifically identified items submitted by LEAs.

(c) Each program schedule shall include:

(i) whether or not the restricted or unrestricted indirect cost rate applies; and

(ii) whether or not indirect costs are allowable or applicable.

(4)(a) An LEA or RESA may recover indirect costs if funds are available.

(b) If a combination of direct and indirect costs exceeds funds available, then [~~the~~]an LEA or RESA may not recover the total cost of the project or program.

[~~(c) Recovery of indirect costs is not optional for state programs.~~]

([~~d~~]c) If an LEA or RESA elects to recover indirect costs, the LEA or RESA shall use the annual rates negotiated by the Superintendent for applicable federal and state programs.

(d) The Superintendent shall calculate the negotiated rates described in Subsection (4)(c) using annual financial information submitted in LEA Annual Financial Reports and audited financial statements.

(5)(a) An LEA or RESA may only recover indirect costs for state programs to the extent that modified total direct costs were incurred.

(b) The Superintendent shall apply the indirect cost rate to the [~~amount expended, not to the total grant,~~]MTDC base expended under the program rather than the total grant award to determine the [~~amount for~~]allowable recovery of indirect costs.

KEY: education finance
Date of Last Change: 2026[~~January 11, 2022~~]
Notice of Continuation: October 1, 2026
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(e); 53E-3-401(4)

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58337**
Rule or section number:	**R277-436**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-436. Juvenile Gang and Other Violent Crime Prevention and Intervention Grant

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

The amendments are needed to continue rules for the Juvenile Gang and Other Violent Crime Prevention and Intervention Program, as funding has been moved into the Weighted Pupil Unit (WPU) add-on.

C. Summary of the new rule or change:

The proposed amendments make limited changes to Rule R277-436 to clarify that administration of the program and the award of grant funds are subject to legislative appropriation.

The amendments also update this rule's authority language to more accurately reflect Section 53F-2-410.

The amendments also remove an oversight "Category 3" classification.

5. Fiscal Information

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

A. State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The amendments clarify that the administration of the Juvenile Gang and Other Violent Crime Prevention and Intervention Program and the award of grant funds are subject to annual legislative appropriation.

This rule also updates the statutory authority language to correctly reference Section 53F-2-410 and strikes the oversight "Category 3" classification.

Because these changes solely update statutory cross-references and explicitly condition grant distributions on legislative appropriations rather than mandating new state administrative expenditures or generating state revenues, the fiscal impact is $0.

B. Local governments:

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

The new language simply adds the qualifying phrase "Subject to legislative appropriation" to the process by which local education agencies (LEAs) apply for grant funds.

Because the amendments do not impose new application requirements, data reporting burdens, or operational mandates on LEAs, they do not generate incremental local government costs or 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 rule governs state grant administration for public school LEAs, an activity that falls under the Elementary and Secondary Schools industry (NAICS 611110).

Because small businesses do not account for service delivery within this public education grant framework, the rule change does not interact with, govern, or financially impact small business operations.

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 as a class.

The amendments exclusively regulate intergovernmental grant application and distribution procedures between the Superintendent and public school LEAs.

Because this rule does not impose fees, fines, or aggregate financial mandates on private individuals, students, or community prevention providers, the aggregate fiscal impact is $0.

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

The average compliance cost to an individual will be $0 because the stricken and new language strictly dictates the administrative conditions for LEA grant funding.

The amendments do not mandate any new fee-generating compliance actions, application hurdles, or out-of-pocket expenses for individuals or affected entities.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Section 53F-2-410	Subsection 53E-3-401(3)

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-436. Juvenile Gang and Other Violent Crime Prevention and Intervention Grant.
R277-436-1. 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) [~~Subsection 53F-2-410(2), which appropriates funds to be used for Juvenile Gang and Other Violent Crime Prevention and Intervention Programs~~]Section 53F-2-410, which requires the Board to make rules regarding the Juvenile Gang and Other Violent Crime Prevention and Intervention Program.

(2) The purpose of this rule is to establish standards and procedures for distributing funding for Juvenile Gang and Other Violent Crime [~~p~~]Prevention and [~~i~~]Intervention programs in public schools.

[~~(3) This Rule is categorized as Category 3 as described in Rule R277-111.~~]

R277-436-2. Definitions.

(1) "Gang" means a group of three or more people who form an allegiance and engage in criminal activity, which uses violence or intimidation to further its criminal objectives that may have a name, turf, colors, symbols, distinct dress, or any combination of the preceding characteristics.

(2) "Juvenile Gang and Other Violent Crime Prevention and Intervention" means:

(a) instructional and support strategies, activities, programs, or curricula designed and implemented to help students achieve academic success and provide successful experiences with education for youth and families;

(b) gang prevention activities that the LEA utilizes evidence-informed strategies that promote and increase protective factors in students within or outside of the school, which may impact the individual's susceptibility to participate in violent crimes, gang membership, or gang-like activities; and

(c) protective factors may include family support and monitoring, social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationship skills.

(3) "State agency" means the same as defined in Section 53F-2-410.

R277-436-3. Application, Distribution of Funds, and Administrative Support.

(1) Subject to legislative appropriation, [~~A~~]an LEA may apply for Juvenile Gang and Other Violent Crime Prevention and Intervention funds by submitting a proposal on a form approved by the Superintendent.

(2) A proposal submitted in accordance with Subsection (1) shall:

(a) identify the targeted student population and demonstrate how the prevention and intervention strategies will benefit the student population;

(b) explain prevention and intervention activities and strategies planned to address identified issues ;

(c) demonstrate collaboration between the LEA and local law enforcement agencies and community prevention providers; and

(d) explain how an LEA plans to use the funds.

(3) The Superintendent shall award gang intervention funds based on proposals submitted in accordance with Subsection (1), and subject to the annual legislative appropriation.

(4) The Superintendent shall give priority in awarding funds to an LEA that:

(a) demonstrates collaborative efforts with local law enforcement agencies and community prevention providers;

(b) uses state agency data as defined in Subsections 53F-2-410(4)(a)(i) and 53F-2-410(3)(a)(i) that demonstrate multiple risk factors for gang involvement;

(c) defines how the LEA will implement activities funded by the grant to increase protective factors for students at risk of gang involvement; and

(d) uses data to evaluate that the activities implemented are successful and that there is a reduction of gang involvement from previous years.

(5) The Superintendent shall determine the percentage of funds awarded based on:

(a) the number of LEAs that apply; and

(b) the application components as described in Subsection (4).

(6) The Superintendent shall notify successful applicants of their awards annually.

R277-436-4. Evaluation and Reports.

(1) An LEA or charter school shall provide the Superintendent a year-end evaluation report by October 1 for the previous fiscal year.

(2) A year-end report shall include:

(a) an expenditure report;

(b) a narrative description of all activities funded;

(c) copies of products developed;

(d) an effectiveness report detailing evidence of individual and overall activities and strategies impact on gang and gang-related activities and involvement; and

(e) any other information or data required by the Superintendent.

(3) The Superintendent may require additional evaluation or audit procedures from the grant recipient to demonstrate use of funds consistent with the law.

R277-436-5. Waivers.

Notwithstanding Rule R277-121, the Superintendent may grant a written request for a waiver of a requirement or deadline contained in this rule, which a district or school finds unduly restrictive.

KEY: public schools, disciplinary problems, students at risk, gangs
Date of Last Change: 2026[~~August 7, 2024~~]
Notice of Continuation: January 18, 2023
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-2-410; 53E-3-401(3)

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58339**
Rule or section number:	**R277-438**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-438. Dual Enrollment

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

The amendments are needed to update the requirements for private and home school student participation in a public school course, co-curricular activity, or program.

C. Summary of the new rule or change:

The proposed amendments update statutory references to align with current law, clarify the interaction between dual enrollment and the Utah Fits All Scholarship Program, and make technical and grammatical corrections.

5. Fiscal Information

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 new language clarifies that a student receiving a Utah Fits All Scholarship who enrolls as a dual enrollment student is subject to statutory scholarship eligibility requirements under Title 53F, Chapter 6, Part 4.

The amendments also update statutory cross-references to Section 53G-6-702 and correct minor grammatical phrasing.

Because these changes strictly align rule text with pre-existing statutory provisions for the Utah Fits All Scholarship Program and correct references without creating new state duties, changing funding allocations, or altering administrative operations, there is no fiscal impact ($0) on state revenues or expenditures.

B. Local governments:

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

The amendments clarify the statutory interaction between dual enrollment and the Utah Fits All Scholarship Program and update statutory citation numbers.

Because the rule change does not alter dual enrollment funding formulas, mandate new administrative procedures, or require local education agencies (LEAs) to expand course offerings or services, it results in no fiscal impact ($0) 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 rule governs dual enrollment standards for public schools, which fall under the Elementary and Secondary Schools industry (NAICS 611110).

Because small businesses do not account for service delivery within public school dual enrollment, this rule change does not govern, interact with, or financially impact small business operations ($0).

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

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

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

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

The added language serves an informational purpose by notifying scholarship recipients that dual enrollment in a public school triggers statutory scholarship rules under Title 53F, Chapter 6, Part 4.

Because this rule change relies on existing statutory mandates rather than imposing new administrative fees, tuition, or financial burdens at the administrative rule level, the aggregate fiscal impact on students and families is $0.

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

The new text solely updates statutory citations and clarifies scholarship eligibility requirements already established in state law.

The rule amendments do not require individual students or families to make out-of-pocket purchases, pay application fees, or complete additional fee-generating compliance procedures.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	FY2027	FY2028	FY2029	FY2030	FY2031
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0

Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Subsection 53E-3-501(1)(b)(i)	Subsection 53E-3-401(4)
Section 53G-6-702		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-438. Dual Enrollment.
R277-438-1. 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-3-501(1)(b)(i), which directs the Board to establish rules and minimum standards for access to programs;

(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; and

(d) Section 53G-6-702, which governs dual enrollment.

(2) The purpose of this rule is to provide consistent statewide procedures and criteria for a home school and private school student's participation in a public school course, co-curricular activity, or program.

R277-438-2. Definitions.

(1) "Co-curricular activity" means a school district or school activity, course, or experience, outside of school hours, that also includes a required regular school day component.

(2) "Dual enrollment student" means a student who is enrolled simultaneously in:

(a) a private school or home school; and

(b) a public school.

(3) "Eligibility" means a student's fitness and availability to participate in a school course, activity, or program governed by this rule that is determined by a number of factors, including:

(a) residency;

(b) scholarship;

(c) age; and

(d) the number of semesters of participation in a particular course, activity, or program.

(4) "Full-time student" means a student earning the school district designated number and type of credits required for participation in a course, activity, or program in the school district in which the student's parent resides.

(5) "Home school" means a school in the state comprised of one or more students officially excused from compulsory public school attendance under Section 53G-6-204.

(6) "Private school" means a school in the state that:

(a) is maintained by a private individual or corporation;

(b) is maintained and operated not at public expense;

(c) is generally supported, in part at least, by tuition fees or charges;

(d) operates as a substitute for, and gives the equivalent of, instruction required in a public school;

(e) employs a teacher able to provide the same quality of education as a public school teacher;

(f) is established to operate indefinitely and independently, not dependent upon age of the students available or upon individual family situations; and

(g) is licensed as a business by the Department of Commerce.

(7)(a) "Resident school" means a public school:

(i) that is under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards; and

(ii) within whose boundaries a student's custodial parent resides.

(b) "Resident school" does not mean a charter school or online school.

(8) "Student participation fee" means a fee charged to all participating students by the resident school for enrollment in a course, program, or co-curricular school activity consistent with Rule R277-407.

R277-438-3. Private and Home School Student Participation in a Public School Course, Co-curricular Activity, or Program.

(1) A student who is exempt from compulsory public school education by a local school board for instruction in a private or home school may enroll in the student's resident school as a dual enrollment student and participate in a course, co-curricular activity, or program at the student's resident school if the student:

(a) takes courses comparable to resident school courses or earns credit under options outlined in Section R277-700-6 in at least as many of the designated courses as required by the local school board of a student for participation in the course, co-curricular activity, or program; or

(b) demonstrates competency to the satisfaction of the LEA in the subject matter taught in the courses required by the local school board of a student for participation in the course, co-curricular activity, or program.

(2) A student receiving a Utah Fits All Scholarship who enrolls in a public school as a dual enrollment student under Section 53G-6-702 is subject to the scholarship eligibility requirements of Title 53F, Chapter 6, Part 4, Utah Fits All Scholarship Program. This subsection does not apply to a student's participation in an extracurricular activity under Section 53G-6-703.

[~~(2)~~](3) A public school that is not the student's resident school may allow a private or home school student to enroll in the public school, including in a single course or program, as a dual enrollment student, at the discretion of the public school, and in accordance with [~~Subsection 53G-6-703(2)(d)~~]Section 53G-6-702.

[~~(3)~~](4)(a) A private school dual enrollment student is eligible to participate in a course, co-curricular activity, or program consistent with the eligibility standards for a full-time student, including providing a report card to the resident school or other school described in Subsection (2) upon request.

(b) A home school dual enrollment student is eligible to participate in a course, co-curricular activity, or program if eligibility standards are met consistent with Subsection[~~s 53G-6-703(5) through 53G-6-703(14)~~] 53G-6-702(3).

R277-438-4. Fees for Private and Home School Students.

A school or school district shall waive a student participation fee for a dual enrollment private or home school student if:

(1) the student is eligible; and

(2) the parent provides required documentation under Section 53G-7-504 and Rule R277-407, School Fees.

R277-438-5. Miscellaneous Issues.

(1) A dual enrollment student attending an activity or a portion of a school day under Section 53G-6-702 is subject to the same behavior and discipline rights and requirements of a full-time student.

(2) A dual enrollment student who attends an activity or a portion of the school day is subject to the administrative scheduling and teacher discretion of the public school.

(3)(a) A dual enrollment student with a disability may participate as a dual enrollment student consistent with law, this rule and 34 CFR 300.450 through 300.455.

(b) A public school that enrolls a dual enrollment student shall prepare an IEP for a student described in Subsection (3)(a) prior to the student's participation in dual enrollment using comparable procedures to those required for identifying and evaluating public school students.

(c) A student with a disability seeking dual enrollment is entitled to services for the time, or for the number of courses, the student is enrolled in the public school, based on the decision of the student's IEP team.

(d) Decisions about the scheduling and manner of services provided [~~is~~]are the responsibility of the enrolling public school and school district personnel.

(e) A school or a school district is not prohibited from providing a service to a student who is not enrolled full time in excess of those required by this section.

KEY: public education, dual enrollment
Date of Last Change: 2026[~~December 8, 2016~~]
Notice of Continuation: October 1, 2026
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(b)(i); 53E-3-401(4[~~01~~]); 53G-6-702

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58340**
Rule or section number:	**R277-477**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program

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

The amendments to this rule are needed to continue implementation of the School LAND Trust Program.

C. Summary of the new rule or change:

The changes are intended to provide greater clarity and consistency in several areas of program administration.

Specifically, the amendments clarify the definition of allowable uses of funds, require training to be guided by current state-issued resources to reduce compliance issues associated with outdated local training materials, further define deadlines applicable to new schools, and consolidate council responsibilities that are currently located outside the primary School LAND Trust Program statute and rules.

5. Fiscal Information

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

A. State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The amendments:
1) define allowable and unallowable expenditures (defining "furniture" vs. "instructional object" and restricting food expenses);
2) require local education agency (LEA) and charter councils to utilize state-provided training resources;
3) set a November 1 deadline for new schools seeking first-year funding;
4) consolidate existing statutory council advisory duties; and
5) reinforce the Superintendent's authority to mandate reimbursement of non-compliant expenditures back to a school's trust budget.

Because trust distributions are statutory, state training resources are already maintained by the Utah State Board of Education (USBE), and compliance enforcement redirects funds within local budgets rather than state accounts, these updates do not require additional state expenditures or generate state revenue.

B. Local governments:

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

The amendments adjust administrative rules for School LAND Trust plan submissions, mandate November 1 completion for new schools seeking first-year funds, require the use of state-provided training materials, and enforce reimbursement to the local School LAND Trust budget if funds are spent on unallowable items (such as non-instructional furniture or unapproved food).

While these changes refine local spending decisions and compliance tracking, overall state trust fund distributions to LEAs remain fixed, resulting in a $0 net change in 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 rule governs the internal distribution and management of School LAND Trust program funds across public schools in the Elementary and Secondary Schools industry (NAICS 611110).

Because small businesses do not participate in public school trust land governance or service delivery, these administrative updates do not govern, interact with, or financially impact small business operations.

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

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

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

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

The amendments strictly regulate intergovernmental administration, council training, plan deadlines, and fund usage between the USBE, LEA governing boards, and school community or charter councils.

Because this rule imposes no fees, taxes, or aggregate financial mandates on private individuals, parents, or council members, the aggregate fiscal impact is $0

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

Requiring council members and board chairs to utilize state-issued training resources standardizes existing training without creating out-of-pocket expenses.

Additionally, updates to allowable expenditure rules and new school submission timelines affect school-level administrative processing only and do not require individual educators, council members, or parents to pay fees or incur personal expenses.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Section 53E-3-401	Section 53F-2-404

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program.
R277-477-1. 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 53F-2-404(2)(d), which allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; 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) In accordance with Section 53D-2-202, through representation on the Land Trusts Protection and Advocacy Committee, the Board exercises trust oversight of:

(a) the Common School Trust;

(b) the School for the Deaf Trust; and

(c) the School for the Blind Trust.

(3) The Board implements the School LAND Trust program and provides oversight, support, and training for school community councils and Charter Trust Land Councils consistent with Sections 53G-7-1205, 53G-7-1206, Rule R277-491, and this Rule R277-477.

(4) The purpose of this rule is to:

(a) provide financial resources to a public school to implement a component of a school's Teacher and Student Success Plan to enhance and improve student academic achievement;

(b) provide a means to involve a parent of a school's student in decision-making regarding the expenditure of School LAND Trust program funds allocated to the school;

(c) provide direction in the distribution of funds from the Trust Distribution Account, as funded in Section 53F-2-404;

(d) provide for appropriate and adequate oversight of the expenditure and use of funds by an approving entity, school administration, and the Board;

(e) provide for proper allocation of funds as stated in Section 53F-2-404, and the appropriate and timely distribution of the funds;

(f) enforce compliance with statutory and rule requirements, including the responsibility for a school community council to notify school community members regarding the use of funds; and

(g) define the roles, duties, and responsibilities of the Superintendent with regards to the School Children's Trust.

R277-477-2. Definitions.

(1) "Academic" means an area listed or defined within the official Utah core standards for k-12 education, including:

(a) a learning objective;

(b) a skill;

(c) a concept; or

(d) a subject area.

(2) "Board plan approval meeting" means the meeting when the LEA governing board approves a school plan for the upcoming school year.

(3) "Board council" means a charter school governing board serving as the charter council wherein the parents or grandparents of students attending the school constitute a majority exceeding all other board members by at least two as defined in Section 53G-7-1205.

(4) "Budget officer" means an individual appointed by a charter school governing board in accordance with Section 53G-7-1206.

(5) "Carry-over limit" means any unexpended funds at the end of a school year, which exceed 10% of a school's current year distribution or $5,000, whichever is greater.

(6) "Charter council" means an elected council for a charter school, serving as its school community council, where its parent members are elected by parents of students attending the charter school, and at least two more members are parents of students attending the charter school than all other members combined.

(7) "Council" means a school community council, a charter council, or a board council.

(8) "Council plan approval meeting" means the meeting where a council approves the school plan for the upcoming school year.

(9)(a) "District liaison: means an individual authorized by an LEA governing board to fulfill program-related responsibilities under the board's supervision.

(b) A "district liaison" may not approve school plans in place of an LEA governing board.

(10) "Fall enrollment report" means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report of the previous year.

(11) "Funds" means School LAND Trust program funding as defined in Section 53F-2-404.

(12) "Furniture" means furnishings whose primary purposes are seating, storage, workspace, or room arrangement and that do not provide a direct instructional or academic function.

(13) "Instructional object" means furniture or related items with embedded, integrated, or inherent instructional functionality that directly support student learning, instruction, assessment, collaboration, or engagement.

([~~12~~]14) "Most critical academic need" means an academic need, consistent with the core standards in Rule R277-700, identified by a council through the annual review of school-wide assessment data and other relevant indicators.

([~~13~~]15) "Newly opened charter school" means a charter school in its first two years of operation.

([~~14~~]16) "Newly opened satellite school" means a satellite school in its first two years of operation.

([~~15~~]17) "Non-academic activity" means an activity, item, or use of funds that does not have a direct impact on a learning objective, skill, concept, or subject area within the official Utah core standards for k-12 education.

([~~16~~]18) "Parent," for a charter school, includes a grandparent of a student currently enrolled at the school.

([~~17~~]19) "Principal" means:

(a) a licensed educator with a school leadership license area of concentration employed at a school; or

(b) The director or principal of a charter school who serves as the administrator of the school.

([~~18~~]20) "Satellite charter school" has the same meaning as that term is defined in Section R277-550-2.

([~~19~~]21) "SLT reporting website" means the School LAND Trust reporting website.

([~~20~~]22) "Student" means a child in public school grades kindergarten through 12 counted on the fall enrollment report of an LEA.

([~~21~~]23) "Teacher and Student Success Plan" or "TSSP" means the plan required of each school under Section 53G-7-1305.

([~~22~~]24) "Trust Distribution Account" means the restricted account within the Uniform School Fund created under Subsection 53F-9-201(2).

([~~23~~]25) "UPEFS" means the Utah Public Education Finance System.

R277-477-3. Program Requirements for Charter Schools.

(1) A charter school that elects to receive School LAND Trust funds shall have a charter council or board council consistent with Section 53G-7-1205.

(2) A charter school governing board and a charter council:

(a) shall receive training about Sections 53G-7-1203, 53G-7-1205, and 53G-7-1206, and this rule[~~.~~];

(b) shall utilize state-provided training and current state-issued resources as required by the Superintendent to promote consistent guidance and statewide program compliance; and

(c) may supplement state-provided training or resources to address local needs, provided the supplemental materials are consistent with state law, rule, and program requirements.

(3) A charter governing board shall establish a process for the election of the charter council that includes:

(a) the number of parent or grandparent members, the number of 'other members', and the definition of each 'other member' to be elected to serve on the council;

(b) the terms of each position;

(c) a timeframe for the election;

(d) a process for noticing and conducting the election of council members elected by parents of students enrolled at the charter school consistent with Section R277-477-2; and

(e) the process for filling unfilled seats following an election or when a member resigns.

(4) In the election process, if the number of candidates who file for a position on a charter trust land council is less than or equal to the number of open positions, an election is not required.

(5) A charter council shall:

(a) be subject to Section 53G-7-1203; and

(b) post the following items on the school's website by October 20 annually:

(i) an invitation to parents to serve on the charter council;

(ii) the election process to establish a charter council consistent with this section;

(iii) the dollar amount the school receives each year from the School LAND Trust program;

(iv) a copy or link to the current Teacher and Student Success Plan;

(v) approved minutes of charter council meetings for at least a year;

(vi) the proposed council meetings scheduled for the school year;

(vii) a means to contact the members of the school's charter council directly;

(viii) a link or copy of the final reports of the school for the last two years, as required by Subsection 53G-7-1206(5); and

(ix) a link or copy of the school plan for the current year.

(6) The principal of a charter school shall submit a plan, approved by the school's governing board and the charter school budget officer on the School LAND Trust website[~~:~~

~~(a)~~] no later than May 1[~~; or~~

~~(b) for a newly opening charter school, no later than November 1 in the school's first year to receive funding in the year the newly opening charter school opens~~].

(7)(a) The director of a charter school shall provide an annual report to the charter council or board council that summarizes the current safety principles and practices used by the LEA and school to facilitate the charter council's responsibilities under Subsection 53G-7-1205(7).

(b) The report described in Subsection (7)(a) shall include:

[~~(i) information concerning internet filtering protocols for school and district devices that access the internet;~~]

([~~ii~~]i) local instructional practices, monitoring, and reporting procedures; and

([~~iii~~]ii) internet safety training provided to students and parents.

(8) A Charter Council advises and makes recommendations to the school's governing board concerning:

(a) an Innovation Plan in accordance with Section 53G-7-221;

(b) the School Breakfast program in accordance with Section 53G-9-205; and

(c) a positive behaviors plan in accordance with Section 53G-10-407.

(9) A Charter Council advises and makes recommendations to the school principal concerning the Teacher and Student Success Plan in accordance with Section 53G-7-1305.

R277-477-4. School LAND Trust Funding Requirements.

(1) A public school receiving School LAND Trust program funds shall have:

(a) a school community council as required by Section 53G-7-1202 and Rule R277-491;

(b) a charter council as required by Section 53G-7-1205; or

(c) a charter board council as required by Section 53G-7-1205.

(2) Notwithstanding Subsection (1), the USDB Advisory Council may fill the responsibilities of a school community council for USDB.

(3) To qualify to receive funds for an upcoming school year, a school's principal shall:

(a) submit a Council Membership Form on the SLT reporting website demonstrating compliance with the required membership in Subsection (1) by October 20 annually;

(b) submit a Principal Assurance Form on the SLT reporting website consistent with Subsection 53G-7-1206(3)(c) by October 20 annually;

(c) complete all school website requirements consistent with Subsection R277-477-3(5)(c) for charter schools or Subsection R277-491-4(2) for district schools by October 20 annually;

(d) submit a final report for the prior school year, approved by the budget officer or district liaison on the form provided through the SLT reporting website;

(e) submit a School LAND Trust plan for the upcoming school year through the SLT reporting website consistent with Subsection 53G-7-1205(4); and

(f) ensure all council members have an opportunity to provide a signature verifying their involvement consistent with Subsection (4).

(4)(a) The principal of a school shall ensure that a council member has an opportunity to provide a signature indicating the member's involvement in implementing the current School LAND Trust plan and developing the school plan for the upcoming year.

(b) The principal shall collect a council member's signature at the Council plan approval meeting or at a later time consistent with LEA policies.

(c) A school shall retain signatures collected under Subsection (4)(b) for no less than three years.

(d) A school shall provide copies of signatures collected under Subsection (4)(b) to the LEA governing board before the Board plan approval meeting.

(e) A governing board or designee may design the LEA's own form to collect the information required by this Subsection (4).

(f) A board council is exempt from the requirement of collecting signatures as outlined in this Subsection (4)(b).

(5)(a) A district liaison or a budget officer shall collaborate with the LEA governing board to establish a timeline, including a deadline, for a school to submit a school's School LAND Trust plan on the SLT reporting website.

(b) A timeline described in Subsection (5)(a) shall require a School LAND Trust plan to be ready for review by the Superintendent no later than May 15 for a district school or May 1 for a charter school, allowing sufficient time for the LEA governing board, through the district liaison, and budget officer to approve the plan or return the plan to the school's council for any necessary edits before resubmission and approval.

(c) A new school shall become eligible to receive funding beginning in the first month after the school satisfies all applicable program requirements.

(d) To facilitate funding distribution and expediture within the same fiscal year, a new school seeking first-year funding shall complete all applicable program requirements by November 1.

(6)(a) An LEA governing board and budget officer:

(i) shall consider a plan annually; and

(ii) may approve or disapprove a school plan.

(b) If an LEA governing board and budget officer do not approve a plan, they shall:

(i) provide a written explanation for the disapproval; and

(ii) request that the school revise the plan, consistent with Subsection 53G-7-1206(4)(d).

(7)(a) After an LEA governing board has completed the plan review, the budget officer or district liaison shall enter the date of the governing board approval in the SLT reporting website before approving the plan on the SLT reporting website on behalf of the governing board.

(b) Subsequently, the budget officer shall perform an additional review in accordance with Subsections (6)(a)(i) through (ii).

(c) Upon completion of Subsection (7)(b), the budget officer or district liaison shall notify the Superintendent that the LEA's reviews are complete and the plan is ready for the Superintendent's review.

(8) For a school to receive its full distribution in July, the school's plan shall be ready for Superintendent review no later than May 15 for a district school and May 1 for a charter school.

(9)(a) Before approving a plan, an LEA governing board and budget officer shall review a School LAND Trust plan to confirm that a School LAND Trust plan contains:

(i) priority academic areas listed in Subsection R277-477-5(3) or LEA-approved academic areas of greatest need for improvement;

(ii) academic goal statements that align with the areas identified in Subsection (i) and have direct impact on student learning;

(iii) measurement tools and baseline data for each academic area to assess progress and improvement toward the goals;

(iv) specific action steps designed to achieve the academic goals;

(v) detailed and specific expenditures to carry out the action steps and support academic improvement in the plan goals;

(vi) an explanation for any planned carry-over that exceeds the school's applicable carry-over limit; and

(vii) the date the council approved the plan, verified by the council vote that corresponds with the council membership in the Council Membership Form.

(b) The LEA governing board shall determine whether a School LAND Trust plan is evidence-based and consistent with the approving entity's pedagogy, programs, and curriculum.

(c) The president or chair of the LEA governing board:

(i) shall provide training annually on the requirements of Section 53G-7-1206, and this rule to the members of the LEA governing board, the LEA's councils, the district business administrator, the district liaison, and the budget officer[~~,~~];

(ii) shall utilize state-provided training and current state-issued resources as required by the Superintendent to promote consistent guidance and statewide program compliance; and

(iii) may supplement state-provided training or resources to address local needs, provided the supplemental materials are consistent with state law, rule, and program requirements.

(10) By approving a plan, the LEA governing board, budget officer, and district liaison affirm that:

(a) the plan has been through all LEA-level reviews; and

(b) the plan meets the requirements of statute and rule.

(11)(a) After receiving the notice described in Subsection (7)(c), the Superintendent shall review each School LAND Trust plan for compliance with the law governing School LAND Trust plans.

(b) The Superintendent shall report back to the budget officer, district liaison or charter principal when School LAND Trust plans are found to be out of compliance with the law.

(c) An LEA governing board or the principal and budget officer for a charter school shall ensure that a School LAND Trust plan that is found to be out of compliance with the law by the Superintendent is amended or revised by the council to bring the school's School LAND Trust plan into compliance with the law.

(12) A school shall implement a plan as approved.

(13) If an LEA fails to comply with Subsection (11)(c), corrective action may be implemented consistent with Rule R277-114.

R277-477-5. Appropriate Use of School LAND Trust Program Funds.

(1) A council shall annually review school-wide assessment data to prepare and approve a School LAND Trust plan, including:

(a) identifying academic priority areas of greatest need consistent with LEA priorities;

(b) establishing student centered academic goal statements;

(c) selecting measurement tools and baselines for each academic priority area; and

(d) developing action steps and identifying School LAND Trust fund expenditures for data-driven and evidence-based ways to improve educational outcomes.

(2) A school plan shall support academic components of the teacher and student success plan under Section 53G-7-1304 and the LEA's governing board priorities.

(3) A school's School LAND Trust program expenditures shall have a direct impact on the instruction of students in the particular school's areas of most critical academic need and consistent with the academic priorities of the LEA's governing board:

(a) to increase achievement in:

(i) English;

(ii) language arts;

(iii) mathematics; and

(iv) science; and

(b) for secondary schools to:

(i) increase graduation rates; and

(ii) promote college and career readiness.

(4) A school's LAND Trust plan:

(a) may include counselors and educators working with students and families on academic and behavioral issues when a direct impact on academic achievement can be measured; and

(b) may include addressing absenteeism when a direct impact on academic achievement can be measured.

(5) A school may not use School LAND Trust program funds for the following:

(a) costs related to district or school administration, including accreditation;

(b) expenses for:

(i) construction;

(ii) maintenance;

(iii) facilities;

(iv) overhead;

(v) furniture, except when the furniture qualifies as an instructional object and the Council or LEA provides an explanation in the action steps demonstrating how the furniture directly supports instruction or student learning;

(vi) food, except when necessary for instructional purposes or permitted under LEA policy for travel related to attendance at academic-focused conferences or professional development activities;

(vii) storage of personal student property;

(viii) security; or

([~~viii~~]ix) athletics; or

(c) expenses for non-academic activities.

(6) The Superintendent shall require an LEA to reimburse an expenditure to the School LAND Trust budget, which falls under Subsection (5) or which is inconsistent with the school's approved plan.

([~~6~~]7) A school that demonstrates appropriate progress and achievement consistent with the academic priorities of the LEA governing board outlined in Subsection (2) may request local board approval of a plan to address other academic goals if the plan includes:

(a) how the goal is in accordance with the core standards established in Rule R277-700;

(b) how the action steps for the goal are:

(i) data-driven;

(ii) evidence-based; and

(iii) have a direct impact on the instruction of students consistent with this Section R277-477-5;

(c) the data driving the decision to spend School LAND Trust funds for academic needs outlined in this Subsection (4); and

(d) the anticipated data source the school will use to measure progress.

([~~7~~]8) An LEA governing board may not require a council or school to spend the school's School LAND Trust program funds on a specific use or set of uses.

([~~8~~]9)(a) Student incentives implemented as part of an academic goal in the School LAND Trust program may not exceed $4 per student per plan in an academic school year.

(b) The limit set forth in Subsection (8)(a) does not apply to expenditures for academic instructional materials for students.

R277-477-6. Distribution of Funds - Determination of Proportionate Share.

(1) An LEA shall report the prior year expenditure of distributions for each school.

(2) The total expenditures each year described in Subsection (1) may not be greater than the total available funds for an LEA.

(3) Before October 1, a school district shall adjust the current year distribution of funds received from the School LAND Trust program as described in Section 53F-2-404, as necessary to maintain an equal per student distribution within a school district based on:

(a) school openings and closings;

(b) boundary changes; and

(c) other enrollment changes occurring after the fall enrollment report.

(4) For any reallocations made after October 1, a district liaison shall provide written notification to the impacted principals and school community councils and shall copy the Superintendent on the correspondence.

(5) An LEA shall provide the current year distribution and carry-over amount from the prior school year to the principal by October 1 annually.

(6) A charter school and each of the charter school's satellite charter schools are a single LEA for purposes of public school funding.

(7)(a) For purposes of this section, "qualifying charter school" means a charter school that:

(i) would receive more funds from a per pupil distribution than the charter school receives from the base payment described in Subsection (9); and

(ii) is not a newly opening charter school as described in Subsection (11)(a).

(b) The Superintendent shall distribute the funds allocated to charter schools:

(i) as described in this Subsection (9); and

(ii) is consistent with the March 1 calculation for existing and new charter schools.

(8) The Superintendent shall add any unused balance to the total charter school distribution amount for the following fiscal year for charter schools if a charter school:

(a) chooses not to apply for funds;

(b) does not meet the requirements for receiving funds;

(c) does not open as scheduled;

(d) closes; or

(e) has other unforeseen circumstances.

(9) The Superintendent shall first distribute a base payment to each charter school that is equal to the product of:

(a) an amount equal to the total funds available for all charter schools; and

(b) at least 0.4%.

(10) After the Superintendent distributes the amount described in Subsection (6)(c), the Superintendent shall distribute the remaining funds to qualifying charter schools on a per pupil basis.

(11)(a) The Superintendent shall distribute an amount of funds to a newly opening charter school that is either:

(i) the base payment described in Subsection (8); or

(ii) a per pupil amount based on the newly opened charter school's projected October 1 enrollment count.

(b)(i) The governing board of a newly opening charter school shall notify the Superintendent by March 1 preceding the school's first year of operation, which option under Subsection (8)(a) the school elects to receive.

(ii) If a school fails to notify the Superintendent as required under Subsection (b)(i), the school shall receive the base payment described in Subsection (5)(c) in the school's first year of operation.

(c) The Superintendent shall increase or decrease a newly opening charter school's first year distribution of funds in the school's second year to reflect the newly opening charter school's actual first year October 1 enrollment.

(12)(a) The Superintendent shall distribute an amount of funds to a newly opening satellite school equal to the base payment described in Subsection (5)(c).

(b) The Superintendent shall increase or decrease a newly opening satellite school's first year distribution of funds in the school's second year to reflect the newly opening satellite school's actual first year October 1 enrollment.

R277-477-7. School LAND Trust Program - Plan Amendments.

(1)(a) A principal shall submit a plan amendment authorized by Subsection 53G-7-1206(4)(d)(iii) through the School LAND Trust website for approval, including the date the council approved the amendment and the number of votes for, against, and absent.

(b) An LEA governing board and budget officer shall:

(i) consider the amendment for approval;

(ii) approve or deny an amendment; and

(iii) notify the Superintendent when an amendment is ready for review.

(c) The Superintendent shall review an amendment for compliance with statute and rule before the school uses funds according to the amendment.

(d) An approved amendment becomes part of the approved school plan.

R277-477-8. School LAND Trust Program Final Reports.

(1) A principal shall submit a final report on the School LAND Trust website annually before a School LAND Trust plan for the coming school year is submitted.

(2) Audited expenditure data from the state's financial system shall appear in the final report submitted on the SLT reporting website by a principal, as required by Subsection 53G-7-1206(5)(b).

(3) A school shall provide an explanation for any carry-over that exceeds the school's applicable carry-over limit in a given year in the School LAND Trust final report.

(4) A district liaison or budget officer shall ensure that a final report includes:

(a) clear explanations of plan implementations and expenditures, substantiated by a comparison to the LEA's detailed expenditure records for the school; and

(b) meets the confidentiality requirements of Rule R277-487 before March 1 to allow the review required by Section R277-477-7.

(5)(a) The Superintendent shall recommend a district or school with a consistently large carry-over balance over multiple years for corrective action for not making adequate and appropriate progress on an approved plan.

(b) The Superintendent may take corrective action to remedy excessive carry-over balances consistent with Rule R277-114.

(6) A district liaison or budget official shall provide a final report or a summary of the final report to the LEA governing board and parents of the school on the implementation of each school's prior year School LAND Trust plans by March 1.

R277-477-9. Compliance Review.

(1) The Superintendent may visit a school receiving funds from the School LAND Trust program to discuss the program, receive information and suggestions, provide training, and answer questions.

(2)(a) The Superintendent shall supervise annual compliance reviews to review expenditure of funds consistent with the approved plan, final report, applicable amendments, allowable expenses, and the law.

(b) The Superintendent shall require an LEA to reimburse the school's School LAND Trust budget for any funds found to be spent inconsistent with the school's approved plan or this rule.

(c) The Superintendent shall annually provide a report to the Board Finance Committee on compliance review findings and other compliance issues.

R277-477-10. Superintendent Responsibilities.

The Superintendent shall:

(1) represent the Board on the Land Trusts Protection and Advocacy Committee in accordance with Section 53D-2-202;

(2) review and approve a plan submitted by the USDB Advisory Council as necessary;

(3) prepare the annual distribution of funds to implement the School LAND Trust program pursuant to Section 53F-2-404;

(4) provide training to entities involved with the School LAND Trust program consistent with Subsection 53G-7-1206(8); and

(5) implement corrective action, if appropriate, consistent with Rule R277-114 if an LEA or its council fails to comply with this rule.

KEY: schools, trust lands funds, school community councils
Date of Last Change: [~~August 7,~~] 2026
Notice of Continuation: June 16, 2026
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53F-2-404

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58341**
Rule or section number:	**R277-491**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	**Phone:**	**Email:**
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-491. School Community Councils

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

The amendments are necessary to continue implementation of the School LAND Trust Program.

C. Summary of the new rule or change:

The changes are intended to provide greater clarity and consistency in several areas of program administration.

Specifically, the amendments clarify the definition of allowable uses of funds, require training to be guided by current state-issued resources to reduce compliance issues associated with outdated local training materials, further define deadlines applicable to new schools, and consolidate council responsibilities that are currently located outside the primary School LAND Trust Program statute and rules.

The amendments also remove the oversight "Category 4".

5. Fiscal Information

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

A. State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The amendments consolidate existing statutory advisory responsibilities of school community councils into a unified list, remove the requirement to report on internet filtering protocols in the principal's annual safety report, and explicitly require councils to receive annual training under the direction of the local governing board.

Because the Utah State Board of Education (USBE) already maintains and provides training materials and administrative oversight for School Community Councils and the School LAND Trust program, these updates do not require additional state expenditures or generate state revenues.

B. Local governments:

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

The new language consolidates existing statutory council advisory duties (e.g., child access routing plans, positive behaviors plans, Teacher and Student Success Plans) into this rule and clarifies annual training requirements.

The stricken text removes the specific requirement for principals to report on district internet filtering protocols.

Because local education agencies (LEAs) already conduct council oversight using state-issued resources and these advisory duties exist in underlying state statutes, these procedural cleanups and reporting adjustments result in a $0 net change in 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 rule governs school community council operations in public school districts within the Elementary and Secondary Schools industry (NAICS 611110).

Because small businesses do not participate in public school community council governance or service delivery, these administrative updates do not govern, interact with, or financially impact small business operations.

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

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

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

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

The amendments apply to public school administrators, local school boards, and school community council members (parents and school employees).

Because this rule changes consolidate voluntary advisory duties, refine reporting requirements, and clarify training procedures without imposing fees, fines, or financial burdens on private individuals, the aggregate fiscal impact is $0.

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

Annual training and fulfilling consolidated advisory duties are conducted within existing council meeting frameworks at no personal expense to council members.

The rule amendments do not require individual council members, parents, or educators to pay fees or incur out-of-pocket compliance expenses.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**

State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Subsection 53E-3-401(4)	Title 53G, Chapter 7, Part 12

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-491. School Community Councils.
R277-491-1. Authority[~~,~~] and Purpose[~~, and Oversight Category~~].

(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.

(2) The purpose of this rule is to:

(a) provide procedures and clarifying information to a school community council to assist the council in fulfilling school community council responsibilities consistent with Sections 53G-7-1202, 53G-7-1203, and 53G-7-1206;

(b) provide direction to a local school board, school, and school district in establishing and maintaining a school community council;

(c) provide a framework and support for improved academic achievement of students that is locally driven from within an individual school;

(d) encourage increased participation of a parent, school employee, and others to support the mission of a school community council;

(e) increase public awareness of:

(i) school trust lands;

(ii) the permanent State School Fund; and

(iii) educational excellence; and

(f) enforce compliance with the laws governing a school community council.

[~~(3) This rule is categorized as Category 4 as described in Rule R277-111.~~]

(4) This rule does not apply to charter schools.

R277-491-2. Definitions.

(1) "Local school board" means the locally elected school board designated in Section 53G-4-201.

(2) "Parent member" means the same as the term is defined in Section 53G-7-1202.

(3)(a) "Principal" means an administrator licensed as a principal in the state and employed in that capacity at a school.

(b) "Principal" may include a specific designee of the principal, who is licensed with a school leadership license area of concentration.

(4) "School community" means the geographic area a school district designates as the attendance area, with reasonable inclusion of a parent of a student who attends the school but lives outside the attendance area.

(5) "Student" means a child in a public school, grades kindergarten through 12, counted on the audited October 1 fall enrollment report.

R277-491-3. School Community Council Member Election Provisions.

(1) In addition to the election notice requirements of Section 53G-7-1202, the principal shall provide notice of:

(a) the location where a ballot may be cast; and

(b) the means by which a ballot may be cast, whether in person, by mail, or by electronic transfer.

(2)(a) A school community council may establish a procedure that allows a parent to mail a ballot to the school in the event the distance between a parent and the voting location would otherwise discourage parental participation.

(b) A mailed or hand-delivered ballot shall meet the same timeline as a ballot voted in person.

(3)(a) A school, school district, or local school board may allow a parent to vote by electronic ballot through a district approved election process that is consistent with the election requirements in Subsection 53G-7-1202(5).

(b) If allowed, the school or school district shall clearly explain on its website the opportunity to vote by electronic means.

(4) In the event of a change in statute or rule affecting the composition of a school community council, a council member who is elected or appointed before the change may complete the term for which the member was elected.

R277-491-4. School Community Council Exemptions.

(1) An LEA governing board may grant a full council exemption or a partial council exemption to a school, enabling the school to receive School LAND Trust program funds consistent with Subsection 53G-7-1202(e) if the requirements of Subsections (2) through (4) are met, and the school faces participation barriers due to:

(a) low enrollment;

(b) local board-approved consolidation with another school;

(c) challenges with ongoing parent involvement; or

(d) the school's status as a:

(i) secure facility;

(ii) juvenile detention facility;

(iii) hospital program school; or

(iv) other special program school.

(2) Before requesting a full council exemption or partial council exemption, the principal and existing council members shall:

(a) provide notice of the council election to all eligible parents consistent with Section 53G-7-1202;

(b) provide information to eligible parents of the important responsibilities of a school community council;

(c) encourage eligible parents to file for election to the school community council in the upcoming election consistent with this rule;

(d) identify the current school community council meeting time and, if necessary, reschedule the meeting to facilitate attendance by parents;

(e) offer an electronic meeting option in accordance with Section 53G-7-1203; and

(f) provide support for parents needing translation services.

(3) Following an election, the principal and council members shall encourage eligible parents to accept appointment to fill vacant seats on the school community council consistent with this rule and Section 53G-7-1202.

(4) If the school has met the requirements of Subsections (2) and (3) and the school has not filled its school community council consistent with Section 53G-7-1202, the principal and school community council members shall encourage the following individuals to fill parent positions as part of a request for a full council exemption or partial council exemption:

(a) grandparents or step parents who live in the same household as a student in the school; and

(b) a parent who teaches at the school and has a student attending the school.

(5) A school may request a council exemption by submitting a form prepared by the Superintendent to the local governing board that includes:

(a) the name of the LEA;

(b) the name of the school;

(c) whether the school seeks a full council exemption or a partial council exemption; and

(d) the rationale for the exemption.

(6) A local school board may grant a full council exemption or a partial council exemption.

(7) A school granted a full council exemption by its local governing board is not required to hold school community council meetings in public.

(8) A school granted a full council exemption by its local governing board shall:

(a) include the principal on the school community council; and

(b) comply with all other requirements in rule and code, except:

(i) the following website posting requirements of this rule:
(A) means for contacting council members;
(B) proposed council meeting schedule for the coming year;
(C) one year of approved meeting minutes;
(D) notice of the council's next meeting;
(E) notice of the council's next meeting agenda; and
(F) draft minutes of the council's prior meeting; and
(ii) council signature form requirements.
(9) A school granted a partial council exemption by its local governing board shall:
(a) include, at a minimum, one parent member and the school principal;
(b) continue to include stakeholder input in decision-making related to the School LAND Trust plan through accessible means; and
(c) meet all other requirements of code and rule.
(10)(a) An exemption granted under this section is valid for one school year.
(b) An LEA governing board may renew an exemption following the procedures outlined in the section each year.
(11) For each exemption granted, an LEA governing board shall provide to the Superintendent:
(a) the form submitted under Subsection (5); and
(b) the board meeting minutes for the meeting where the local governing board approved the exemption.

R277-491-5. School Community Council Principal Responsibilities.

(1) Following an election, the principal shall enter and electronically sign on the School LAND Trust Program website a principal's assurance affirming:
(a) the school community council's election;
(b) that unfilled positions were filled by appointment as necessary, consistent with Subsection 53G-7-1202(5); and
(c) that the school community council's bylaws, rules of order, and procedures comply with Sections 53G-7-1202, 53G-7-1203, and this rule.

(2) To encourage parental involvement in a school, the principal shall post the following information on a single publicly accessible page of the school's website on or before October 20 annually:
(a) an invitation to a parent to serve on the school community council;
(b) a proposed council meeting schedule for the year;
(c) a means to contact the members of the school's community council directly;
(d) a copy of or link to the following information:
(i) the dollar amount the school receives each year from the School LAND Trust Program;
(ii) the school's plan or final report for the most recent two years, consistent with Section 53G-7-1206;
(iii) the school's current year plan;
(iv) the school's current Teacher and Student Success Plan; and
(v) approved minutes of the school's council meetings for at least a year;

R277-491-6. School Community Council Chair Responsibilities.

(1) After the school community council election, the school community council shall annually elect at the council's first meeting a chair and vice chair in accordance with Subsection 53G-7-1202(5)(j).
(2) The school community council chair shall:
(a) set the agenda for every meeting;
(b) conduct every meeting;
(c) keep written minutes of every meeting, consistent with Section 53G-7-1203;
(d) inform council members about resources available on the School LAND Trust Program website; and
(e) welcome and encourage public participation in school community council meetings.
(3) The chair may delegate the responsibilities established in this section as appropriate at the chair's discretion.

R277-491-7. School Community Council Business.

(1)(a) The school community council shall adopt rules of order and procedure to govern a council meeting in accordance with Subsection 53G-7-1203(9).
(b) The rules of order and procedure shall outline the process for:
(i) electing the school community council, including:
(A) the number of parent members and school employee members on the council; and
(B) member positions beginning in odd years or even years to ensure half of the council members positions are open for election each year;
(ii) electing a chair and vice chair;
(iii) removing from office a member who moves away or fails to attend meetings regularly; and
(iv) a member to declare a conflict of interest if required by the local school board's policy.
(2) The school community council shall:
(a) receive annual training under the direction of the local governing board about a council's responsibilities under Sections 53G-7-1202, 53G-7-1203, and 53G-7-1206, Rule R277-477, and this rule;

([~~a~~]b) report on a plan, including programs, practices, and expenditures at least annually to the local school board; and

([~~b~~]c) encourage participation on the school community council by members of the school community and recruit a potential candidate to run for an open position on the council.

(3)(a) The principal shall provide an annual report to the school community council that summarizes current safety principles and practices used by the school district and school to facilitate the school community council's responsibilities under Subsection 53G-7-1202(3).

(b) The report described in Subsection (3)(a) shall include:

(i) [~~information concerning internet filtering protocols for school and district devices that access the internet;~~

~~(ii)~~]local instructional practices, monitoring, and reporting procedures; and

([~~iii~~]ii) internet safety training provided to a student and parent by the school or district.

(4) A school community council shall advise and make recommendations to school and district administrators consistent with Section 53G-7-1202, including:

(a) school and district programs and other issues relating to the community environment for students;

(b) safe technology utilization and digital citizenship;

(c) a child access routing plan in accordance with Section 53G-4-402;

(d) the Teacher and Student Success Plan in accordance with Section 53G-7-1305;

(e) the School Breakfast Program in accordance with Section 53G-9-205;

(f) a positive behaviors plan in accordance with Section 53G-10-407;

(g) School Nursing Services Plans in accordance with Section 53G-9-204;

(h) the Educator Evaluation Program in accordance with Section 53G-11-506;

(i) Innovation Plans in accordance with Section 53G-7-221; and

(j) College and Career Readiness Plans in accordance with Section 53E-2-304.

([4]5) A school community council shall comply with the requirements of Section 53G-7-1206.

([~~5~~]6) A school community council may advise and inform the local school board and other members of the school community regarding the uses of School LAND Trust Program funds.

([~~6~~]7) A school community council may hold electronic meetings consistent with:

(a) the policies of the local school board; and

(b) the requirements of Section 53G-7-1203.

KEY: school community councils
Date of Last Change: [~~February 9,~~] 2026
Notice of Continuation: October 1, 2026
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); Title 53G, Chapter 7, Part 12

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Repeal and Readopt	**Filing ID: 58342**
Rule or section number:	**R277-721**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:
R277-721. PRIME Program

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

This repeal and readoption removes existing requirements that govern the Utah PRIME Program and replaces it with new requirements that implement the Utah First Credential Program.

C. Summary of the new rule or change:

The readopted rule establishes requirements for grant administration, incentive grant tiers, performance and reporting, coordination with computer science grants, certification program procurement and implementation, monitoring, and the use of grant funds.

5. Fiscal Information

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 filing repeals the former PRIME Program rules and replaces them with administrative procedures for the Utah First Credential Program pursuant to Section 53E-10-310.

The new text requires the Superintendent and First Credential Oversight Committee to establish grant application schedules, review needs assessments and implementation plans, establish weighted incentive award calculations, maintain the Master Credential List biannually, and monitor local education agency (LEA) performance.

Because grant distributions for implementation and incentive awards are funded entirely through dedicated legislative appropriations enacted under Section 53E-10-310, and administrative oversight will be absorbed by existing Utah State Board of Education (USBE) Career and Technical Education (CTE) staff, the administrative rule change itself creates $0 in incremental state expenditures or revenues.

B. Local governments:

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

LEAs applying for First Credential funding must submit a needs assessment, grant application, and implementation plan, administer proctored competency-based assessments from the Master Credential List, and submit an annual performance report by September 30. Participating LEAs will receive implementation grants based on approved plans and incentive grants distributed across weighted credential tiers (Tier 1 = 1.0 weight, Tier 2 = 0.75 weight, Tier 3 = 0.50 weight).

Because participation in the program is voluntary, grant awards are funded through legislative appropriations rather than local funds, and this rule prohibits LEAs from charging indirect costs or supplanting local funds, the administrative rule change generates a $0 net 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 rule governs state grant administration and credential requirements for public LEAs in the Elementary and Secondary Schools industry (NAICS 611110).

Because small businesses do not deliver public education service under this program, these grant administration and credentialing standards do not govern, interact with, or financially burden small business operations ($0).

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 impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The readopted rule facilitates student access to industry-recognized credentials, concurrent enrollment courses, and career technical pathways by requiring LEAs to provide information on stacking credentials toward higher-level certifications or degrees. Because this rule regulates intergovernmental grant processing and credential alignment between USBE and LEAs without imposing fees, tuition, or financial mandates on students or parents as a class, the aggregate fiscal impact is $0.
F. Compliance costs for affected persons:
There are no compliance costs for affected persons. LEA administrative activities associated with proctoring exams, maintaining industry documentation, and submitting annual performance reports are conducted using implementation grant funds or existing administrative resources, requiring no out-of-pocket expenses from individual personnel.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-10-310

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.

[~~R277-721. PRIME Program.~~

~~R277-721-1. Authority, Purpose, and Oversight Category.~~

~~(1) This rule is authorized by:~~

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

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

~~(c) Section 53E-10-309, which requires the Board to make rules to establish the requirements for the Utah PRIME Program.~~

~~(2) The purpose of this rule is to:~~

~~(a) establish eligibility requirements for a participating LEA; and~~

~~(b) create an application process for LEAs to apply for the program.~~

~~(3) This Rule R277-406 is categorized as Category 4 as described in Rule R277-111.~~

~~R277-721-2. Definitions.~~

~~(1) "Career and technical education" or "CTE" means the same as the term is defined in Subsection 53B-1-101.5(3).~~

~~(2) "Concurrent enrollment" or "CE" means the same as the term is defined in Subsection R277-701-2(2).~~

~~(3) "Program" means the PRIME program as described in Section 53E-10-309.~~

~~(4) "Underrepresented students" means the same as the term is defined in Subsection R277-707-2(6).~~

~~(5) "Technical college" means the same as the term is defined in Subsection 53B-1-101.5(7).~~

~~(6) "Utah System of Higher Education" or "USHE" means the same as the term is defined in Section 53B-1-102.~~

~~R277-721-3. PRIME Program--Eligibility, Application, and Review Committee.~~

~~(1) Subject to legislative appropriation, an LEA may apply for a PRIME pilot program grant.~~

~~(2) An LEA's application shall contain the following:~~

~~(a) a budget proposal for the use of funds;~~

~~(b) how the LEA will increase access to courses for underrepresented students;~~

~~(c) a list of the current CE and CTE courses the LEA offers;~~

~~(d) a detailed plan of implementation including current gaps the program will address; and~~

~~(e) requisite baseline data established by the Superintendent.~~

~~(3) The Superintendent, along with the committee established in Subsection (4), shall score and rank each application based upon the quality of the LEA's overall budget proposal and application as described in Subsection (2).~~

~~(4) The Superintendent shall create a PRIME program advisory committee.~~

~~(5) The advisory committee shall include the following members as non-voting chairs:~~

~~(a) The Superintendent; and~~

~~(b) The Commissioner of Higher Education or the commissioner's designee.~~

~~(6) In addition to the chairs described in Subsection (5), the Board shall appoint additional members to the committee including:~~

~~(a) an early college specialist;~~

~~(b) a CTE coordinator, or the coordinator's designee;~~

~~(c) a technical college representative;~~

~~(d) a representative of USHE;~~

~~(e) a member of the State Charter School Board; and~~

~~(f) a secondary LEA designee.~~

~~(7) The Superintendent shall award program grants:~~

~~(a) based upon the score and rank assigned in accordance with Subsection (3); and~~

~~(b) consistent with Section 53E-10-309.~~

~~**R277-721-4. Performance Measures and Reporting.**~~
~~(1) An LEA that receives a program grant shall submit to the Superintendent an annual progress report by June 30 that includes:~~
~~(a) demographic data of participating students compared to overall LEA demographics;~~
~~(b) growth of the program compared to the program baseline data submitted in the LEA's application;~~
~~(c) how the LEA has closed access gaps with underrepresented students;~~
~~(d) itemized budgetary expenditures; and~~
~~(e) overall effectiveness of the program.~~
~~(2) An LEA may request a complete list of awarded certificates from the Superintendent.~~

~~**R277-721-5. Distribution and Use of Funds.**~~
~~(1) An LEA may receive up to the LEA's requested amount not to exceed $100,000 annually.~~
~~(2) An LEA may not use funds to:~~
~~(a) fund non-CTE or CE courses;~~
~~(b) supplant local funds;~~
~~(c) pay indirect costs charged by the LEA;~~
~~(d) cover expenditures not listed in the LEA's proposed budget.~~]

R277-721. Utah First Credential Program.

R277-721-1. 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) Subsections 53E-10-310(17)(g)(ii) and 53E-10-310(18), which require the Board to make rules implementing the Utah First Credential Program.

(2) The purpose of this rule is to align with the Utah First Credential Program by establishing:

(a) administrative requirements for First Credential implementation grants;

(b) tiers for incentive grant awards to LEAs;

(c) performance metrics for continued program funding;

(d) reporting requirements for grant recipients;

(e) procedures for coordinating with state computer science initiative grants;

(f) guidelines for certification program procurement and implementation; and

(g) requirements related to review of applications for inclusion on the Master Credential List.

R277-721-2. Definitions.

(1) "First Credential" means the certificate described in Subsection 53E-10-310(1)(b).

(2) "Committee" means the First Credential Oversight Committee established under Subsection 53E-10-310(2).

(3) "Incentive grant" means a grant awarded to an LEA that meets the requirements of Subsection 53E-10-310(17)(g)(i).

(4) "Master Credential List" means the list of credentials described in Subsection 53E-10-310(1)(d).

(5) "Program" means the Utah First Credential Program described in Section 53E-10-310.

(6) "Review Committee" means the credentials review committee described in Subsection 53E-10-310(4)(k).

R277-721-3. First Credential Grant Application Process.

(1) Subject to legislative appropriation, LEAs may apply for a First Credential implementation grant.

(2) An LEA shall submit the needs assessment and grant application required by Subsection 53E-10-310(17)(c) using the form and submission process established by the Superintendent.

(3) The committee shall:

(a) establish an annual application and award schedule for First Credential implementation grants based on legislative appropriations and available program funds;

(b) review the needs assessment and grant application;

(c) document the LEA's placement on the continuum of need; and

(d) communicate to the LEA the implementation-plan requirements applicable to the LEA based on the needs assessment and continuum-of-need placement.

(4) An LEA shall submit an implementation plan that meets the requirements of Subsection 53E-10-310(17)(e) and any additional implementation plan requirements established by the Superintendent consistent with the LEA's needs assessment.

(5) Following approval of the implementation plan, the committee shall award the implementation grant in accordance with the approved implementation plan and available legislative appropriations.

(6) The Superintendent shall establish grant payment procedures that require documentation demonstrating that grant expenditures are consistent with the approved implementation plan.

R277-721-4. Incentive Grant Tiers and Award Criteria.

(1) Subject to legislative appropriations, the Superintendent shall award an incentive grant to an LEA that meets the requirements of Subsection 53E-10-310(17)(g)(i).

(2) The Superintendent shall award incentive grants using the weighted values established under Subsection 53E-10-310(4)(m) and the tiers established in this section.

(a) Tier 1 Credential receives a 1.0 weight in the total credential count and 100% of the individual credential incentive grant value.

(b) Tier 2 Credential receives a 0.75 weight in the total credential count and 75% of the individual credential incentive grant value.

(c) Tier 3 Credential receives a 0.50 weight in the total credential count and 50% of the individual credential incentive grant value.

(3) The Superintendent shall determine the individual credential incentive grant value by dividing the total incentive grant allocation by the total number of weighted credentials earned by all eligible LEAs.

R277-721-5. Performance Metrics and Reporting Requirements.

(1) An LEA that receives an implementation grant shall submit an annual performance report to the Superintendent by September 30 that includes:

(a) student participation, completion, and certification program outcome data by First Credential route, including demographic information required by the Superintendent;

(b) evidence of ongoing industry alignment and engagement with regional employers or trade groups; and

(c) evidence that the LEA has achieved each established implementation goal outlined in its approved implementation plan.

R277-721-6. Procedures for Coordinating with Computer Science Initiative Grants.

(1) An LEA seeking First Credential funding for a computer science program shall identify applicable state computer science grant funding and describe how the proposed First Credential funding will be coordinated with that funding.

(2) The Superintendent shall adjust an award as necessary to prevent First Credential funds from duplicating funding for the same expenditure under another state computer science grant program.

R277-721-7. Guidelines for Certification Program Procurement and Implementation.

(1) An LEA procuring industry-recognized certification program licenses or implementing First Credential routes shall:

(a) use an industry-recognized certification only if the certification is included on the current Master Credential List;

(b) ensure that competency-based assessments associated with the certification are administered in a proctored environment;

(c) maintain documentation of local industry endorsement of the credential; and

(d) when applicable, coordinate procurement and implementation with state or federal computer science initiatives, including the Computer Science for Utah Grant Program described in Section 53H-13-306.

(2) An LEA implementing a First Credential pathway shall provide students with information regarding opportunities to sequence or stack the credential toward higher-level certifications or degrees.

R277-721-8. Procedures for Updating the Master Credential List.

(1) The Review Committee shall review applications for new credentials seeking inclusion on the Master Credential List at least twice annually.

(2) The Superintendent shall establish and publish application deadlines for each review cycle.

R277-721-9. Oversight.

(1) The Superintendent shall review LEA grant implementation and compliance with this rule in accordance with procedures established by the Superintendent.

(2) Failure to meet established performance metrics may affect an LEA's eligibility for continued or future First Credential grant funding.

(3) An LEA shall maintain documentation necessary to demonstrate compliance with grant and reporting requirements for the period required by applicable records retention requirements.

R277-721-10. Distribution and Use of Funds.

(1) Subject to legislative appropriations, an LEA may receive an award in an amount determined by the approved grant application and available program funds.

(2) An LEA may not use funds for:

(a) expenditures not directly related to an eligible First Credential route or the LEA's approved implementation plan;

(b) supplanting local funds; and

(c) indirect costs charged by the LEA.

KEY: first credential, incentive grants, concurrent enrollment, CTE, industry-recognized credentials[~~PRIME, concurrent enrollment, CTE, early college~~]
Date of Last Change: 2026[~~December 8, 2025~~]
Notice of Continuation: October 7, 2025
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-10-310

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58343**
Rule or section number:	**R277-733**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-733. Adult Education Programs

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

The proposed amendments incorporate by reference the current version of the Utah Adult Education Policies and Procedures Guide.

C. Summary of the new rule or change:

The amendments specifically update the requirements for the administration of adult education programs and incorporate the Utah Adult Education Policies and Procedures Guide by reference.

The Guide is updated periodically to reflect changes in federal requirements, assessments, records retention, and other adult education program policies and procedures.

The amendments also make a technical correction to an internal cross-reference.

5. Fiscal Information

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

A. State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The amendments incorporate by reference the June 2026 revision of the Utah Adult Education Policies and Procedures Guide, which is updated periodically to reflect changes in federal requirements, assessments, and records retention.

The changes also correct an internal rule cross-reference from Section R277-733-10 to Section R277-733-11 and remove the rule's "Category 4" oversight categorization.

Because these modifications strictly update internal administrative documents and align this rule with current federal guidelines without creating new state programs or duties, they do not require additional state expenditures or generate state revenues.

B. Local governments:

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

The amendments apply updated operating standards and technical assistance to eligible providers operating adult education programs.

Because the updates simply transition local education agencies to the current version of an existing policy guide rather than mandating new operational expenditures or altering local funding distributions, the incremental fiscal impact is $0.

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 rule exclusively governs adult education programs under the Elementary and Secondary Schools industry (NAICS 611110).

Because small businesses do not account for service delivery within this specific public education framework, this rule change does not interact with, govern, or financially impact small business operations.

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

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

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

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

The amendments strictly regulate administrative references and record retention policies between eligible providers and the state.

Because this rule does not impose new tuition rates, fees, or financial mandates on adult education students, the aggregate fiscal impact is $0.

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

The average compliance cost to an individual student or person is $0 because the stricken and new language solely dictates the technical manuals and administrative frameworks used by program administrators.

The rule amendments do not mandate any new fee-generating compliance actions, applications, or out-of-pocket expenses for individuals.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**

State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Section 53E-10-202	Subsection 53E-3-501(1)
Subsection 53E-3-401(4)	Section 53F-2-401	Section 53E-10-205

10. Incorporation by Reference Information

Incorporation by Reference:	
A. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*)**:**	
Official Title of Materials Incorporated (from title page)	Utah Adult Education Policies and Procedures
Publisher	Utah State Board of Education
Issue Date	October 2, 2026

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-733. Adult Education Programs.
R277-733-1. Authority[,] and Purpose[~~, and Oversight Category~~].

(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-10-202 which vests general control and supervision over adult education in the Board;

(d) Subsection 53E-3-501(1), which allows the Board to adopt minimum standards for programs; and

(e) Section 53F-2-401, which vests the Board with responsibility to provide education to persons in the custody of the Utah Department of Corrections.

(2) The purpose of this rule is to describe curriculum, program standards, allocation formulas, and operation procedures for the adult education program for adult education students both in and out of state custody.

[~~(3) This Rule R277-733 is categorized as Category 4 as described in Rule R277-111.~~]

R277-733-2. Incorporation of Utah Adult Education Policies and Procedures Guide by Reference.

(1) The rule incorporates by reference the Utah Adult Education Policies and Procedures Guide, [~~June 2025~~]October 2026 Revision, which provides day-to-day operating standards and technical assistance to eligible providers for operation of adult education programs.

(2) A copy of the guide is located at:

(a) https://www.schools.utah.gov/administrativerules/documentsincorporated; and

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

R277-733-3. Definitions.

(1) "Adult" means an individual 18 years of age or over.

(2) "Adult education" means organized educational programs below the post-secondary level, other than regular full-time K-12 secondary education programs:

(a) provided by an LEA or an eligible provider;

(b) provided for out-of-school youth, 16 years of age and older, or adults who have or have not graduated from high school; and

(c) provided to improve literacy levels and to further high school level education.

(3) "Adult Basic Education" or "ABE" means a program of instruction at or below the 8.9 academic grade level, which prepares adults for advanced education and training.

(4) "Adult Education and Family Literacy Act" or "AEFLA" means Title II of the Workforce Innovation Opportunity Act of 2014, which provides the principle source of federal support for:

(a) academic instruction and education services below the post-secondary level to receive a high school diploma or its recognized equivalent; and

(b) transition to post-secondary education, training, and employment.

(5) "Adult Secondary Education" or "ASE" means a program of academic instruction at the 9.0 grade level or above in Board approved subjects for an eligible adult education student who is seeking an Adult Education Secondary Diploma or its equivalent.

(6) "Custody," for purposes of this rule, means the status of being legally in the control of another adult person or public agency.

(7)(a) "Eligible adult education student" means an individual who provides documentation that the individual:

(i) is a primary and permanent resident of Utah;

(ii) is one of the following:

(A) 17 years of age or older, and whose high school class has graduated;

(B) under 18 years of age and is married;

(C) has been emancipated or adjudicated as an adult; or

(D) an out-of-school youth 16 years of age or older who has not graduated from high school; and

(iii) meets any of the following:

(A) is basic skills deficient;

(B) does not have a secondary school diploma, its recognized equivalent, or an equivalent level of education; or

(C) is an ELL; or

(b) A non-resident eligible adult education student in accordance with an individual agreement between an eligible provider and another state.

(8) "Eligible Provider":

(a) for purposes of state funding eligibility, means a:

(i) school district; or

(ii) charter school if:

(A) the charter school enrolls students in grades 9 through 12; and

(B) the charter school applies and is approved as an adult education provider in accordance with this Rule R277-733; and

(b) for purposes of federal funding eligibility, may include:

(i) an LEA;

(ii) a community-based or faith-based organization;

(iii) a voluntary literacy organization;

(iv) an institution of higher education;

(v) a public or private non-profit agency;

(vi) a library;

(vii) a public housing authority;

(viii) a non-profit institution not described in Subsections (8)(b)(i) through (vii) that can provide adult education and literacy activities to eligible adult education students;

(ix) a consortium or coalition of providers identified in Subsections (8)(b)(i) through (viii); or

(x) a partnership between an employer and a provider identified in Subsections (8)(b)(i) through (ix).

(9) "English Language Learner" or "ELL" means an individual:

(a) who has limited ability in reading, writing, speaking, or comprehending the English language and whose native language is a language other than English; or

(b) who lives in a family or community where a language other than English is the dominant language.

(10) "Inmate" means an offender who is incarcerated in state or county correctional facilities located throughout the state.

(11) "High School Equivalency Exam" or "HSE" means a Board approved examination whose modules are aligned with current high school core standards and adult education College and Career Readiness standards.

(12) "Out-of-school youth" means a student 16 years of age or older who has not graduated from high school and is no longer enrolled in a K-12 program of instruction.

(13) "Utah High School Completion Diploma" means a diploma issued by the Board and distributed by a Board approved contractor to an individual who has passed all subject modules of an HSE exam at an HSE testing center.

(14) "Weighted pupil unit" or "WPU" means the basic per pupil unit used to calculate the amount of state funds for which a school district is eligible.

R277-733-4. Federal Adult Education Funds.

The Superintendent shall follow the standards and procedures contained in AEFLA and the WIOA state plan adopted by the Board pursuant to AEFLA to administer federal funding of adult education programs.

R277-733-5. Compliance with State and Federal Laws.

Adult education programs shall comply with state and federal law and administrative regulations and follow the procedures contained in the Utah Adult Education Policies and Procedures Guide described in Section R277-733-2.

R277-733-6. State Fund Distribution, Carryover, and Recapture.

(1) The Superintendent shall allocate state funds for adult education in accordance with Section 53F-2-401.

(2) An LEA may carryover 10% of the state adult education funds allocated to the LEA's adult education programs with written approval from the Superintendent.

(3) An LEA shall submit a request to carryover funds for approval.

(4) The Superintendent shall consider excess funds in determining an LEA's allocation for the next fiscal year.

(5) The Superintendent shall recapture an LEA's fund balances in excess of 10% annually.

(6) The Superintendent shall allocate recaptured funds to an LEA's adult education program through the supplemental award process described in Section R277-733-[~~10~~]11.

R277-733-7. Adult Education Pupil Accounting.

An LEA administered adult education program shall receive WPU funding for a student consistent with the criteria and rate outlined in the Utah Adult Education Policies and Procedures Guide described in Section R277-733-2.

R277-733-8. Program, Curriculum, Outcomes, and Student Mastery.

(1) The Utah Adult Education Program shall offer courses consistent with the Elementary and Secondary General Core under Rule R277-700.

(2) An LEA shall ensure adult secondary education includes the following prerequisite courses:

(a) ELL competency AEFLA levels one through six; or

(b) ABE competency AEFLA levels one through four.

(3) An LEA shall establish policies allowing or disallowing adult education student participation in graduation activities or ceremonies.

(4) An LEA may establish reasonable timelines and may require adequate and timely documentation of authenticity for credits and grades submitted from other eligible providers.

(5) An LEA adult education program is the final decision-making authority for the awarding of credit and grades from non-accredited sources.

(6) An eligible provider shall offer an adult education student seeking a Utah High School Completion Diploma a course of academic instruction designed to prepare the student to take an HSE exam.

(7) Following completion of requirements for a Utah Adult Education Secondary Diploma or a Utah High School Completion Diploma, an eligible provider shall only allow a student to continue in an adult education program if:

(a) the student's academic skills are less than 9.0 grade level in an academic area of reading, math or English; and

(b) the student lacks sufficient mastery of basic educational skills to enable the student to function effectively in society.

R277-733-9. Adult Education Programs--Tuition and Fees.

(1) An eligible provider may charge a tuition or fee consistent with Section 53E-10-205 and the Utah Adult Education Policies and Procedures Guide described in Section R277-733-2.

(2) An eligible provider may not:

(a) commingle or report fees and tuition collected from adult education students with community education funds or any other public education fund;

(b) count collected fees and tuition toward meeting federal matching, cost sharing, or maintenance of effort requirements related to the adult education program's award; and

(c) calculate carryover balance amounts using funds collected from fees and tuition.

(3) An eligible provider receiving state or federal adult education funds shall ensure that fees and tuition collected are:

(i) returned or delegated, except for indirect costs, to the local adult education program;

(ii) used solely and specifically for adult education programming; and

(iii) not withheld and maintained in a general maintenance and operation fund.

R277-733-10. Providing Corrections Education.

(1) The Board may contract to provide educational services inmates with:

(a) local school boards;

(b) state post-secondary educational institutions;

(c) other state agencies; or

(d) private providers recommended by a local school board.

(2) A contract made in accordance with Subsection (1) shall be in writing and shall provide for:

(a) services to students in an appropriate environment for student behavior and educational performance;

(b) compliance with relevant Board standards;

(c) program monitoring by the Superintendent in accordance with Rule R277-733: and

(d) coordination of services with non-custodial programs to enable an inmate in custody to continue the inmate's public-school education with minimal disruption following discharge.

(3) A school district may sub-contract with local educational service providers for the provision of educational services to students in custody.

(4) Custodial status does not qualify an individual for services under the IDEA.

(5) When a student inmate is transferred to a new program, the sending program shall update and finalize all school records in the Board's adult education student information system releasing the student's records as soon as possible after receiving notice of the transfer.

(6) An educational service provider shall only disclose educational records of a student inmate, before or after release from custody, consistent with FERPA.

(7) A transcript or diploma prepared for an inmate in custody shall:

(a) include the name of the contracted educational agency which also provides service to non-custodial offenders; and

(b) not reference the inmate's custodial status.

(8) A corrections education provider shall keep an inmate's education records which refer to custodial status, inmate court records, and related matters separate from permanent school records.

R277-733-11. Supplemental Awards.

An LEA may receive a supplemental award if the LEA:

(1) has an adult education program with no carryover funds;

(2) demonstrates that the award funds will only be used for special program needs or professional development; and

(3) provides in writing the level of need for the award.

R277-733-12. State Workforce Development Board.

(1) The Superintendent shall represent adult education programs on the State Workforce Development Board as a voting member, in accordance with WIOA.

(2) The Superintendent may assign Board staff to State Workforce Development Board WIOA committees to implement the State's WIOA Unified Plan.

R277-733-13. Oversight, Monitoring, Evaluation, and Reports.

(1) The Board may designate up to 2% of the total legislative appropriation for oversight, monitoring, and evaluation of adult education programs.

(2) The Superintendent may recommend that the Board withhold state or federal funds in accordance with Rule R277-114 for noncompliance with:

(a) Board rule;

(b) adult education state policy and procedures;

(c) associated reporting timelines; and

(d) program monitoring outcomes, as defined by the Board, including:

(i) lack of program improvement; and

(ii) unsuccessful student outcomes.

KEY: adult education
Date of Last Change: 2026[~~October 8, 2025~~]
Notice of Continuation: January 13, 2022
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-10-202; 53E-3-501(1); 53E-3-401(4); 53F-2-401; 53E-10-205

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58344**
Rule or section number:	**R277-746**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-746. Driver Education Programs for Utah Schools

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

The amendments are needed to remove the oversight category.

C. Summary of the new rule or change:

The amendments remove the oversight "Category 4".

5. Fiscal Information

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 amendment strictly removes the rule's "Category 4" oversight designation from Section R277-746-1.

Because this change solely removes an internal administrative rule classification within the Utah State Board of Education's (Board) oversight framework and does not modify driver education curriculum requirements, funding allocation formulas, or agency administrative duties, it does not require state expenditures or generate state revenues ($0).

B. Local governments:

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

The stricken language only removes the internal Board oversight categorization.

Because this rule change does not alter local driver education program administration, manual standards, instructor requirements, or state funding reimbursements to school districts, it results in a $0 net change in 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 rule governs public high school automobile driver education programs within the Elementary and Secondary Schools industry (NAICS 611110).

Because small businesses do not deliver public school driver education services under this rule, removing an internal Board oversight category does not govern, interact with, or financially impact small business operations ($0).

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

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

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

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

The amendment exclusively affects internal rule categorization for Board governance.

Because this rule change does not alter driver education course fees, student eligibility, or instructor certification procedures, the aggregate financial impact on private individuals, students, and parents is $0.

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

The stricken language removes a purely technical oversight classification from the rule text.

No new or altered compliance actions, fee payments, or administrative reporting requirements are imposed on individual students, parents, or school personnel.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Subsection 53G-10-502(4)	Subsection 53E-3-401(4)	

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-746. Driver Education Programs for Utah Schools.
R277-746-1. Authority[~~,~~] and Purpose[~~, and Oversight Category~~].

(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) Subsection 53G-10-502(4), which directs the Board to prescribe rules for driver education classes in the public schools.

(2) The purpose of this rule is to incorporate by reference the Board's Driver Education manual, which specifies standards and procedures for local school districts conducting automobile driver education.

[~~(3) This rule is categorized as Category 4 as described in Rule R277-111.~~]

R277-746-2. Incorporation by Reference of Driver Education Manual.

(1) This rule incorporates by reference Driver Education for Utah High Schools - Organization, Administration and Standards, Revised October 2024, which outlines statutory requirements and Board procedures for administering an automobile driver education program.

(2) A copy of the manual is located at:

(a) https://schools.utah.gov/administrativerules/documentsincorporated; and

(b) the offices of the Utah State Board of Education.

KEY: driver education
Date of Last Change: 2026[~~December 10, 2024~~]
Notice of Continuation: October 1, 2026
Authorizing, and Implemented or Interpreted Law: 53G-10-502(4); 53E-3-401(4)

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58345**
Rule or section number:	**R277-800**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	**Phone:**	**Email:**
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-800. Utah Schools for the Deaf and the Blind

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

These amendments are needed to formalize the options and requirements for enrolling direct relatives of eligible students in Utah Schools for the Deaf and the Blind (USDB) campus-based programs.

C. Summary of the new rule or change:

The amendments specifically establish definitions for direct-relative and qualifying students, set class-size and discretionary enrollment limitations, and outline criteria, annual renewal requirements, and administrative review procedures.

5. Fiscal Information

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

A. State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The amendments formalize standards and procedures for enrolling direct-relative students (such as non-disabled siblings of qualifying students) in USDB campus-based programs, pursuant to Subsection 53E-8-401(6).

This rule explicitly mandates that direct-relative enrollment is subject to available staffing, class-grouping capacity, program resources, and existing funding, while capping participation at no more than one direct-relative student per class grouping and prohibiting the displacement of eligible deaf, blind, or deafblind students.

Because direct-relative students are admitted solely within existing USDB classroom capacity and staffing levels without expanding facility needs or requiring additional state appropriations, the net fiscal impact on state government revenues and expenditures is $0.

B. Local governments:

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

The new language explicitly clarifies in Subsection R277-800-4(4)(c) that enrolling a direct-relative student at USDB does not transfer Child Find or initial eligibility determination responsibilities from the student's local education agency (LEA) of record to USDB.

Because this rule change does not require LEAs to pay additional tuition, modify local transportation services, or reallocate local revenues, it results in a $0 net fiscal impact on local governments' expenditures and revenues.

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 rule governs internal enrollment procedures and campus program operations for USDB, a state public education agency within Elementary and Secondary Schools (NAICS 611110).

Because small businesses do not deliver public school campus instruction or governance under this rule, these enrollment standards do not interact with, govern, or financially impact small business operations ($0).

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

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

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

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

The affected class consists of qualifying USDB students and their direct-relative family members seeking campus-based enrollment.

Because enrollment of direct-relative students occurs within the public school system without tuition or enrollment fees, this rule change does not impose aggregate financial burdens or generate direct savings for private individuals ($0).

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

This conclusion was reached because parents seeking direct-relative enrollment are only required to complete an annual application and provide eligibility documentation under written USDB administrative procedures.

Completing these administrative application steps involves standard routine paperwork that imposes no out-of-pocket expenses, application fees, or required purchases on individual applicants.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0

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

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-8-204
Section 53E-8-402	Section 53E-8-409	Subsection 53E-8-401(6)

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-800. Utah Schools for the Deaf and the Blind.
R277-800-1. 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-8-204 which authorizes the Board to make rules regarding the administration of the Utah Schools for the Deaf and the Blind;

(c) Section 53E-8-402, which directs the Board to establish entrance policies and procedures to be considered, consistent with the IDEA, for student placement recommendations at the USDB;

(d) Section 53E-8-409, which directs the Board to establish the USIMAC and outline collaboration and operating procedures for USIMAC and USDB resources; and

(e) 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;

(f) Subsection 53E-8-401(6), which authorizes the Board to make rules allowing a Utah resident who is neither deaf, blind, nor deafblind and who is a direct relative of an individual eligible for USDB services to receive services from USDB.

(2) The purpose of this rule is to provide standards and procedures for the operation of the USDB and the USDB outreach programs and services.

R277-800-2. Definitions.

(1) "Accessible media producer" means a company or agency that converts educational materials into formats that are accessible to individuals who require alternative formats, such as:

(a) Braille;

(b) large print;

(c) audiobooks; or

(d) digital books.

(2) "Advisory Council" means the advisory council for the Utah Schools for the Deaf and the Blind described in Section [~~538-E-206~~]53E-8-206.

(3)(a) "Assessment" means the process of documenting, usually in measurable terms, knowledge, skills, attitudes, and abilities pertaining to the fields of vision and hearing.

(b) An assessment may include the following areas of focus:

(i) a valid, reliable, and appropriate assessment given to determine eligibility for placement and services by a team of qualified professionals and a student's parent or guardian;

(ii) a functional assessment accomplished by observation and measurement of daily living skills and functional use of vision or hearing, or both; and

(iii) academic evaluations as part of the Statewide School Accountability System, including an alternate assessment with appropriate accommodations as indicated on a student's IEP.

(4)(a) "Campus-based program" means a program provided by USDB that offers an alternative to an outreach program for students, ages three to 22, who are blind or visually impaired, deaf or hard of hearing, or deafblind.

(b) Under a campus-based program, services are provided by qualified USDB staff at a USDB site.

(5)(a) "The Chafee Amendment to the Copyright Act" or the "Chafee Amendment" is a federal law, 17 U.S.C. 121, that allows an authorized entity to reproduce or distribute copyrighted materials in accessible formats for eligible students who are blind or have other print disabilities without the need to obtain permission of the copyright owner.

(b) Authorized entities under the Chafee Amendment include governmental agencies or nonprofit organizations that have a primary mission to provide copyrighted works in accessible formats for students who are blind or have other print disabilities.

(6) "Child Find" means activities and strategies designed to locate, evaluate, and identify individuals eligible for services under the IDEA.

(7) "Class grouping" means each classroom, course section, homeroom, or other scheduled instructional group in which students receive instruction together.

[~~(7)~~](8) "Consultation" means a meeting for discussion or seeking advice.

[~~(8)~~](9) "Deafblindness" or "deafblind" means written verification provided by a medical professional stating that an individual has concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.

[~~(9)~~](10) "Deafness" is a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, and that adversely affects a student's educational performance.

[~~(10)~~](11) "Designated LEA" means the local education agency assigned by a student's IEP or Section 504 team to have primary responsibility for ensuring that all rights and requirements regarding individual student assessment, eligibility services, and procedural safeguards are satisfied consistent with the IDEA.

(12) "Direct-relative student" means an individual eligible for enrollment under Subsection 53E-8-401(6) and Section R277-800-9 who:

(a) is neither deaf, blind, nor deafblind;

(b) is a sibling of a qualifying student;

(c) is eligible to enroll in preschool through grade 12; and

(d) meets all requirements of Board rule and policy.

[~~(11)~~](13) "Educational Resource Center" or "ERC" is a center under the direction of the USDB that:

(a) provides information, technology, and instructional materials to assist children who are deaf, hard of hearing, blind, visually impaired, and deafblind in progressing in the curriculum; and

(b) facilitates access to materials, information, and training for teachers and parents of children who are deaf, hard of hearing, blind, visually impaired, and deafblind.

[~~(12)~~](14) "Extension classroom" means a classroom provided by an LEA where USDB provides a full-time classroom teacher and related services to students who remain enrolled in the LEA's general education programs.

[~~(13)~~](15) "Hearing loss" is an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance, but that is not included under the definition of deafness.

[~~(14)~~](16) "National Instructional Materials Access Center" or "NIMAC" is a central national repository that receives file sets in the NIMAS from publishers to maintain, catalog, and house for future reference file sets for states to use with students who have print disabilities and require educational materials in accessible alternate formats.

[~~(15)~~](17) "National Instructional Materials Accessibility Standard" or "NIMAS" means the electronic standard that enables all producers of alternate formats for students with print disabilities to work from one standard format available from publishers for this purpose.

[~~(16)~~](18)(a) "Outreach program" is a program provided by the USDB that offers an alternative to a campus-based program for students ages three to 22 who are blind or visually impaired, deaf or hard of hearing, or deafblind.

(b) In an outreach program, services are provided at a student's resident school or at a designated school by a qualified teacher of the blind or visually impaired, deaf or hard of hearing, or deafblind.

(19) "Qualifying student" means an individual eligible for USDB services whose relationship to a direct-relative student forms the basis for the direct-relative student's enrollment under Section R277-800-9.

[~~(17)~~](20)(a) "Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a student with disability to benefit from special education.

(b) Related services may include:

(i) speech-language pathology services;
(ii) audiology services;
(iii) interpreting services;
(iv) psychological services;
(v) physical and occupational therapy;
(vi) recreation, including therapeutic recreation;
(vii) early identification and assessment of disabilities in students;
(viii) counseling services, including rehabilitation counseling;
(ix) orientation and mobility services;
(x) health services and school nursing services;
(xi) social work services in schools;
(xii) parent counseling and training; or
(xiii) low vision services.

[~~(18)~~](21) "Section 504 accommodation plan" means a plan required by Section 504 of the Rehabilitation Act of 1973, which is designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

[~~(19)~~](22) "Technical assistance" means assistance to public education employees, licensed educators, parents, and families in significant areas of need by someone who has the expertise necessary to give [~~council~~]counsel and training in designated areas.

[~~(20)~~](23) "Utah State Instructional Materials Access Center" or "USIMAC" means a center housed at USDB that receives NIMAS electronic file sets and other non-SBN educational materials provided by LEAs in Utah, and produces them in the accessible alternate format required by students with print disabilities.

[~~(21)~~](24)(a) "Visual impairment[~~,~~]" is an impairment in vision that, even with correction, adversely affects a student's educational performance.

(b) "Visual impairment" includes both partial sight and blindness that adversely affect a student's educational performance.

[~~(22)~~](25) "Weighted pupil unit" or "WPU" means the basic unit used to calculate the amount of state funds for which a school district or charter school is eligible.

R277-800-3. Operation of USDB.

(1) Consistent with Section 53E-8-204, the Board is the governing board of the USDB.

(2) The Superintendent, with the approval of the Board, shall appoint and supervise the USDB superintendent, who reports directly to the Superintendent.

(3) In accordance with Section 53E-8-201, USDB is created as an agency of the Board and a single public school agency which includes:

(a) the Utah School for the Deaf;
(b) the Utah School for the Blind;
(c) programs for students who are deafblind; and
(d) the Parent Infant Program.

(4) The Superintendent shall provide assistance[~~,~~] and work cooperatively with the USDB in providing services to designated Utah students.

(5) The Superintendent shall assist the USDB, its superintendent, and associate superintendents in adopting policies and preparing an annual budget that are consistent with the law.

(6) The Board shall approve the annual budget and expenditures of USDB.

(7)(a) The USDB superintendent shall, subject to the approval of the Board, appoint an associate superintendent to administer the Utah School for the Deaf and an associate superintendent to administer the Utah School for the Blind.

(b) Qualifications of a USDB associate superintendent shall be aligned with the requirements of Section 53E-8-204.

(8)(a) The USDB superintendent and associate superintendents may hire staff and teachers as needed for the USDB.

(b) Educators and related service providers shall be appropriately licensed and credentialed for their specific assignments.

(9) In employment practices and decisions, the USDB superintendent shall maintain the accreditation of the USDB school and programs.

(10) The USDB superintendent and associate superintendents shall communicate regularly and effectively with the Board and provide a written report to the Board annually in sufficient time for inclusion in the Superintendent's Annual Report, or at such other time as requested by the Board.

(11) The USDB report shall include the data required by Subsection 53E-8-204(5)(b) and Section 53E-8-207.

(12) USDB shall ensure that each child or student served by USDB is assigned a unique student identifier (SSID) to allow for annual data collection and reporting of achievement of current and past students.

(13) USDB shall provide the Superintendent with a listing of past and current children or students, including the assigned unique student identifier, served by USDB by September 1 of each year to facilitate the required data collection.

(14) Consistent with Section 53E-8-206, the USDB Advisory Council shall:

(a) serve as a school community council;
(b) make recommendations to the Board regarding USDB programs and services;
(c) consult on entrance policies and procedures; and

(d) in accordance with Section 53E-8-407, make recommendations regarding educational enrichment programs for the Blind and Visually Impaired and Deaf and Hard of Hearing students.

(15)(a) USDB shall, on October 1 of each year, determine the number of students:

(i) for whom USDB serves as the designated LEA;

(ii) who receive services in the student's LEA of record with support from USDB;

(iii) who receive services from both USDB and the student's LEA of record; and

(iv) who participate in any other program provided or facilitated by USDB.

(b) USDB shall annually report to the Board.

(c) the Board shall ensure reconciliation and consistency of data reported under this subsection:

(i) student counts described in Subsection (15)(a), categorized by eligibility type and LEA of record;

(ii) the type and extent of services provided; and

(iii) for students receiving mixed services, the division of educational time between service delivery systems.

R277-800-4. USDB or Student's District of Residence or Charter School as Designated LEA.

(1) To be eligible to receive free services from the USDB, a student must meet the requirements of Section 53E-8-401.

(2)(a) A student's IEP or Section 504 accommodation plan shall determine a student's placement at the USDB, in a district school or charter school.

(b) For students who are school-age as defined in Section 53G-6-201, USDB shall limit its services to those on an IEP or Section 504 accommodation plan, except as [~~otherwise~~]provided [~~for the enrollment of hearing siblings under~~]in Section R277-800-9.

(3) Consistent with Subsection 53E-8-401(3), an IEP team or Section 504 team shall determine the appropriate placement for each blind, deaf, or deafblind student consistent with Board Special Education Rules incorporated by reference in Section R277-750-2.

(4)(a) It is the responsibility of the student's district of residence or charter school to conduct Child Find, and to convene the initial IEP or Section 504 team meeting to determine a student's placement.

(b) A student's initial IEP or Section 504 accommodation plan meeting shall include a representative from the student's district of residence or charter school and a representative from the USDB.

(c) Enrollment under Section R277-800-9 does not transfer responsibility for Child Find or an initial eligibility determination from the student's LEA of record to USDB.

(5)(a) If USDB is the designated LEA for a student, USDB has full responsibility for all services defined in the student's IEP or Section 504 accommodation plan.

(b) Notwithstanding USDB's designation as LEA for a student, a representative from the district of residence or charter school remains a required member of the IEP or Section 504 accommodation plan team.

(c) when USDB is designated as the LEA for a student consistent with Subsection 53E-8-201(2)(b), USDB and the student's LEA of record shall enter into an educational partnership agreement that:

(i) provides for USDB to report academic performance to the LEA of record; and

(ii) ensures that the LEA of record monitors the student's academic performance.

(6) If a district of residence or charter school is the LEA designated to provide services to a student with an IEP or Section 504 accommodation plan, the district of residence or charter school has the responsibility for providing instruction and services for the student, except that the USDB:

(a) may be designated by the team as a related service provider; and

(b) remains a required member of the student's IEP or Section 504 accommodation plan team.

(7) A student's IEP or Section 504 accommodation plan shall clearly define what services are to be provided by a related service provider.

(8) The IEP or Section 504 accommodation plan team shall determine the designated LEA for student placement.

(9) If a parent is dissatisfied with a student's placement at USDB, the student's district of residence, or charter school, the parent may access dispute resolution procedures, consistent with Utah State Board of Education Special Education Rules, adopted by the Board in Section R277-750-2.

(10) If a student's IEP or Section 504 accommodation plan provides for services to be provided by both the USDB and the student's district of residence, or for the USDB and district of residence to share responsibility for serving a student, a parent may access dispute resolution procedures consistent with Utah State Board of Education Special Education Rules, adopted by the Board in Section R277-750-2.

(11) Beginning July 1, 2027, if USDB is designated as the LEA for a student, the student's LEA of record shall:

(i) include the student in the LEA's average daily membership; and

(ii) remit 95% of applicable per-pupil state and federal funding associated with the student to USDB.

R277-800-5. Assessment of USDB Students Served in LEAs of Residence.

(1) An appropriate specialist shall assess a student who may be deaf, hard of hearing, blind, visually impaired, or deafblind using statewide assessment results and in compliance with Board rule and state and federal law.

(2) The USDB shall establish an assessment policy and guidelines to implement required assessments, which address:

(a) appropriate, complete, and timely evaluations of students;

(b) procedures for administration of assessments in addition to those required by the law, as determined by IEPs, Section 504 accommodation plans, and individual teachers;

(c) complete and accurate required assessments available to eligible students consistent with state and LEA assessment timelines and availability of materials for non-disabled students;

(d) staff professional development and preparation on appropriate administration of assessments and reporting of assessment results; and

(e) procedures to ensure appropriate interpretation and use of assessments and results for parents and USDB personnel.

R277-800-6. Extension Classrooms.

(1) The USDB and an LEA may negotiate to share the costs for providing more efficient, cost-effective, and convenient services to students who are deaf, blind, or deafblind in extension classrooms in locations other than the USDB campus.

(2) If the USDB and an LEA enter into an agreement in accordance with Subsection (1), the LEA shall provide:

(a) classrooms;

(b) basic instructional materials;

(c) physical education, music, media, school lunch, and other programs and services, consistent with those programs and services provided to other students within the LEA;

(d) administrative support;

(e) basic secretarial services;

(f) special education and related services; and

(g) IT support.

(3) If the USDB and an LEA enter into an agreement in accordance with Subsection (1), the USDB shall provide:

(a) classroom instructors, including aides; and

(b) instructional materials specific to the disability of the students.

(4) An agreement pursuant to Subsection (1) may reassign the responsibilities of the USDB and a school district or charter school as negotiated between the LEA and the USDB.

(5) An LEA shall claim the state WPU if the LEA provides all items or services identified in Subsection (2).

R277-800-7. USDB Fiscal Procedures.

(1) The USDB shall keep fiscal, program, and accounting records as required by the Board and shall submit reports required by the Board.

(2) The USDB shall follow state standards for fiscal procedures, auditing, and accounting, consistent with Subsection 53E-8-203(3).

(3) The USDB is an agency under the direction of the Board and as such is subject to state laws and exemptions consistent with Section 53E-8-203.

(4)(a) The Superintendent shall recover federal reimbursement funds, IDEA, and Medicaid quarterly during the year.

(b) The Superintendent shall identify reimbursement amounts in the current year's budget, but in no event later than the subsequent year's budget.

(5)(a) The USDB shall use the revenue from the federal trust land grant designated for the benefit of the blind and the deaf, solely for the benefit of deaf, blind, and deafblind students.

(b) The recommended or designated use of federal trust land funds is subject to review by the Board.

(6) USDB and LEAs shall comply with funding transfer requirements described in Subsection R277-800-4(11).

R277-800-8. Utah State Instructional Materials Access Center.

(1) USIMAC shall acquire or produce core educational materials, including print and digital textbooks and related core materials, in accessible formats to ensure that all students eligible under the Chafee Amendment receive these materials in a timely manner.

(2) The Superintendent shall oversee the operations of the USIMAC.

(3) The USDB is the fiscal agent and operates the USIMAC to the extent of funds received annually from budgetary appropriations.

(4) An LEA may purchase or provide accessible educational materials from another source using the LEA's own funding or request the production of accessible educational materials in accessible formats from USIMAC in accordance with established procedures to ensure timely access for eligible students.

(5)(a) USIMAC shall provide a textbook and related core educational materials in an accessible format by the beginning of the school year if requested no later than April 1 of the preceding school year by an LEA.

(b) Notwithstanding Subsection (5)(a), if an LEA requests educational materials in Braille, USIMAC will provide the first three volumes of a textbook by the beginning of the school year, and will provide additional volumes ahead of the pacing guide submitted by the LEA.

(6) The USDB Educational Resource Center shall serve as the repository and distribution center for USIMAC.

(7) A student is eligible for accessible educational materials from USIMAC, including Braille, audio, large print, or accessible PDFs, following an LEA determination that the student is eligible in accordance with:

(a) the Chafee Amendment;

(b) IDEA; or

(c) Section 504 of the Rehabilitation Act.

(8) An LEA may request textbooks consisting of static text and images for eligible students served by the USDB or the LEA consistent with a student's IEP or Section 504 accommodation plan.

(9) When an LEA requests a core instructional textbook, USIMAC may:

(a) provide the textbook to the LEA from its existing inventory;

(b) purchase the textbook and provide the textbook to the LEA from another source, which may include[~~:~~]:

(i) the American Printing House for the Blind using state acquired federal funds designated specifically for USIMAC materials; or

(ii) another accessible media producer; or

(c)(i) require the LEA to provide a regular hard print copy of the textbook, or equivalent digital file in PDF format for digital print textbooks; and

(ii) produce and distribute the textbook in the needed accessible format.

(10)(a) An LEA shall require a publisher to send hard copy and digital textbooks and related core educational materials adopted by the LEA to the NIMAC in a valid XML-based NIMAS format for use in the production of accessible formats such as Braille, large print, and digital text.

(b)(i) Teacher-created educational materials, other than textbooks and related educational materials approved by an LEA, are not eligible for submission to USIMAC.

(ii) An LEA is responsible to make materials described in Subsection (b)(i) accessible and to provide the materials to students in a timely manner.

(11)(a) All approved textbook and digital textbook contracts [~~for the Utah~~]for educational materials, textbooks, and related core printed materials shall include a provision for making NIMAS file sets available through the NIMAC in accordance with the IDEA and Board Instructional Materials Contract timelines.

(b) The Utah Instructional Materials Commission created under Rule R277-469 may not approve textbooks and materials from publishers that have a pattern of not providing materials and textbooks for students with disabilities in a timely manner, consistent with the law and Board rules.

(12)(a) An LEA may request and access audiobooks through USIMAC, as appropriate, or through other sources.

(b) Membership required for other sources is the responsibility of the LEA designated as the responsible entity for serving the student in the IEP or Section 504 accommodation plan.

R277-800-9. Enrollment of [~~Siblings~~]Direct-Relative Students.

(1) [~~Subject to available funding~~]Consistent with Subsection 53E-8-401(6), USDB may enroll [~~the sibling of~~]a direct-relative student [~~who is deaf subject to the considerations set forth in this Section R277-800-9~~]in a USDB campus-based program, subject to the requirements of this section.

[~~(2) A hearing sibling attending USDB retains all rights of a traditional public school student.~~

~~(3) Enrollment of a hearing sibling is limited to:~~

~~(a) siblings of students who are enrolled in a campus program; and~~

~~(b) one hearing sibling per class.~~

~~(4) The USDB Superintendent shall evaluate the enrollment of a hearing sibling, including:~~

~~(a) whether enrollment of the hearing sibling would be a benefit to:~~

~~(i) the student who is deaf;~~

~~(ii) the hearing sibling; and~~

~~(iii) the other students in the deaf program; and~~

~~(b) whether the hearing sibling has a record of behavior problems or other conditions that would impede the development of the students who are deaf or hard of hearing.~~

~~(5) If a parent enrolls a hearing sibling at USDB, the parent shall agree at the time of registration:~~

~~(a) that enrollment for the hearing sibling is within the discretion of the school and may be rescinded at any time with or without cause; and~~

~~(b) that the hearing sibling knows or is willing to learn American Sign Language and embrace the Deaf culture while at school.~~]

(2) Enrollment of a direct-relative student:

(a) does not create an entitlement to initial or continued enrollment;

(b) may not displace an eligible student who is deaf, blind, or deafblind; and

(c) is subject to available staffing, class-grouping capacity, program resources, and funding.

(3) The USDB Superintendent or designee may enroll a direct-relative student if enrollment:

(a) benefits the qualifying student;

(b) supports the educational environment of students who are deaf or hard of hearing;

(c) can be accommodated without materially diminishing services or resources available to eligible students; and

(d) is consistent with USDB's statutory mission; and

(e) USDB shall use written and consistently applied criteria when making enrollment determinations under this Subsection (3).

(4) A direct-relative student shall know or demonstrate a willingness to learn and use American Sign Language and participate in the school's ASL-English bilingual educational environment.

(5) A class grouping may include no more than one direct-relative student.

(6)(a) Enrollment of a direct-relative student shall be approved for no longer than one school year.

(b) A parent seeking continued enrollment shall submit a new application for each subsequent school year.

(c) Prior enrollment:

(i) does not guarantee enrollment for a subsequent school year; and

(ii) does not give a direct-relative student priority over an eligible student.

(7)(a) An IEP or Section 504 accommodation plan does not independently qualify a direct-relative student for enrollment under this section.

(b) If USDB becomes the designated LEA for a direct-relative student, all applicable rights and procedural requirements under the IDEA and Section 504 remain in force.

(8) USDB may deny, decline to renew, or discontinue enrollment of a direct-relative student if:
(a) the student no longer meets the requirements of this section;
(b) continued enrollment materially interferes with USDB's ability to serve eligible students;
(c) continued enrollment displaces or materially diminishes services or resources available to eligible students; or
(d) continued enrollment is inconsistent with state or federal law or Board rule.
(e) the student or parent fails to comply with applicable USDB policies.
(9) The USDB Superintendent shall establish written procedures consistent with this section governing:
(a) applications, enrollment timelines, and waitlists;
(b) documentation of eligibility;
(c) enrollment and class-grouping capacity determinations;
(d) annual renewal;
(e) applicable LEA funding and educational partnership agreements;
(f) discontinuation of enrollment; and
(g) administrative review.
(10) The USDB Superintendent shall provide an administrative review process for a denial, nonrenewal, or discontinuation of enrollment under this section.

R277-800-10. Capital Facilities.

(1) The Board shall oversee the long-term planning, development, and review of capital facilities for USDB in coordination with the Division of Facilities Construction and Management, in accordance with Section 53E-8-205.

(2) Before seeking funding for new capital facilities, the Board shall conduct an exhaustive review of available LEA facilities and consider opportunities for shared space.

(3) The Board shall review and approve capital facility requests in a public meeting before submission to the Legislature.

KEY: educational administration
Date of Last Change: [~~July 8,~~] 2026
Notice of Continuation: May 13, 2026
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-8-204; 53E-8-402; 53E-8-409; 53E-8-401(6)

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Repeal	**Filing ID: 58346**
Rule or section number:	**R277-922**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:
R277-922. Digital Teaching and Learning Grant Program
B. Purpose of the new rule or reason for the change:
This repeal is necessary because of the passage of SB 2 during the 2026 General Session.

C. Summary of the new rule or change:

This rule is being repealed because of SB 2 (2026) which eliminated funding for the Digital Teaching and Learning Grant Program and repealed Section 53F-2-510. Therefore, Rule R277-922 established requirements for the administration of the Digital Teaching and Learning Grant Program and is no longer necessary.

The proposed change repeals Rule R277-922 in its entirety because the Digital Teaching and Learning Grant Program is no longer funded and its authorizing statute has been repealed.

5. Fiscal Information

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

A. State budget:

This rule repeal is not expected to have fiscal impact on state government revenues or expenditures.

SB 2 (2026) eliminated state funding for the Digital Teaching and Learning Grant Program and repealed its authorizing statute, Section 53F-2-510.

Because the underlying program and its appropriations were already removed by legislative action, repealing this administrative rule is a conforming cleanup measure that imposes no new incremental expenditures or revenues on the state budget ($0).

B. Local governments:

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

The repealed rule previously governed local education agency (LEA) grant planning, application procedures, advisory committee reviews, and reporting requirements for the Digital Teaching and Learning Grant Program.

However, the actual fiscal impact on local grant distributions was already finalized by the Legislature's passage of SB 2 (2026) which eliminated the program's funding.

Therefore, repealing the administrative rule itself generates a $0 net change in 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.

The repealed rule solely regulated public school LEA technology grant administration within the Elementary and Secondary Schools industry (NAICS 611110).

Because small businesses do not participate in public education grant administration under this rule, repealing Rule R277-922 does not govern, interact with, or financially impact small business operations ($0).

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

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

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

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

The repealed rule strictly outlined intergovernmental grant application and administration processes between the Utah State Board of Education (USBE) and LEAs.

Because this rule did not impose fees, taxes, or direct financial burdens on private individuals, parents, or students, repealing it results in an aggregate fiscal impact of $0.

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

This conclusion was reached because this rule repeal eliminates administrative submission, planning, and reporting requirements for participating LEA personnel rather than creating new compliance burdens.

The repeal requires no out-of-pocket expenses, fee payments, or financial compliance actions from individual educators, parents, or students.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-2-510

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

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://schools.utah.gov/administrativerules/documentsincorporated; 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) 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;
(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: March 15, 2024~~
~~Notice of Continuation: October 1, 2026~~
~~Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-510~~]

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58347**
Rule or section number:	**R277-929**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	Phone:	Email:
Ben Rasmussen	801-538-7992	Ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule or section catchline:

R277-929. State Council on Military Children

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

The amendments are needed to make changes to the purple star school program requirements.

C. Summary of the new rule or change:

The amendments specifically update the requirements for purple star schools, removing the requirement that schools shall coordinate with the school liaison program from Hill Air Force Base or Dugway Proving Grounds to provide opportunities for active duty parents to volunteer in the school.

5. Fiscal Information

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 stricken language removes one of the three optional criteria a school may use to qualify for the Purple Star School designation. Specifically, coordinating with the school liaison program at Hill Air Force Base or Dugway Proving Grounds to provide volunteer opportunities for active-duty parents.

Because the Purple Star School designation is an existing, voluntary recognition program and removing one optional qualifying criterion does not alter state administrative duties, staffing needs, or funding allocations, there is no fiscal impact ($0) on state revenues or expenditures.

B. Local governments:

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

Schools seeking Purple Star School status can still satisfy the requirement in Subsection R277-929-4(4)(e) by choosing either of the remaining options: committing to hold a school-wide military recognition event or having their governing board pass a resolution publicizing support for military students and families.

Because removing the military base liaison volunteer option simply simplifies the qualifying criteria for a voluntary school designation without creating new operational mandates or altering local revenue streams, it results in a $0 net fiscal impact on local governments' expenditures or revenues

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 rule governs public school recognition programs within the Elementary and Secondary Schools industry (NAICS 611110).

Because small businesses do not participate in public school designation programs or military family liaison governance under this rule, removing an optional qualifying criterion for public schools does not govern, interact with, or financially impact small business operations ($0).

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 impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities.

The amendment exclusively modifies an optional criteria metric for public schools seeking an honorary state designation.

Because this rule change does not impose fees, taxes, or aggregate financial mandates on military families, active-duty personnel, or private individuals as a class, the aggregate fiscal impact is $0

F. Compliance costs for affected persons:

There are no compliance costs for affected persons.

Removing a voluntary administrative criterion for a school recognition designation requires no financial outlays, fee payments, or out-of-pocket compliance purchases from individual personnel or community members.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**

State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The State Superintendent of the Utah State Board of Education, Molly Hart, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article X, Section 3	Subsection 53E-3-401(4)	

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/15/2026

R277. Education, Administration.
R277-929. State Council on Military Children.
R277-929-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Section 53E-3-920.1, which requires the Board to create a state council in accordance with the Interstate Compact on Educational Opportunity for Military Children.

(2) The purpose of this rule is to:

(a) establish a state council for military children; and

(b) establish a purple star schools designation for Utah schools meeting eligibility criteria.

R277-929-2. Definitions.

(1) "Commissioner" means the compact commissioner appointed by the Governor in accordance with Section 53E-3-921.

(2) "Compact" means Title 53E, Chapter 3, Part 9, Interstate Compact on Educational Opportunity for Military Children.

(3) "Designated staff point of contact" means a counselor, administrator, teacher, or other staff member who is familiar with the needs of military students and the protections afforded to service members' children under the compact.

(4) "State council" means the State Council for Military Children created through this rule.

R277-929-3. Establishment of State Council.

(1) There is hereby created the State Council for Military Children.

(2) The state council shall:
(a) coordinate implementation of the compact among:
(i) state agencies;
(ii) LEAs; and
(iii) military installations;
(b) safeguard the interests of military impacted students within the state;
(c) make recommendations for laws and policies to benefit military impacted students; and
(d) promote awareness of compact rights and protections with military families.
(3)(a) The Superintendent shall invite the individuals identified in Subsection 53E-3-909(1) to participate in the state council.
(b) The Superintendent may invite other individuals with interest or expertise in working with military students to participate in the state council.
(4) The Superintendent shall coordinate with the Commissioner to schedule meetings of the state council.
(5) The state council shall meet on an annual basis or with such other frequency as may be required by compact rules.
(6) The Commissioner shall be responsible for filing all required reports with the national compact office.

R277-929-4. Purple Star Schools.
(1) There is hereby created a purple star schools designation for Utah schools that excel in protecting the educational needs of students from military families.
(2) The Commissioner shall establish an application process for Utah schools interested in the purple star schools designation.
(3) The Commissioner shall review purple star school applications with the state council created in Section R277-929-3 and make recommendations for the purple star school designation.
(4) The Superintendent shall award the purple star school designation to a Utah school that:
(a) has a designated staff point of contact for military students and families who acts as the primary link between a military family and the school;
(b) has a dedicated page on its school website featuring information and resources for military families;
(c) has a student-led transition program to include a student transition team coordinator;
(d) provides annual professional development for additional staff on special considerations for military students and families; and
(e) meets at least one of the following criteria:
(i) the school shall commit to hold a school-wide military recognition event; or
(ii) the school's governing board shall pass a resolution publicizing support for military students and families[~~; or~~
~~(iii) the school shall coordinate with the school liaison program from Hill Air Force Base or Dugway Proving Grounds to provide opportunities for active duty parents to volunteer in the school~~].
(5)(a) The Superintendent shall approve a seal for schools with a purple star school designation.
(b) A purple star school may use the approved seal on school letterhead, the school's website, and other school publications.
(6) The Superintendent shall publish a list of schools receiving the purple star designation on the Board's website.
(7) A purple star school recognized under this section shall submit an annual report on a form provided by the Superintendent by March 31.
(8) The Superintendent may rescind a school's purple star school designation if:
(a) the school fails to file an annual report under Subsection (7); or
(b) the school is out of compliance with a requirement in Subsection (4).

KEY: state council, military, compact
Date of Last Change: 2026[~~April 7, 2026~~]
Notice of Continuation: August 15, 2024
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58320**
Rule or section number:	**R307-205**

1. Agency Information

Title catchline:	Environmental Quality, Air Quality
Building:	Multi-Agency State Office Building
Street address:	195 N 1950 W
City, state:	Salt Lake City, UT
Mailing address:	PO Box 144820
City, state and zip:	Salt Lake City, UT 84114-4820

2. Contact Persons

Name:	Phone:	Email:
Alyssa Higham	385-414-3390	alyssahigham@utah.gov
Jazmine Lopez	801-536-4050	jazminelopez@utah.gov

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

3. General Information

A. Rule or section catchline:

R307-205. Emission Standards: Fugitive Emissions and Fugitive Dust

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

Amendments to Rule R307-205 are necessary to incorporate signage requirements for fugitive dust facilities required by HB 378 passed in the 2026 General Session.

Per HB 378 (2026), "fugitive dust facilities," defined as fugitive dust sources larger than one-quarter acre that the Division of Air Quality (Division) requires to complete a fugitive dust control plan, must post clear, visible signage at facility entrances.

The purpose of this signage requirement is to establish direct contact between community members and industry sources having the potential to generate fugitive dust that directly impacts local communities.

C. Summary of the new rule or change:

This amendment adds language to Rule R307-205 under HB 378 (2026) to require informational signage at fugitive dust sources.

Section R307-205-11 details how posted signage shall be clearly visible, shall identify company contact information for direct community dust complaints, as well as the Division's information for submitting general complaints and dust concerns.

Other revisions include the addition of opacity requirements for fugitive dust in Section R307-205-5. This is to reinforce the expectation of effective dust control from statewide dust sources, and to enable more effective enforcement from Division staff.

Language in Section R307-205-4 was modernized to remove the different opacity requirement for sources constructed on or before 04/25/1971.

Lastly, language in Section R307-205-8 was modernized to more closely reflect best practices for dust control on roadways.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 378 (2026 General Session)

5. Fiscal Information

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

A. State budget:

There are no anticipated cost or savings to the state budget because this amendment does not require the state to change any operating practices.

B. Local governments:

There is no anticipated impact to local governments, therefore, no costs or savings are anticipated.

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

Under these revisions to Rule R307-205, statewide dust sources in PM attainment areas that meet HB 378's (2026) definition of "fugitive dust facilities," defined as sources larger than one-quarter acre that the Division requires to have a fugitive dust control plan, must comply with the new signage requirement.

According to Division data on fugitive dust control plans submitted between 2022 and July 2026, approximately 370 sources in PM attainment areas have active and ongoing projects and meet the definition of a fugitive dust facility and will be affected by this rule revision. This is likely an overestimate, as fugitive dust control plan submissions by dust sources in attainment areas of the state can be voluntary.

This rule change will result in a minor negative fiscal impact on small businesses, specifically fugitive dust facilities that operate 0.25 acres or larger. Data was not able to be collected regarding the number of employees at fugitive dust facilities across the state.

However, this rule will impact small and non-small businesses equally. Each source will be required to display informational signage, estimated at $200 per business for a 3' x 4' aluminum fence-mounted sign.

There will be no additional cost of compliance with this rule change beyond the signage requirement. $200 was multiplied by the 370 sources to calculate the total initial fiscal year impact in Section 6 of this rule analysis form.

This fiscal cost will be spread between both small and non-small businesses.

The number of new dust sources in PM attainment areas required to submit fugitive dust control plans each year varies widely, so the cost for FY2028 to FY2031 could not be accurately estimated.

However, the future total annual fiscal cost is not expected to exceed that of the initial FY2027 cost to bring existing sources meeting the definition of "fugitive dust facility" in HB 378 (2026) into compliance.

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

Under these revisions to Rule R307-205, statewide dust sources in PM attainment areas that meet HB 378's (2026) definition of "fugitive dust facilities," defined as sources larger than one-quarter acre that the Division requires to have a fugitive dust control plan, must comply with the new signage requirement.

According to Division data on fugitive dust control plans submitted between 2022 and July 2026, approximately 370 sources in PM attainment areas have active and ongoing projects and meet the definition of a fugitive dust facility and will be affected by this rule revision. This is likely an overestimate, as fugitive dust control plan submissions by dust sources in attainment areas of the state can be voluntary.

This rule change will result in a minor negative fiscal impact on non-small businesses, specifically fugitive dust facilities that operate 0.25 acres or larger. Data was not able to be collected regarding the number of employees at fugitive dust facilities across the state.

However, this rule will impact small and non-small businesses equally. Each source will be required to display informational signage, estimated at $200 per business for a 3' x 4' aluminum fence-mounted sign.

There will be no additional cost of compliance with this rule change beyond the signage requirement. $200 was multiplied by the 370 sources to calculate the total initial fiscal year impact in Section 6 of this rule analysis form. This fiscal cost will be spread between both small and non-small businesses.

The number of new dust sources in PM attainment areas required to submit fugitive dust control plans each year varies widely, so the cost for FY2028 to FY2031 could not be accurately estimated.

However, the future total annual fiscal cost is not expected to exceed that of the initial FY2027 cost to bring existing sources meeting the definition of "fugitive dust facility" in HB 378 (2026) into compliance.

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

There is no anticipated impact to persons other than small businesses, non-small businesses, state, or local government entities, therefore, no costs or savings are anticipated.
F. Compliance costs for affected persons:
Each dust source larger than one-quarter acre that the Division requires to have a fugitive dust control plan in PM attainment areas are required to display informational signage. This is estimated as a one-time cost at $200 per source.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$74,000	inestimable	inestimable	inestimable	inestimable
Non-Small Businesses	$74,000	inestimable	inestimable	inestimable	inestimable
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$74,000**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**($74,000)**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Environmental Quality, Tim Davis, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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	Section 19-2a-108	

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

B. A public hearing (optional) will be held (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.)**:**

Date:	**Time:**	**Place** (physical address or URL)**:**
11/23/2026	10:00AM - 11:00AM	A public hearing is set for Monday, 11/23/2026. Further details may be found below.

		The hearing will be cancelled should no request for one be made by 11/19/2026, at 10 AM MT. The final status of the public hearing will be posted on 11/19/2026, after 10 AM MT. The status of the public hearing may be checked at the following website location under the corresponding rule: https://deq.utah.gov/public-notices-archive/air-quality-rule-plan-changes-open-public-comment Interested Persons can participate in person or electronically, via the internet. In Person: MASOB 195 N 1950 W First Floor, Air Quality Board Room Salt Lake City, UT Virtual Attendance: Time zone: America/Denver Google Meet joining info: Video call link: https://meet.google.com/vwb-etvq-xbj Or dial: (US) +1 470-328-5826 PIN: 908 835 551#

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	01/06/2027

13. Agency Authorization Information

Agency head or designee and title:	Bryce C. Bird, Director, Division of Air Quality	**Date:**	09/21/2026

R307. Environmental Quality, Air Quality.
R307-205. Emission Standards: Fugitive Emissions and Fugitive Dust.
R307-205-1. Purpose.

Rule R307-205 establishes minimum work practices and emission standards for sources of fugitive emissions and fugitive dust for sources located in all areas in the state except those listed in Section IX, Part H of the [~~s~~]State [~~i~~]Implementation [~~p~~]Plan or located in a PM10 or PM2.5 nonattainment or maintenance area.

R307-205-2. Applicability.

Rule R307-205 applies statewide to all sources of fugitive emissions and fugitive dust, except for agriculturally derived fugitive dust and agricultural or horticultural activities specified in Subsections 19-2-114(1) through 19-2-114(3) and any source listed in Section IX, Part H of the [~~s~~]State [~~i~~]Implementation [~~p~~]Plan or located in a PM10 or PM2.5 nonattainment or maintenance area.

R307-205-3. Definitions.

The following definitions apply[~~ies~~] [~~throughout~~]to Rule R307-205:

"Material" means sand, gravel, soil, minerals, or other matter that may create fugitive dust.

"Fugitive dust" means particulate matter that becomes airborne from the mechanical or wind-blown disturbance of a material or surface.

"Fugitive dust facility" means a fugitive dust facility as defined in Subsection 19-2a-108(1)(d).

R307-205-4. Fugitive Emissions.

[~~Fugitive emissions from sources which were constructed on or before April 25, 1971, shall not exceed 40% opacity.~~]Fugitive emissions from sources [~~constructed or modified after April 25, 1971,~~]shall not exceed 20% opacity.

R307-205-5. Fugitive Dust.

(1) Except as provided in Subsection R307-205-5(2), opacity caused by fugitive dust shall not exceed:

(a) 10% at the property boundary; and

(b) 20% on site.

(2) Opacity limitations in Subsection R307-205-5(1) shall not apply when the wind speed exceeds 25 miles per hour if the owner or operator administers one or more of the following contingency measures and maintains record-keeping of measures used:

(a) pre-event watering;

(b) hourly watering;

(c) additional chemical stabilization; or

(d) cease or reduce fugitive dust producing operations to the extent practicable.

(3) Wind speed shall be measured by an anemometer.

(4) Opacity observations of fugitive dust from any source shall be measured at the densest point of the plume.

(a) For mobile sources, visible emissions shall be measured at a point not less than 1/2 vehicle length behind the vehicle and not less than 1/2 the height of the vehicle.

(b) Opacity observations of emissions from stationary sources shall be measured in accordance with EPA Method 9.

(c) For intermittent sources, opacity observations shall be conducted using Method 9; however, the requirement for observations to be made at 15 second intervals over a six-minute period shall not apply. The number of observations and the time period shall be determined by the length of the intermittent or mobile source operation.

[~~(1) Storage and Handling of Materials. Any person owning, operating, or maintaining a new or existing material storage, handling, or hauling operation shall minimize fugitive dust from such an operation. Such control may include the use of enclosures, covers, stabilization, or other equivalent methods or techniques as approved by the director.~~

~~(2) Construction and Demolition Activities.~~

~~(a) Any person engaging in clearing or leveling of land greater than one-quarter acre in size, earthmoving, excavation, or movement of trucks or construction equipment over cleared land greater than one-quarter acre in size or access haul roads shall take steps to minimize fugitive dust from such activities. Such control may include watering and chemical stabilization of potential fugitive dust sources or other equivalent methods or techniques approved by the director.~~

~~(b) The owner or operator of any land area greater than one-quarter acre in size that has been cleared or excavated shall take measures to prevent fugitive particulate matter from becoming airborne. Such measures may include:~~

~~(i) planting vegetative cover;~~

~~(ii) providing synthetic cover;~~

~~(iii) watering;~~

~~(iv) chemical stabilization;~~

~~(v) wind breaks; or~~

~~(vi) other equivalent methods or techniques approved by the director.~~

~~(c) Any person engaging in demolition activities including razing homes, buildings, or other structures or removing paving material from roads or parking areas shall take steps to minimize fugitive dust from such activities. Such control may include watering and chemical stabilization or other equivalent methods or techniques approved by the director.~~]

R307-205-6. Storage, Hauling, and Handling of Materials.

Any person owning, operating, or maintaining a new or existing material storage, handling, or hauling operation greater than one-quarter acre in size shall minimize fugitive dust from such an operation to the opacity limits set in Subsection R307-205-5(1). Such control may include the use of enclosures, covers, stabilization, or other equivalent methods or techniques as approved by the director.

R307-205-7. Construction and Demolition Activities.

(1) Any person engaging in clearing or leveling of land greater than one-quarter acre in size, earthmoving, excavation, or movement of trucks or construction equipment over cleared land greater than one-quarter acre in size or access haul roads shall take steps to minimize fugitive dust from such activities to the opacity limits set in Subsection R307-205-5(1). Such control may include watering and chemical stabilization of potential fugitive dust sources or other equivalent methods or techniques approved by the director.

(2) The owner or operator of any land area greater than one-quarter acre in size that has been cleared or excavated shall take measures to prevent fugitive particulate matter from becoming airborne. Such measures may include:

(a) planting vegetative cover;

(b) providing synthetic cover;

(c) watering;

(d) chemical stabilization;

(e) wind breaks; or

(f) other equivalent methods or techniques approved by the director.

(3) Any person engaging in demolition activities including razing homes, buildings, or other structures or removing paving material from roads or parking areas shall take steps to minimize fugitive dust from such activities. Such control may include watering and chemical stabilization or other equivalent methods or techniques approved by the director.

R307-205-[6]8. Roads.

[~~(1) The director may require persons owning, operating, or maintaining any new or existing road, or having right-of-way easement or possessory right to use the same, to supply traffic count information as determined necessary to ascertain whether or not control techniques are adequate or additional controls are necessary.~~

~~(2) Any person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road promptly.~~]

(1) Any person responsible for construction or maintenance of any existing road or having right-of-way easement or possessing the right to use the same whose activities result in fugitive dust from the road shall minimize fugitive dust to the maximum extent possible. Any such person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road promptly.

(2) Unpaved Roads. Any person responsible for construction or maintenance of any new or existing unpaved road shall prevent, to the maximum extent possible, the deposit of material from the unpaved road onto any intersecting paved road during construction or maintenance. Any person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road promptly.

R307-205-[7]9. Mining Activities.

(1) Fugitive dust, construction activities, and roadways associated with mining activities are regulated under Section R307-205-[7]9 and not by Sections R307-205-[5]7 and R307-205-[6]8.

(2) Any person who owns or operates a mining operation shall minimize fugitive dust as an integral part of site preparation, mining activities, and reclamation operations.

(3) The fugitive dust control measures to be used may include:

(a) periodic watering of unpaved roads;

(b) chemical stabilization of unpaved roads;

(c) paving of roads;

(d) prompt removal of coal, rock minerals, soil, and other dust-forming debris from roads and frequent scraping and compaction of unpaved roads to stabilize the road surface;

(e) restricting the speed of vehicles in and around the mining operation;

(f) revegetating, mulching, or otherwise stabilizing the surface of all areas adjoining roads that are a source of fugitive dust;

(g) restricting the travel of vehicles on other than established roads;

(h) enclosing, covering, watering, or otherwise treating loaded haul trucks and railroad cars, to minimize loss of material to wind and spillage;

(i) substitution of conveyor systems for haul trucks and covering of conveyor systems when conveyed loads are subject to wind erosion;

(j) minimizing the area of disturbed land;

(k) prompt revegetation of regraded lands;

(l) planting of special windbreak vegetation at critical points in the permit area;

(m) control of dust from drilling, using water sprays, hoods, dust collectors, or other controls approved by the director;

(n) restricting the areas to be blasted at any one time;

(o) reducing the period between initially disturbing the soil and revegetating or other surface stabilization;

(p) restricting fugitive dust at spoil and coal transfer and loading points;

(q) control of dust from storage piles through use of enclosures, covers, or stabilization and other equivalent methods or techniques as approved by the director; or

(r) other techniques as determined necessary by the director.

R307-205-[8]10. Tailings Piles and Ponds.

(1) Fugitive dust, construction activities, and roadways associated with tailings piles and ponds are regulated under Section R307-205-[8]10 and not by Sections R307-205-[5]7 and R307-205-[6]8.

(2) Any person owning or operating an existing tailings operation where fugitive dust results from grading, excavating, depositing, or natural erosion or other causes in association with such operation shall take steps to minimize fugitive dust from such activities. Such controls may include:

(a) watering;

(b) chemical stabilization;

(c) synthetic covers;

(d) vegetative covers;

(e) wind breaks;

(f) minimizing the area of disturbed tailings;

(g) restricting the speed of vehicles in and around the tailings operation; or

(h) other equivalent methods or techniques which may be approvable by the director.

R307-205-11. Fugitive Dust Facility Signage Requirements.

A fugitive dust facility must post informational signage as required by Subsection 19-2a-108(2):

(1) at an entryway to the fugitive dust facility that is clearly readable from the nearest public access point; and
(2) that includes the following information:
(a) the name of the facility or site;
(b) a permit identification number;
(c) a state business or entity identification number;
(d) the contact information for the facility manager or owner responsible for dust control matters; and
(e) contact information for the Utah Division of Air Quality that directs the public to information on fugitive dust and a place to submit dust complaints.

KEY: air pollution, fugitive emissions, mining, tailings
Date of Last Change: [~~December 3, 2025~~]2026
Notice of Continuation: October 2, 2024
Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104; 19-2-109; 19-2a-108

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58321**
Rule or section number:	**R307-309**

1. Agency Information

Title catchline:	Environmental Quality, Air Quality
Building:	Multi-Agency State Office Building
Street address:	195 N 1950 W
City, state:	Salt Lake City, UT
Mailing address:	PO Box 144820
City, state and zip:	Salt Lake City, UT 84114-4820

2. Contact Persons

Name:	Phone:	Email:
Alyssa Higham	385-414-3390	alyssahigham@utah.gov
Jazmine Lopez	801-536-4050	jazminelopez@utah.gov

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

3. General Information

A. Rule or section catchline:

R307-309. Nonattainment and Maintenance Areas for PM10 and PM2.5: Fugitive Emissions and Fugitive Dust

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

Amendments to Rule R307-309 are necessary to incorporate signage requirements for fugitive dust facilities required by HB 378 passed in the 2026 General Session.

Per HB 378 (2026), "fugitive dust facilities," defined as fugitive dust sources larger than one-quarter acre that the Division of Air Quality (Division) requires to complete a fugitive dust control plan, must post clear, visible signage at facility entrances.

The purpose of this signage requirement is to establish direct contact between community members and industry sources having the potential to generate fugitive dust that directly impacts local communities.

C. Summary of the new rule or change:

This amendment adds language to Rule R307-309 under HB 378 (2026) to require informational signage at fugitive dust sources.

Section R307-309-13 details how posted signage shall be clearly visible, shall identify company contact information for direct community dust complaints, as well as the Division's information for submitting general complaints and dust concerns.

The amendment also expands language in Section R307-309-12 about record-keeping requirements to clarify compliance for sources and enable more effective enforcement from Division staff.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 378 (2026 General Session)

5. Fiscal Information

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

A. State budget:

There are no anticipated cost or savings to the state budget because this amendment does not require the state to change any operating practices.

B. Local governments:

There is no anticipated impact to local governments, therefore, no costs or savings are anticipated.

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

All dust sources in PM maintenance and nonattainment areas covered by Rule R307-309 meet HB 378's (2026) definition of "fugitive dust facilities," defined as sources larger than one-quarter acre that the Division requires to have a fugitive dust control plan, and therefore must comply with the new signage requirement.

According to Division data on fugitive dust control plans submitted between 2022 and July 2026, approximately 1,100 sources in PM maintenance and nonattainment areas have active and ongoing projects and meet the definition of a fugitive dust facility and will be affected by this rule revision.

This rule change will result in a minor negative fiscal impact on small businesses, specifically fugitive dust facilities that operate 0.25 acres or larger. Data was not able to be collected regarding the number of employees at fugitive dust facilities across the state.

However, this rule will impact small and non-small businesses equally. Each source will be required to display informational signage, estimated at $200 per business for a 3' x 4' aluminum fence-mounted sign.

There will be no additional cost of compliance with this rule change beyond the signage requirement. $200 was multiplied by the 1,100 sources to calculate the total initial fiscal year impact in Section 6 of this rule analysis form.

This fiscal cost will be spread between both small and non-small businesses.

The number of new dust sources in PM maintenance and nonattainment areas submitting fugitive dust control plans each year varies widely, so the cost for FY2028 to FY2031 could not be accurately estimated.

However, the future total annual fiscal cost is not expected to exceed that of the initial FY2027 cost to bring existing sources into compliance.

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

All dust sources in PM maintenance and nonattainment areas covered by Rule R307-309 meet HB 378's (2026) definition of "fugitive dust facilities" defined as sources larger than one-quarter acre that the Division requires to have a fugitive dust control plan, and therefore must comply with the new signage requirement.

According to Division data on fugitive dust control plans submitted between 2022 and July 2026, approximately 1,100 sources in PM maintenance and nonattainment areas have active and ongoing projects and meet the definition of a fugitive dust facility and will be affected by this rule revision.

This rule change will result in a minor negative fiscal impact on non-small businesses, specifically fugitive dust facilities that operate 0.25 acres or larger. Data was not able to be collected regarding the number of employees at fugitive dust facilities across the state.

However, this rule will impact small and non-small businesses equally. Each source will be required to display informational signage, estimated at $200 per business for a 3' x 4' aluminum fence-mounted sign.

There will be no additional cost of compliance with this rule change beyond the signage requirement. $200 was multiplied by the 1,100 sources to calculate the total initial fiscal year impact in Section 6 of this rule analysis form.

This fiscal cost will be spread between both small and non-small businesses.

The number of new dust sources in PM maintenance and nonattainment areas submitting fugitive dust control plans each year varies widely, so the cost for FY2028 to FY2031 could not be accurately estimated.

However, the future total annual fiscal cost is not expected to exceed that of the initial FY2027 cost to bring existing sources into compliance.

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

There is no anticipated impact to persons other than small businesses, non-small businesses, state, or local government entities, therefore, no costs or savings are anticipated.

F. Compliance costs for affected persons:

All fugitive dust facilities greater than 0.25 acres in the PM maintenance and nonattainment areas covered by Rule R307-309 are required to display informational signage.

This is estimated as a one-time cost at $200 per source.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$220,000	inestimable	inestimable	inestimable	inestimable
Non-Small Businesses	$220,000	inestimable	inestimable	inestimable	inestimable
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$220,000**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**($220,000)**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Environmental Quality, Tim Davis, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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	Section 19-2a-108	

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

B. A public hearing (optional) will be held (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.)**:**

Date:	**Time:**	**Place** (physical address or URL)**:**
11/23/2026	11:00AM - 12:00PM	A public hearing is set for Monday, 11/23/2026. Further details may be found below. The hearing will be cancelled should no request for one be made by 11/19/2026, at 10 AM MT. The final status of the public hearing will be posted on 11/19/2026, after 10 AM MT. The status of the public hearing may be checked at the following website location under the corresponding rule: https://deq.utah.gov/public-notices-archive/air-quality-rule-plan-changes-open-public-comment Interested Persons can participate in person or electronically, via the internet. In Person: MASOB 195 N 1950 W First Floor, Air Quality Board Room Salt Lake City, UT Virtual Attendance: Time zone: America/Denver Google Meet joining info: Video call link: https://meet.google.com/nvi-ickv-uog Or dial: (US) +1 929-324-1432 PIN: 792 119 356#

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	01/06/2027

13. Agency Authorization Information

Agency head or designee and title:	Bryce C. Bird, Director, Division of Air Quality	**Date:**	09/21/2026

R307. Environmental Quality, Air Quality.
R307-309. Nonattainment and Maintenance Areas for PM10 and PM2.5: Fugitive Emissions and Fugitive Dust.
R307-309-1. Purpose.

[~~This rule~~]Rule R307-309 establishes minimum work practices and emission standards for sources of fugitive emissions and fugitive dust.

R307-309-2. Definitions.

The following additional definitions apply[~~ies~~] to Rule R307-309:

"Material" means sand, gravel, soil, minerals, and other matter that may create fugitive dust.

"Fugitive dust" means particulate matter that becomes airborne from the mechanical or wind-blown disturbance of a material or surface.

"Fugitive dust facility" means a fugitive dust facility as defined in Subsection 19-2a-108(1)(d).

R307-309-3. Applicability.

(1) Rule R307-309 applies to all new or existing sources of fugitive dust one-quarter acre or greater and any sources of fugitive emissions located in PM10 or PM2.5 nonattainment or maintenance plan areas as defined in 40 CFR 81.345 on [~~(~~]July 1, 2011[~~)~~]. Collectively, the PM10 and PM2.5 nonattainment and maintenance plan areas are geographically defined as all regions of Salt Lake and Davis counties; all portions of the Cache Valley; all regions in Weber County west of the Wasatch mountain range; all regions of Utah County; in Box Elder County, from the Wasatch mountain range west to the Promontory mountain range and south of Portage; and in Tooele County, from the northernmost part of the Oquirrh mountain range to the northern most part of the Stansbury mountain range and north of Route 199.

(2) Exemptions.

(a) Agriculturally derived fugitive dust sources, including agricultural or horticultural activities specified in Subsections 19-2-114 (1)[~~-~~] through 19-2-114(3) are exempt from[~~ the provisions of~~] Rule R307-309.

(b) Any activity subject to Rule R307-307, Road Salting and Sanding, is exempt from Rule R307-309.

R307-309-4. Fugitive Emissions.

(1) Fugitive emissions from any source shall not exceed 15% opacity.

(2) Opacity observations of fugitive emissions from stationary sources shall be conducted in accordance with EPA Method 9.

(3) For intermittent sources and mobile sources, opacity observations shall be conducted using Method 9; however, the requirement for observations to be made at 15 second intervals over a six-minute period shall not apply. The number of observations and the time period shall be determined by the length of the intermittent or mobile source operation.

R307-309-5. General Requirements for Fugitive Dust.

(1) Except as provided in Subsection R307-309-5(3), opacity caused by fugitive dust shall not exceed:

(a) 10% at the property boundary; and

(b) 20% on site.

(2) Any person owning or operating a new or existing source of fugitive dust one-quarter acre or greater in size shall submit a fugitive dust control plan to the director in accordance with Section R307-309-6.

(3) Opacity in Subsection R307-309-5(1) shall not apply when the wind speed exceeds 25 miles per hour if the owner or operator has implemented, and continues to implement, the accepted fugitive dust control plan in Section R307-309-6, record-keeping, as required in Section R307-309-12, and administers one or more of the following contingency measures:

(a) [~~P~~]pre-event watering;

(b) [~~H~~]hourly watering;

(c) [~~A~~]additional chemical stabilization; or

(d) [~~C~~]cease or reduce fugitive dust producing operations to the extent practicable.

(4) Wind speed shall be measured by an anemometer.

(5) Opacity observations of fugitive dust from any source shall be measured at the densest point of the plume.

(a) For mobile sources, visible emissions shall be measured at a point not less than 1/2 vehicle length behind the vehicle and not less than 1/2 the height of the vehicle.

(b) Opacity observations of emissions from stationary sources shall be measured in accordance with EPA Method 9.

(c) For intermittent sources, opacity observations shall be conducted using Method 9; however, the requirement for observations to be made at 15 second intervals over a six-minute period shall not apply. The number of observations and the time period shall be determined by the length of the intermittent or mobile source operation.

R307-309-6. Fugitive Dust Control Plan.

(1) Any person owning or operating a new or existing source of fugitive dust, including storage, hauling or handling operations, clearing or leveling of land one-quarter acre or greater in size, earthmoving, excavation, moving trucks or construction equipment over cleared land one-quarter acre or greater in size or access haul roads, or demolition activities including razing homes, buildings, or other structures, shall submit a fugitive dust control plan on a form provided by the director or another format approved by the director.

(a) A fugitive dust control plan that has been submitted to and accepted by the director [~~prior to~~]before December 3, 2012, will fulfill the requirements of Section R307-309-6 for that source.

(2) Activities regulated by Rule R307-309 shall not commence before the fugitive dust control plan is approved by the director.

(a) Successful completion of the web-based [~~d~~]Division-sponsored fugitive dust control plan tool shall constitute plan approval.

(b) Hard copy fugitive control plan submissions must be reviewed and approved by the director [~~prior to~~]before commencing activities regulated by Rule R307-309.

(3) Sources with an existing fugitive dust control plan who make site modifications that result in emission changes shall submit an updated fugitive dust control plan.

(4) Minimum fugitive dust control plan requirements. At a minimum, a fugitive dust control plan must include the following requirements as they apply to a source[~~:~~].

(a) Backfilling.
(i) Stabilize backfill material when not actively handling.
(ii) Stabilize backfill material during handling.
(iii) Stabilize soil at completion of backfilling activity.
(iv) Stabilize material while using pipe padder equipment.
(b) Blasting.
(i) Stabilize surface soils where drills, support equipment, and vehicles will operate.
(ii) Stabilize soil during blast preparation activities.
(iii) Stabilize soil after blasting.
(c) Clearing.
(i) Stabilize surface soils where support equipment and vehicles will operate.
(ii) Stabilize disturbed soil immediately after clearing and grubbing activities.
(iii) Stabilize slopes at completion of activity.
(d) Clearing forms, foundations, and slabs.
(i) Use water, sweeping, and vacuum to clear.
(e) Crushing.
(i) Stabilize surface soils where support equipment and vehicles will operate.
(ii) Stabilize material before, during, and after crushing.
(iii) Traffic mileage or speed controls.
(iv) Minimize transfer height.
(f) Cut and fill.
(i) Stabilize surface soils where support equipment and vehicles will operate.
(ii) Pre-water soils.
(iii) Stabilize soil during and after cut activities.
(g) Demolition-implosion.
(i) Stabilize surface area where support equipment and vehicles will be operated.
(ii) Stabilize demolition debris immediately following blast and safety clearance.
(iii) Stabilize and clean the surrounding area immediately following blast and safety clearance.
(h) Demolition-mechanical and manual.
(i) Stabilize surface areas where support equipment and vehicles will operate.
(ii) Stabilize demolition debris during handling.
(iii) Stabilize debris following demolition.
(iv) Stabilize the surrounding area following demolition.
(i) Disturbed soil.
(i) Limit disturbance of soils where possible.
(ii) Stabilize and maintain stability of all disturbed soil throughout the construction site.
(j) Hauling materials.
(i) Limit visible dust opacity from vehicular operations.
(ii) Stabilize materials during transport on site.
(iii) Clean wheels and undercarriage of haul trucks [~~prior to~~]before leaving the construction site.
(k) Paving subgrade preparation.
(i) Stabilize adjacent disturbed soils following paving activities by applying water, chemical stabilizer, [~~and/~~]or synthetic cover.
(l) Sawing and cutting materials.
(i) Limit visible emissions using water or vacuum.
(m) Screening.
(i) Stabilize surface soils where support equipment and vehicles will operate.
(ii) Pre-treat material [~~prior to~~]before screening.
(iii) Stabilize material during screening.
(iv) Stabilize material and surrounding area immediately after screening.
(v) Minimize transfer height.
(n) Staging areas.
(i) Limit visible dust opacity from vehicular operations.
(ii) Stabilize staging area soils during use.
(iii) Stabilize staging area soils at project completion.
(o) Stockpiling.

(i) Stabilize stockpile materials during and after handling.

(ii) Stabilize surface soils where support equipment and vehicles will operate.

(p) Trackout prevention and cleanup.

(i) Install and maintain trackout control devices in effective condition at all access points where paved and unpaved access or travel routes intersect.

(q) Traffic on unpaved routes and parking areas.

(i) Stabilize surface soils where support equipment and vehicles will operate.

(r) Trenching.

(i) Stabilize surface soils where trenching equipment, support equipment, and vehicles will operate.

(ii) Stabilize soils after trenching.

(s) Truck loading.

(i) Empty the loader bucket slowly and keep the loader bucket close to the truck to minimize the drop height while dumping.

(ii) Stabilize surface soils where support equipment and vehicles will operate.

(5) The fugitive dust control plan must include contact information, site address, total area of disturbance, expected start and completion dates, identification of dust suppressant, and plan certification by signature of a responsible person.

(6) If the Division of Air Quality determines that a fugitive dust control plan has been followed, yet fugitive dust emissions from any fugitive dust facility still exceed the standards of Subsection R307-309-5(1), the operator of a fugitive dust facility shall be asked to make revisions to the dust plan and submit the revised plan to the Division within ten business days.

R307-309-7. Storage, Hauling, and Handling of Aggregate Materials.

Any person owning, operating, or maintaining a new or existing material storage, handling, or hauling operation shall prevent, to the maximum extent possible, and in accordance with Section R307-309-6, material from being deposited onto any paved road other than a designated deposit site. Any such person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road promptly using methods that do not exceed the opacity requirements of Subsection R307-309-5(1).

R307-309-8. Construction and Demolition Activities.

Any person engaging in clearing or leveling of land with an area of one-quarter acre or more, earthmoving, excavating, construction, demolition, or moving trucks or construction equipment over cleared land or access haul roads shall prevent, to the maximum extent possible, and in accordance with Section R307-309-6, material from being deposited onto any paved road other than a designated deposit site. Any such person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road promptly.

R307-309-9. Roads.

(1) Any person responsible for construction or maintenance of any existing road or having right-of-way easement or possessing the right to use the same whose activities result in fugitive dust from the road shall minimize fugitive dust to the maximum extent possible and in accordance with Section R307-309-6. Any such person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road promptly.

(2) Unpaved Roads. Any person responsible for construction or maintenance of any new or existing unpaved road shall prevent, to the maximum extent possible, the deposit of material from the unpaved road onto any intersecting paved road during construction or maintenance. Any person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road promptly.

R307-309-10. Mining Activities.

(1) In addition to the requirements under Sections R307-309-1 through R307-309-6, fugitive dust, construction activities, and roadways associated with mining activities are regulated under[~~the provisions of~~] Section R307-309-10.

(2) Any person who owns or operates a mining operation shall minimize fugitive dust as an integral part of site preparation, mining activities, and reclamation operations.

(3) The fugitive dust control measures to be used shall include:

(a) [~~P~~]periodic watering of unpaved roads[~~or~~];

(b) [~~U~~]use of chemical stabilizers on unpaved roads[~~or~~];

(c) [~~P~~]paving of roads[~~.~~];

(d) [~~I~~]immediate removal of coal, rock minerals, soil, and other dust-forming debris from roads and frequent scraping and compaction of unpaved roads to stabilize the road surface[~~.~~];

(e) [~~R~~]restricting the speed of vehicles in and around the mining operation[~~,~~];

(f) [~~R~~]revegetating, mulching, or otherwise stabilizing the surface of all areas adjoining roads that are a source of fugitive dust[~~.~~];

(g) [~~R~~]restricting the travel of vehicles on other than established roads[~~.~~];

(h) [~~E~~]enclosing, covering, watering, or otherwise treating loaded haul trucks and railroad cars, to minimize loss of material to wind and spillage[~~.~~];

(i) [~~S~~]substitution of conveyor systems for haul trucks and covering of conveyor systems when conveyed loads are subject to wind erosion[~~.~~];

(j) [~~M~~]minimizing the area of disturbed land[~~.~~];

(k) [~~P~~]prompt revegetation of regraded lands[~~.~~];

(l) [~~P~~]planting of special windbreak vegetation at critical points in the permit area[~~.~~];

(m) [~~C~~]control of dust from drilling, using water sprays, hoods, dust collectors, or other controls approved by the director[~~.~~];

(n) [~~R~~]restricting the areas to be blasted at any one time[~~.~~];
(o) [~~R~~]reducing the period of time between initially disturbing the soil and revegetating or other surface stabilization[~~.~~];
(p) [~~R~~]restricting fugitive dust at spoil and coal transfer and loading points[~~.~~]; or
(q) [~~C~~]control of dust from storage piles through use of enclosures, covers, or stabilization and other equivalent methods or other techniques as determined necessary by the director and upon concurrence by EPA.

R307-309-11. Tailings Piles and Ponds.

(1) In addition to the requirements under Sections R307-309-1 through R307-309-6, fugitive dust, construction activities, and roadways associated with tailings piles and ponds are regulated under[~~the provisions of~~] Section R307-309-11.

(2) Any person owning or operating an existing tailings operation where fugitive dust results from grading, excavating, depositing, or natural erosion or other causes in association with such operation shall take steps to minimize fugitive dust from such activities. Such controls shall include:

(a) [~~W~~]watering[~~or~~];
(b) [~~C~~]chemical stabilization[~~or~~];
(c) [~~S~~]synthetic covers[~~or~~];
(d) [~~V~~]vegetative covers[~~or~~];
(e) [~~W~~]wind breaks[~~or~~];
(f) [~~A~~]a combination of Subsections R307-309-11(2)(a)[~~-~~] through R307-309-11(2)(e);
(g) [~~M~~]minimizing the area of disturbed tailings;
(h) [~~R~~]restricting the speed of vehicles in and around the tailings operation; or
(i) [~~O~~]other techniques which may be approvable by the director and upon concurrence by EPA.

R307-309-12. Record Keeping.

(1) All sources subject to Subsections R307-309-5(2) and R307-309-5(3) shall maintain records for two years demonstrating compliance with Rule R307-309[~~.~~] and shall include the following components:

(a) document implementation and maintenance of control measures utilized from Subsection R307-309-6(4), including frequency or date of application or installation; and

(b) document contingency measures used as a result of wind events detailed in Subsection R307-309-5(3).

(2) These records shall be available to the director upon request.

R307-309-13. Fugitive Dust Facility Signage Requirements.

A fugitive dust facility must post informational signage as required by Subsection 19-2a-108(2):

(1) at an entryway to the fugitive dust facility that is clearly readable from the nearest public access point; and

(2) that includes the following information:

(a) the name of the facility or site;

(b) a permit identification number;

(c) a state business or entity identification number;

(d) the contact information for the facility manager or owner responsible for dust control matters; and

(e) contact information for the Utah Division of Air Quality that directs the public to information on fugitive dust and a place to submit dust complaints.

KEY: air pollution, fugitive dust
Date of Last Change: [~~August 4, 2017~~]2026
Notice of Continuation: October 2, 2024
Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104; 19-2-109; 19-2a-108

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58308**
Rule or section number:	**R623-4**

1. Agency Information

Title catchline:	Lieutenant Governor, Elections
Building:	Utah State Capitol
Street address:	350 State Street, Suite 220
City, state:	Salt Lake City, UT
Mailing address:	PO Box 142220
City, state and zip:	Salt Lake City, UT 84114-2220

2. Contact Persons

Name:	Phone:	Email:
Ryan Cowley	801-538-1041	Elections@utah.gov
Kenna Stringam	801-538-1041	Elections@utah.gov

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

3. General Information

A. Rule or section catchline:

R623-4. Processing Partisan Candidate Nomination Petitions

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

These changes are part of a routine update and review of this rule by the Office of the Lieutenant Governor to ensure that requirements for candidate nomination petitions are uniform and executable.

C. Summary of the new rule or change:

This amendment creates clearer specifications for when an election official should continue to process candidate nomination petitions.

Additionally, this amendment makes style and formatting changes to align with the Rulewriting Manual for Utah.

5. Fiscal Information

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

A. State budget:

The state budget is not expected to incur any fiscal impact, as these changes are already within the scope of preexisting state responsibilities.

B. Local governments:

Local governments are not expected to incur any fiscal impact, as these changes are already within the scope of preexisting county clerk responsibilities.

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

Small businesses are not expected to incur any fiscal impact, as this rule change does not apply to small businesses.

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

Non-small businesses are not expected to incur any fiscal impact, as this rule does not apply to non-small businesses.

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

Other persons are not expected to incur any fiscal impact, as this rule does not apply to other persons.

F. Compliance costs for affected persons:

Affected persons are not expected to incur any fiscal impact, as this rule change is procedural in nature, and already within the responsibilities and scope of other persons, namely reviewing officers.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	FY2027	FY2028	FY2029	FY2030	FY2031
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Director of the Office of Elections, Ryan Cowley, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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:

Utah Constitution, Article VII, Section 14	Section 20A-9-410	

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ryan Cowley, Director of Elections	**Date:**	10/03/2026

R623. Lieutenant Governor, Elections.
R623-4. Processing Partisan Candidate Nomination Petitions.
R623-4-1. Purpose.

(1) Pursuant to Subsection 20A-9-403(3)(e)[~~20A-9-403(3)(f)~~], this rule provides for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(2) Pursuant to Section 20A-9-410, this rule provides procedures for complying with, and verifying compliance with, the candidate nominating process described in that part.

(3) Pursuant to Subsection 20A-3a-106(4), this rule establishes procedures to perform signature comparison audits described in Subsection 20A-9-408(9)(e) and to fulfill the chain of custody requirements described in Section 20A-9-408.3.

R623-4-2. Authority.

This rule is required by Title 20A, Chapter 9, Candidate Qualifications and Nominating Procedures and Subsection 20A-3a-106(4). Rulemaking authority relating to conducting an election is enacted under the authority of the Utah Constitution Act. VII, Sections 1 and 14, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

R623-4-3. Definitions.

(1) "Candidate" means a valid candidate who has filed for office within the current calendar year, or an individual who is submitting nomination packets on behalf of the candidate, such as a volunteer or contractor.

(2) "Conflicted race" means a race where:

(a) the current Governor is seeking reelection;

(b) the lieutenant governor is the reviewing officer and the race is for an office that the lieutenant governor is seeking; or

(c) the County Clerk is the reviewing officer and the race is for an office that the County Clerk is seeking.

(3) "Filing Officer" for the purposes of this rule means the same as defined in Subsection 20A-9-101(6)[~~20A-9-101(7)~~].

(4) "Qualification threshold" means the number of signatures required for a given office as set forth in Subsections 20A-9-403(3)(a)(ii) and 20A-9-408(8)(b).

(5) "Reasonably consistent" means the same thing as substantially similar for the purposes of this rule.

(6) "Reviewing officer" for the purposes of this rule means:

(a) the lieutenant governor for federal, state, and multicounty legislative and state school board races;

(b) a County Clerk with whom the lieutenant governor has contracted to provide nomination petition signature verification services; or

(c) the County Clerk for single county legislative and state school board races within the County Clerk's county.

(7) "Substantially similar" means that two or more signatures share significant characteristics and resemble each other to a considerable extent, but are not necessarily identical.

(8) "Verification criteria" for signatures means the same thing as it is defined in Subsection[~~Section~~] R623-11-3[~~-~~](3).

R623-4-4. Uniform Nomination Petition Processing Standards.

(1) A nomination submission packet shall be submitted in the following manner:

(a) A candidate shall submit the petition packets, personally or by a designated agent, to the reviewing officer before the deadlines established in Sections 20A-9-403 and 20A-9-408.

(b) A candidate shall submit packets to the reviewing officer no later than 5 p.m.[~~5pm~~] on the date of the deadline described in accordance with Subsection 20A-9-403(3)(b)[~~Sections 20A-9-403 and 20A-9-408~~]. Additionally, a candidate may submit packets only:

(i)(A) between 8 a.m. and 4 p.m.[~~8am and 4pm~~] on the last business day of each week after declaring candidacy; and

(B) excepting the deadline in Sections 20A-9-403 and 20A-9-408, any business day between 8 a.m. and 4 p.m.[~~8am and 4pm~~] during the week of the deadline described in Subsection (a).

(ii)(A) A candidate may, instead of the date provided in Subsection (b)(i)(A), submit between 8 a.m. and 4 p.m.[~~8am and 4pm~~] on any single designated weekday of the filing officer's choosing, if the chosen date is decided before January 2 of the year in which candidate filings occur.

(B) The filing officer shall provide written notice of the designated weekday for submitting packets to each signature gathering candidate upon the candidate filing a declaration of candidacy.

(c) When submitting any nomination petition, a candidate or designated agent shall comply with and supply the documents required under Subsections 20A-9-408.3(1) through (3).

(2) The reviewing officer shall provide the candidate with a copy of the submission documents that includes the following:

(a) the signature of the person making the submission;

(b) the signature of the person authorized to receive the submission;

(c) the date and time of submission; and

(d) a list of any packet numbers included in the submission.

(3) If the reviewing officer rejects a submission:

(a) the reviewing officer shall provide the candidate with a written explanation for the rejection; and

(b) the rejected submission is not returned to the candidate.

(4) A candidate may supplement a nomination petition packet by submitting an unlimited number of supplemental nomination petition packets following the initial submission until the applicable deadline established in Sections 20A-9-403 and 20A-9-408.

(a) The intake of supplemental nomination petition packets shall comply with Subsections R623-4-4(1) through (3).

(b) The processing of supplemental nomination petition packets shall comply with Subsection R623-4-4(5) and Section R623-4-5.

(5) When completing the order of nomination petition packet verification, the reviewing officer shall ensure that nomination petition packets for different candidates within the same race:

(a) are verified in the order of submission; and

(b) may not be verified simultaneously.

R623-4-5. Procedure for Verification of Nomination Petition Packets.

(1) The reviewing officer shall verify nomination petition packets in accordance with Section 20A-1-1002, Subsection 20A-9-403(3), and Rule R623-11.

(2) If an individual signed two candidate nomination petitions for the same office, the signature on the first submitted nomination petition that meets the requirements of Section 20A-1-1002, Subsection 20A-9-403(3), and Rule R623-11, is valid in accordance with Section 20A-9-411.

(3) The reviewing officer shall review and certify each signature submitted for a candidate in accordance with Subsection 20A-9-408(9)(f).

(4) The reviewing officer may discontinue the verification of a nomination petition if:[~~, in writing, a candidate withdraws:~~]

(a) a candidate withdraws the following in writing:

(i) candidacy; or

([~~b~~]ii) the notice of intent to gather signatures.

(b) a candidate cannot mathematically meet the qualification threshold and the deadline described in Subsection 4(1)(b) has passed.

(5) The reviewing officer shall review each signature in an individual packet once review of that packet has begun.

(6) The reviewing officer shall conduct a secondary review of any rejected signatures for a candidate unless the candidate:

(a) has exceeded the qualification threshold by at least 10%; or

(b) meets the criteria to discontinue the verification of signatures in accordance with Subsection (4).

(7)[~~(6)~~] The reviewing officer shall:

(a) communicate results to a candidate within one business day after the signature audit described in Section R623-12-7[~~R623-12-6~~] is conducted; and

(b) provide written notice to the candidate stating whether the candidate has met the qualification threshold.[~~notify a candidate in writing that the candidate has met the qualification threshold.~~]

R623-4-6. Withdrawal of Petition Packets and Petition Signatures.

(1) A candidate may not withdraw or take possession of a nomination petition packet once it is presented to the election officer, regardless of whether it has been accepted or rejected.

(2) A voter who has signed a candidate's nomination petition may have the voter's signature removed from the petition by submitting to the reviewing officer a statement in accordance with Subsection 20A-9-408(9)(d).

KEY: candidate petitions, election law, elections
Date of Last Change: [~~January 21,~~] 2026
Notice of Continuation: December 8, 2020
Authorizing, and Implemented or Interpreted Law: Art. VII, Secs. 1 and 14; 20A-9

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58311**
Rule or section number:	**R623-7**

1. Agency Information

Title catchline:	Lieutenant Governor, Elections
Building:	Utah State Capitol
Street address:	350 State Street, Suite 220
City, state:	Salt Lake City, UT 84114-2220
Mailing address:	PO Box 142220
City, state and zip:	Salt Lake City, UT 84114-2220

2. Contact Persons

Name:	Phone:	Email:
Ryan Cowley	801-538-1041	elections@utah.gov
Kenna Stringam	801-538-1041	elections@utah.gov

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

3. General Information

A. Rule or section catchline:
R623-7. Vote Tabulation Software Validation Rule
B. Purpose of the new rule or reason for the change:
These changes are part of a routine update and review of this rule by the Office of the Lieutenant Governor.

C. Summary of the new rule or change:
This amendment refines specifications for when software validation should take place. Additionally, this amendment removes a section referencing an outdated piece of code.

5. Fiscal Information

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
The state budget is not expected to incur any fiscal impact on the state budget, as this rule change does not apply to the state.
B. Local governments:
Local governments are not expected to incur a fiscal impact. Although the rule change will require time for software validation, this activity already falls within the existing responsibilities of the county clerk.
C. Small businesses ("small business" means a business employing 1-49 persons)**:**
Small businesses are not expected to incur any fiscal impact, as this rule change does not apply to small businesses.
D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
Non-small businesses are not expected to incur any fiscal impact, as this rule does not apply to non-small businesses.
E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
Other persons are not expected to incur any fiscal impact, as this rule does not apply to other persons.
F. Compliance costs for affected persons:
Affected persons are not expected to incur a fiscal impact. Although this rule change will require time for software validation, this activity falls within the existing responsibilities of all affected persons.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0

Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Director of the Office of Elections, Ryan Cowley, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 20A-5-905		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Ryan Cowley, Director of Elections	**Date:**	10/05/2026

R623. Lieutenant Governor, Elections.
R623-7. Vote Tabulation Software Validation Rule.
R623-7-1. Purpose.

Section 20A-5-905 requires the director of elections within the Office of the Lieutenant Governor to make rules establishing software validation procedures that an election officer shall comply with to verify that voting system files have not been tampered.

R623-7-2. Authority.

This rule is authorized by Subsection 20A-5-905(1) and enacted under the authority of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

R623-7-3. Definitions.

In addition to the terms defined in Section 20A-1-102, the following definitions apply to this rule:

(1) "Designee" means a full-time employee of the election officer or a full-time employee of the political subdivision of the election officer given authority by the election officer to perform software validations.

(2) "Election officer" means the county clerk or municipal clerk responsible for maintaining the system where the software is in use or will be installed.

(3) "Installation" means installing vote tabulation software, updating vote tabulation software, or overwriting existing vote tabulation software.

(4) "Software" means a computer program that is used to tabulate votes, otherwise generally known as an election management system (EMS).[~~, with the exception of software used in reference to Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.~~]

(5) "Validation" means obtaining the hash validation of installed software and comparing it against the trusted build hash validation from the US Election Assistance Commission (EAC) using instructions approved by the Office of the Lieutenant Governor.

(6) "Voting equipment" means equipment that is maintained and used by the election officer to scan, tabulate, or mark ballots; otherwise generally known as ballot marking devices and direct-recording electronic (DRE) voting machines.

R623-7-4. General.

(1) Software shall be validated, with no errors or unknown warnings, in accordance with this rule and Section 20A-5-802;[~~ when installing~~]

(a) when installing new software;

(b) during internal logic and accuracy testing; and

(c) after each election day but before the board of canvass meets to certify election results[~~ and at least once every two years thereafter~~].

(2) The election officer shall validate software against the trusted build hash validation from the EAC using instructions approved by the Office of the Lieutenant Governor.

(3) Validation shall be performed by the election officer, a designee, or someone authorized to perform the validation by the Office of the Lieutenant Governor.

(4) Before using any voting equipment, and before each election, the election officer shall verify that the firmware version on any voting equipment matches the firmware version that is certified by the EAC.

(5) The election officer shall make and keep a signed record of each software validation and voting equipment verification that is performed for 24 months after the software or voting equipment is no longer in use.

(6)(a) The Office of the Lieutenant Governor shall select at least five jurisdictions each year and supervise the performance of software validations and voting equipment verifications for those jurisdictions.

(b) These validations may be in addition to any other validation performed by the election officer.

(7) Nothing in this rule prevents an election officer from performing more validations than are required by this rule, but each validation shall follow the procedures outlined in this rule.

R623-7-5. Software Certification.

(1) Software shall be certified in accordance with Subsection 20A-5-802(2)(a)(iii).

(2) Hash validation files are obtained by the Office of the Lieutenant Governor or the county clerk from:

(a) the EAC;

(b) or a certifying lab described in Subsection[~~s~~] 20A-5-802(2)(c)[~~20A-5-802(2)(a)(iii)(A) and (B)~~].

R623-7-6. Software Installation.

(1) Election officers must obtain written permission from the lieutenant governor before the installation of any software.

(2) The election officer, or a designee, shall always be present during software installation.

(3) Before deploying the installation, the election officer, or a designee, must verify that they have a full backup of each election conducted within the last 22 months.

R623-7-7. Software Validation.

(1)(a) The election officer shall be responsible for ensuring that each computer with software on it is validated when installing.

(b) If the hash values do not match then the software may not be used. The election officer shall notify the lieutenant governor within one business day of the identification of the mismatch.

(2) Systems must pass validation with no errors or unknown warnings during installation, or during any validation review, or they may not be used in an election until the system has been successfully validated.

(3) The election officer, or a designee, shall always be present during the validation.

(4) The election officer, or a designee, shall perform the validation, unless written permission is obtained from the Office of the Lieutenant Governor before the validation is performed.

R623-7-8. Records.

(1) A record of any vote tabulation software installations shall be made on a form provided by the lieutenant governor and shall be signed by the election officer, their designee if used, and the representative of the vendor who performed the installation, if used.

(2) The signed record of any software installations shall be retained by the election officer for 24 months after the software is no longer in use.

(3) At each canvass, the election officer shall certify that the software and voting equipment have been properly maintained in accordance with this rule and that a record of any installation performed on each piece of equipment has been kept in accordance with Subsection 20A-5-902(2).

KEY: elections, lieutenant governor, software, validation, voting, equipment, hash
Date of Last Change: 2026[~~October 23, 2025~~]
Authorizing, and Implemented or Interpreted Law: 20A-5-905

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58351**
Rule or section number:	**R708-7**

1. Agency Information

Title catchline:	Public Safety, Driver License
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state:	Taylorsville, UT
Mailing address:	PO Box 144501
City, state and zip:	Salt Lake City, UT 84114-4501

2. Contact Persons

Name:	**Phone:**	**Email:**
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov

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

3. General Information

A. Rule or section catchline:

R708-7. Functional Ability in Driving Responsibilities for Physicians and Drivers

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

During recent discussions with the Medical Advisory Board, the Driver License Division (division) has decided to change an existing process regarding medical exemptions in relation to ignition interlock device requirements, which would remove the sole decision from the Medical Advisory Board and place it with the division leaving the Medical Advisory Board in an advisory role as intended.

C. Summary of the new rule or change:

This amendment adds an authorizing statute Section 53-3-1007 which was inadvertently not added in a previous filing, adds specificity to definitions, includes the vision category, and changes the process for review of petitions for medical exemptions from relying on the decision of the Medical Advisory Board and places it with the division as intended.

5. Fiscal Information

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

A. State budget:

This amendment is not expected to have any impact on state budget.

This amendment is updating an internal process of the division where the division is switching the decision-making role from the board to the division for those who petition to have an IID removed for a medical exemption.

This process does not require any cost, nor does it generate savings.

B. Local governments:

This amendment is not expected to have any impact on any local governments.

This amendment is updating an internal process of the division where the division is switching the decision-making role from the board to the division for those who petition to have an IID removed for a medical exemption.

This process does not require any cost, nor does it generate savings, and is not regulated by any local governments.

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

This amendment is not expected to have any impact on any small businesses.

This amendment is updating an internal process of the division where the division is switching the decision-making role from the board to the division for those who petition to have an IID removed for a medical exemption and does not affect small businesses.

This process does not require any cost, nor does it generate savings.

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

This amendment is not expected to have any impact on any non-small businesses.

This amendment is updating an internal process of the division where the division is switching the decision-making role from the board to the division for those who petition to have an IID removed for a medical exemption and does not affect non-small businesses.

This process does not require any cost, nor does it generate savings.

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 amendment is not expected to have any impact on any persons other than small businesses, non-small businesses, state, or local government entities.

This amendment is updating an internal process of the division where the division is switching the decision-making role from the board to the division for those who petition to have an IID removed for a medical exemption and does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This process does not require any cost, nor does it generate savings.

F. Compliance costs for affected persons:

There are no compliance costs associated with this rule.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Public Safety, Beau Mason, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Section 53-3-104	Section 53-3-1007	

10. Incorporation by Reference Information

Incorporation by Reference:	
A. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*)**:**	
Official Title of Materials Incorporated (from title page)	Functional Ability in Driving. Guidelines and standards for Health Care Professionals
Publisher	Driver License Division
Issue Date	October 2026
Issue or Version	January 2026

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Jimmy Higgs, Director	**Date:**	10/15/2026

R708. Public Safety, Driver License.
R708-7. Functional Ability in Driving: Responsibilities for Physicians and Drivers.
R708-7-1. Purpose.

T[~~he purpose of t~~]his rule [~~is to~~]establish<u>es</u> the:

(1) procedure for administering the standards and guidelines used by health care professionals to assess certain medical conditions in relation to driving safety;

(2) responsibilities of health care professionals to educate patients on medical conditions that may affect driving safety;

(3) responsibilities of individuals regarding their health in relation to driving safety; and

(4) procedures regarding a petition requesting removal of an ignition interlock restriction.

R708-7-2. Authority.

This rule is authorized by Section<u>s</u> 53-3-104 <u>and 53-3-1007</u>.

R708-7-3. Definitions.

(1) Terms used in this rule are defined in Sections 53-3-102 and 53-3-302.

(2) In addition:

(a) "deep breath lung sample" also known as alveolar breath sample, means an air sample that is the last portion of a prolonged, uninterrupted exhalation and that gives a quantitative measurement of alcohol concentration from which breath alcohol concentrations can be determined;

(b) [~~"FEV1" means the amount of air that can be forcibly exhaled from the lungs over one second of time after taking the deepest breath possible;~~

~~(c) "FVC" means the amount of air that can be forcibly exhaled from the lungs after taking the deepest breath possible;~~

~~(d) ~~]"guidelines" means the Functional Ability In Driving: Guidelines and Standards for Health Care Professionals created by the board to assist health care professionals in assessing certain medical conditions in relation to driving safety;

[~~(e)~~](c) "[~~HD Removal Petition Physician Statement~~]Utah Ignition Interlock Device Medical Exemption Request" means the form furnished by the division used by a physician to provide a synopsis of an individual's medical condition to determine eligibility for an exemption from an ignition interlock device requirement;

[~~(f)~~](d) "medical form" means a Functional Ability Evaluation Medical Report Form furnished by the division used by health care professionals to assess medical conditions;

[~~(g) "spirometry" means a test of lung function that measures the quantity and speed of air that is inhaled or exhaled;~~] and

[~~(h)~~](e) "vision form" means a Certificate of Visual Examination Form furnished by the division used by health care professionals to assess visual acuity.

R708-7-4. Driver's Responsibilities.

(1) Each individual that applies for or holds a Utah driver license shall:

(a) answer health questions related to driver safety each time an application for a Utah driving privilege is submitted to the division;

(b) refrain from driving if there is uncertainty caused from having a physical, mental, or emotional impairment that may affect driving safety;

(c) seek medical evaluation and advice about the significance of any impairment that relates to driving safety; and

(d) report a physical, mental, or emotional impairment that may affect driving safety to the division in a timely manner.

(2) Individuals who experience a physical, mental, or emotional impairment, shall take a medical or vision form to a health care professional who shall provide the requested information, including a safety assessment level that reflects the individual's condition.

(3) Individuals may not determine a safety assessment level for themselves.

R708-7-5. Health Care Professional's Responsibilities.

(1) Health care professionals shall:

(a) discuss the individual's health as it may affect driving abilities and make special recommendations in unusual circumstances;

(b) assess physical, mental, or emotional impairment conditions on forms furnished by the division; and

(c) report to the division regarding serious physical, mental, or emotional impairments that may affect driving safety concerning their patients.

(2) Health care professionals who make reports to the division regarding physical, mental, or emotional impairments that pose a threat to driving safety have immunity from any damages claimed from making the report.

R708-7-6. Driver License Medical Advisory Board.

The Driver License Medical Advisory Board (Board) shall:

(1) recommend written functional ability and safety assessment guidelines and standards for determining the physical, mental, and emotional capabilities of individuals appropriate to various driving abilities;

(2) advise the director of the division on individual cases regarding medical impairment and driving safety; and

(3) administer the guidelines.

R708-7-7. Persons Authorized to Complete Medical and Vision Forms.

(1) Licensed physicians and surgeons may complete the entire medical and vision form.

(2) Licensed ophthalmologists and optometrists may only complete the vision form.

(3) Unless a physician is required by statute or the applicable medical form provided by the division, [~~N~~]nurse practitioners, physician assistants, advanced practice nurses, chiropractors, and other health care professionals may perform physical examinations and report their findings on the medical and vision forms provided that:

(a) they are licensed by the state as health care professionals;

(b) the physical examination does not need advanced or complex diagnosis or treatment; and

(c) if advanced or complex medical diagnostic analysis is needed, they shall refer the patient to the appropriate health care professional for further evaluation and completion of the medical or vision form.

(4) An individual authorized under Section R708-7-7 may not complete a medical or vision form if the medical or vision form is for themselves.

R708-7-8. Use of the Safety Assessment Level.

(1) Health care professionals shall apply the standards in the Functional Ability in Driving Guidelines and Standards for Health Care Professionals, January 2026[~~4~~] edition, which are incorporated by reference, when assessing patient health and completing the report forms.

(2) The board has identified the following specific medical categories:

(a) "category A" diabetes and metabolic conditions;

(b) "category B" cardiovascular;

(c) "category C" pulmonary;

(d) "category D" neurologic;

(e) "category E" seizures and episodic conditions;

(f) "category F" learning and memory;

(g) "category G" mental health;

(h) "category H" alcohol and other drugs;

(i) "category I" vision;

(j) "category J" musculoskeletal or chronic debility; and
(k) "category K" alertness or sleep disorder.
(3) The division shall publish the guidelines on the division's website, dld.utah.gov.
(4) The division may request an individual to complete a driver review upon receipt of certain safety assessment levels, which may include a driving skills test to demonstrate the ability to safely operate a motor vehicle before the division can determine if:
(a) the individual will keep the privilege to drive without restrictions;
(b) driving restrictions may be needed to ensure public safety; or
(c) the individual must discontinue driving.
(5) A health care professional may also request the division evaluate an individual's driving skill level at the health care professional's discretion.

R708-7-9. Denial of Driving Privileges.
(1) The division shall notify an individual their privilege to drive is denied for any of the following:
(a) a medical form that is completed in any category that the driver is assessed at a level eight in accordance with the guidelines, or other documentation that states the health care professional recommends the individual not drive;
(b) a vision form that the driver is assessed at a level ten in accordance with the guidelines, or other documentation that states the health care professional recommends the individual not drive; or
(c) the inability to complete or successfully pass a driver review.
(2) An individual may request a review of the division's decision upon receipt of a notice of denial of the privilege to drive.

R708-7-10. Petition to Remove Ignition Interlock Restriction.
(1) An individual [~~with a medical condition that prohibits the individual from providing a deep lung breath sample necessary to operate an ignition interlock system~~]who did not elect to become an interlock restricted driver pursuant to Subsection 41-6a-521(7) may [~~submit a~~]petition [~~to~~]the division for a medical exemption to an ignition interlock requirement by submitting[~~containing the following~~]:
(a) a[~~n IID Removal Petition Physician Statement Form~~] Utah Ignition Interlock Device Medical Exemption Request, including any requested attachments, provided by the division completed by the individual's physician; and
(b) a medical form completed by a physician[~~:~~
~~(c) medical history documenting the date of onset of the condition, the prognosis, and current treatments; and~~
~~(d) measurements of FVC and FEV1 as measured by reproducible spirometry within 90 days of the petition~~].
(2)(a) The [~~board~~]division shall review documentation submitted to support the individual cannot provide a deep lung breath sample under Title 53, Chapter 3, Part 3, Impaired Persons Licensing Act.
(b) The division may request the Board to review and interpret the medical documentation submitted under Subsection R708-7(1).
(3) The [~~board~~]division may request additional documentation regarding a medical exemption requested under this rule.
(4) The division may consider the following when deciding to grant a medical exemption:
(a) the recommendation of the [~~panel~~]Board;
(b) public safety; and
(c) [~~the availability of ignition interlock systems that may be used with the individual's condition; and~~
~~(d) ~~]the level of pulmonary or other impairment affecting the individual[~~ in determining the individual's license restrictions~~].
(5) The division may not grant a medical exemption requested under this rule to an individual who does not meet the requirements listed on the division's website dld.utah.gov.

KEY: administrative procedures, health care professionals, physicians
Date of Last Change: 2026[~~July 23, 2024~~]
Notice of Continuation: December 16, 2021
Authorizing, and Implemented or Interpreted Law: 53-3-104; 53-3-224; 53-3-303; 53-3-304; 53-3-1007; 41-6a-518; 49 CFR 391.43; 41-6a-518.2

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58350**
Rule or section number:	**R708-45**

1. Agency Information

Title catchline:	Public Safety, Driver License
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state:	Taylorsville, UT
Mailing address:	PO Box 144501

City, state and zip:	Salt Lake City, UT 84114-4501

2. Contact Persons

Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov

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

3. General Information

A. Rule or section catchline:

R708-45. Renewal or Duplicate License for Utah Residents Unable to Appear at a Licensing Office

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

The Driver License Division (division) is making minor formatting changes to the existing rule and removing a restriction that only allowed the division to issue one license under this rule.

These changes are being made as the result of an internal agency practice review.

C. Summary of the new rule or change:

The division has removed a restriction that prohibited the division from issuing only one license under this rule. This restriction is not outlined in statute, and the division would like to allow for situations in which issuing more than one license may occur.

Additionally, minor formatting and style changes are being made to follow current rulewriting standards.

5. Fiscal Information

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

A. State budget:

This amendment is not expected to have any impact on the state budget.

This is an existing process of the division. The division is seeking to remove a prohibition on the number of licenses the division may issue under this rule which will neither require a cost nor generate savings.

B. Local governments:

This amendment is not expected to have any impact on local governments.

This is an existing process of the division that is not regulated by any local governments.

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

This amendment is not expected to have any impact on small businesses.

This is an existing process of the division that does not affect small businesses.

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

This amendment is not expected to have any impact on non-small businesses.

This is an existing process of the division that does not affect any 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 amendment is not expected to have any impact on persons other than small businesses, non-small businesses, state, or local government entities.

This is an existing process of the division. The division is seeking to remove a restriction on the number of licenses they may issue to a person who is not able to appear at an office and requires a renewal or duplicate license.

Previously, the division was only allowed to issue one license to a person under this rule.

F. Compliance costs for affected persons:

This amendment is not expected to have any compliance costs.

This is an existing process of the division. The division is seeking to remove a prohibition on the number of licenses the division may issue under this rule which will neither require a cost nor generate savings.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Public Safety, Beau Mason, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Section 53-3-104	Section 53-3-205	Section 53-3-214

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Jimmy Higgs, Director	**Date:**	10/15/2026

R708. Public Safety, Driver License.
R708-45. Renewal or Duplicate License for Utah Residents Unable to Appear at a Licensing Office.
R708-45-1. Purpose.

T[~~he purpose of t~~]his rule [~~is to~~]establishes procedures whereby the division may renew or issue a duplicate regular license [~~certificate~~]to a Utah resident who [~~is unable to~~]cannot appear at a licensing office.

R708-45-2. Authority.

This rule is authorized by Sections 53-3-104, 53-3-205, and 53-3-214.

R708-45-3. Definitions.

(1) Definitions in this rule are found in Section 53-3-102.

(2) In addition:

(a) "DOD applicant" means a person who is a civilian employee of the United States Department of Defense that is stationed outside of the United States, or an immediate family member or dependent residing outside of the United States with such person who has applied for a renewal or duplicate Utah driver license;

(b) "DOS applicant" means a person who is a civilian employee of the United States State Department that is stationed outside of the United States, or an immediate family member or dependent residing outside of the United States with such person who has applied for a renewal or duplicate Utah driver license; and

(c) "military applicant" means a person who is ordered to active duty and stationed outside Utah in any of the armed forces of the United States, or an immediate family member or dependent residing outside of Utah with such person who has applied for a renewal or duplicate Utah driver license.

R708-45-4. Requirements [~~to Renew or Obtain a Duplicate License~~]for Eligibility.

(1) To be eligible to obtain a renewal or duplicate driver license under this rule, an applicant shall:

(a) be a resident of the state;

(b) demonstrate they are unable to visit a licensing office;[~~and~~]

(c) have a valid regular license[~~certificate~~];

(d) have [~~with~~]a digitized driver license photo on file with the division, that is no older than ten years from the date of application for a renewal or duplicate license under this rule; and

(e) submit a certificate of visual examination if the corrective lenses restriction has changed.

(2) The division may not issue a renewal license if the driver record of the applicant[~~shall not~~]:

(a) contains evidence that demonstrates the applicant is a hazard to public safety within the five-year period preceding the application if the license has a five-year expiration, or within an eight-year period preceding the application if the license has an eight-year expiration; or

(b) reflects an expiration date of more than a one-year period [~~at the time~~]when the application is submitted to the division unless:

(i) the applicant is a DOD applicant, DOS applicant, or military applicant; and

(ii) the license has not been suspended, [~~disqualified,~~]denied, revoked, or cancel[~~l~~]ed by the division.

(3) An applicant is not eligible to renew or obtain a duplicate license under this rule if:

(a) the applicant holds a:

(i) commercial driver license;

(ii) limited term driver license; or

(iii) driving privilege card;

(b) [~~the applicant has previously renewed or obtained a duplicate license under this rule, unless approved by the division director or designee;~~

~~(c)~~]the applicant has changed their name since the last Utah license was issued;[~~or~~]

(c) the required license restrictions have changed since the last Utah license was issued, unless outlined in Subsection R708-45-4(1)(e); or

(d) [~~the required license restrictions have changed since the last Utah license was issued~~]the applicant is required to take a written or driving skills test.

R708-45-5. Renewal or Duplicate License Application.

(1) To apply for a renewal or duplicate license under this rule, an applicant shall submit to the division:

(a) a license application form, [~~that can be obtained from~~]provided by the division[~~either online or through the mail~~];

(b) verification pursuant to Section 53-3-205 of:
(i) identity;
(ii) legal presence;
(iii) social security number; and
(iv) Utah residency;
(c) a completed certificate of visual examination form [~~that can be obtained from~~]provided by the division[~~ either online or through the mail~~], if the applicant is age 64 years and 6 months or older [~~at the time~~]when of application;
(d) supporting documentation that establishes an applicant is a DOD applicant, DOS applicant, or military applicant, if applicable;
(e) proof of successful completion of a certified Motorcycle Safety Foundation rider training course, if the applicant is a military applicant and is applying for an original motorcycle endorsement, and on active duty stationed outside of the state; and
(f) [~~written notice of the applicant's intent to apply for a renewal or duplicate license under this rule; and~~
~~(g)~~]applicable fees.
(2) Upon receipt of a completed application packet, the division:
(a) shall review the materials to determine if the applicant is eligible for a renewal or duplicate license; and
(b) may request additional information to determine if the applicant is eligible for a renewal or duplicate license.
(3)(a) If the division determines that the applicant has met the requirements for a renewal or duplicate license, the division shall issue the license certificate to the applicant.
(b) The license [~~certificate~~]shall expire as provided in Section 53-3-205.

KEY: renewal license, duplicate license, Utah resident temporarily out-of-state
Date of Last Change: [~~November 22, 2021~~]2026
Notice of Continuation: June 25, 2024
Authorizing, and Implemented or Interpreted Law: 53-3-104; 53-3-205; 53-3-214; 53-3-215

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: New	**Filing ID: 58355**
Rule or section number:	**R722-120**

1. Agency Information

Title catchline:	Public Safety, Criminal Investigations and Technical Services, Criminal Identification
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state:	Taylorsville, UT 84129
Mailing address:	4315 S 2700 W, Suite 1300
City, state and zip:	Taylorsville, UT 84129

2. Contact Persons

Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov

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

3. General Information

A. Rule or section catchline:
R722-1. Sex Offender Monitoring Program
B. Purpose of the new rule or reason for the change:
A new rule is required under Subsection 53-29-406(7).
C. Summary of the new rule or change:
This proposed rule establishes the requirements, procedures, and processes for the location monitoring program for sex offenders who do not provide the required residence information to the state.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 370 (2026 General Session)

5. Fiscal Information

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

A. State budget:

This proposed rule is not anticipated to have a fiscal impact on the state budget beyond that already described in the fiscal note for HB 370 (2026). The fiscal note can be found at: https://le.utah.gov/Session/2026/bills/static/HB0370.html

B. Local governments:

This proposed rule will not likely result in direct, measurable costs for local governments because local law enforcement agencies and other entities that already register sex offenders would provide the monitoring devices to eligible offenders on behalf of the registry.

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

This proposed rule could potentially result in revenue for a small business if awarded the contract to provide devices for the program on behalf of the registry.

The amount of revenue anticipated is approximately $75,000 in FY 2026, $150,000 in FY 2027 and $175,000 in FY 2028, increasing by about $40,000 annually until FY 2036.

The Bureau of Criminal Identification (BCI) anticipates adding approximately 10 offenders per year to the program, at a cost of $4,000 to $5,000 per offender annually.

BCI is in the process of selecting a vendor for the program.

Since BCI is unsure of which business category the contracted company will fall under, BCI felt it would be most appropriate to provide "inestimable" in the regulatory impact summary table.

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

This proposed rule could potentially result in revenue for a non-small business if awarded the contract to provide devices for the program on behalf of the registry.

The amount of revenue anticipated is approximately $75,000 in FY 2026, $150,000 in FY 2027 and $175,000 in FY 2028, increasing by about $40,000 annually until FY 2036.

BCI anticipates adding approximately 10 offenders per year to the program, at a cost of $4,000 to $5,000 per offender annually.

BCI is in the process of selecting a vendor for the program.

Since BCI is unsure of which business category the contracted company will fall under, BCI felt it would be most appropriate to provide "inestimable" in the regulatory impact summary table.

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

This proposed rule may result in costs to an offender of approximately $4,000 to $5,000 annually, reflected as the average of $4,500 in the regulatory impact summary table, to pay for renting the monitoring device, unless the offender qualifies for a waiver due to indigence.

F. Compliance costs for affected persons:
This proposed rule may result in costs to an offender of approximately $4,000 to $5,000 annually, reflected as the average of $4,500 in the regulatory impact summary table, to pay for renting the monitoring device, unless the offender qualifies for a waiver due to indigence.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$4,500	$4,500	$4,500	$4,500	$4,500
Total Fiscal Cost	**$4,500**	**$4,500**	**$4,500**	**$4,500**	**$4,500**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	inestimable	inestimable	inestimable	inestimable	inestimable
Non-Small Businesses	inestimable	inestimable	inestimable	inestimable	inestimable
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**
Net Fiscal Benefits	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**

7. Regulatory Impact Analysis Approval

The Commissioner of the Department of Public Safety, Beau Mason, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Section 53-29-101	Section 53-29-308	Section 53-29-406

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Marcus Yockey, BCI Division Director	**Date:**	10/15/2026

R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.

R722-120. Sex Offender Monitoring Program.

R722-120-1. Purpose.

This rule establishes the requirements, procedures, and processes for the location monitoring program for sex offenders who do not provide the required residence information.

R722-120-2. Authority.

This rule is authorized by Section 53-29-406.

R722-120-3. Definitions.

(1) Terms used in this rule are defined in Sections 53-29-101, 53-29-308, and 53-29-406.

(2) In addition:

(a) "division" means the Division of Adult Probation and Parole created in Section 64-14-202; and

(b) "registering agency" means the division, municipal law enforcement agency, or sheriff's office responsible for registering or supervising the sex offender.

R722-120-4. Program Administration.

(1) The registry office shall administer the program on behalf of the department.

(2) The registry office shall maintain a list of municipal law enforcement agencies that have accepted responsibility for the monitoring program for sex offenders.

R722-120-5. Notification of Monitoring Program.

(1) If the registry office receives credible information from an entity described in Subsection 53-29-406(3)(a), that a sex offender fails to provide the required residence information under Subsection 53-29-304(4)(a)(ii), the registry office shall promptly notify the registering agency by email with program oversight responsibility.

(2) The registering agency shall comply with its procedures for obtaining an arrest warrant for an offender who fails to comply with the required residence information or fails to comply with the monitoring program.

R722-120-6. Monitoring Device.

(1) Upon receipt of notification under Subsection R722-120-5(1), registering agency shall obtain a location monitoring device directly from the registry office.

(a) The registering agency shall inspect the device for proper fit and signal transmission and provide written instruction to the offender on device charging and maintenance.

(b) Faulty, damaged, or unassigned devices shall be returned to the registry office for inspection, repair, or re-inventory.

(2) GPS location reports or tracking data shall be made directly available to the registering agency having jurisdiction or oversight responsibility over the offender.

(3) The cost incurred by the sex offender's participation in the program shall be added to the offender's annual fee, unless the offender demonstrates to the registry office the officer does not have the ability to pay as provided in Section R722-120-7.

R722-120-7. Indigency Application Procedure.

(1) An offender seeking a waiver the cost of the monitoring device shall submit a written indigency application to the registry office no later than 30 days after being placed on the monitoring program.

(2) The application must include proof of income, tax filings, or documentation of state assistance benefits.

(3) The registry office shall evaluate the submission and notify the offender and registering agency in writing of fee waiver approval or denial.

(4) The registry office shall grant a fee waiver if the offender's gross household income is at or below 150% of the Federal Poverty Guidelines or if extraordinary financial hardship is verified.

R722-120-8. Redetermination, Residence Verification, and Removal from Program.

(1) An offender who has been placed on the monitoring program may request removal from the program by submitting a written request to the registry office or registering agency along with documentation of a valid residence.

(a) Documentation must include verifiable proof of residence, which may include a signed lease, deed, utility bill, or written confirmation from a property owner.

(b) The registering agency shall conduct a physical address verification to confirm the offender resides at the reported location.

(c) The registering agency shall submit verification of the address to the registry office.

(2) Upon written notification of removal from the registry office, the registering agency shall schedule an appointment with the offender for device removal.

(a) The offender shall report to the registering agency to have the device detached.

(b) The registering agency shall inspect the device for damage and return the hardware to the registry office.

KEY: monitoring program, monitoring, sex offender
Date of Last Change: 2026
Authorizing, and Implemented or Interpreted Law: 53-29-101; 53-29-308; 53-29-406

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58327**
Rule or section number:	**R765-165**

1. Agency Information

Title catchline:	Higher Education (Utah Board of), Administration
Building:	Utah Board of Higher Education Building, The Gateway
Street address:	60 S 400 W
City, state:	Salt Lake City, UT 84101

2. Contact Persons

Name:	Phone:	Email:
Hilary Renshaw	801-646-4784	Hilary.renshaw@ushe.edu
Alison Adams	801-646-4784	Alison.adams@ushe.edu
Geoffrey T. Landward	801-646-4784	Glandward@ushe.edu

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

3. General Information

A. Rule or section catchline:

R765-165. Concurrent Enrollment

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

This filing amends Rule R765-165 based on revisions passed by the Utah Board of Higher Education (UBHE). The revisions are based on SB 77 (passed in the 2026 General Session) and are intended to update the rules and procedures that govern Utah System of Higher Education (USHE) institutions when those institutions provide concurrent enrollment opportunities to Utah public education students so that those rules and procedures comply with SB 77 (2026) and UBHE's approved amendments.

C. Summary of the new rule or change:

The amendments to Rule R765-165 ensure that this rule is compliant with the requirements in SB 77 (2026), update the requirements related to what constitutes a qualified instructor for the Utah Language Bridge Program, state that a local education agency (LEA) may partner with a different USHE institution if the institution with responsibility in the designated service region cannot offer a qualified instructor by April 1 of each year, require that the upper-division foreign language course count toward a foreign language degree that an institution of higher education offers, and add general financial literacy or personal finances offerings to the list of concurrent enrollment course offerings.

The amendments to Rule R765-165 also make minor nonsubstantive updates to this rule for consistency and clarity.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	SB 77 (2026 General Session)

5. Fiscal Information

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

A. State budget:

The amendments to Rule R765-165 will not have any fiscal impact on the state budget.

There is no fiscal impact on the state budget because this rule governs only the policies and procedures for the provision of concurrent enrollment opportunities by USHE institutions to Utah public school students and the proposed amendments to the rule are meant to comply with SB 77 (2026) which, per the bill's Fiscal Note, will likely not materially impact state government.

The changes made to the provisions of this rule do not create any cost to or any savings for the state budget and, as such, the changes made to this rule will have no impact on the state budget.

B. Local governments:

The amendments to Rule R765-165 will not have any fiscal impact on local governments.

There is no fiscal impact on local governments because this rule governs only the policies and procedures for the provision of concurrent enrollment opportunities by USHE institutions to Utah public school students and the proposed amendments to the rule are meant to comply with SB 77 (2026) which, per the bill's Fiscal Note, will likely not result in direct, measurable costs for local governments.

The changes made to the provisions of this rule do not create any cost to or any savings for the state budget and, as such, the changes made to this rule will have no impact on local governments.

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

The amendments to Rule R765-165 will not have any fiscal impact on small businesses.

There is no fiscal impact on small businesses because this rule governs only the policies and procedures for the provision of concurrent enrollment opportunities by USHE institutions to Utah public school students and the proposed amendments to the rule are meant to comply with SB 77 (2026) which, per the bill's Fiscal Note, will likely not result in direct expenditures from tax or fee changes for Utah residents and businesses.

The changes made to the provisions of this rule do not create any cost to or any savings for small businesses and, as such, the changes made to this rule will have no impact on small businesses.

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

The amendments to Rule R765-165 will not have any fiscal impact on non-small businesses.

There is no fiscal impact on non-small businesses because this rule governs only the policies and procedures for the provision of concurrent enrollment opportunities by USHE institutions to Utah public school students and the proposed amendments to the rule are meant to comply with SB 77 (2026) which, per the bill's Fiscal Note, will likely not result in direct expenditures from tax or fee changes for Utah residents and businesses.

The changes made to the provisions of this rule do not create any cost to or any savings for small businesses and, as such, the changes made to this rule will have no impact on non-small businesses.

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

The amendments to Rule R765-165 will not have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

There is no fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities businesses because this rule governs only the policies and procedures for the provision of concurrent enrollment opportunities by USHE institutions to Utah public school students and the proposed amendments to the rule are meant to comply with SB 77 (2026) which, per the bill's Fiscal Note, will likely not result in direct expenditures, change the regulatory burden, or result in direct, measurable costs.

The changes made to the provisions of this rule do not create any cost to or any savings for small businesses and, as such, the changes made to this rule will have no impact on persons other than small businesses, non-small businesses, state, or local government entities.

F. Compliance costs for affected persons:
The amendments to Rule R765-165 will not impose any compliance costs on affected persons. There are no compliance costs because this rule provides procedures for USHE institutions to provide concurrent enrollment opportunities to Utah public school students and the changes made to the provisions of this rule do not create any such compliance costs.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Utah Commissioner of Higher Education, Geoffrey Landward, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 53E-10-301	Section 53G-10-103	Subsection 53E-10-309(6)
Section 53E-1-302		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Alison Adams, Board Secretary and Designee	**Date:**	10/08/2026

R765. Higher Education (Utah Board of), Administration.
R765-165. Concurrent Enrollment.
R765-165-1. Purpose.

The purpose of this rule is to establish the rules and procedures that govern Utah System of Higher Education (USHE) institutions when providing concurrent enrollment opportunities to Utah public education students. This rule does not apply when a USHE institution is contracting concurrent opportunities with public education students in other states or with private high schools located within Utah.

R765-165-2. Authority.

This rule is authorized by Sections 53E-10-301, 53E-10-302, [~~53G-10-309 and~~]53G-10-103, and Subsection 53E-10-309(6).

R765-165-3. Definitions.

(1) "Concurrent Enrollment" (CE) means college courses that Utah System of Higher Education institutions offer to public schools under a contractual agreement between the USHE institution and a Local Education Agency (LEA). Students continue to be enrolled in public schools, are counted in average daily membership, receive credit toward graduation, and concurrently receive college credit for courses. CE is distinct from early college admission.

(2) "Career and Technical Education Courses" and "CTE" mean undergraduate courses that prepare students for employment with industry-specific skills and knowledge that meet the needs of Utah's employers for technically skilled workers.

(3) "Contractual Basis" means courses and instruction offered under an annual contract between a LEA and a USHE institution. Contractual basis CE is eligible for state funding through the appropriation for CE authorized under Section 53E-10-302.

(4) "Degree-granting Institution" means a USHE institution defined in Subsection 53H-1-102(1)(a).

(5) "Early College" means enrollment in college credit courses by high school students who are academically prepared, meet college admissions requirements, have left high school before graduation, and are no longer counted in average daily membership. CE policies and funding mechanisms do not apply to early college admission enrollment. Early college admission enrollments are reported as regular enrollments by USHE institutions.

(6) "Early College High School" means a public high school, generally affiliated with a college or university, whose academic goal is to assist accelerated students in earning college credit up to an associate degree concurrent with a high school diploma. Students are counted in the average daily membership of the high school. College credit is earned through CE and early college courses. The early college high school negotiates for and pays any applicable tuition and fees for early college courses.

(7) "Eligible Institution" means an institution as defined in Subsection 53E-10-301(4).

(8) "Instructor" means a licensed LEA K-12 educator who qualifies and is approved to teach CE courses as an adjunct or equivalent faculty within an institution's supervising department or program.

(9) "Interactive Video Conferencing" and "IVC" mean two-way, real-time transmission of audio and video signals between computer equipment at two or more locations.

(10) "Local Education Agency" and "LEA" mean a school board, public school district or public charter school.

(11) "Non-contractual Basis" means college credit courses public education students pursue on their own initiative. Such students must enter into an agreement between the student, the student's parent or guardian, the high school administrator, and the USHE institution for the student to take the course; the course is considered to be offered on a non-contractual basis. The student is responsible for all enrollment expenses. USHE institutions report non-contractual enrollments as regular enrollments. Non-contractual basis CE is not eligible for state CE funding according to Section 53E-10-302.

(12) "Qualifying Experience" means an LEA employee's experience in an academic or technical field that qualifies the LEA employee to teach a CE course in the academic field and may include the employee's[~~:~~]:

(a) number of years teaching in the academic field;

(b) holding a higher level secondary teaching credential issued by the Utah State Board of Education (USBE);

(c) research, publications, or other scholarly work in the academic field;

(d) continuing professional education in the academic field;

(e) a portfolio of work related to the academic field; or

(f) professional work experience or certifications in the academic field as defined by Subsection 53E-10-301(9).

(13) "Sensitive Material" means instructional material that constitutes objective sensitive material or subjective sensitive material as defined in Subsection 53G-10-103(h)(i).

(14) "Snow College Concurrent Education Program" and "Snow CE" mean a consistent two-year schedule of CE courses that Snow College delivers through IVC. Snow CE courses create a pathway for secondary school students, particularly in rural high schools, to earn college credits that apply toward earning an Associate of Science or Associate of Arts degree, or satisfy scholarship requirements and other objectives that best meet students' needs. Snow CE includes advisory support to participating secondary school students and their high school counselors to ensure that students' CE courses align with their academic and career goals. Rule R765-165 governs the Snow CE [~~p~~]Program. Funding is appropriated under Section 53H-4-503.

(15) "Plan for College and Career Readiness" means secondary school process for academic and career planning, facilitated by school counselors with students and their parents or guardians.

(16) "Supervision of CE Instructors" means professional development opportunities institutions provide to public educators who qualify as CE instructors to prepare them to teach the CE post-secondary curriculum.

(17) "Technical College" means a USHE institution defined under Subsection 53H-1-102(1)(b) or a degree-granting institution acting in its technical education role described in Section 53H-3-608.

(18) "Technology Delivered Instruction" means course instructions provided to students by common technology such as broadcast, interactive videoconferencing, or the [~~I~~]internet.

(19) "Technology Intensive CE" and "TICE" mean hybrid CE courses that blend different learning activities, both in classrooms and online. TICE courses include common course assessments and, when possible, utilize open education resources. Each USHE institution may offer TICE courses.

(20) "Unique Student Identifier" and "SSID" mean an alphanumeric code assigned to each public education student for identification purposes.

(21) "Utah Board of Higher Education" and "Board" mean the governing body for the Utah System of Higher Education.

(22) "Utah System of Higher Education" and "USHE" mean the system of public colleges and universities governed by the Utah Board of Higher Education.

(23) "USHE Institution" means a degree-granting institution or a technical college within the USHE as defined in Section 53H-1-102.

(24) "Utah State Board of Education" and "USBE" mean the system of public education districts and charter schools governed by the Utah State Board of Education.

R765-165-4. Purpose of CE Program.

The CE program provides course options to a prepared high school student who earns high school and college credit. The CE program is intended to allow a student to complete a high school diploma while concurrently earning credits for first or second-year coursework at a USHE [~~I~~]institution, which can accelerate college completion and reduce college costs. To accomplish the purpose for the CE program, the Board and the USBE shall ensure that the following is done:

(1) High Quality Opportunities - CE courses shall provide high quality, college-level academic and career and technical education opportunities to qualified high school students.

(2) Qualitative Safeguards - College instruction offered in the high school setting must maintain the rigor, quality, and outcomes of corresponding courses delivered on a USHE campus. The eligible institution granting the college credit for a given course is responsible to establish and monitor appropriate qualitative safeguards. To help ensure quality, consistent instruction, and student success, the eligible institutions should officially enroll students as CE students.

(3) Participating Institutions - USHE institutions may participate in the contractual basis CE program in compliance with controlling law and consistent with USBE rules governing the use of public education funds.

(4) Program Evaluation - The USBE and the Board shall work in close cooperation in developing, implementing, and evaluating the CE program, including monitoring participation and outcomes across both academic and career and technical education programs.

R765-165-5. Students.

(1) Student Status - Students must be enrolled in, and counted in the average daily membership of, a Utah public school and have high school student status before and throughout enrollment in CE courses. Students must complete contractual basis CE courses before their high school graduation or participation in high school graduation exercises. Students who have received a diploma, whose class has graduated from high school, or who have participated in graduation exercises are not eligible to participate in the CE program.

(2) Eligibility Requirements - USHE institutions and LEAs shall jointly establish student eligibility requirements. To predict a successful experience, institutions and LEAs may consider:

(a) enrollment in grades 9, 10, 11, or 12;

(b) a grade point average, ACT score, or a placement score which predicts success, which is generally considered to be a "B" grade point average or ACT score of 22 or higher;

(c) approval of high school and college officials;

(d) appropriate placement assessments for courses such as mathematics and English;

(e) completion of Secondary Math I, II, and III with a "C" average or better course grade in all three classes to enroll in a CE mathematics course;

(f) completion of institutionally established prerequisites for a course; and

(g) a completed plan for college and career readiness on file.

(3) CE Participation Form and Parent Permission to Participate - Before allowing an eligible student to participate in the CE program for the academic year, an institution shall ensure the student has completed the USHE CE participation form, signed an acknowledgement of program participation requirements, and obtained a permission form signed by a parent or guardian.

(4) Identification of Eligible Students - LEAs have the primary responsibility for identifying students who are eligible to participate in the CE program.

(5) Advising - USHE institutions and LEAs shall jointly coordinate advising to prospective or current high school students who participate in the CE program. Advising shall include information on general education and career and technical education program graduation requirements at USHE institutions and on how students can choose CE courses to avoid duplication or excess credit hours. Advising shall also provide students a CE Master List of all CE courses under Subsection R765-165-6(4).

(6) Tracking Student Achievement - USHE institutions and LEAs shall jointly coordinate information technology systems to track individual students' academic achievement through both education systems in accordance with Sections 53H-1-207 and 53E-4-308.

(a) USBE and USHE staff shall coordinate access to the SSID of a public education student who later attends a USHE institution.

(b) USHE information technology systems shall utilize the SSID of all students who have previously been assigned a unique student identifier.

(7) Advising Report - Twelve weeks after the end of each semester, participating institutions may request from the Office of the Commissioner of Higher Education a report listing each public high school student admitted to a USHE institution who was enrolled in 12 or more credit hours of CE courses per year and completed at least six of those credit hours from that institution. The report shall include:

(a) the student's name and SSID;

(b) the student's LEA;

(c) the name of each CE course taken by the student;

(d) the institution where the student enrolled to take each CE course; and

(e) the number of college credits the student earned in each CE course with a designation that indicates which credits the student earned at a grade "C" or higher.

R765-165-6. Courses.

(1) Choice of Courses - The courses offered through CE shall be introductory-level general education, career and technical education, and pre-major or pre-certificate college courses, or select upper[-]-division courses when approved by the Utah Board of Higher Education after consulting with the USBE. CE courses must assist students in earning post-secondary certificates or degrees. CE may only include college and career and technical education courses that correspond to high school courses typically offered in grades 11 or 12. Courses selected shall reflect the strengths and resources of the respective schools and USHE institutions. CE offerings shall be limited to courses in English, mathematics, fine arts, humanities, science, social science, world languages, general financial literacy or personal finance, and career and technical education.

(2) Career and Technical Education (CTE) Courses [-]- CTE CE courses are undergraduate courses that prepare students for employment with industry-specific skills and knowledge that meet the needs of Utah's employers for technically skilled workers. CTE CE courses shall correspond to a Board-approved aligned program or an approved supplemental course under Board Policy R404, Technical Education Program Alignment. CTE CE courses shall use the aligned program structure to ensure transferability and program consistency, including the use of common course numbers, names, descriptions, and objectives. An LEA shall ensure CTE CE courses taught at a high school site have the necessary equipment and facilities to deliver the curriculum at a college-level rigor.

(3) Accelerated Foreign Language Courses for the Utah Language Bridge Program [-]- Degree-granting USHE institutions may offer [~~3000-level~~]upper-division foreign language courses to accelerated foreign language students, including dual language immersion students. [~~Courses shall count toward a foreign language degree, minor, or certificate offered by a USHE institution.~~]Upper-division foreign language concurrent enrollment courses shall count toward a foreign language degree offered by the USHE institution.

(a) An [~~3000-level~~]upper-division accelerated foreign language course shall be taught or co-taught by a qualified instructor as outlined in Subsections R765-165-10(3) and R765-165-10(5)(b), and (c).

(b) If a degree-granting USHE institution cannot provide a qualified instructor for an [~~3000-level~~]upper-division accelerated foreign language course in the institution's service area as provided in this rule, an LEA may initiate a partnership with another degree-granting USHE institution to provide an upper-division [~~3000-level~~]accelerated foreign language course in alignment with the right of first refusal requirements in Subsection R765-165-9(3).

(4) Master List - The USBE and the Office of the Commissioner of Higher Education (OCHE) shall jointly review the Concurrent Enrollment Master List (CEML) each year to ensure compliance with relevant Board policies. Only CE courses that are compliant with Board policy requirements will be included on the CEML. The OCHE and the USBE will jointly approve courses that are added to an institution-specific CEML. Only courses taken from the CEML for a given academic year shall be considered CE courses and reimbursed from state CE funds. Students enrolled in technical college courses that are not on the CEML are not participating in the contractual CE program and are not included in the CE funding formula described in Section R765-165-11, even if they receive high school credit for those courses.

(5) Changes to CE Master List - USHE institutions, after consultation with LEAs, shall provide the USBE with proposed new course offerings, including syllabi and curriculum materials by the date established by OCHE and USBE for the annual review of the Concurrent Enrollment Master List for the school year in which courses shall be offered.

(6) Number of Courses - In general, institutions should ensure they have sufficient capacity to maintain high quality instruction, coordinated professional development for participating faculty, and transferability of credit between USHE institutions when determining the number and types of CE courses they offer.

(7) Institution Responsibility - The offering USHE institution is responsible for course content, procedures, examinations, teaching materials, and monitoring of CE courses taught at a high school. The institution shall ensure the curriculum is consistent with Utah law and of comparable rigor and quality with courses offered on the institution campus. The institution shall ensure CE curriculum standards of instruction, practices for administering and grading assessments, and the course grade rubric are the same as when the course is taught on the institution's campus. When possible, department exams should be used in the CE course. For courses that transfer as equivalent credit among USHE institutions, the institution shall ensure articulated learning outcomes are met.

(8) Learning Materials -[-] Under Subsection 53G-4-402(27), CE learning materials are not subject to selection by the local school board.

(9) Sensitive Material -[-] Under Subsection 53G-10-103(1)(h)(ii) does not include an instructional material for a CE course that contains sensitive material and for which a parent receives notice from the course provider of the material before enrollment of the parent's child and gives the parent's consent by enrolling the parent's child. A USHE institution shall provide parental notice for any courses that contain sensitive material before the student's enrollment in the CE course.

R765-165-7. Credit.

(1) Permanent College Transcript - The registrations and grades of each CE course shall be recorded on permanent college transcripts. A student who registers for a CE course shall commit to having the final course grade recorded on that student's permanent college record, regardless of the results.

(2) Credit Value - College level courses taught in the high school shall carry the same credit hour value as when taught on a USHE institution campus and shall apply toward graduation from a USHE [~~I~~]institution on the same basis as courses taught at the USHE institution where the credits are earned.

(3) Credit Hours Permitted - Individual students shall be permitted to earn up to 30 semester hours of college credits per year through contractual CE. Credits earned in excess of 30 must be on a non-contractual basis.

(4) Institution Credit - USHE institutions shall be responsible for course registration and awarding students college credit for CE courses.

(5) Transferability - Credit earned through the CE program shall be transferable between USHE institutions. Students should be encouraged to seek advice from a college academic adviser to make course choices that will meet the student's educational goals.

R765-165-8. Tuition, Fees, and Other Charges.

Regular tuition and fees may not be charged to high school students for participation in this program.

(1) Participation Fee - An eligible institution may charge course fees for students to participate in the CE program.

(2) Partial CE Tuition - Except as otherwise excepted under state law for technical colleges, an eligible institution may charge a secondary student partial tuition for each CE course for which the student receives college credit in the following amounts:

(a) a USHE institution may charge a CE student who qualifies for free or reduced school lunch partial tuition of up to $5 per credit hour;

(b) if a CE course is taught by a public school educator in a public school facility, a USHE institution may charge up to $10 per credit hour;

(c) if a CE course is taught over interactive video conferencing (IVC), a USHE institution may charge up to $15 per credit hour; and

(d) if a CE course is taught on a USHE campus, a USHE institution may charge up to $30 per credit hour.

(3) The Board shall annually report to the Legislature's Higher Education Appropriations Subcommittee on regular tuition savings to CE students, any partial CE tuition charged, and justification for the distribution of money appropriated for CE, pursuant to Section 53E-10-308.

(4) Fee Waivers - CE program costs attributable only to college credit or enrollment are not subject to fee waiver under Rule R277-407. A student's costs related to CE classes, which may include consumables, lab fees, copying, and material costs, as well as textbooks required for the course, are subject to fee waiver consistent with Rule R277-407. The LEA shall be responsible for these waivers. The contract between the USHE institution and the LEA may address the responsibility for fee waivers.

R765-165-9. Location and Delivery.

CE courses shall be offered at the most appropriate location, using the most appropriate educational technology for the course content, the faculty, and the students involved. Instruction may be delivered through live classroom instruction or other accepted instructional technologies. Instruction normally occurs during the school day with students released from regular high school coursework to participate in CE.

(1) Students within Commuting Distance - Qualified students residing within commuting distance of a USHE institution may pursue their CE study on the institution's campus with approval from their LEA.

(2)(a) Designated Service Region Delivery - Each USHE institution has the responsibility for offering CE courses within its designated service region under Board Policy R315, Designation of Service Regions and Approval of Out-of-[~~r~~]Region Instructional Programs, Branch Campuses, Instructional Service Centers, and Extension Centers.

(b) If the local institution chooses not to offer a CE course within its designated service region, an LEA may request the course from another USHE institution under Subsection R765-165-9(5).

(3) Alignment with Institutional Mission and Role -[~~-~~] Each USHE institutional shall only offer CE courses within its mission and role as defined under Board Policy R312, Institutional Roles and Missions and Approval of Out-of-Role Instructional Programs.

(4) For CTE CE courses:

(a) if a technical college offers a CTE CE course or course content that aligns at least 80% with the CE course, the LEA shall first work with the technical college serving the designated service region, or with a degree-granting institution approved to provide technical education in that region.

(i) If a CTE CE course is part of both a CTE certificate program approved under Board Policy R404, Technical Education Program Alignment, and a CTE degree program, the LEA shall first work with the technical college serving the designated service region.

(b) If the technical college does not offer the course or course content at the required 80% alignment, the LEA may work with the degree-granting institution serving the designated service region that is approved to provide such instruction.

(5) Right of First Refusal

(a) An LEA shall contact the USHE institution with responsibility for that LEA's designated service region to request a CE course offering. The local institution shall [~~state~~]indicate in writing whether it will offer the requested course within 30 days of the LEA request.

(b) The LEA may contact another USHE institution to request sponsorship of the courses under Subsection R765-165-9(5)(a) if the institution with responsibility in the designated service region:

(i) Chooses not to offer the CE courses proposed by the LEA. The following shall be considered a decision by the local institution not to offer the CE course:

(A) If the local institution does not have a qualified instructor within 30 days of the LEA's request or has not identified a qualified instructor annually by the date agreed upon the LEA and USHE institution;

(B) Cannot provide the course within the LEA's academic schedule, such as semester versus trimester[~~)~~];[~~ or~~]

(C) Cannot offer the requested CE course in the academic semester immediately following the LEA's request[~~-~~];

[~~(ii)~~](D) Fails to respond to the LEA's request under Subsection R765-165-9(5)(a);

[~~(iii)~~](E) Reaches the eligible institution's enrolled student capacity for the CE course and prohibits an LEA with an eligible instructor from expanding the CE course to eligible students;[~~ or~~]

[~~(iv)~~](F) For an upper-division foreign language course, an institution cannot provide a qualified instructor to an LEA before April 1 of each year; or

(G) If the LEA determines the institution's course includes instructional materials that are either sensitive materials as defined by Section 53G-10-103, or are otherwise prohibited by state law or USBE rule.

(c) Exception for Technology Delivered Courses - CE courses which meet the definition of "Technology Delivered Instruction" are subject to designated service region requirements. Institutions desiring to offer technology delivered CE courses outside their designated service region must receive a written endorsement from the local institution for each course they desire to offer before contracting with LEAs outside their designated service area. An annual system review of technology delivered courses shall be completed before November 30 of the year preceding the school year in which courses shall be offered to assure efficient and effective use of resources.

(d) For a student who wants to enroll in an existing CE course that is not offered online by an LEA's designated service region, the LEA shall contract with any eligible institution that offers the online CE course.

R765-165-10. CE Instructor Qualifications.

(1) USHE institution faculty or public school educators teach CE courses for the offering institution.

(2) Selection of CE instructors -- LEAs and the participating USHE institution shall jointly select instructors for CE courses annually by the date agreed upon by the LEA and USHE institution. Selection criteria for instructors are the same as those criteria applied to other adjunct or equivalent instructional classifications within the institution's supervising departments or programs. Once approved as an adjunct, a CE instructor who teaches a CE course in 2018-19 or 2019-20 may continue to teach CE courses given curricular standards and student performance outcomes in the CE instructor's classes meet sponsoring academic department standards. Institutions shall establish a process for determining, in consultation with LEA partners, whether an eligible instructor who previously taught a CE course is no longer qualified to teach the CE course. The appropriate academic department or program at the institution must approve each CE instructor before teaching a CE class.

(3) Institutional Faculty CE Instructors - A USHE institution faculty member is an eligible CE instructor. Upper-division foreign language faculty members shall:

(a) hold a master's degree or higher or have at least 18 completed credit hours of graduate course work in an academic field related to the foreign language course;

(b) demonstrate language proficiency of advanced-high or higher on a verbal or written exam using nationally recognized assessment that assesses an instructor's language proficiency or hold a bachelor's degree from a relevant country of origin in the target language; and

(c) be hired by an institution according to the standards of the institution.

(4) LEA Employee Instructor Qualifications - An LEA employee is an eligible CE instructor, except for upper-division foreign language instructors, if the LEA employee is licensed under statutory Education Professional Licensure, is supervised by an institution of higher education, and meets the following requirements:

(a) is approved as an eligible instructor by the institution of higher education that provides the CE course taught by the LEA employee as provided under Subsection R765-165-10(4);

(b) has an upper-level mathematics credential issued by the State Board of Education; or

(c) teaches a CE course that the LEA employee taught during the 2018-19 or 2019-20 school year.

(5) A USHE institution shall approve an LEA employee as an eligible instructor:

(a) for a career and technical education CE course, if the LEA employee has:

(i) a degree, certificate, or industry certification in the CE course's academic field; or

(ii) qualifying experience, as determined by the USHE institution.

(b) for an [~~accelerated~~]upper-division foreign language course, the LEA employee teaching the course individually shall have:

(i) a master's degree or higher [~~in the course's academic field; or~~]or has [~~

(ii) a master's degree or higher in any academic field and~~]at least 18 completed credit hours of graduate [~~course~~]work in an academic field related[~~that is relevant~~] to the [~~course~~]upper-division foreign language course, or acquires exception for approval without a master's degree from the partnering institution and LEA; and

(ii[~~i~~]) [~~qualifying experience including~~]demonstrate[~~d~~]s language proficiency of advanced-high or higher on a verbal and written exam using a nationally recognized [~~standards to~~]assessment that measures an instructor's language proficiency or holds a bachelor's degree from a relevant country of origin in the target language.

(c) for an [~~accelerated~~]upper-division foreign language course, the LEA employee co-teaching with a USHE institution faculty member shall have:

(i) a bachelor's degree from a relevant country of origin in the target language; or

(ii) qualifying experience including demonstrated language proficiency of advanced-mid or higher on a verbal and written exam using nationally recognized standards to assess an instructor's language proficiency. Qualifying experience does not include an instructor with qualifications based on years of experience alone.

(d)[~~ Under Subsection R765-165-10(5)(c), an accelerated foreign language course is co-taught by an LEA employee and faculty member if:~~

~~(i) the faculty member co-teaches the course with the LEA employee in person at least one day per week at the location where the course is held unless the location where the course is held is over 60 miles away from the partnered USHE institution, then the faculty member may blend in-person and live digital connected teaching if there is an agreement between the LEA and USHE institution for a blended model;~~

~~(ii) the LEA employee and faculty member jointly provide feedback and support to students throughout the course; and~~

~~(iii) the LEA employee and faculty member hold weekly meetings to review student progress and discuss learning outcomes.~~

~~(e) USHE institutions shall implement requirements under Subsections R765-165-10(5)(b) through (d) no later than Fall 2027.~~

~~(f)~~] for a CE course other than a career and technical education course or accelerated foreign language course, if the LEA employee has:

(i) a master's degree or higher in the CE course's academic field; or

(ii) a master's degree or higher in any academic field and at least 18 completed credit hours of graduate course work in an academic field that is relevant to the CE course; or

(iii) qualifying experience including:

(A) the number of years of teaching experience;

(B) student performance on qualifying test scores or AP exams in courses that the LEA employee teaches;

(C) continuing education in a master's degree or higher in any academic field; or

(D) other criteria established by the institution of higher education.

(6) Appeals Process for Instructor Qualification Approvals - If a designated service area USHE institution determines an LEA employee is not qualified to teach a CE course and the LEA has exhausted all administrative remedies available at the institution, the LEA may appeal the decision in writing to the Commissioner of Higher Education (Commissioner) within 15 calendar days of the institution's final decision. The Commissioner may appoint a designee to administer the appeals process in Subsection R765-165-10(6).

(a) The Commissioner will review the LEA's appeal and the institution's decision.

(i) The Commissioner may request additional documentation or information as necessary.

(b) The Commissioner shall issue the final written decision to the institution and the LEA.

([~~d~~]c) The Commissioner's decision[~~,~~] is final.

(7) Criminal Background Checks - USHE faculty who are not public school educators and who teach CE courses defined under this policy in a high school shall complete a criminal background check consistent with Title 53G, Chapter 11, Part 4, Background Checks. The faculty's institution must determine if a criminal background check is required and, if so, must complete the background check and maintain required documentation consistent with the law.

(8) Faculty Development - CE instructors shall be included as fully as possible in the [~~academic life~~]professional development of the supervising [~~academic~~]department or program. USHE institutions and LEAs shall jointly initiate faculty development, including appropriate workshop experiences to adequately prepare instructors to teach CE students and course content before offering CE courses. If a USHE institution uses an instructor of record or co-teaching instructional model, the institution faculty shall fully engage and prepare the public school educator to successfully teach the curriculum before the beginning of the course. Each CE instructor must complete any faculty development required by the sponsoring academic department or program at the institution before teaching the CE class. USHE institution faculty shall be responsible [~~to~~]for understanding and complying with federal and state laws governing public school student privacy and student records.

R765-165-11. Funding.

(1) Source of Funds - Each year that the Legislature appropriates funds for accelerated learning programs, a portion of those accelerated learning funds shall be allocated to the CE program.

(2) Eligibility to Receive Concurrent Funds - To qualify for funds, a CE program shall comply with the requirements described in Section 53E-10-302, including rules adopted in accordance with Section 53E-10-307.

(3) Allocation of Funds - Money appropriated to the USBE for CE shall first be allocated between LEAs and the Board based upon completed student credit hours taught by public school educators and taught by USHE institution faculty. "Completed" means that a student earned credit for the course. Completed credit hours for general education, CTE, pre-major college level, foreign language, or upper[-]-division courses approved by the Board are included in this allocation. CE funds may not reimburse institutions for CE courses repeated by students. In accordance with Section 53F-2-409, funds shall be allocated as follows:

(a) for courses that are taught by public school educators where the cost of instruction is borne by the LEA, 60% shall be allocated to LEAs and 40% shall be allocated to the Board; and

(b) for courses that are taught by USHE institution faculty or where the cost of instruction is borne by the USHE institution, 40% shall be allocated to LEAs[~~;~~], and 60% shall be allocated to the Board.

(4) Distribution of Funds among USHE Institutions - The Board shall make rules regarding the allocation of funds pertaining to USHE institutions participating in contractual basis CE. Each institution, except Snow CE, shall receive a pro-rated amount according to the number of semester credit hours completed. The Snow CE Program, which receives a separate appropriation through Section 53H-4-503 for instructional, advising, and administrative costs, shall not receive the pro-rated per credit funding as long as the separate appropriation funding is in place.

(5) Annual Reports - Annual reports shall be provided to legislative committees as follows:

(a) Higher Education Appropriations - USHE staff shall annually report to the Higher Education Appropriations Subcommittee on CE participation and growth, including data on what higher education tuition would have been charged for the hours of CE credit granted as required by Section 53E-10-308.

(b) Public Education Appropriations - USHE and USBE staff shall annually report to the Public Education Appropriations Subcommittee an accounting of the money appropriated for CE; and a justification of the split described in Subsection R765-165-11(2).

R765-165-12. Annual CE Contract.

Collaborating LEAs and USHE institutions shall annually sign a contract that establishes the terms, conditions, and duties for the institution to offer CE courses to the LEA's students.

(1) Annual Contract Content - The contracts shall include relevant policy for student eligibility and participation, course eligibility and delivery, and faculty eligibility and professional development. USHE and USBE staff shall review and amend the contract annually, as needed, to reflect current statute and rule.

(2) Annual Contract Deadline - Copies of each annual contract entered into between institutions and LEAs for the upcoming school year must be submitted by each institution to the USHE system office no later than May 30 annually. USHE shall convey copies of all contracts to USBE.

KEY: concurrent enrollment, concurrent enrollment program
Date of Last Change: [~~May 5,~~]2026
Notice of Continuation: January 7, 2026
Authorizing, and Implemented or Interpreted Law: [~~53E-10-302;~~]53E-10-301; 53E-10-302; 53E-10-309(6); 53G-10-103

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58309**
Rule or section number:	**R765-431**

1. Agency Information

Title catchline:	Higher Education (Utah Board of), Administration
Building:	Utah Board of Higher Education Building, The Gateway
Street address:	60 S 400 W
City, state:	Salt Lake City, UT 84101

2. Contact Persons

Name:	Phone:	Email:
Hilary Renshaw	801-646-4784	Hilary.renshaw@ushe.edu
Alison Adams	801-646-4784	Alison.adams@ushe.edu
Geoffrey T. Landward	801-646-4784	Glandward@ushe.edu

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

3. General Information

A. Rule or section catchline:

R765-431. State Authorization Reciprocity Agreement Rule

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

This filing amends Rule R765-431 based on revisions passed by the Utah Board of Higher Education.

The revisions were recommended based on the Office of the Commissioner of Higher Education's five-year review and are intended to update the administration of a state authorization reciprocity agreement under this rule accordingly.

C. Summary of the new rule or change:

The amendments to Rule R765-431 remove an irrevocable letter of credit as a form of financial assurance for institutions of higher education with a financial responsibility composite score from the Department of Education between 1.0 and 1.5, requiring submission of a surety bond or certificate of deposit instead.

5. Fiscal Information

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

A. State budget:

The amendments to Rule R765-431 will not have any fiscal impact on the state budget.

There is no fiscal impact on the state budget because this rule governs only the administration of a state authorization reciprocity agreement as authorized by Section 53H-1-703 and the revisions to this rule, which would remove an irrevocable letter of credit as a form of financial assurance for institutions of higher education with a financial responsibility composite score from the Department of Education between 1.0 and 1.5, requiring submission of a surety bond or certificate of deposit instead, do not have any relation to or impact on the state budget.

B. Local governments:

The amendments to Rule R765-431 will not have any fiscal impact on local governments.

There is no fiscal impact on local governments because this rule governs only the administration of a state authorization reciprocity agreement as authorized by Section 53H-1-703 and the revisions to this rule, which would remove an irrevocable letter of credit as a form of financial assurance for institutions of higher education with a financial responsibility composite score from the Department of Education between 1.0 and 1.5, requiring submission of a surety bond or certificate of deposit instead, do not have any relation to or impact on local governments.

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

The amendments to Rule R765-431 will not have any fiscal impact on small businesses.

There is no fiscal impact on small businesses because this rule governs only the administration of a state authorization reciprocity agreement as authorized by Section 53H-1-703 and the revisions to this rule, which would remove an irrevocable letter of credit as a form of financial assurance for institutions of higher education with a financial responsibility composite score from the Department of Education between 1.0 and 1.5, requiring submission of a surety bond or certificate of deposit instead, do not have any relation to or impact on small businesses.

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

The amendments to Rule R765-431 will not have any fiscal impact on non-small businesses.

There is no fiscal impact on non-small businesses because this rule governs only the administration of a state authorization reciprocity agreement as authorized by Section 53H-1-703 and the revisions to this rule, which would remove an irrevocable letter of credit as a form of financial assurance for institutions of higher education with a financial responsibility composite score from the Department of Education between 1.0 and 1.5, requiring submission of a surety bond or certificate of deposit instead, do not have any relation to or impact on non-small businesses.

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

The amendments to Rule R765-431 will not have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

There is no fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because this rule governs only the administration of a state authorization reciprocity agreement as authorized by Section 53H-1-703 and the revisions to this rule, which would remove an irrevocable letter of credit as a form of financial assurance for institutions of higher education with a financial responsibility composite score from the Department of Education between 1.0 and 1.5, requiring submission of a surety bond or certificate of deposit instead, do not have any relation to or impact on persons other than small businesses, non-small businesses, state, or local government entities.

F. Compliance costs for affected persons:

The amendments to Rule R765-431 do not impose any compliance costs for affected persons because they only remove an irrevocable letter of credit as a form of financial assurance for certain institutions of higher education, requiring submission of a surety bond or certificate of deposit instead.

The revisions to this rule do not impose or create any compliance costs.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of Higher Education, Geoffrey Landward, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 53H-1-703		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Alison Adams, Board Secretary and Designee	**Date:**	10/05/2026

R765. Higher Education (Utah Board of), Administration.
R765-431. State Authorization Reciprocity Agreement Rule.
R765-431-1. Purpose and Authority.

The purpose of this rule is to administer a state authorization reciprocity agreement as authorized by Section 53H-1-703.

R765-431-2. Definitions.

In addition to the definitions set forth in Subsection 53H-1-703(1), the following definitions shall apply to this rule:
(1) "OCHE" means the Office of the Commissioner of Higher Education.
(2) "NC-SARA" means the National Council for State Authorization Reciprocity Agreements.

(3) "SARA" means the State Authorization Reciprocity Agreement overseen by NC-SARA and administered by four regional higher education compacts, including WICHE.

(4) "SARA portal agency" means the single agency designated by each SARA member state to serve as the interstate point of contact for SARA questions, complaints, and other communications.

(5) "WICHE" means the Western Interstate Commission for Higher Education.

R765-431-3. Applications for Institutional Participation in SARA.

(1) An institution desiring to participate in SARA shall submit to OCHE the following:

(a) a completed Application and Approval Form for Institutional Participation in SARA that is approved by NC-SARA;

(b) payment of the fee established by OCHE for administering SARA; and

(c) the following documents verifying the statements made in the application:

(i) evidence supporting the institution's statement that its principal campus or central administrative unit is located in Utah and that it is authorized to operate in Utah;

(ii) evidence supporting the institution's statement that it is a degree-granting institution that is accredited by an accrediting body recognized by the U.S. Secretary of Education;

(iii) evidence that the institution has disaster recovery protocols for protection of student records;

(iv) evidence showing:

(A) each student is informed, before completing the enrollment process for an online course or program, of the student consumer complaint processes available to the student; and

(B) the student complaint processes are clearly defined and can be used electronically;

(v) evidence showing that each student, before completing the enrollment process for an educational program that is designed to meet educational requirements for a specific professional licensure or certification, or is advertised as meeting such requirements, is located in a state or U.S. territory where the educational programs meets professional licensure or certification educational requirements;

(vi) if an educational program is designed to meet educational requirements for a specific professional license or certification that is required for employment in an occupation, or is advertised as meeting such requirements, a list of all states and U.S. territories where the institution has determined that the program does and does not meet such requirements;

(vii) evidence of tuition assurance funds, surety bonds, teach-out provisions, or other assurances that OCHE deems sufficient to protect students that shows that the institution is capable of fulfilling its obligation with OCHE to provide a reasonable alternative for delivering the instruction or reimbursement of reasonable compensation in the event the institution cannot fully deliver the instruction for which the students have contracted; and

(viii) for a non-public institution, evidence of the institution's financial responsibility index score from the Department of Education that is 1.5 or above, or if its score is between 1.0 and 1.5, evidence that the institution has obtained the surety required in Section R765-431-4. A non-public institution with a score below 1.0 will not be eligible to participate in SARA.

(2) Institutions desiring to continue participating in SARA after one year of the initial application shall submit to OCHE annually thereafter the following:

(a) a completed UT SARA renewal application that includes a Renewal Application for Institutional Participation in SARA that is approved by NC-SARA within 30 days of receipt of notice from NC-SARA for opportunity to renew;

(b) payment of the fee established by OCHE for administering SARA; and

(c) the following documents verifying the statements made in the application:

(i) evidence that the institution's principal campus or central administrative unit remains located in Utah and that the institution continues to be authorized to operate in Utah;

(ii) evidence that the institution retains its accreditation by an accrediting body recognized by the U.S. Secretary of Education; and

(iii) for a non-public institution, evidence of the institution's financial responsibility index score from the Department of Education.

(3) OCHE shall return the UT SARA application to the institution no later than 30 days after receipt of the initial or renewal application if further information is required from the institution. OCHE shall notify the institution no later than 30 days before an institution's NC-SARA renewal date of its decision to approve, place on provisional, or deny, the UT SARA application.

(4) If an institution's initial or renewal application is denied, OCHE shall provide to the applicant a written reason for the denial.

(5) If any information contained in the initial or renewal application becomes incorrect or incomplete while it is in effect, the institution shall, within 30 days after the information becomes incorrect or incomplete, correct the application or file the complete information as required by OCHE.

R765-431-4. Surety Requirements for An Institution with a Low Financial Responsibility Composite Score.

(1) An institution with a financial responsibility composite score (FRCS) from the Department of Education between 1.0 and 1.5 shall satisfy the requirement that it is sufficiently financially stable to participate in SARA by submitting with its application a surety in the form of a bond[~~,~~] or certificate of deposit[~~, or irrevocable letter of credit~~].

(2) The surety bond[~~,~~] or certificate of deposit[~~, or irrevocable letter of credit~~] shall be for an amount based on the institution's gross tuition revenue, according to the following table:

TABLE
Amount of Surety Bond or[~~,~~] Certificate of Deposit[~~, or Irrevocable Letter of Credit~~]

Gross Tuition Revenue	Maximum Amount

$0.00 - $50,000	$12,500
$50,000.01 - $100,000	$25,000
$100,000.01 - $200,000	$50,000
$200,000.01 - $300,000	$75,000
$300,000.01 - $400,000	$100,000
$400,000.01 - $500,000	$125,000
$500,000.01 - $1,000,000	$250,000
$1,000,000.01 - $2,000,000	$500,000
$2,000,000.01 - $5,000,000	$1,250,000
$5,000,000.01 - $10,000,000 or greater	$2,500,000

(3) The obligation of the surety shall be that the institution, its officers, agents, and employees will:

(a) faithfully perform the terms and conditions of its application to participate in SARA; and

(b) conform to the standards and requirements required for participation in SARA.

(4) The bond[~~,~~] or certificate of deposit[~~, or letter of credit~~] shall be in a form approved by OCHE and issued by a company authorized to do such business in Utah.

(5) The bond[~~,~~] or certificate of deposit[~~, or letter of credit~~] shall be payable to OCHE to be used to satisfy any costs, losses, or damages resulting from the institution's failure to meet any of its obligations as a participant in SARA.

(6) The surety company may not be relieved of liability on the surety unless it gives the institution and OCHE 90 calendar days' notice by certified mail of the company's intent to cancel the surety.

(7) If at any time the company that issued the surety cancels or discontinues the coverage, the institution's eligibility to participate i[~~s~~]n SARA is automatically revoked as a matter of law on the effective date of the cancellation or discontinuance of surety coverage unless a replacement surety is obtained on or before the cancellation date of the original coverage and provided to OCHE.

R765-431-5. Revocation of Eligibility to Participate in SARA.

(1) An institution's eligibility to participate in SARA may be revoked by OCHE upon its finding that:

(a) the institution's application contains material representations which are incomplete, improper, or incorrect;

(b) the institution failed to perform as represented in its applications;

(c) the institution violated any of the policies and procedures of OCHE as they relate to SARA;

(d) the institution violated any of the policies and procedures of NC-SARA;

(e) the institution failed to maintain an adequate financial responsibility composite score from the Department of Education;

(f) the institution has engaged in any dishonest or fraudulent activity; or

(g) the institution failed to comply with any laws in this state or another state that affect its ability to continue doing business in Utah.

(2) The revocation of the eligibility of an institution shall be made in accordance with the procedures set forth in Rule R765-134. A hearing is not required.

R765-431-6. Request for Review.

(1) An institution shall have the right to submit to OCHE a request for review regarding a decision to deny the institution's application or to revoke the institution's eligibility to participate in SARA.

(2) The request for review shall be postmarked within 10 days of the date of notification of the adverse decision.

(3) The requests for review shall be reviewed and decided by a review committee appointed by the Commissioner of Higher Education.

(4) When the request for review is made, the institution shall provide evidence to the review committee that the adverse decision was made in error.

(5) The decision of the review committee shall be made in accordance with the procedures set forth in Rule R765-134. A hearing is not required.

(6) The decision of the review committee shall be the final institutional action. An institution may request judicial review of the review committee's decision in accordance with Rule R765-134.

R765-431-7. Consumer Complaints.

(1) Before filing a complaint with OCHE against an institution, an individual must first work through the institution's complaint process. To file a complaint against an institution, an individual shall submit to OCHE:

(a) a completed complaint form as provided by OCHE; or

(b) a letter signed by the complainant, and include the following:

(i) any documentary evidence relating to the facts of the complaint;

(ii) evidence of the institution's resolution of the complaint; and

(iii) contact information for the complainant.

(2) OCHE may refer the complaints it receives to one or more of the following entities for resolution as it deems appropriate:
(a) the institution complained against;
(b) the SARA portal agency in the home state of a non-Utah institution complained against;
(c) the Utah Division of Consumer Protection or other law enforcement agency; and
(d) the institution's accreditor.
(3) OCHE may take action, in accordance with Section R765-431-5, to revoke an institution's eligibility to participate in SARA based on a consumer complaint that is received within two years of the incident complained of.

KEY: State Authorization Reciprocity Agreement (SARA), NC-SARA
Date of Last Change: [~~March 15,~~]2026
Notice of Continuation: March 5, 2026
Authorizing, and Implemented or Interpreted Law: 53H-1-703

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: New	**Filing ID: 58302**
Rule or section number:	**R765-591**

1. Agency Information

Title catchline:	Higher Education (Utah Board of), Administration
Building:	Utah Board of Higher Education Building, The Gateway
Street address:	60 S 400 W
City, state:	Salt Lake City, UT 84101

2. Contact Persons

Name:	Phone:	Email:
Hilary Renshaw	801-646-4784	Hilary.renshaw@ushe.edu
Alison Adams	801-646-4784	Alison.adams@ushe.edu
Geoffrey T. Landward	801-646-4784	Glandward@ushe.edu

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

3. General Information

A. Rule or section catchline:

R765-591. Higher Education Research Funding Pilot Program

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

This proposed new administrative rule, R765-591, is being enacted based on HB 373 (passed in the 2026 General Session) which establishes a multi-year competitive grant program known as the Higher Education Research Funding Pilot Program (Program).

Under HB 373 (2026), the Utah Board of Higher Education (Board) is required to establish and update eligible research areas and ensure that these areas reflect the state's priority industry clusters and public policy needs through consultation with key stakeholders, as defined in statute.

Rule R765-591 establishes eligible research areas and delegates authority to the Commissioner of Higher Education to appoint an ad hoc committee to administer the Program.

C. Summary of the new rule or change:

The new administrative Rule R765-591 complies with certain requirements of HB 373 (2026) by establishing eligible research areas for the Higher Education Research Funding Pilot Program and delegating authority to the Commissioner of Higher Education to appoint an ad hoc committee to administer the Program.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 373 (2026 General Session)

5. Fiscal Information

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

A. State budget:

New Rule R765-591 will not have any fiscal impact on the state budget.

There is no fiscal impact on the state budget because, while this new rule is based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, proposed Rule R765-591 only establishes research areas for the Program and delegates authority to the Commissioner of Higher Education to appoint an ad hoc committee to administer the Program, both of which are required under HB 373 (2026), and neither of which is related to or impacted by the bill's appropriations.

Because this rule does not impose any requirements that would create any cost to or savings for the state budget, this new rule will not have any impact on the state budget.

B. Local governments:

New Rule R765-591 will not have any fiscal impact on local governments.

There is no fiscal impact on local governments because, while this new rule is based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, proposed Rule R765-591 only establishes research areas for the Program and delegates authority to the Commissioner of Higher Education to appoint an ad hoc committee to administer the Program, both of which are required under HB 373 (2026), and neither of which is related to or impacted by the bill's appropriations.

Because this rule does not impose any requirements that would create any cost to or savings for local governments, this new rule will not have any impact on local governments.

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

New Rule R765-591 will not have any fiscal impact on small businesses.

There is no fiscal impact on small businesses because, while this new rule is based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, proposed Rule R765-591 only establishes research areas for the Program and delegates authority to the Commissioner of Higher Education to appoint an ad hoc committee to administer the Program, both of which are required under HB 373 (2026), and neither of which is related to or impacted by the bill's appropriations.

Because this rule does not impose any requirements that would create any cost to or savings for small businesses, this new rule will not have any impact on small businesses.

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

New Rule R765-591 will not have any fiscal impact on non-small businesses.

There is no fiscal impact on non-small businesses because, while this new rule is based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, proposed Rule R765-591 only establishes research areas for the Program and delegates authority to the Commissioner of Higher Education to appoint an ad hoc committee to administer the Program, both of which are required under HB 373 (2026), and neither of which is related to or impacted by the bill's appropriations.

Because this rule does not impose any requirements that would create any cost to or savings for non-small businesses, this new rule will not have any impact on 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***)**:**

New Rule R765-591 will not have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

There is no fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because, while this new rule is based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, proposed Rule R765-591 only establishes research areas for the Program and delegates authority to the Commissioner of Higher Education to appoint an ad hoc committee to administer the Program, both of which are required under HB 373 (2026), and neither of which is related to or impacted by the bill's appropriations.

Because this rule does not impose any requirements that would create any cost to or savings for persons other than small businesses, non-small businesses, state, or local government entities, this new rule will not have any impact on persons other than small businesses, non-small businesses, state, or local government entities.

F. Compliance costs for affected persons:

New Rule R765-591 does not impose any compliance costs for affected persons because it only establishes research areas for the Program and delegates authority to the Commissioner of Higher Education to appoint an ad hoc program to administer the program.

This rule's provisions do not impose or create any compliance costs.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Utah Commissioner of Higher Education, Geoffrey Landward, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 53H-8-211		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Alison Adams, Board Secretary and Designee	**Date:**	10/05/2026

R765. Higher Education (Utah Board of), Administration.

R765-591. Higher Education Research Funding Pilot Program.

R765-591-1. Purpose.

This rule establishes the eligible research areas for the Higher Education Research Funding Pilot Program and designates administration of the Program to an ad hoc committee.

R765-591-2. Authority.

This rule is authorized by Section 53H-8-211.

R765-591-3. Definitions.

(1) "Board" means the Utah Board of Higher Education.

(2) "Program" means the Higher Education Research Funding Pilot Program established in Section 53H-8-211.

R765-591-4. Eligible Research Areas.

(1) The Board, in consultation with industry representatives, the Nucleus Institute Board, the Department of Workforce Services, the Governor's Office of Economic Opportunity, and the Economic Development and Workforce Services Interim Committee, shall determine eligible research areas for the Program.

(2) The eligible research areas for the Program are:

(a) Quantum Computing;

(b) Advanced Robotics;

(c) Biotech Research;

(d) Precision Geonomics;

(e) Artificial Intelligence;

(f) Secure Computing;

(g) Advanced Materials;

(h) Nano-technology;

(i) AI Prohuman Initiative;

(j) Critical minerals and natural resource technologies;

(k) Aerospace and defense-related research;

(l) Energy innovation and emerging energy technologies; and

(m) Other research areas identified by the Board.

(3) The Board shall review and update the eligible research areas described in this rule at least once every three years.

(4) The Board shall ensure that the eligible research areas described in this rule reflect the state's priority industry clusters and public policy needs.

(5)(a) The Board delegates the duties of administration and review of the Higher Education Research Funding Pilot Program to an ad hoc committee, whose members shall be appointed by the Commissioner of Higher Education (Commissioner) as described in Subsection R765-591(5)(b).

(b) The Commissioner shall appoint members to the ad hoc committee, including representatives of the following: the Board; the Commissioner's Office; the Nucleus Institute; the Governor's Office of Economic Opportunity; and the Talent Ready Utah Talent, Education, and Industry Alignment Board.

(6) The Board shall approve research grants under the Higher Education Research Funding Pilot Program.

(7) The Board earmarks $5,000,000 in Program funding:
(a) to be administered by the Nucleus Institute; and
(b) for the purpose of catalyzing bold, Utah-rooted projects that use artificial intelligence to measurably improve the lives of Utahns.

KEY: higher education, research funding pilot program
Date of Last Change: 2026
Authorizing, and Implemented or Interpreted Law: 53H-8-211

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Repeal	**Filing ID: 58300**
Rule or section number:	**R765-604**

1. Agency Information

Title catchline:	Higher Education (Utah Board of), Administration
Building:	Utah Board of Higher Education Building, The Gateway
Street address:	60 S 400 W
City, state:	Salt Lake City, UT 84101

2. Contact Persons

Name:	Phone:	Email:
Hilary Renshaw	801-646-4784	Hilary.renshaw@ushe.edu
Alison Adams	801-646-4784	Alison.adams@ushe.edu
Geoffrey T. Landward	801-646-4784	Glandward@ushe.edu

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

3. General Information

A. Rule or section catchline:

R765-604. New Century Scholarship

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

This filing repeals Rule R765-604.

On 07/09/2026, the Utah Board of Higher Education voted to repeal Rule R765-604.

Rule R765-604 is being repealed because this rule applies to New Century Scholarships awarded to students prior to 2021.

There are no longer any students receiving the New Century Scholarship under this rule, and therefore, it should be repealed.

C. Summary of the new rule or change:

This filing repeals Rule R765-604, in its entirety, which governs the New Century Scholarship.

Because this rule applies to New Century Scholarships awarded to students prior to 2021 and there are no longer any students receiving the New Century Scholarship under this rule, this rule is being repealed.

5. Fiscal Information

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

A. State budget:

The repeal of Rule R765-604 will not have any fiscal impact on the state budget.

Because this rule applies to New Century Scholarships awarded to students prior to 2021, and there are no longer any students receiving the New Century Scholarship under this rule, this rule is being repealed, and the repeal will have no impact on the state budget.

B. Local governments:

The repeal of Rule R765-604 will not have any fiscal impact on the local governments.

Because this rule applies to New Century Scholarships awarded to students prior to 2021 and there are no longer any students receiving the New Century Scholarship under this rule, this rule is being repealed, and the repeal will have no impact on local governments.

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

The repeal of Rule R765-604 will not have any fiscal impact on small businesses.

Because this rule applies to New Century Scholarships awarded to students prior to 2021 and there are no longer any students receiving the New Century Scholarship under this rule, this rule is being repealed, and the repeal will have no impact on small businesses.

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

The repeal of Rule R765-604 will not have any fiscal impact on non-small businesses.

Because this rule applies to New Century Scholarships awarded to students prior to 2021 and there are no longer any students receiving the New Century Scholarship under this rule, this rule is being repealed, and the repeal will have no impact on non-small businesses.

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

The repeal of Rule R765-604 will not have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

Because this rule applies to New Century Scholarships awarded to students prior to 2021 and there are no longer any students receiving the New Century Scholarship under this rule, this rule is being repealed, and the repeal will have no impact on small businesses, non-small businesses, state, or local government entities.

F. Compliance costs for affected persons:

The repeal of Rule R765-604 does not impose any compliance costs for affected persons because it applies to New Century Scholarships awarded to students prior to 2021.

There are no longer any students receiving the New Century Scholarship under this rule, and the resulting repeal of this rule does not impose or create any compliance costs.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0

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

7. Regulatory Impact Analysis Approval

The Commissioner of Higher Education, Geoffrey Landward, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Subsection 53H-11-407(5)	Subsection 53H-11-407(9)	

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Alison Adams, Board Secretary and Designee	**Date:**	10/05/2026

R765. Higher Education (Utah Board of), Administration.

[~~R765-604. New Century Scholarship.~~

~~R765-604-1. Purpose.~~

~~The purpose of this rule is to provide the rules and procedures for the administration of the New Century Scholarship which was established to encourage students to accelerate their education by earning an associate's degree in high school from an institution within the Utah System of Higher Education.~~

~~R765-604-2. Authority.~~

~~This rule is authorized by Subsections 53B-8-105(5) and 53B-8-105(9).~~

~~R765-604-3. Definitions.~~

~~(1) "Applicant" means a student who is in their last term in high school and on track to complete the high school graduation requirements of a public school established by the Utah State Board of Education and the student's school district or charter school or a private high school in the state that is accredited by a regional accrediting body approved by the Utah Board of Higher Education, or a home school student.~~

~~(2) "Associate's Degree" means an Associate of Arts, Associate of Science, or Associate of Applied Science degree received from, or verified by, a regionally accredited institution within the Utah System of Higher Education. If the institution does not offer the above listed degrees, equivalent academic requirements will suffice under Subsection R765-604-3(5)(b).~~

~~(3) "Awards" means New Century Scholarship funds.~~

~~(4) "Board" means Utah Board of Higher Education.~~

~~(5) "Completes the requirements for an associate's degree" means that an applicant completes either of the following:~~

~~(a) each of the required courses for an associate's degree from an institution within the Utah System of Higher Education that offers associate's degrees and applies for the associate's degree from the institution; or~~

~~(b) each of the required courses for an equivalency to the associate's degree from a higher education institution within the Utah System of Higher Education that offers baccalaureate degrees but does not offer associate's degrees.~~

~~(6) "FAFSA" means the financial reporting form known as Free Application for Federal Student Aid that is administered by the U.S Department of Education to determine the need and eligibility of a college student for financial aid.~~

(7) "GPA" means grade point average.

(8) "High school" means a public high school established by the Utah State Board of Education or a private high school within the boundaries of Utah. If a private high school, it shall be accredited by a regional accrediting body approved by the Board.

(9) "High school graduation date" means the day on which the recipient's class graduates from high school. For home-schooled students refer to Subsection R765-604-4(2)(a).

(10) "Home-schooled" refers to a student who has not graduated from a Utah high school and received a high school GPA.

(11) "Math and science curriculum" means the rigorous math and science curriculum developed and approved by the Board which, if completed, qualifies a high school student for an award. Curriculum requirements can be found at the web site of the Utah System of Higher Education.

(12) "New Century Scholarship" means a renewable scholarship to be awarded to applicants who complete the eligibility requirements of Section R765-604-4.

(13) "Reasonable progress" means enrolling and completing at least fifteen credit hours during fall and spring semesters and earning a 3.3 grade point average or higher each semester. If applicable, applicants attending summer must enroll full-time according to their institution and or program policy regarding full-time status.

(14) "Recipient" means an applicant who receives an award under the requirements set forth in this rule.

(15) "Renewal Documents" means a college transcript demonstrating that the recipient has met the required semester grade point average and a detailed schedule providing proof of enrollment in fifteen credit hours for the semester in which the recipient is seeking award payment.

(16) "Scholarship Review Committee" means the committee to review New Century Scholarship applications and make final decisions regarding awards.

(17) "The Utah System of Higher Education" means the degree granting institutions of the Utah system of higher education named in Subsection 53B-1-102(1)(a).

R765-604-4. Recipient Requirements.

(1) Unless an exception applies, to qualify as a recipient a student shall:

(a) complete the requirements for an associate's degree or the math and science curriculum at a regionally accredited institution within the Utah System of Higher Education:

(i) with at least a 3.0 grade point average; and

(ii) by applicant's high school graduation date;

(b) complete the high school graduation requirements of a Utah high school with at least a 3.5 cumulative grade point average; and

(c) complete the FAFSA to the extent that it will benefit the student's ability to maximize financial aid opportunities, except that a student may opt out of this requirement due to:

(i) financial ineligibility for any potential grant or other financial aid;

(ii) personal privacy concerns; or

(iii) advice of the institution based on its assessment of the factors that may impact the student's ability to access maximum financial aid opportunities.

(2) For each Utah home-schooled applicant the following requirements apply:

(a) If a home-schooled applicant would have completed high school in 2011 or after, the high school graduation date under Subsection R765-604-4(1)(a)(ii) is June 15 of the year the applicant would have completed high school.

(b) A composite ACT score of 26 or higher is required in place of the high school grade point average requirement under Subsection R765-604-4(1)(b).

(3) A recipient shall enroll in and successfully complete fifteen credit hours at an eligible institution by Fall semester immediately following the student's high school graduation date or receive an approved deferral or leave of absence from the Board under Subsection R765-604-8(7).

(4) A recipient shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid.

(5) A recipient may not have a criminal record, with the exception of a misdemeanor traffic citation.

(6) A recipient shall not receive both an award and the Regents' Scholarship established in Section 53B-8-108.

(7) To assist students with the FAFSA requirement, each institution shall ensure that:

(a) each institution advisor encourages, to the extent practicable, each student to annually complete the FAFSA; and

(b) the staff and faculty who advise students on financial aid are properly trained on the benefits of completing the FAFSA.

R765-604-5. Application Procedures.

(1) A qualifying student may apply for the award through the Board.

(2) An application for an award shall contain the following:

(a) an official application which will become available on the New Century web site each November prior to the February 1 deadline;

(b) an official college transcript showing college courses, Advanced Placement and transfer work an applicant has completed to meet the requirements for the associate's degree and verification of the date the award was earned;

(c) an official high school transcript with high school graduation dated or posted, if applicable; and

(d) a copy of the student's verified ACT score, if applicable.

(3) If an applicant is enrolled at an institution which does not offer an associate's degree or an institution that will not award the associate's degree until the academic on-campus residency requirement has been met, the registrar must verify that the applicant has completed the equivalent academic requirements under Subsection R765-604-4(1)(a).

(4) An applicant shall meet the following deadlines to qualify for an award:

(a) An applicant must submit a scholarship application to the Scholarship Review Committee no later than February 1 of the year of their high school graduation date or the year they would have graduated from high school.

(b) Each document that is required to support the application must be submitted on or before September 1 following the applicant's high school graduation date. In some cases, exceptions may be made as Advanced Placement and transfer work verification may be delayed at an institutional level and no fault of the applicant. A Scholarship award may be denied if all documentation is not complete and submitted by the specified deadlines. If any documentation demonstrates that the applicant did not satisfactorily fulfill all coursework and GPA requirements or if any information, including the attestation of criminal record and citizenship status, proves to be falsified, awards may be denied.

(c) A priority deadline may be established each year. An applicant who meets the priority deadline may be given first priority of consideration for awards.

(5) An application or other submission that has missing information or missing documents shall be considered incomplete, shall not be considered, and may result in failure to meet a deadline.

R765-604-6. Awards.

(1) The award is up to the amount provided by the law and determined each spring by the Board based on legislative funding and number of applicants. The total value may change in accordance with Subsection R765-604-6(2). The award shall be disbursed semester by semester over the shortest of the following time periods:

(a) four semesters of full-time enrollment in fifteen credit hours;

(b) sixty credit hours; or

(c) until the student meets the requirements for a baccalaureate degree.

(2) If the appropriation from the Legislature for the scholarship is insufficient to cover the costs associated with the scholarship, the Board may reduce or limit the award.

(3) An award may be used at either:

(a) a four-year institution within the Utah System of Higher Education that offers baccalaureate programs; or

(b) a private not-for-profit higher education four-year institution in the state accredited by the Northwest Association of Schools and Colleges that offers baccalaureate programs.

(4) The award may be used at more than one of the eligible institutions within the same semester for the academic year 2010-11. Starting in 2011 when the award goes to a flat rate the award may only be used at the institution from which the student is earning a baccalaureate degree.

(5) The award may be transferred to a different eligible institution upon request of the recipient.

(6) With the exception of the Regents' Scholarship referred to in Subsection R765-604-4(6), tuition waivers, financial aid, or other scholarships may not affect a recipient's total award amount.

R765-604-7. Disbursement of Award.

(1) The award shall be disbursed semester-by-semester over the shortest of the following time periods:

(a) four semesters of enrollment in fifteen credit hours;

(b) sixty credit hours; or

(c) until the recipient meets the requirements for a baccalaureate degree.

(2) The recipient shall submit to the Scholarship Review Committee a copy of a class schedule verifying that the recipient is enrolled in fifteen credit hours or more at an eligible institution. Documentation must include the student's name, the semester the recipient will attend, institution that they are attending and the number of credits for which the recipient is enrolled.

(3) The award shall be made payable to the institution. The institution shall pay over to the recipient any excess award funds not required for tuition payments. Award funds must be used for higher education expenses including tuition, fees, books, supplies, and equipment required for instruction.

(4) If a recipient drops credit hours after having received the award which results in enrollment below fifteen credit hours the scholarship shall be revoked under Subsection R765-604-8(1) unless the student needs fewer than fifteen credit hours for completion of a degree.

R765-604-8. Continuing Eligibility.

(1) The Board may cancel a recipient's scholarship if the student fails to:

(a) maintain a 3.3 GPA or higher for each semester for which the student has received awards; or

(b) make reasonable progress toward the completion of a baccalaureate degree, unless the recipient has received a deferral of award or leave of absence under Subsection R765-604-8(7), and submit the documentation by the deadline as described in Subsection R765-604-8(2).

(2) Each semester, the recipient must submit to the Board a copy of the recipient's grades for verification of grade point average and must have completed a minimum of fifteen credit hours each semester. A recipient may not be paid for the coming semester until the requested documentation has been received. If the recipient at any time fails to maintain a 3.3 grade point average or higher following probation or fails to enroll and complete fifteen credit hours, the scholarship may be revoked. The recipient must submit the following documents by the dates that are indicated:

(a) For a recipient attending an institution in the Utah System of Higher Education, the recipient must submit:

(i) proof of enrollment for Fall Semester and proof of completion of the previous semester must be submitted by September 30;

(ii) proof of enrollment for Spring Semester and proof of completion of the previous semester must be submitted by February 15; and

~~(iii) proof of enrollment for Summer Semester and proof of completion of the previous semester must be submitted by June 30.~~
~~(b) For a recipient attending Brigham Young University, the recipient must submit:~~
~~(i) proof of enrollment if the recipient is attending Brigham Young University during Winter Semester and proof of completion of the previous semester must be submitted by February 15.~~
~~(ii) proof of enrollment if the recipient is attending Brigham Young University during Spring Term and proof of completion of the previous semester must be submitted by May 30.~~
~~(iii) proof of enrollment if the recipient is attending Brigham Young University during Summer Term and proof of completion of the previous semester or term must be submitted by July 30.~~
~~(3) If a recipient earns less than a 3.3 GPA in any single semester, the recipient must earn a 3.3 GPA or better the following semester to maintain eligibility for the scholarship. If the recipient again at any time earns less than a 3.3 GPA the scholarship shall be revoked.~~
~~(4) A recipient may not be required to enroll in fifteen credit hours if the recipient can complete the degree program with fewer credits.~~
~~(5) The Board may not make an award to a recipient for an academic term that begins more than five years after the recipient's high school graduation date.~~
~~(6) An award does not guarantee that the recipient will complete a baccalaureate program within the recipient's scholarship eligibility period.~~
~~(7)(a) A recipient must apply to the Board and receive an approved deferral of award or leave of absence if the recipient will not enroll in fifteen credit hours continuously for fall and spring semesters.~~
~~(b) A deferral or leave of absence may not extend the time limits of the scholarship under Subsection R765-604-8(5).~~
~~(c) Deferrals or leaves of absence may be granted, at the discretion of the Board, for military service, humanitarian or religious service, documented medical reasons, and other exigent reasons.~~

~~R765-604-9. Appeals.~~
~~(1) Submission of a scholarship application does not guarantee a scholarship award. Individual scholarship applications will be reviewed, and award decisions made, at the discretion of a Scholarship Review Committee. Awards are based on available funding, applicant pool, and applicants' completion of scholarship criteria. Each applicant shall receive a letter informing the applicant of the decision on the application.~~
~~(2) Each applicant and recipient has the right to appeal an adverse decision.~~
~~(a) An appeal shall be made by mailing a completed Appeal Application found on the program web site to the Scholarship Review Committee. The Appeal Application must be postmarked no later than 30 days after the date of the letter giving notice of the adverse action.~~
~~(b) An Appeal Application submitted before the appellant receives official notification of the adverse action from the Scholarship Review Committee shall not be considered.~~
~~(c) The appeal shall provide evidence that an adverse decision was made in error, such as that in fact, the appellant met all scholarship requirements and submitted all requested documentation by the deadline.~~
~~(d) Appeals are not accepted for late document submission.~~
~~(e) The submission of an Appeal Application does not guarantee a reversal of the original decision.~~
~~(f) It is the appellant's responsibility to file the appeal, including any supplementary documentation. Each document must be mailed to the New Century Scholarship address.~~
~~(g) The Appeal Application shall be reviewed and decided by an appeals committee appointed by the commissioner of higher education.~~

~~KEY: higher education, secondary education, scholarships~~
~~Date of Last Change: July 15, 2021~~
~~Notice of Continuation: April 10, 2024~~
~~Authorizing, and Implemented or Interpreted Law: 53B-8-105(5)~~]

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58310**
Rule or section number:	**R765-608a**

1. Agency Information

Title catchline:	Higher Education (Utah Board of), Administration
Building:	Utah Board of Higher Education Building, The Gateway
Street address:	60 S 400 W
City, state:	Salt Lake City, UT 84101

2. Contact Persons

Name:	Phone:	Email:
Hilary Renshaw	801-646-4784	Hilary.renshaw@ushe.edu
Alison Adams	801-646-4784	Alison.adams@ushe.edu
Geoffrey T. Landward	801-646-4784	Glandward@ushe.edu

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

3. General Information

A. Rule or section catchline:

R765-608a. First Credential Scholarship

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

This filing amends Rule R765-608a based on revisions passed by the Utah Board of Higher Education (Board).

The revisions are based on HB 373 (passed in the 2026 General Session) and update the procedures related to the requirements of and application for the First Credential Scholarship to comply with HB 373 (2026) and the Board's approved amendments.

C. Summary of the new rule or change:

The amendments to Rule R765-608a ensure that this rule is compliant with HB 373 (2026), allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the First Credential Scholarship, and make other nonsubstantive updates to rule language for consistency and clarity.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 373 (2026 General Session)

5. Fiscal Information

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

A. State budget:

The amendments to Rule R765-608a will not have any fiscal impact on the state budget.

There is no fiscal impact on the state budget because, while the amendments are based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Higher Education Research Funding Pilot Program (Program), the amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the First Credential Scholarship, which is separate from the Program, and make other nonsubstantive updates to this rule's language for consistency and clarity, none of which is related to or impacted by the bill's appropriations.

As such, the amendments to this rule will not have any impact on the state budget.

B. Local governments:

The amendments to Rule R765-608a will not have any fiscal impact on local governments.

There is no fiscal impact on local governments because, while the amendments are based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, the amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the First Credential Scholarship, which is separate from the Program, and make other nonsubstantive updates to this rule's language for consistency and clarity, none of which is related to or impacted by the bill's appropriations.

As such, the amendments to this rule will not have any impact on local governments.

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

The amendments to Rule R765-608a will not have any fiscal impact on small businesses.

There is no fiscal impact on small businesses because, while the amendments are based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, the amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the First Credential Scholarship, which is separate from the Program, and make other nonsubstantive updates to this rule's language for consistency and clarity, none of which is related to or impacted by the bill's appropriations.

As such, the amendments to this rule will not have any impact on small businesses.

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

The amendments to Rule R765-608a will not have any fiscal impact on non-small businesses.

There is no fiscal impact on non-small businesses because, while the amendments are based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, the amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the First Credential Scholarship, which is separate from the Program, and make other nonsubstantive updates to this rule's language for consistency and clarity, none of which is related to or impacted by the bill's appropriations.

As such, the amendments to this rule will not have any impact on non-small businesses.

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

The amendments to Rule R765-608a will not have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

There is no fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because, while the amendments are based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, the amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the First Credential Scholarship, which is separate from the Program, and make other nonsubstantive updates to this rule's language for consistency and clarity, none of which is related to or impacted by the bill's appropriations.

As such, the amendments to this rule will not have any impact on persons other than small businesses, non-small businesses, state, or local government entities.

F. Compliance costs for affected persons:

The amendments to Rule R765-608a does not impose any compliance costs for affected persons because they only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the First Credential Scholarship and make other nonsubstantive updates to this rule's language for consistency and clarity.

The amendments to this rule do not impose or create any compliance costs.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	FY2027	FY2028	FY2029	FY2030	FY2031
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0

Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of Higher Education, Geoffrey Landward, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 53E-10-310		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Alison Adams, Board Secretary and Designee	**Date:**	10/05/2026

R765. Higher Education (Utah Board of), Administration.
R765-608a. First Credential Scholarship.
R765-608a-1. Purpose.

This rule outlines the requirements of and application process for the First Credential Scholarship, a grant for qualified applicants who earn a First Credential Certificate from the Utah State Board of Education .

R765-608a-2. Authority.

This rule is authorized by Section 53E-10-310.

R765-608a-3. Definitions.

(1) "Board" means the Utah Board of Higher Education described in Section 53H-1-203.

(2) "Eligible institution" means:

(a) a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Subsections 53H-1-102(1)(a) and (b); or

(b) a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(3) "Excusable neglect" means failure to take proper steps at the proper time, not in result of willful disregard of the scholarship application process, but in result of some unexpected or unavoidable circumstances.

(4) "Good cause" means the applicant's failure to meet a scholarship application process requirement due to circumstances beyond the student's control or circumstances that are compelling and reasonable.

(5) "OCHE" means the Office of the Commissioner of Higher Education.

(6) "Scholarship staff" means staff in OCHE assigned to administer state scholarships on behalf of the Board.

(7) "Substantial compliance" means the applicant, in good faith, demonstrated clear intent to comply with the scholarship application requirements and has demonstrated likely eligibility, but failed to precisely comply with the application specifics.

(8) "USBE" means the Utah State Board of Education, as described in Title 53E, Chapter 1, Title Provisions.

R765-608a-4. Private and Nonprofit College and University Eligibility.

To participate in this program, a private or nonprofit college or university must enter into an agreement with OCHE.

R765-608a-5. Award Requirements.

To qualify for the First Credential Scholarship, an applicant shall:

(1) Be awarded a First Credential Certificate by the USBE;

(2) Complete the scholarship application provided by the Board;

(3) Complete the FAFSA in accordance with Board Policy R623, Free Application for Federal Student Aid; and

(4) Enroll at an eligible institution or obtain an approved deferral or leave of absence according to requirements under Section R765-608a-8. The eligible institution at which the student attends shall verify the student has met the enrollment requirements before disbursing payment.

R765-608a-6. Application Process.

(1) Applicants shall submit an official scholarship application no later than the deadline established by OCHE and listed on the official scholarship application of the year that they graduate from high school. Additional criteria to prioritize awarding may be established by the Board.

(2) Scholarship staff shall verify First Credential Certificate recipients with USBE before funds are awarded.

R765-608a-7. Scholarship Amount.

(1) The Board will award qualified applicants a one-time scholarship to be used at an eligible institution. The Commissioner of Higher Education, in consultation with the Board, shall annually determine the First Credential Scholarship amount based on appropriations made by the Legislature and the number of eligible applicants.

(2) A student may use the First Credential Scholarship for tuition and fees; books and supplies; or other educational expenses determined by the Board.

(3) A student may earn the First Credential Scholarship in addition to any other state-sponsored scholarships for which the student may be eligible.

R765-608a-8. Deferral or Leave of Absence.

Awardees may obtain an approved deferral or leave of absence from an eligible institution of up to three years after the date of their high school graduation to keep use of their First Credential Scholarship.

R765-608a-9. Appeals Process.

(1) An applicant [~~has the right to~~]may appeal a scholarship denial. Upon written request by the [~~student~~]applicant, the scholarship staff shall provide an opportunity for the [~~student~~]applicant to appeal a scholarship denial to a committee of at least three impartial persons.

(a) Each appeal request must be submitted by the [~~student~~]applicant to OCHE in writing within 30 calendar days of the scholarship denial unless the student demonstrates excusable neglect.

(i) The appeal committee may not have jurisdiction to consider the merits of an appeal that is filed beyond the 30 day deadline unless the committee determines that the applicant established excusable neglect.

(b) An appeal filed before the applicant receives official notification from scholarship staff of its decision will not be considered.

(c) Any appeal submitted after 120 calendar days of the scholarship denial will not be considered and the initial scholarship denial decision is final.

(d) The appeal committee shall review the appeal to determine if the award decision was made in error and the [~~student~~]applicant is eligible for an award under this rule. The appeal committee shall review whether the applicant demonstrated substantial compliance with the scholarship application requirements but failed to meet one or more requirements for good cause.

(e) The appeal committee will issue the student a written decision. The decision represents the final agency action. An applicant who disagrees with the decision may seek judicial review in accordance with Section 63G-4-402.

R765-608a-10. Reporting.

(1) As specified by OCHE, each eligible institution shall provide, as part of an annual institutional financial aid file submission by February 28 of each year, data pertaining to one or more of applications, awards, program enrollments, utilization, funding, and other First Credential Scholarship information for the most recently completed fiscal year.

(2) OCHE may, at any time, request additional documentation or data related to the First Credential Scholarship and may review or formally audit an eligible institution's documentation and compliance with this rule.

KEY: Utah Board of Higher Education, talent education and industry alignment, scholarships
Date of Last Change: [~~May 5,~~]2026
Authorizing, and Implemented or Interpreted Law: 53E-10-310

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Repeal	**Filing ID: 58301**
Rule or section number:	**R765-609**

1. Agency Information

Title catchline:	Higher Education (Utah Board of), Administration
Building:	Utah Board of Higher Education Building, The Gateway
Street address:	60 S 400 W
City, state:	Salt Lake City, UT 84101

2. Contact Persons

Name:	Phone:	Email:
Hilary Renshaw	801-646-4784	Hilary.renshaw@ushe.edu
Alison Adams	801-646-4784	Alison.adams@ushe.edu
Geoffrey T. Landward	801-646-4784	Glandward@ushe.edu

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

3. General Information

A. Rule or section catchline:

R765-609. Regents Scholarship

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

This filing repeals Rule R765-609.

On 07/09/2026, the Utah Board of Higher Education voted to repeal Rule R765-609.

Rule R765-609 is being repealed because this rule applies to Regents' Scholarships awarded to students in and prior to 2021.

There are no longer any students receiving the Regents' Scholarship under this rule, and therefore, it should be repealed.

C. Summary of the new rule or change:

This filing repeals Rule R765-609, in its entirety, which governs the Regents' Scholarship.

Because this rule applies to Regents' Scholarships awarded to students prior to 2021 and there are no longer any students receiving the Regents' Scholarship under this rule, this rule is being repealed.

5. Fiscal Information

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

A. State budget:

The repeal of Rule R765-609 will not have any fiscal impact on the state budget.

Because this rule applies to Regents' Scholarships awarded to students prior to 2021 and there are no longer any students receiving the Regents' Scholarship under this rule, this rule is being repealed, and the repeal will have no impact on the state budget.

B. Local governments:

The repeal of Rule R765-609 will not have any fiscal impact on local governments.

Because this rule applies to Regents' Scholarships awarded to students prior to 2021 and there are no longer any students receiving the Regents' Scholarship under this rule, this rule is being repealed, and the repeal will have no impact on local governments.

C. Small businesses ("small business" means a business employing 1-49 persons)**:**
The repeal of Rule R765-609 will not have any fiscal impact on small businesses. Because this rule applies to Regents' Scholarships awarded to students prior to 2021 and there are no longer any students receiving the Regents' Scholarship under this rule, this rule is being repealed, and the repeal will have no impact on small businesses.
D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
The repeal of Rule R765-609 will not have any fiscal impact on non-small businesses. Because this rule applies to Regents' Scholarships awarded to students prior to 2021 and there are no longer any students receiving the Regents' Scholarship under this rule, this rule is being repealed, and the repeal will have no impact on non-small businesses.
E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The repeal of Rule R765-609 will not have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities. Because this rule applies to Regents' Scholarships awarded to students prior to 2021 and there are no longer any students receiving the Regents' Scholarship under this rule, this rule is being repealed, and the repeal will have no impact on persons other than small businesses, non-small businesses, state, or local government entities.
F. Compliance costs for affected persons:
The repeal of Rule R765-609 does not impose any compliance costs for affected persons because it applies to Regents' Scholarships awarded to students prior to 2021. There are no longer any students receiving the Regents' Scholarship under this rule, and the resulting repeal of this rule does not impose or create any compliance costs.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of Higher Education, Geoffrey Landward, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 53B-8-108		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Alison Adams, Board Secretary and Designee	**Date:**	10/05/2026

R765. Higher Education (Utah Board of), Administration.

[~~R765-609-1. Purpose.~~

~~The Regents' Scholarship encourages students to complete a recommended high school curriculum in order to provide better access to higher education opportunities and to reward students for preparing academically for college.~~

~~R765-609-2. Definitions.~~

~~2.1 "Advanced Math" means any of the following courses: pre-calculus, calculus, statistics, AP calculus AB, AP calculus BC, AP statistics, college courses Math 1030 and higher, IB Math SL, HL, and Further Math.~~

~~2.2 "Board" means the Utah Board of Higher Education.~~

~~2.3 "College Course Work" means any instance in which college credit is earned, including concurrent enrollment, distance education, dual enrollment, or early college.~~

~~2.4 "Eligible Institutions" means institutions of higher education listed in subsection 53B-2-101(1), or a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.~~

~~2.5 "Excusable Neglect" means a failure to take proper steps at the proper time, not in consequence of carelessness, inattention, or willful disregard of the scholarship application process, but in consequence of some unexpected or unavoidable hindrance or accident.~~

~~2.6 "Good Cause" means the student's failure to meet a scholarship application process requirement was due to circumstances beyond the student's control or circumstances that are compelling and reasonable.~~

~~2.7 "High School" means a public school established by the Utah State Board of Education or private high school within the boundaries of the state. If a private high school, it shall be accredited by a regional accrediting body approved by the board.~~

~~2.8 "Scholarship Appeals Committee" means the committee designated by the Commissioner of Higher Education to review appeals of Regents' Scholarship award decisions and take final agency action regarding awards.~~

~~2.9 "Scholarship Award" means a scholarship awarded to all applicants who meet the eligibility requirements of rule R609-4.~~

~~2.10 "Scholarship Staff" means the employees assigned to review Regents' Scholarship applications and make initial decisions awarding the scholarships and deferments.~~

~~2.11 "Substantial Compliance" means the applicant, in good faith, demonstrated clear intent to comply with the scholarship application requirements and has demonstrated likely eligibility, but failed to precisely comply with the application specifics.~~

~~R765-609-3. Award Requirements.~~

~~3.1 To qualify for the Regents' Scholarship, the applicant shall satisfy the following criteria:~~

~~3.1.1 Graduate from a Utah high school with a minimum, non-weighted GPA of 3.3;~~

~~3.1.2 Complete four credits of English;~~

~~3.1.3 Complete four credits of math, including one course of advanced math;~~

~~3.1.4 Complete three credits of lab-based biology, chemistry and physics;~~

~~3.1.5 Complete two credits of world languages;~~
~~3.1.6 Complete three credits of social science;~~
~~3.1.7 Complete the ACT with a minimum score of 22 unless exempted under Subsection R765-609-4(4.2.4.1).~~
~~3.1.8 Complete and submit the Free Application for Federal Student Aid (FAFSA).~~
~~3.2 A student may satisfy a course requirement through a competency-based assessment provided it is documented for credit on an official transcript.~~
~~3.3 The courses completed shall be unique except when repeated for a higher grade.~~
~~3.4 Repeated course work may not count toward accumulation of required credits.~~
~~3.5 College Course Work: College course work shall only be evaluated if the applicant submits an official college transcript. If an applicant enrolls in and completes a college course worth three or more college credits, this shall be counted as one high school credit toward the scholarship requirements.~~
~~3.6 Mandatory Enrollment: An award recipient attending a credit-granting eligible institution shall enroll beginning with the fall semester after high school graduation. An award recipient attending a non-credit granting institution must enroll full time in a program eligible for federal aid by September 1 after high school graduation.~~
~~3.6.1 Scholarship recipients must elect whether to use the award funds at credit granting institutions or non-credit granting institutions. The decision is irrevocable; recipients may not transfer awards between non-credit granting and credit granting institutions.~~
~~3.7 A recipient may not receive both a Regents' Scholarship and the New Century Scholarship established in Section 53B-8-105.~~

~~R765-609-4. Application Procedures.~~
~~4.1 Application Deadline: An applicant shall submit an official scholarship application no later than February 1 of the year that the applicant graduates from high school. The Board may establish a priority deadline each year. An applicant who meets the priority deadline may be given first priority or consideration for the scholarship. Subject to funding, each student may be considered based on the date the student completed and submitted their application.~~
~~4.2 Required Documentation: Each applicant shall submit the following documents:~~
~~4.2.1 The online Regents' Scholarship application;~~
~~4.2.2 An official high school paper or electronic transcript, each official college transcripts when applicable, and any other miscellaneous official transcript demonstrating all completed courses and GPA;~~
~~4.2.3 If a student completed coursework at an educational institution outside of the district from which the student graduated, an official transcript from the school at which the student completed the coursework if the courses completed and grades earned are not reflected in the official high school transcript.~~
~~4.2.4 Verified ACT scores unless exempted under Subsection (4.2.4.1).~~
~~4.2.4.1 Students who are applying for the 2021 cohort are not required to provide an ACT score.~~

~~R765-609-5. Award Amounts and Renewals.~~
~~5.1 Funding Constraints of Awards: The Board shall determine award amounts, depending on the annual legislative appropriation, whether the institution is a credit granting or non-credit granting institution, and the number of qualified applicants. An eligible private nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities may not award a Regents' scholarship to an eligible student in an amount that exceeds the average total cost of tuition and fees among USHE institutions.~~
~~5.2 Scholarship Award: Students who meet the eligibility criteria and enroll at a credit granting institution shall receive a four-semester scholarship award, the maximum amount shall be determined annually by the Board. Students who enroll in a non-credit granting institution will receive a one-time scholarship award, the amount of which shall be determined annually by the Board, which the institution may disburse over the course of a recipient's enrollment within this policy's limits and requirements.~~
~~5.3 Ongoing Eligibility: If a student receives an award disbursement, the recipient must enroll at a credit granting institution, maintain a 3.0 GPA and complete a minimum of 12 credit hours per academic semester to remain eligible for future disbursements. Students who earn less than a 3.0 semester GPA will be placed on probation. If the recipient again at any time earns less than a 3.0 GPA, the scholarship may be revoked. Institutions shall verify the recipient has met these requirements. Recipients who do not maintain eligibility shall forfeit the remaining award amount.~~

~~R765-609C-6. Time Constraints and Deferrals.~~
~~6.1 Time Limitation: Scholarship funds are only available to a recipient for five years after the recipient's high school graduation date.~~
~~6.2 Upon the first day a recipient begins courses using the scholarship funds at a non-credit granting institution, the recipient must use the award in its entirety within two years, unless extended under Subsection (6.3). This time limit does not extent the five-year award availability under Subsection (6.1).~~
~~6.3 Deferral or Leave of Absence: Recipients who will not enroll continuously for Fall and Spring/Winter at an eligible institution shall apply for a deferral or leave of absence with their institution.~~
~~6.3.1 Deferrals may be granted, at the discretion of the scholarship review committee. Leaves of absence may be granted, at the discretion of the institution. Deferrals and leaves of absence may be granted for military service, humanitarian or religious service, documented medical reasons, and other exigent reasons.~~
~~6.3.2 An approved deferral or leave of absence will not extend the time limits of the scholarship. The scholarship may only be used for academic terms that begin within five years after the recipient's high school graduation date.~~

~~**R765-609-7. Transfers.**~~

~~Recipients may transfer to another eligible institution and retain the scholarship award. Recipients are responsible to inform the Office of the Commissioner of their intent to transfer. The Office of the Commissioner shall coordinate the transfer of scholarship funds and information.~~

~~**R765-609-8. Scholarship Determinations and Appeals.**~~

~~8.1 Scholarship Determinations: Submission of a scholarship application does not guarantee a scholarship award. The Scholarship Staff shall review each individual scholarship application and determine eligibility. Awards are based on available funding, applicant pool, and the applicant's completion of scholarship criteria by the specified deadline.~~

~~8.2 Appeals: An applicant has the right to appeal the Scholarship Staff's adverse decision by filing an appeal with the Scholarship Appeals Committee subject to the following conditions:~~

~~8.2.1 Applicants may submit a written appeal through either the U.S. Mail or online by using the form provided by the Office of the Commissioner of Higher Education. Appeals must be postmarked, if mailed, or submitted online within 30 days of the date on which the scholarship notification was issued.~~

~~8.2.2 In the appeal, the applicant must provide their full name, mailing address, the high school they last attended, a statement of the reason for the appeal, and all information or evidence that supports the appeal. The failure of an applicant to provide the information in this subsection may not preclude the acceptance of an appeal.~~

~~8.2.3 An appeal filed before the applicant receives official notification from the Scholarship Staff of its decision may not be considered.~~

~~8.2.4 If an applicant failed to file their appeal on time, the Scholarship Appeals Committee shall notify the applicant of the late filing and give them an opportunity to explain the reasons for failing to file the appeal by the deadline. The Scholarship Appeals Committee may not have jurisdiction to consider the merits of an appeal that is filed beyond the deadline unless it determines the applicant established excusable neglect.~~

~~8.2.5 The Scholarship Appeals Committee shall review the appeal to determine if the award decision was made in error, or if the applicant demonstrated substantial compliance with the scholarship application requirements but failed to meet one or more requirements for good cause.~~

~~8.2.6 If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that the initial decision was made in error, it shall either reverse the initial decision or remand it back to the Scholarship Staff for further review in accordance with the Appeals Committee's instructions.~~

~~8.2.7 If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that they demonstrated substantial compliance with the application process requirements and good cause for failing to meet one or more of the requirements, the Appeals Committee shall grant the applicant a reasonable period to complete the remaining requirements and to resubmit the completed application to the Scholarship Staff for a redetermination. In such a case, the applicant shall have the right to appeal an adverse decision according to this rule.~~

~~8.2.8 The Scholarship Appeals Committee's decision shall be in writing and contain its findings of facts, reasoning and conclusions of law and notice of the right to judicial review.~~

~~8.2.9 The Scholarship Appeals Committee's decision represents the final agency action. An applicant who disagrees with the Scholarship Appeals Committee's decision may seek judicial review in accordance with Section 63G-4-402.~~

~~**R765-609-9. Reporting.**~~

~~9.1 As directed by the Commissioner's staff, eligible institutions shall report to the board the following:~~

~~9.1.1 The names of each student awarded Regents' Scholarship funds;~~

~~9.1.2 Enrollment information such as the current GPA, the number of credits completed, and deferment or leave of absence information; and~~

~~9.1.3 Other information deemed necessary to evaluate eligibility or the effectiveness of the program.~~

~~9.2 The Board may, at any time, request additional documentation or data related to the Regents Scholarship and may review or formally audit an eligible institution's compliance with this policy.~~

~~**KEY: higher education, scholarships, secondary education**~~
~~**Date of Last Change: July 21, 2025**~~
~~**Notice of Continuation: April 10, 2025**~~
~~**Authorizing, and Implemented or Interpreted Law: 53B-8-108**~~**]**

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Repeal	**Filing ID: 58312**
Rule or section number:	**R765-609C**

1. Agency Information

Title catchline:	Higher Education (Utah Board of), Administration

Building:	Utah Board of Higher Education Building, The Gateway
Street address:	60 S 400 W
City, state:	Salt Lake City, UT 84101

2. Contact Persons

Name:	Phone:	Email:
Hilary Renshaw	801-646-4784	Hilary.renshaw@ushe.edu
Alison Adams	801-646-4784	Alison.adams@ushe.edu
Geoffrey T. Landward	801-646-4784	Glandward@ushe.edu

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

3. General Information

A. Rule or section catchline:

R765-609C. Regents Scholarship

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

This filing repeals Rule R765-609C.

The Utah Board of Higher Education has voted to repeal Rule R765-609C.

Rule R765-609C is being repealed because this rule applies to the Regents' Scholarship which has been phased out and replaced. There are no longer any students receiving the Regents' Scholarship under this rule, and therefore, it should be repealed.

C. Summary of the new rule or change:

This filing repeals Rule R765-609C, in its entirety, which governs the Regents' Scholarship.

Because this rule applies to the Regents' Scholarship, which has been phased out and replaced, and there are no longer any students receiving the Regents' Scholarship under this rule, so this rule is being repealed.

5. Fiscal Information

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

A. State budget:

The repeal of Rule R765-609C will not have any fiscal impact on the state budget.

Because this rule applies to the Regents' Scholarship, and there are no longer any students receiving the Regents' Scholarship under this rule, it is being repealed, and the repeal will have no impact on the state budget.

B. Local governments:

The repeal of Rule R765-609C will not have any fiscal impact on local governments.

Because this rule applies to the Regents' Scholarship, and there are no longer any students receiving the Regents' Scholarship under this rule, it is being repealed, and the repeal will have no impact on local governments.

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

The repeal of Rule R765-609C will not have any fiscal impact on small businesses.

Because this rule applies to the Regents' Scholarship, and there are no longer any students receiving the Regents' Scholarship under this rule, it is being repealed, and the repeal will have no impact on small businesses.

D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
The repeal of Rule R765-609C will not have any fiscal impact on non-small businesses. Because this rule applies to the Regents' Scholarship, and there are no longer any students receiving the Regents' Scholarship under this rule, it is being repealed, and the repeal will have no impact on non-small businesses.
E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The repeal of Rule R765-609C will not have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities. Because this rule applies to the Regents' Scholarship, and there are no longer any students receiving the Regents' Scholarship under this rule, it is being repealed, and the repeal will have no impact on persons other than small businesses, non-small businesses, state, or local government entities.
F. Compliance costs for affected persons:
The repeal of Rule R765-609C does not impose any compliance costs for affected persons because it applies to the Regents' Scholarship, there are no longer any students receiving the Regents' Scholarship under this rule, and the resulting repeal does not impose or create any such compliance costs.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of Higher Education, Geoffrey Landward, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Subsection 53B-8-202(8)		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Alison Adams, Board Secretary and Designee	**Date:**	10/05/2026

R765. Higher Education (Utah Board of), Administration.

[~~R765-609C. Regents Scholarship.~~

~~R765-609C-1. Purpose.~~

~~The Regents' Scholarship encourages students to complete the Regents' Recommended High School Curriculum, in order to provide better access to higher education opportunities and to reward students for preparing academically for college.~~

~~R765-609C-2. Authority.~~

~~This rule is authorized by Subsection 53B-8-202(8).~~

~~R765-609C-3. Definitions.~~

~~(1) "Advanced math" means any of the following courses:~~
~~(a) pre-calculus;~~
~~(b) calculus;~~
~~(c) statistics;~~
~~(d) AP calculus AB;~~
~~(e) AP calculus BC;~~
~~(f) AP statistics;~~
~~(g) college courses Math 1030 and higher; and~~
~~(h) IB Math SL, HL, and further math.~~
~~(2) "Board" means the Utah Board of Higher Education.~~
~~(3) "College course work" means any instance in which college credit is earned, including but not limited to, concurrent enrollment, distance education, dual enrollment, or early college.~~
~~(4) "Eligible institutions" means institutions of higher education listed in Section 53B-2-101(1).~~
~~(5) "Excusable neglect" means a failure to take proper steps at the proper time, not in consequence of carelessness, inattention, or willful disregard of the scholarship application process, but in consequence of some unexpected or unavoidable hindrance or accident.~~
~~(6) "Good cause" means the student's failure to meet a scholarship application process requirement was due to circumstances beyond the student's control or circumstances that are compelling and reasonable.~~
~~(7) "High school" means a public school established by the Utah State Board of Education or private high school within the boundaries of the state. If a private high school, it shall be accredited by a regional accrediting body approved by the board.~~
~~(8) "Scholarship appeals committee" means the committee designated by the Commissioner of Higher Education to review appeals of Regents' Scholarship award decisions and take final agency action regarding awards.~~
~~(9) "Scholarship award" means a scholarship awarded to all applicants who meet the eligibility requirements of Rule R609-4.~~
~~(10) "Scholarship staff" means the employees assigned to review Regents' Scholarship applications and make initial decisions awarding the scholarships.~~
~~(11) "Substantial compliance" means the applicant, in good faith, demonstrated clear intent to comply with the scholarship application requirements and has demonstrated likely eligibility, but failed to precisely comply with the application specifics.~~

~~R765-609C-4. Award Requirements.~~

~~(1) To qualify for the Regents' Scholarship, the applicant shall satisfy the following criteria:~~
~~(a) graduate from a Utah high school with a minimum, non-weighted GPA of 3.3;~~
~~(b) complete four credits of English;~~
~~(c) complete four credits of math, including one course of advanced math;~~
~~(d) complete three credits of lab-based biology, chemistry and physics;~~
~~(e) complete two credits of world languages;~~
~~(f) complete three credits of social science;~~
~~(g) complete the ACT with a minimum score of 22; and~~
~~(h) complete the Free Application for Federal Student Aid (FAFSA).~~

~~(2) A student may satisfy a course requirement through a competency-based assessment provided it is documented for credit on an official transcript.~~

~~(3) The courses completed shall be unique except when repeated for a higher grade.~~

~~(4) Repeated course work may not count toward accumulation of required credits.~~

~~(5) College course work shall only be evaluated if the applicant submits an official college transcript. If an applicant enrolls in and completes a college course worth three or more college credits, this shall be counted as one high school credit toward the scholarship requirements.~~

~~(6) An award recipient attending a credit-granting eligible institution shall enroll in a minimum of 12 credit hours per academic semester, beginning with the fall semester after high school graduation. An award recipient attending a non-credit granting institution must enroll full time in a program eligible for federal aid by September 1 after high school graduation. The institution at which the student attends shall verify the recipient has met the enrollment requirement.~~

~~(7) A recipient may not receive both a Regents' Scholarship and the New Century Scholarship established in Title 53B, Part 8, Section 105.~~

~~R765-609C-5. Application Procedures.~~

~~(1) An applicant shall submit an official scholarship application no later than February 1 of the year that the applicant graduates from high school. The board may establish a priority deadline each year. An applicant who meets the priority deadline may be given first priority or consideration for the scholarship. Subject to funding, each student may be considered based on the date the student completed and submitted an application.~~

~~(2) Each applicant shall submit the following documents:~~

~~(a) the online Regents' Scholarship application;~~

~~(b) an official high school paper or electronic transcript, each official college transcripts when applicable, and any other miscellaneous official transcript demonstrating all completed courses and GPA;~~

~~(c) if a student completed coursework at an educational institution outside of the district from which the student graduated, an official transcript from the school at which the student completed the coursework if the courses completed and grades earned are not reflected in the official high school transcript; and~~

~~(d) verified ACT scores.~~

~~R765-609C-6. Award Amounts and Renewals.~~

~~(1) The board shall determine award amounts, depending on the annual legislative appropriation, whether the institution is a credit granting or non-credit granting institution, and the number of qualified applicants.~~

~~(2) Each student who meets the eligibility criteria and enrolls at a credit granting institution shall receive a four-semester scholarship award, the amount of which shall be determined annually by the board. A student who enrolls in a non-credit granting institution shall receive a one-time scholarship award, the amount of which shall be determined annually by the board, which the institution may disburse over the course of a recipient's enrollment within this policy's limits and requirements.~~

~~(3) A scholarship recipient who enrolls at a credit granting institution must maintain a 3.0 GPA and complete a minimum of 12 credit hours per academic semester to remain eligible for the award. A student who earns less than a 3.0 semester GPA shall be placed on probation. If the recipient again at any time earns less than a 3.0 GPA, the scholarship may be revoked. Each institutions shall verify the recipient has met these requirements. Any recipient who does not maintain eligibility shall forfeit the remaining award amount.~~

~~R765-609C-7. Time Constraints and Deferrals.~~

~~(1) Scholarship funds are only available to a recipient for five years after the recipient's high school graduation date.~~

~~(2) Upon the first day a recipient begins courses using the scholarship funds at a non-credit granting institution, the recipient must use the award in its entirety within two years, unless extended under Subsection (3). This time limit does not extent the five-year award availability under Subsection (1).~~

~~(3) A recipient who will not enroll as a student shall apply for a deferral or leave of absence with their institution. A deferral or leave of absence may be granted, at the discretion of the institution, for military service, humanitarian or religious service, documented medical reasons, and other exigent reasons. An approved deferral or leave of absence may not extend the time limits of the scholarship. The scholarship may only be used for academic terms that begin within five years after the recipient's high school graduation date.~~

~~R765-609C-8. Transfers.~~

~~(1) A recipient who elects to attend a credit granting institution may transfer to another credit granting institution and retain the scholarship award. Each recipient shall inform the Office of the Commissioner of the recipient's intent to transfer. The Office of the Commissioner shall coordinate the transfer of scholarship funds and information.~~

~~R765-609C-9. Scholarship Determinations and Appeals.~~

~~(1) Submission of a scholarship application does not guarantee a scholarship award. The scholarship staff shall review each individual scholarship application and determine eligibility. Each award shall be based on available funding, applicant pool, and the applicant's completion of scholarship criteria by the specified deadline.~~

~~(2) An applicant has the right to appeal the scholarship staff's adverse decision by filing an appeal with the scholarship appeals committee subject to the following conditions:~~

~~(a) An applicant may submit a written appeal through either the U.S. Mail or the applicant's Regents Scholarship Student Account. Each appeal must be postmarked, if mailed, or submitted online within 30 days of the date on which the scholarship notification was issued.~~

~~(b) In the appeal, the applicant must provide the applicant's full name, mailing address, the high school the applicant last attended, a statement of the reason for the appeal, and all information or evidence that supports the appeal. The failure of an applicant to provide the information in this subsection may not preclude the acceptance of an appeal.~~

~~(c) An appeal filed before the applicant receives official notification from the scholarship staff of its decision may not be considered.~~

~~(d) If an applicant failed to file an appeal on time, the scholarship appeals committee shall notify the applicant of the late filing and give the applicant an opportunity to explain the reasons for failing to file the appeal by the deadline. The scholarship appeals committee may not have jurisdiction to consider the merits of an appeal that is filed beyond the deadline unless it determines the applicant established excusable neglect.~~

~~(e) The scholarship appeals committee shall review the appeal to determine if the award decision was made in error, or if the applicant demonstrated substantial compliance with the scholarship application requirements but failed to meet one or more requirements for good cause.~~

~~(f) If the scholarship appeals committee determines the applicant has shown by a preponderance of the evidence that the initial decision was made in error, it shall either reverse the initial decision or remand it back to the scholarship staff for further review in accordance with the scholarship appeals committee's instructions.~~

~~(g) If the scholarship appeals committee determines the applicant has shown by a preponderance of the evidence that applicant demonstrated substantial compliance with the application process requirements and good cause for failing to meet one or more of the requirements, the scholarship appeals committee shall grant the applicant a reasonable period of time to complete the remaining requirements and to resubmit the completed application to the scholarship staff for a redetermination. In such a case, the applicant shall have the right to appeal an adverse decision according to this rule.~~

~~(h) The scholarship appeals committee's decision shall be in writing and contain its findings of facts, reasoning and conclusions of law and notice of the right to judicial review.~~

~~(i) The scholarship appeals committee's decision represents the final agency action. An applicant who disagrees with the scholarship appeals committee's decision may seek judicial review in accordance with Section 63G-4-402.~~

~~R765-609C-10. Reporting.~~

~~(1) As directed by the Commissioner's staff, each eligible institution shall report to the board the following:~~

~~(a) the name of each student awarded Regents' Scholarship funds;~~

~~(b) enrollment information such as the current GPA, the number of credits completed, and deferment or leave of absence information; and~~

~~(c) other information deemed necessary to evaluate eligibility or the effectiveness of the program.~~

~~(2) The board may, at any time, request additional documentation or data related to the Regents Scholarship and may review or formally audit an eligible institution's compliance with this policy.~~

~~KEY: higher education, scholarship~~
~~Date of Last Change: November 26, 2021~~
~~Notice of Continuation: August 16, 2024~~
~~Authorizing, and Implemented or Interpreted Law: 53B-8-202(8)~~]

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58303**
Rule or section number:	**R765-612**

1. Agency Information

Title catchline:	Higher Education (Utah Board of), Administration
Building:	Utah Board of Higher Education Building, The Gateway
Street address:	60 S 400 W
City, state:	Salt Lake City, UT 84101

2. Contact Persons

Name:	Phone:	Email:
Hilary Renshaw	801-646-4784	Hilary.renshaw@ushe.edu
Alison Adams	801-646-4784	Alison.adams@ushe.edu
Geoffrey T. Landward	801-646-4784	Glandward@ushe.edu

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

3. General Information

A. Rule or section catchline:
R765-612. Opportunity Scholarship
B. Purpose of the new rule or reason for the change:
This filing amends Rule R765-612 based on revisions passed by the Utah Board of Higher Education (Board). The revisions are based on HB 373 (passed in the 2026 General Session) and update the procedures related to the requirements of and application process for the Opportunity Scholarship to comply with HB 373 (2026) and the Board's approved amendments.
C. Summary of the new rule or change:
The amendments to Rule R765-612: 1) ensure that this rule is compliant with HB 373 (2026); 2) allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Opportunity Scholarship; 3) update the appeal process for clarity and consistency; and 4) make other technical and nonsubstantive changes to this rule's language.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 373 (2026 General Session)

5. Fiscal Information

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
The amendments to Rule R765-612 will not have any fiscal impact on the state budget. There is no fiscal impact on the state budget because, while the amendments are based on HB 373 (2026), the enactment of the amendments appropriate funds to the Board to administer the Higher Education Research Funding Pilot Program (Program). The amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Opportunity Scholarship, which is separate from the Program. The amendments also update the appeal process for clarity and consistency, and make other technical and nonsubstantive changes to this rule's language. As such, the amendments to this rule will not have any impact on the state budget.
B. Local governments:
The amendments to Rule R765-612 will not have any fiscal impact on local governments. There is no fiscal impact on local governments because, while the amendments are based on HB 373 (2026), the enactment of the amendments appropriate funds to the Board to administer the Higher Education Research Funding Pilot Program (Program). The amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Opportunity Scholarship, which is separate from the Program. The amendments also update the appeal process for clarity and consistency, and make other technical and nonsubstantive changes to this rule's language. As such, the amendments to this rule will not have any impact on local governments.

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

The amendments to Rule R765-612 will not have any fiscal impact on small businesses.

There is no fiscal impact on small businesses because, while the amendments are based on HB 373 (2026), the enactment of the amendments appropriate funds to the Board to administer the Higher Education Research Funding Pilot Program (Program).

The amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Opportunity Scholarship, which is separate from the Program.

The amendments also update the appeal process for clarity and consistency, and make other technical and nonsubstantive changes to this rule's language.

As such, the amendments to this rule will not have any impact on small businesses.

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

The amendments to Rule R765-612 will not have any fiscal impact on non-small businesses.

There is no fiscal impact on non-small businesses because, while the amendments are based on HB 373 (2026), the enactment of the amendments appropriate funds to the Board to administer the Higher Education Research Funding Pilot Program (Program).

The amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Opportunity Scholarship, which is separate from the Program.

The amendments also update the appeal process for clarity and consistency, and make other technical and nonsubstantive changes to this rule's language.

As such, the amendments to this rule will not have any impact on non-small businesses.

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

The amendments to Rule R765-612 will not have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

There is no fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because, while the amendments are based on HB 373 (2026), the enactment of the amendments appropriate funds to the Board to administer the Higher Education Research Funding Pilot Program (Program).

The amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Opportunity Scholarship, which is separate from the Program.

The amendments also update the appeal process for clarity and consistency, and make other technical and nonsubstantive changes to this rule's language.

As such, the amendments to this rule will not have any impact on persons other than small businesses, non-small businesses, state, or local government entities.

F. Compliance costs for affected persons:

The amendments to Rule R765-612 do not impose any compliance costs for affected persons because the amendments only allow the Commissioner of Higher Education, in consultation with the Board of Higher Education, to determine the annual award amount for the Opportunity Scholarship, update the appeal process for clarity and consistency, and make other technical and nonsubstantive changes to this rule's language.

The amendments to the rule do not impose or create any compliance costs.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of Higher Education, Geoffrey Landward, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 53E-10-310		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/012026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Alison Adams, Board Secretary and Designee	**Date:**	10/05/2026

R765. Higher Education (Utah Board of), Administration.
R765-612. Opportunity Scholarship.
R765-612-1. Purpose.

This rule outlines award requirements, application procedures, and other information for the Opportunity Scholarship.

R765-612-2. Authority.

Section 53H-11-402 authorizes this rule.

R765-612-3. Definitions.

(1) "Advanced course" means a course offered via concurrent enrollment or CE, advanced placement or AP, or international baccalaureate or IB, and identified by the Utah State Board of Education as earning core credit in the required subject area.

(2) "Board" means the Utah Board of Higher Education.

(3) "Eligible institution" means a degree-granting institution of higher education listed in [~~Subsection 53H-1-102(a)~~]Section 53H-3-302, or a private, nonprofit institution of higher education in Utah.

(4) "Excusable neglect" means a failure to take proper steps at the proper time, not as a result of willful disregard of the scholarship application process, but as a result of some unexpected or unavoidable circumstances.

(5) "Good cause" means the applicant's failure to meet a scholarship application process requirement was due to circumstances beyond the student's control or circumstances that are compelling and reasonable.

(6) "High school" means a Utah public school established by the Board or a private high school accredited by a regional accrediting body approved by the Board.

(7) [~~"Scholarship appeals committee" means a committee designated by the Commissioner of Higher Education to review appeals of Opportunity Scholarship award decisions and take final agency action regarding awards.~~

~~(8) ~~]"Scholarship award" means a scholarship awarded to each applicant who meets the eligibility requirements of Section R765-612-4.

([~~9~~]8) "Scholarship staff" means the Office of the Commissioner of Higher Education employees assigned to review Opportunity Scholarship applications and make decisions awarding the scholarships.

([~~10~~]9) "Substantial compliance" means the applicant, in good faith, demonstrated clear intent to comply with the scholarship application requirements and has demonstrated likely eligibility, but failed to precisely comply with the application specifics.

R765-612-4. Award Requirements.

(1) To qualify for the Opportunity Scholarship, the applicant shall satisfy the following criteria:

(a) graduate from a Utah high school with a minimum, non-weighted cumulative Grade Point Average (GPA) of 3.3;

(b) complete one advanced Mathematics course;

(c) complete one advanced Language Arts course;

(d) complete one advanced Science course; and

(e) complete and submit either the Free Application for Federal Student Aid or the alternative financial form approved by the Board.

(2) Under Section 63G-12-402, verification of lawful presence in the United States is not required to be eligible for a scholarship under this rule.

(3) [~~A student who graduated from a Utah high school in 2022 may alternatively qualify for the Opportunity Scholarship if the student satisfies the following criteria:~~

~~(a) graduate from a Utah high school with a minimum, non-weighted GPA of 3.3;~~

~~(b) complete four credits of English;~~

~~(c) complete four credits of math, including one course of advanced math;~~

~~(d) complete three credits of lab-based biology, chemistry, and physics;~~

~~(e) complete two credits of world languages;~~

~~(f) complete three credits of social science; and~~

~~(g) complete and submit either the Free Application for Federal Student Aid or the scholarship alternative financial form available.~~

~~(4) For purposes of Subsection R765-612-4(3)(c), advanced mathematics means any of the following courses: pre-calculus, calculus, statistics, AP calculus AB, AP calculus BC, AP statistics, college courses Math 1030 and higher, IB Math SL, HL, and Further Math.~~

~~(5) The following requirements apply only to a student who graduated from a Utah high school in 2022:~~

~~(a) Each student must apply for the Opportunity Scholarship using the eligibility criteria in either Subsection R765-612-4(1) or Subsection R765-612-4(2) exclusively.~~

~~(b) The student may not qualify for the Opportunity Scholarship by mixing courses from both sets of criteria in Subsections R765-612-4(1) and R765-612-4(2).~~

~~(c) Because the courses listed in Subsections R765-612-4(1) and R765-612-4(2) are not always analogous, each student who graduated in 2022 shall confirm the courses the student is completing meet the eligibility requirements under the subsection through which the student elects to apply.~~

~~(6) ~~]Enrollment requirements include:

(a) A recipient shall enroll at an eligible institution beginning with the fall semester after high school graduation.

(b) A recipient who does not enroll in the fall semester after high school graduation must apply for a deferment, as outlined in Subsection R765-612-7(2), to retain eligibility for future payments.

(c) A recipient must enroll full time, as defined by the institution, to receive a semester payment.

(d) A recipient may enroll part-time at an eligible institution and retain eligibility for future payments but may not receive funding for that semester.

(e) The institution that the student attends shall verify the recipient has met the enrollment requirements in Subsection R765-612-4(6) before disbursing payment.

R765-612-5. Application Procedures.

(1) Each applicant shall submit an official scholarship application no later than the deadline established by the Office of the Commissioner of Higher Education (OCHE).[~~February 1 of the year that the student graduates from high school.~~]

(2) [~~The Board may establish a~~]A priority deadline may be established each year.

(3)(a) The scholarship staff may give each applicant who meets the priority deadline first priority or consideration for the scholarship.

(b) Subject to funding, the scholarship staff may consider each student based on the date the student completed and submitted the student's application.

(c) Additional criteria to prioritize awarding may be established by the Board.

(4) Each applicant shall submit the following documents:

(a) the online Opportunity Scholarship application;

(b) a completed online Free Application for Federal Student Aid or the Board approved financial form; and

(c) if graduating from a private high school in Utah, an official high school transcript.

(5) If there is an error with the student's transcript, the student shall work with the student's high school or district to rectify the information to complete the application.

R765-612-6. Award Amounts and Ongoing Eligibility.

(1) The Commissioner of Higher Education, in consultation with the Board, shall determine eligibility criteria and maximum award amounts annually, based on legislative appropriations and the number of eligible applicants.

(2) Each student who meets the eligibility criteria may receive up to a four-semester scholarship award.

(3) Each institution shall determine individual recipient award amounts in accordance with Subsection 53H-11-402(3).

(4) If a student receives an award disbursement, the recipient must enroll at an eligible institution full time and maintain satisfactory academic progress as defined by the institution to remain eligible for any future disbursement.

(5) Students who receive a reasonable accommodation related to the scholarship requirements under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act by their institution's ADA Coordinator may obtain a modification to the scholarship requirements. The institution's ADA Coordinator, or their designee, shall provide written documentation to the institutional financial aid office about the student's reasonable accommodation. Under these conditions, an award may be provided to a student who is enrolled less than full time during the accommodation provided by the ADA Coordinator, or designee.

(6) Each institution shall verify that the recipient has met eligibility requirements before disbursing each payment.

(7) Each recipient who does not maintain eligibility shall forfeit any remaining award amount.

R765-612-7. Time Limitations and Deferrals.

(1) A recipient may only receive scholarship funds for academic semesters that begin within five years after the recipient's high school graduation date.

(2) A recipient who will not enroll as a student must apply for a deferral or leave of absence with the recipient's eligible institution to retain eligibility.

(3) An approved deferral or leave of absence may not extend the time limits of the scholarship.

(4) A recipient who elects to attend a USHE technical college may defer the Opportunity Scholarship during that period of enrollment subject to the time limitations of Section R75-612-7.

R765-612-8. Transfers.

(1) Each recipient may transfer to another eligible institution and keep the scholarship award.

(2) Each recipient who transfers to another eligible institution and who desires to keep the scholarship award shall inform the institution from which the recipient transfers and the institution to which the recipient is transferring of the recipient's intent to transfer.

(3) Each institution shall:

([~~i~~]a) coordinate the transfer of eligibility information; and

([~~ii~~]b) report this information to the [~~Office of the Commissioner of Higher Education~~]OCHE.

R765-612-9. Appeals.

(1) [~~Each applicant shall have the right to appeal an adverse decision.~~

~~(2) When the scholarship staff denies eligibility, they shall issue a written determination that includes instructions on how to file an appeal.~~

~~(3) The applicant shall submit a written appeal to the scholarship appeals committee within 30 days of the date on which the scholarship staff's adverse decision was issued.~~

~~(4)~~]Upon written request of the applicant to the OCHE, the applicant may appeal an Opportunity Scholarship denial to a committee of at least three impartial persons (Appeal Committee).

(2) In the appeal, the applicant shall provide:

(a) the applicant's contact information;

(b) the high school that the applicant attended;

(c) a statement of the reason for the appeal; and

(d) all information or evidence that supports the appeal.

(3) An appeal filed before the applicant receives official notification from scholarship staff of its decision will not be considered.

(4) Any appeal submitted more than 120 calendar days after the Opportunity Scholarship denial will not be considered and the initial Opportunity Scholarship denial decision is final.

(5) The appeal committee shall review the appeal to determine if the award decision was made in error and if the applicant is eligible for the Opportunity Scholarship under this rule. The appeal committee shall review whether the applicant demonstrated substantial compliance with the Opportunity Scholarship application requirements but failed to meet one or more requirements for good cause.

(6) The appeal committee will issue the applicant a written decision. The decision represents the final agency action. An applicant who disagrees with the decision may seek judicial review in accordance with Section 63G-402.

[~~(5) The scholarship appeals committee may not consider an appeal filed before the applicant receives official notification from the scholarship staff of their decision.~~

~~(6) If an applicant fails to file the appeal on time, the scholarship appeals committee shall notify the applicant of the late filing and give the applicant an opportunity to provide a written explanation of the reasons for failing to file the appeal by the deadline.~~

~~(7) The scholarship appeals committee may not have jurisdiction to consider the merits of an appeal that is filed beyond the deadline unless it determines the applicant established excusable neglect.~~

~~(8) The scholarship appeals committee shall review the appeal to determine if the scholarship staff's decision was made in error, or if the applicant demonstrated substantial compliance with the scholarship application requirements but failed to meet one or more requirements for good cause.~~

~~(9) If the scholarship appeals committee determines the applicant has shown by a preponderance of the evidence that the scholarship staff's decision was made in error, the scholarship appeals committee shall either reverse the decision or remand it back to the scholarship staff for further review in accordance with the scholarship appeals committee's instructions.~~

~~(10) If the scholarship appeals committee determines the applicant has shown by a preponderance of the evidence that the applicant demonstrated substantial compliance with the application process requirements and good cause for failing to meet one or more of the requirements, the scholarship appeals committee may grant the applicant a reasonable period to complete the remaining requirements and to resubmit the completed application to the scholarship staff for a redetermination or grant the application eligibility for an award.~~

~~(11) The scholarship appeals committee's decision shall be in writing and contain:~~

~~(a) the scholarship appeals committee's findings of facts, reasoning, and conclusions of law; and~~

~~(b) notice of the applicant's right to judicial review.~~

~~(12) The scholarship appeals committee's decision represents the final agency action.~~

~~(13) An applicant who disagrees with the scholarship appeal committee's decision may seek judicial review in accordance with Section 63G-4-402.~~]

R765-612-10. Reporting.

(1) As specified by the [~~Office of the Commissioner of Higher Education~~]OCHE, each institution shall provide, as part of an annual institutional financial aid file submission by February 28 of each year, data pertaining to applications, awards, program enrollments, utilization, funding, and other pertinent information for the most recently completed fiscal year.

(2) The [~~Office of the Commissioner of Higher Education~~]OCHE or the Board may, at any time, request additional documentation or data related to the Opportunity Scholarship program and may review or formally audit an institution's documentation and compliance with this rule.

KEY: Utah Board of Higher Education, Opportunity Scholarship Program, Student Financial Aid
Date of Last Change: [~~March 23,~~]2026
Authorizing, and Implemented or Interpreted Law: 53H-11-402

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58304**
Rule or section number:	**R765-617**

1. Agency Information

Title catchline:	Higher Education (Utah Board of), Administration
Building:	Utah Board of Higher Education Building, The Gateway
Street address:	60 S 400 W
City, state:	Salt Lake City, UT 84101

2. Contact Persons

Name:	Phone:	Email:
Hilary Renshaw	801-646-4784	Hilary.renshaw@ushe.edu
Alison Adams	801-646-4784	Alison.adams@ushe.edu
Geoffrey T. Landward	801-646-4784	Glandward@ushe.edu

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

3. General Information

A. Rule or section catchline:
R765-617. Karen Mayne Public Safety Officer Scholarship Program
B. Purpose of the new rule or reason for the change:
This filing amends Rule R765-617 based on revisions passed by the Utah Board of Higher Education (Board). The revisions are based on HB 373 (passed in the 2026 General Session) and update the procedures related to the requirements, awardee responsibilities, and application procedures for the Karen Mayne Public Safety Officer Scholarship Program to comply with HB 373 (2026) and the Board's approved amendments.
C. Summary of the new rule or change:
The amendments to Rule R765-617 ensure that this rule is compliant with HB 373 (2026) and allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Karen Mayne Public Safety Officer Scholarship Program.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 373 (2026 General Session)

5. Fiscal Information

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
The amendments to Rule R765-617 will not have any fiscal impact on the state budget. There is no fiscal impact on the state budget because, while the amendments are based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Higher Education Research Funding Pilot Program (Program), the amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Karen Mayne Public Safety Officer Scholarship, which is separate from the Program. As such, the amendments to this rule will not have any impact on the state budget.
B. Local governments:
The amendments to Rule R765-617 will not have any fiscal impact on local governments. There is no fiscal impact on local governments because, while the amendments are based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, the amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Karen Mayne Public Safety Officer Scholarship, which is separate from the Program. As such, the amendments to this rule will not have any impact on local governments.
C. Small businesses ("small business" means a business employing 1-49 persons)**:**
The amendments to Rule R765-617 will not have any fiscal impact on small businesses. There is no fiscal impact on small businesses because, while the amendments are based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, the amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Karen Mayne Public Safety Officer Scholarship, which is separate from the Program. As such, the amendments to this rule will not have any impact on small businesses.

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

The amendments to Rule R765-617 will not have any fiscal impact on non-small businesses.

There is no fiscal impact on non-small businesses because, while the amendments are based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, the amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Karen Mayne Public Safety Officer Scholarship, which is separate from the Program.

As such, the amendments to this rule will not have any impact on non-small businesses.

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

The amendments to Rule R765-617 will not have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

There is no fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because, while the amendments are based on HB 373 (2026), the enactment of which appropriates funds to the Board to administer the Program, the amendments only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Karen Mayne Public Safety Officer Scholarship, which is separate from the Program.

As such, the amendments to this rule will not have any impact on persons other than small businesses, non-small businesses, state, or local government entities.

F. Compliance costs for affected persons:

The amendments to Rule R765-617 do not impose any compliance costs for affected persons because they only allow the Commissioner of Higher Education, in consultation with the Board, to determine the annual award amount for the Karen Mayne Public Safety Officer Scholarship.

The amendments to this rule do not impose or create any compliance costs.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The Commissioner of Higher Education, Geoffrey Landward, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 53E-10-310		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Alison Adams, Board Secretary and Designee	**Date:**	10/05/2026

R765. Higher Education (Utah Board of), Administration.
R765-617. Karen Mayne Public Safety Officer Scholarship Program.
R765-617-1. Purpose.

This rule outlines requirements, awardee responsibilities, and application procedures for the Karen Mayne Public Safety Officer Scholarship Program.

R765-617-2. Authority.

This rule is authorized by Section 53H-11-403.

R765-617-3. Definitions.

(1) "Academic Year" means the calendar year starting July 1 and ending June 30. For degree-granting institutions, this includes Fall, Summer, and Spring semesters.

(2) "Board" means the Utah Board of Higher Education described in Section 53H-1-101.

(3) "Eligible institution" means:

(a) a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Subsection 53H-3-102(1); or

(b) a private, post-secondary institution that enters into an agreement with the Office of the Commissioner of Higher Education to participate in this program.

(4) "OCHE" means the Office of the Commissioner of Higher Education.

(5) "Peace officer" means the same as that term is defined in Section 53H-11-306.

(6) "POST" means the Peace Officer Standards and Training Division created in Section 53-6-103.

(7) "Qualifying post-secondary program" means criminal justice, police administration, criminology, social sciences, or other program approved by the Board.

(8) "Scholarship staff" means OCHE staff assigned to administer state scholarships on behalf of the Board.

R765-617-4. Award Requirements.

(1) To qualify for the Karen Mayne Public Safety Officer Scholarship, an applicant shall:

(a) be a high school graduate;

(b) complete a Karen Mayne Public Safety Officer Scholarship application, published by OCHE;

(c) when eligible, enroll in a basic training course at a state certified academy as defined in Section 53-6-202;

(d) enroll in a qualifying post-secondary program at an eligible institution; and

(e) commit to working as a peace officer in Utah for no less than five years after the day on which POST certifies the scholarship recipient.

(2) A recipient who takes a leave of absence from their institution or defers their enrollment shall obtain an approved deferral from their institution and provide documentation to verify the approved deferral to OCHE.

(3) A student receiving the Public Safety Officer Career Advancement Grant, as described in Section 53H-11-410, is not eligible to participate in the Karen Mayne Public Safety Officer Scholarship Program.

R765-617-5. Awardee Responsibilities.

(1) A scholarship recipient shall:

(a) notify the Board regarding POST certification within 15 days after the day on which POST certifies the scholarship recipient;

(b) submit verification of employment with a Utah law enforcement agency to the Board within 15 days after the day on which the scholarship recipient is employed as a peace officer, including:

(i) the employer's name, address, and telephone number;

(ii) the date of the scholarship recipient's hiring; and

(iii) the scholarship recipient's job title; and

(c) notify the Board of any employment changes within 15 days after the day on which the change is made.

R765-617-6. Application Process.

(1) Applicants shall submit an official scholarship application no later than the deadline established in the scholarship application form.

(2) Applicants shall submit the following documents to be considered for the Karen Mayne Public Safety Officer Scholarship:

(a) the completed Karen Mayne Public Safety Officer Scholarship Program application published by OCHE;

(b) high school transcripts that verify graduation from a high school or a high school diploma;

(c) a description of the applicant's public safety career objectives;

(d) a declaration of the applicant's admission to and intention to enroll in an eligible post-secondary program described in Section R765-617-8 at an eligible institution;

(e) proof of completion of the FAFSA in accordance with Board Policy R623, Free Application for Federal Student Aid; and

(f) other documentation as outlined on the annual scholarship application or requested by scholarship staff.

(3) Requirements in Subsections R765-617-6(2)(b) through (2)(f) may be included in the scholarship application described in Subsection R765-617-6(1).

(4) Students must reapply and meet the requirements for the scholarship each academic year. After an initial application is approved, a high school transcript is not required to be resubmitted.

R765-617-7. Grant Amount.

(1) Subject to available funding, qualified applicants will be awarded a scholarship that does not exceed the combined cost of tuition, fees, required textbooks, and POST training and certification.

(2) The Commissioner of Higher Education, in consultation with the Board, shall determine the amount of scholarship award, ensuring that the amount does not exceed the combined cost of tuition, fees, and required textbooks and may establish a maximum scholarship amount annually.

(3) A student may participate in the Karen Mayne Public Safety Officer Scholarship for a maximum of four academic years.

(4) If the legislative appropriation is insufficient to cover the costs associated with the Karen Mayne Public Safety Officer Scholarship, the Board may:

(a) reduce the amount of a grant; or

(b) distribute grants on a pro rata basis to each eligible applicant who submitted the required application materials, as described in Section R765-617-6, before the application deadline; or

(c) discontinue further awards.

(5) Institutions shall combine state or federal loans or grants, internships, student employment, and family and individual contributions toward financing the cost of attendance.

R765-617-8. Board Responsibilities.

(1) The Board shall:

(a) Collaborate with POST and other law enforcement and correction agencies to provide high school students with information on law enforcement careers;

(b) Notify POST when a student receives a scholarship under the program; and

(c) Include a disclosure on all applications and materials related to the program that the amount of the awarded scholarship may be subject to funding availability or reduction.

(2) The Board may cancel an award and require a scholarship recipient to repay the full amount of the scholarship award that the scholarship recipient received under the program, including money paid for tuition, fees, and required textbooks, if the scholarship recipient fails to adhere to the responsibilities in Sections R765-617-4 through R765-617-6.

R765-617-9. Appeals Process.

An applicant has the right to appeal an adverse decision. Upon request by the student, the scholarship staff shall provide an opportunity for the student to appeal an adverse decision to a committee of at least three impartial persons. Each appeal request must be submitted in writing within 30 days of the application notice.

R765-617-10. Reporting.

(1) As specified by OCHE, each institution shall provide, as part of an annual institutional financial aid file submission by February 28 of each year, data pertaining to one or more of applications, awards, program enrollments, utilization, funding, and other scholarship information for the most recently completed fiscal year.

(2) OCHE may, at any time, request additional documentation or data related to the scholarship program and may review or formally audit an institution's documentation and compliance with this rule.

KEY: Utah Board of Higher Education, scholarship, Karen Mayne Public Safety Officer Scholarship Program
Date of Last Change: [~~May 5,~~]2026
Authorizing, and Implemented or Interpreted Law: 53H-11-403

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: New	**Filing ID: 58326**
Rule or section number:	**R865-22E**

1. Agency Information

Title catchline:	Tax Commission, Auditing
Building:	Tax Commission
Street address:	210 N 1950 W
City, state:	Salt Lake City, UT

2. Contact Persons

Name:	Phone:	Email:
Administrative Assistant	801-297-3901	officeofthecommission@utah.gov

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

3. General Information

A. Rule or section catchline:

R865-22E. Energy Excise Tax

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

During the 2026 General Session, the Legislature passed HB 507, State Coordination of Regional and Local Economic Development Projects Amendments, sponsored by Representative Calvin Roberts.

The bill created the County Energy Excise Tax and directed the Tax Commission (Commission) to make rules regarding the delivered value of taxable energy sold or used by a high-impact consumer at arm's length, including establishing at least one alternative method for determining delivered value of the taxable energy if the Commission determines that a sales price does not accurately reflect the energy's delivered value.

C. Summary of the new rule or change:

The new county energy excise tax rule states that if an arm's length sales price for taxable energy sold or used by a high-impact consumer includes a portion of the energy or component of delivered value, then the sales price is the delivered value, subject to an exception.

The exception creates an alternate method to calculate delivered value using Rocky Mountain Power Electric Service Schedule No. 9 for Utah, if the sales price for taxable energy sold or used by a high-impact consumer does not accurately reflect delivered value.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are because of legislative action.
B. If yes, any bill number and session:	HB 507 (2026 General Session)

5. Fiscal Information

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
This proposed new rule is not expected to have any fiscal impact on state government revenues or expenditures because this is not a state-imposed tax. Until the tax is imposed and any taxpayers identified, the impact is not quantifiable.
B. Local governments:
This proposed new rule is not expected to have any fiscal impact on local governments' revenues or expenditures because there are no jurisdictions imposing this tax. Until the tax is imposed and any taxpayers identified, the impact is not quantifiable.
C. Small businesses ("small business" means a business employing 1-49 persons)**:**
This proposed new rule is not expected to have any fiscal impact on small businesses' revenues or expenditures because there are no jurisdictions imposing this tax. Until the tax is imposed and any taxpayers identified, the impact is not quantifiable.
D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This proposed new rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no jurisdictions imposing this tax. Until the tax is imposed and any taxpayers identified, the impact is not quantifiable.
E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed new rule is not expected to result in costs or savings on persons other than small businesses, non-small businesses, state or local government entities because there are no jurisdictions imposing this tax. Until the tax is imposed and any taxpayers identified, the impact is not quantifiable.
F. Compliance costs for affected persons:
This new rule is not expected to impose any compliance costs on affected persons, that were not already contemplated in the authorizing legislation.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0

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

7. Regulatory Impact Analysis Approval

Commissioner of the Tax Commission, Rebecca L. Rockwell, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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

Section 59-37-301		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Rebecca Rockwell, Commissioner	**Date:**	10/08/2026

R865. Tax Commission, Auditing.
R865-22E. Energy Excise Tax.
R865-22E-1. Sales Price for Purposes of County Energy Excise Tax Pursuant to Title 59, Chapter 37, County Energy Excise Tax Act.

(1) In accordance with Section 59-37-301 and except as provided in Subsection (2), if an arm's-length sales price for taxable energy sold or used by a high-impact consumer, as defined in Section 59-37-101, includes some portion of the taxable energy or component of delivered value, then the sales price for the taxable energy sold or used by the high-impact consumer is the delivered value to the high-impact consumer.

(2)(a) If the sales price for taxable energy sold or used by a high-impact consumer does not accurately reflect delivered value, delivered value shall be calculated in accordance with the Rocky Mountain Power Electric Service Schedule No. 9 for the State of Utah in effect on the last day of the tax period.

(b) If the Rocky Mountain Power Electric Service Schedule No. 9 for the State of Utah is amended, redesignated, or reenacted, a calculation made under Subsection (2)(a) shall use any corresponding or comparable provisions of the schedule as amended, redesignated, or reenacted.

KEY: taxation, energy
Date of Last Change: 2026
Authorizing, and Implemented or Interpreted Law:

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58323**
Rule or section number:	**R877-23V-5**

1. Agency Information

Title catchline:	Tax Commission, Motor Vehicle Enforcement
Building:	Tax Commission
Street address:	210 N 1950 W
City, state:	Salt Lake City, UT

2. Contact Persons

Name:	**Phone:**	**Email:**
Administrative Assistant	801-297-3901	officeofthecommission@utah.gov

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

3. General Information

A. Rule or section catchline:

R877-23V-5. Temporary Motor Vehicle Registration Permits and Extension Permits Issued by Dealers Pursuant to Utah Code Ann. Section 41-3-302

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

There have been some questions regarding whether dealers can sell temporary registration or extension permits to a buyer of a motor vehicle for more than the Motor Vehicle Enforcement Division (MVED) charges the dealer for the permit.

C. Summary of the new rule or change:

This proposed amendment clarifies that a dealer must sell a temporary registration or extension permit to a buyer for the same amount that MVED charged the dealer for the permit.

5. Fiscal Information

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

A. State budget:

This proposed amendment is not expected to have any fiscal impact on state government revenues or expenditures because the amendment only addresses what may be done after a temporary registration permit or extension permit is purchased from the state, which does not impact state government revenues or expenditures.

B. Local governments:

This proposed amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because the amendment is not related to local governments' revenues or expenditures.

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

This proposed amendment may reduce revenue for a small business that is a car dealer, if the small business is marking up the cost of a temporary registration permit or extension permit.

No data is available to identify which car dealers may be marking up the cost of a temporary registration permit or extension permit so the fiscal impact cannot be quantified.

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

This proposed amendment may reduce revenue for a non-small business that is a car dealer, if the non-small business is marking up the cost of a temporary registration permit or extension permit.

No data is available to identify which car dealers may be marking up the cost of a temporary registration permit or extension permit so the fiscal impact cannot be quantified.

E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed amendment may reduce revenue for a person other than a small business, non-small business, state or local government entity that is a car dealer, if the car dealer is marking up the cost of a temporary registration permit or extension permit. No data is available to identify which car dealers may be marking up the cost of a temporary registration permit or extension permit so the fiscal impact cannot be quantified.
F. Compliance costs for affected persons:
This proposed amendment is not expected to impose any compliance costs on affected persons because the amendment does not change the compliance cost for a dealer to charge the correct amount for a temporary registration or extension permit.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Non-Small Businesses	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Other Persons	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Total Fiscal Cost	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Non-Small Businesses	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Other Persons	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Total Fiscal Benefits	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**
Net Fiscal Benefits	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**

7. Regulatory Impact Analysis Approval

Commissioner of the Tax Commission, Rebecca L. Rockwell, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 41-3-302		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Rebecca Rockwell, Commissioner	**Date:**	10/08/2026

R877. Tax Commission, Motor Vehicle Enforcement.
R877-23V. Motor Vehicle Enforcement.
R877-23V-5. Temporary Motor Vehicle Registration Permits and Extension Permits Issued by Dealers Pursuant to Utah Code Ann. Section 41-3-302.

(1) Every dealer desiring to issue temporary permits for the operation of motor vehicles shall apply to the Motor Vehicle Enforcement Division. If the privilege is extended, the dealer will receive a series of permits, consecutively numbered. The numbers shall be recorded by the division and charged to the dealer.

(2) If a vehicle purchaser requests a temporary permit, the dealer shall issue no more than one temporary registration permit, in numerical sequence, for each motor vehicle sold.

(3) The expiration date on the original permit shall be legible from a distance of 30 feet.

(4) The permit shall be displayed at the rear of the motor vehicle, in a place where the printed information on the permit and the expiration date may be easily seen.

(5) Temporary permits must not be placed in rear windows or permit holders with less than 70% [~~percent~~]light transparency.

(a) If a permit holder is used, it must not cover any of the printed information on the permit, including the expiration date.

(b) If a license plate frame is used in conjunction with a permit holder, it must not cover any printed information or expiration date on the permit.

(c) Temporary permits must be protected from exposure to the weather and conditions that would make them illegible.

(6) If a temporary permit is filled out incorrectly, the sale of the vehicle is rescinded, or for some other reason the permit is unusable, the dealer must return the permit to the Motor Vehicle Enforcement Division, together with the stub, and it will not be considered issued. If the permit is placed on a vehicle and the sale has not been rescinded, the permit will be considered issued and the dealer is liable for the registration fee for the vehicle together with any applicable penalties.

(7) A dealer's temporary permits may be audited at any time and the dealer [~~required to~~]shall pay for all outstanding permits. The registration fee charged will be for a passenger car unless the dealer is licensed to sell only motorcycles or small trailers.

(a) If the dealer's records show that the permit was issued for a vehicle other than that for which the dealer was billed, the dealer must submit the proper fee and penalty.

(b) If the records disclose that the permit was cleared properly, the dealer must furnish the license number of the vehicle for which the permit was issued and the date of issue.

(c) A dealer shall resolve any outstanding permit billings by payment of fees and penalties or by reconciling the permits before any additional permits will be issued to the dealer. This action will not be construed to be a cancellation of a dealer's privilege of issuing temporary permits, but a function of the division's routine audit and billing procedure.

(8) The dealer shall keep a written record in numerical sequence of every temporary registration permit issued. This record shall include the following information:

(a) the name and address of the person or firm to whom the permit is issued;

(b) a description of the motor vehicle for which it was issued, including year, make, model, and identification number;

(c) date of issue;

(d) license number;

(e) in the case of a commercial vehicle, the gross laden weight for which it was issued.

(9) In exceptional circumstances a dealer as agent for the division may issue an additional temporary permit for a vehicle as follows:

(a) The dealer must contact the division and request an extension permit for a particular vehicle. If the request is denied, no extension permit will be issued.

(b) If the division approves the extension permit, the division shall issue the dealer an approval number and the dealer shall record the approval number:

(i) in the dealer's temporary permit record; and

(ii) on the permit stub in the space next to the dealer's license number.

(c) The dealer must return the permit stub to the division within 45 days from the date it is issued.

(d) A dealer may not issue an extension permit if it is determined that the dealer has been granted extensions for more than 6% of the permits issued to the dealership during the past three months. This percentage is calculated by dividing the number of extensions granted the dealer during the past three months by the permits issued by the dealer during the past three months.

(10) All extension permits issued by dealers under this rule are considered issued by the division.

(11) When a motor vehicle is sold for registration in another state, the stub portion of the temporary permit shall be filed with the division within 45 days from the date of issue, accompanied by the required fee. The sale must be reported in the dealer's monthly report of

sale required by Subsection 41-3-301(2)(b). If the permit stub and the required fee are not postmarked or received by the division within 45 days, a penalty equal to the required fee shall be collected pursuant to Section 41-3-302.

(12) The temporary registration card, attached to the temporary permit, must be detached and given to the customer when the temporary permit is issued. This temporary registration card must be kept in the vehicle while the temporary permit is displayed.

(13) A dealer shall charge a buyer of a motor vehicle the same amount for a temporary permit that the Motor Vehicle Enforcement Division charges the dealer for the cost of the temporary permit.

KEY: taxation, motor vehicles
Date of Last Change: 2026[~~September 15, 2025~~]
Notice of Continuation: November 9, 2021
Authorizing, and Implemented or Interpreted Law: 41-1a-712; 41-3-105; 41-3-201; 41-3-202; 41-3-210; 41-3-301; 41-3-302; 41-3-305; 41-3-503; 41-3-505; 41-3-506; 41-3-507

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58324**
Rule or section number:	**R877-23V-7**

1. Agency Information

Title catchline:	Tax Commission, Motor Vehicle Enforcement
Building:	Tax Commission
Street address:	210 N 1950 W
City, state:	Salt Lake City, UT

2. Contact Persons

Name:	Phone:	Email:
Administrative Assistant	801-297-3901	officeofthecommission@utah.gov

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

3. General Information

A. Rule or section catchline:

R877-23V-7. Misleading Advertising Pursuant to Utah Code Ann. Section 41-3-210

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

This proposed amendment makes significant updates and corrections to the current rule based on recent developments regarding motor vehicle dealers and related FTC guidance.

C. Summary of the new rule or change:

This proposed amendment:
1) defines "conspicuous statement" and consolidates many existing clarity requirements into one subsection;
2) lists the informational statements that require a conspicuous statement;
3) defines terms related to the advertised price of a motor vehicle, including a dealer-required add-on product, a dealer-required fee, and an optional product;
4) requires that an advertisement for a new motor vehicle accurately state the status or location of the motor vehicle if it is not in the possession of a dealer or available to be shown;
5) clarifies that a picture advertisement of a used motor vehicle must be a picture of the actual used motor vehicle;
6) requires that the advertised price of a motor vehicle include all mandatory fees and services, may not be conditioned or changed by a variety of approaches, and may only be increased at the time of sale by adding the cost of an optional product, a tax or fee imposed by law, or some shipping costs, as requested by the buyer; and
7) prohibits a dealer from misrepresenting that tangible personal property, a service, or other amount is required by law or a lender.

The proposed amendment also makes other various nonsubstantive corrections and updates.

5. Fiscal Information

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
This proposed amendment is not expected to have any fiscal impact on state government revenues or expenditures because the amendment is unrelated to state revenue or expenditures.
B. Local governments:
This proposed amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because the amendment is unrelated to local governments' revenue or expenditures.
C. Small businesses ("small business" means a business employing 1-49 persons)**:**
This proposed amendment may have an impact on non-small businesses' revenues or expenditures but the amount of the impact cannot be quantified because there is no data regarding the individual advertising practices of all car dealers.
D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This proposed amendment may have an impact on non-small businesses' revenues or expenditures but the amount of the impact cannot be quantified because there is no data regarding the individual advertising practices of all car dealers.
E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed amendment may have an impact on persons other than small businesses, non-small businesses, state, or local government entities but the amount of the impact cannot be quantified because there is no data regarding the individual advertising practices of all car dealers.
F. Compliance costs for affected persons:
This proposed amendment may impose compliance costs on affected persons but the amount of the costs cannot be quantified because there is no data regarding the individual advertising practices of all car dealers.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Non-Small Businesses	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Other Persons	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Total Fiscal Cost	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Non-Small Businesses	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Other Persons	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Total Fiscal Benefits	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**
Net Fiscal Benefits	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**

7. Regulatory Impact Analysis Approval

Commissioner of the Tax Commission, Rebecca L. Rockwell, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 41-3-210		

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Rebecca Rockwell, Commissioner	**Date:**	10/08/2026

R877. Tax Commission, Motor Vehicle Enforcement.
R877-23V. Motor Vehicle Enforcement.
R877-23V-7. Misleading Advertising Pursuant to Utah Code Ann. Section 41-3-210.

(1) As used in this section:

(a) "Advertised price" means the price of a motor vehicle advertised by a dealer.

(b)(i) "Advertisement" means any oral, written, graphic, or pictorial statement made that concerns the offering of a motor vehicle for sale or lease.

[~~(b)~~](ii) "Advertisement" includes any statement or representation:

[~~(i)~~](A) made in a newspaper, magazine, electronic medium, or other publication;

[~~(ii)~~](B) made on radio or television;

[~~(iii)~~](C) appearing in any notice, handbill, sign, billboard, banner, poster, display, circular, pamphlet, letter, or other printed material;

[~~(iv)~~](D) contained in any window sticker or price tag; or

[~~(v)~~](E) in any oral statement.

[~~(c)~~](iii) "Advertisement" includes the [~~terms "advertise" and "advertising"~~]term "advertise" and any variant of that term.

[~~(d)~~](iv) "Advertisement" does not include:

[~~(i)~~](A) a statement made solely for obtaining motor vehicle financing or a motor vehicle title; or

[~~(ii)~~](B) hand written negotiation sheets between a dealer and a customer of the dealer.

(c) "Conspicuous statement" means a statement that is:

(i)(A) if type is used, reasonably prominent relative to surrounding text by size, contrast, placement, or emphasis; or

(B) if audio is used, in words that can be heard and understood and remain at a consistent speed throughout the advertisement; and

(ii) in terms that are understandable to the buying public.

(d)(i) "Dealer-required add-on product" means a product, a service, equipment, an accessory, or other similar tangible personal property or service that a dealer requires a buyer to buy as a condition to purchase a motor vehicle.

(ii) "Dealer-required add-on product" includes a preinstalled product that is not removable without damage or substantial effort, when the dealer's standard practice is not to remove or disable the product on request, or when the product is installed on every vehicle.

(iii) "Dealer-required add-on product" does not include:

(A) a tax or fee required by law; or

(B) an optional product.

(e)(i) "Dealer-required fee" means a fee, charge, or cost that a dealer requires a buyer to pay as a condition to purchase a motor vehicle:

(A) in addition to either the cost of the motor vehicle or a dealer-required add-on product; and

(B) regardless of the name or designation of the fee.

(ii) "Dealer-required fee" includes a dealer-documentary fee or any other fee charged by a dealer to prepare a document.

(iii) "Dealer-required fee" does not include a tax or fee required by law.

(f) "Optional product" means a product, service, equipment, accessory or other tangible personal property or service that a dealer does not require for a buyer to buy or lease a motor vehicle.

(2) Violation of this section constitutes a violation of licensing prohibitions and requirements under Section 41-3-210.

(a)[~~ Accuracy. Any advertised statements and offers about a motor vehicle as to year, make, model, type, condition, equipment, price, trade-in allowance, terms, or other similar information, shall be clearly set forth and based upon facts.~~](i) An advertised statement about a motor vehicle regarding the following shall be set forth clearly and based on facts:

(A) year;

(B) make;

(C) model;

(D) type;

(E) condition;

(F) equipment; or

(G) other similar information as determined by the division.

(ii) An advertisement of the following relating to a motor vehicle, type of motor vehicle, or motor vehicle transaction, may not be misleading, shall be based on facts, and shall make all necessary information related to the following as a conspicuous statement:

(A) the advertised price;

(B) the duration or term of a lease or other financing;

(C) a down payment;

(D) reference to savings;

(E) a disclosure of material fact;

(F) a rebate or cash rebate and the identity of the person offering the rebate or cash rebate; or

(G) another similar item as determined by the division.

(b) [~~Bait. ~~]Bait advertising and bait and switch selling practices may not be used.

(i) [~~Except as provided in Subsections (2)(b)(ii) and (iii), a~~]If a motor vehicle is advertised at a specific price:

(A) except as provided in Subsection (2)(b)(ii), for a used motor vehicle, the motor vehicle shall be in the possession of the advertiser at the address given[~~,~~]; or

(B) for a new motor vehicle, the motor vehicle shall be in the possession of the advertiser at the address given, or the advertisement shall accurately describe the status of the motor vehicle by stating the vehicle is in transit, in production, or a similar status.

[~~(ii) A new motor vehicle that is in transit to the advertiser at the address given, is considered in the possession of the advertiser if the advertiser is a dealer of that make of new motor vehicle.~~]

[~~(iii)~~](ii) A used motor vehicle that is actually in transit to the advertiser at the address given, is considered in the possession of the advertiser if the advertiser produces, upon request by any employee of the division, proof of purchase for the advertised vehicle establishing a date of purchase before the date of the advertisement.

[~~(iv)~~](iii)(A) Except as provided in Subsection (2)(b)(iii)(C), [~~A~~]an advertised vehicle shall be willingly shown, demonstrated, and sold.

(B) If an advertised vehicle is sold, the advertiser shall, upon request of any prospective [~~purchaser~~]buyer, peace officer, or employee of the division, show sales records of the advertised motor vehicle.

(C) An advertised new motor vehicle does not need to be available to be shown, demonstrated, or sold if the advertisement for the motor vehicle accurately describes the status of the vehicle by stating the vehicle is transit, in production, or a similar status.

(D) A new motor vehicle dealer may advertise that the dealer is taking orders for a motor vehicle that is not in stock if the advertisement clearly discloses that the motor vehicle is not in stock.

[~~(v)~~](iv) If an advertisement contains a picture of a motor vehicle and a price[~~, the motor vehicle pictured shall be a similar model with similar options and accessories as the advertised motor vehicle.~~]:

(A) for a new motor vehicle, the pictured motor vehicle shall be the same in make, model, condition, and all other material characteristics of the advertised motor vehicle, and a reasonable consumer should be able to understand that the picture is illustrative and not the exact motor vehicle; and

(B) for a used motor vehicle, the pictured motor vehicle shall be the exact motor vehicle offered for sale.

[~~(c)(i) Price. If the price or payment of a motor vehicle is quoted, the motor vehicle shall be clearly identified as to make, year, model, and if new or used.~~

~~(ii) Except as provided in Subsection (c)(i)(iii), the advertised price of a motor vehicle shall include charges that the customer shall pay for the motor vehicle, including any charges for freight, destination, dealer preparation, dealer handling, or any non-optional items installed on the vehicle at the time of the advertisement.~~

~~(iii) The following amounts are not required to be included in the advertised price that the customer shall pay for the motor vehicle:~~

~~(A) dealer documentary service fees;~~

~~(B) if optional, charges for undercoating, rustproofing, window etching, window tint, an alarm system, or any other similar item;~~

~~(C) taxes or fees required by the state, a county, or a local jurisdiction, including sales and use taxes, titling and registration fees, safety and emission fees, and waste tire recycling fees or;~~

~~(D) temporary permit fees.~~

~~(iv) If "list", "sticker", or similar words are used in an advertisement, the words may refer only to the manufacturer's suggested retail price.~~

~~(v) If a supplementary price sticker is used, the advertised price shall include all items listed on the supplementary sticker.~~]

(c)(i) An advertised price of a motor vehicle shall:

(A) display a total amount as the most prominently displayed price in the advertisement;

(B) include any dealer-required fee, dealer-required add-on product charge, and charge for freight, destination, dealer preparation, or dealer handling; and

(C) be accompanied by a conspicuous statement of the make, year, and model of the advertised motor vehicle and whether the motor vehicle is new or used.

(ii) Except to disclose a tax or fee required by law, an advertised price may not contain a footnote, an asterisk, or any fine print that:

(A) contradicts the advertised price;

(B) substantially changes the advertised price; or

(C) discloses a charge that this rule section requires as part of the advertised price.

(iii) A dealer may not condition an advertised price on:

(A) financing through the dealer or any financing option;

(B) a buyer's trade-in; or

(C) a discount, rebate, or other incentive that is not available to every customer.

(iv) A dealer may not charge more than the advertised price of a motor vehicle at the time of sale, except for the additional cost of:

(A) an optional product the buyer agrees to purchase;

(B) a tax or fee imposed on the buyer by law, including a temporary registration permit that is purchased by the dealer and issued to the buyer; or

(C) except as provided in Subsection (2)(c)(i)(B), the cost of shipping a motor vehicle at the buyer's request.

(v)(A) A dealer may charge less than the advertised price of a motor vehicle at the time of sale.

(B) A dealer may advertise a conditional rebate if the eligibility for the conditional rebate is clearly disclosed.

(vi) A dealer may not represent to a buyer that any tangible personal property, service, or other amount is required by law or by a lender if that tangible personal property, service, or other amount is not required by law or by a lender.

(vii) The terms "list," "sticker," or similar term means the manufacturer's suggested retail price of the motor vehicle in an advertisement.

(viii) A dealer shall include in a motor's vehicle's advertised price each dealer-required add-on product and dealer-required fee on the motor vehicle's supplementary or addendum sticker.

(ix)(A) A dealer shall offer the dealer's lowest advertised price of a motor vehicle to a buyer, regardless of whether the buyer knows of the lowest advertised price or mentions the lowest advertised price.

(B) A dealer may not use the term "internet price," "e-price," or another similar term that implies an advertised price is only available to some buyers.

(x) A dealer may post a sign identifying a dealer-documentary fee, or any other fee charged by a dealer to prepare a document, that is included in the advertised price if the sign states that the fee is not required by law.

(d) [~~Savings and Discount Claims. -~~]Because the intrinsic value of a used motor vehicle is difficult to establish, specific claims of savings may not be used in an advertisement. This includes statements such as, "Was priced at $....., now priced at $.....

(i) The [~~word~~]term "wholesale" may not be used in retail motor vehicle advertising.

(ii) [~~When~~]If a motor vehicle advertisement contains an offer of a discount on a new motor vehicle, the amount of the discount [~~must~~]shall be stated by reference to the manufacturer's suggested retail price of the motor vehicle.

(e)(i) [~~Down Payments. -~~]The amount of the down payment may not be stated in a manner that suggests that the down payment is the [~~selling~~]sales price of the motor vehicle.

(ii) If an advertisement states [~~"You can buy with no money down"~~]that a motor vehicle may be purchased with no money down, or uses similar language, [~~the customer~~]a prospective buyer must be able to leave the dealership with the motor vehicle without paying any money down toward the advertised price.

(f)[~~- Trade-in Allowance.~~

~~-~~](i) A specific trade-in amount or range of trade-in amounts may not be used in advertising.

(ii) An advertiser may not assert that a trade-in will be paid off regardless of what is owed on the vehicle.

(g)(i)[~~(A) Finance.~~] The phrases[~~,~~] "no finance charge,"[~~,~~] "no carrying charge,"[~~,~~] or another similar [~~expressions~~]phrase may not be used if there is a charge for placing a transaction on a time payment basis.

[~~(B)~~](ii) A statement representing or implying that no prospective credit [~~purchaser~~]buyer will be rejected because of inability to qualify for credit, such as "we accept all credit applications," may not be used.

(iii) If the amount of the advertised payment changes during the term of the loan, both the payments and the terms of the loan shall be disclosed together.

[~~(h)(i) Unpaid Balance and Repossessions. The term "repossessed" may only be used to describe a motor vehicle that has actually been repossessed.~~

~~(ii) The division may require an advertiser that offers a repossessed motor vehicle for sale to provide proof that the motor vehicle was repossessed.~~

~~(iii) The unpaid balance shall be the full selling price unless otherwise stated.~~]

[~~(i)~~](h) [~~Current Used. -~~]If a used motor vehicle, as defined by Section 41-3-102, is advertised, the first line of the advertisement shall:

[~~(ii)~~](i) contain the term "used," "pre-owned," "certified used," "certified pre-owned," or other similar [~~term used~~]phrase to [~~designate~~]describe a used motor vehicle; or

[~~(iii)~~](ii) clearly indicate that the motor vehicle offered is used.

[~~(j) Demonstrator, executive's, or official's motor vehicle.~~](i)(i) As used in this Subsection (2)(i):

[~~(i)~~](A) "Demonstrator motor vehicle" means a motor vehicle used by a new motor vehicle dealer [~~or personnel~~]or one or more employees of a new motor vehicle dealer for demonstrating performance ability.

(B) "Demonstrator motor vehicle" does not include a motor vehicle that:

(I) has previously been sold or leased to a member of the public; or

(II) is purchased or leased for personal use.

[~~(ii)(A)~~](C) "Executive's motor vehicle" or "official's motor vehicle" means a motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer or distributor, or by an executive or official of the franchised dealership.

[~~(B)~~](D) "Executive's motor vehicle" or "official's motor vehicle" does not include a motor vehicle that:

(I) has previously been sold or leased to a member of the public; or

(II) is purchased or leased for personal use.

[~~(iii)~~](ii) A demonstrator motor vehicle, executive's motor vehicle, or official's motor vehicle:

(A) may only be advertised for sale by a dealer who is franchised for the sale of that make of new motor vehicle; and

(B) shall be clearly and prominently advertised as a demonstrator motor vehicle, executive's motor vehicle, or official's motor vehicle.

[~~(k)~~](j) [~~Mileage Statements. —~~]If an advertisement [~~quotes~~]states the number of miles or a range of miles a motor vehicle has been driven, the dealer shall:

(i) have a properly completed odometer disclosure statement evidencing that the motor vehicle has not been operated in excess of the advertised mileage at the time of the advertisement; and

(ii) upon request of any prospective [~~purchaser~~]buyer, peace officer, or employee of the division, produce all documents in its possession pertaining to that motor vehicle so that the mileage may be readily verified.

[~~(l)~~](k)(i) [~~Underselling Claims. —~~]Underselling claims include:

(A) "our prices are guaranteed lower than elsewhere";

(B) "money refunded if you can duplicate our values";

(C) "we guarantee to sell for less";

(D) "we sell for less";

(E) "we purchase motor vehicles for less so we can sell them for less";

(F) "highest trade-in allowance";

(G) "we give more in trade than any other dealers"; or

(H) a claim similar to Subsections [~~(2)(l)(i)(A)~~](2)(k)(i)(A) through (G).

(ii) Unsupported underselling claims may not be used.

(iii) Evidence of supported underselling claims shall:

(A) be contained in the advertisement; and

(B) be produced upon request of a prospective [~~purchaser~~]buyer, peace officer, or employee of the division.

[~~(m)~~](l) [~~Free. —~~]The term "[~~F~~]free" or [~~words of similar meaning~~]similar term, may be used in advertising only if the advertiser is offering a gift that is not conditional on the purchase of any item of tangible personal property or service.

[~~(n)~~](m)(i) [~~Driving Trial. —~~]As used in this Subsection (2)(m), "[~~D~~]driving trial" means an offer to allow a customer to drive a motor vehicle during a trial period and return the motor vehicle to the dealer at the conclusion of the trial period.

(ii) If a motor vehicle dealer offers a driving trial, the offer shall:

(A) be in writing;

(B) contain the terms and conditions of the offer;

(C) be provided to the customer before the customer takes possession of the motor vehicle that is subject to the driving trial;

(D) provide for the cancellation and return of signed agreements;

(E) provide for the refund of any money or other consideration paid to participate in the driving trial, unless the offer provides otherwise in writing; and

(F) provide for the return of the motor vehicle that was driven during the driving trial and for the return of the customer's vehicle.

[~~(o)(i) Guarantee or warranty. An advertisement that uses a term such as "guarantee," "warranty," or other similar term implying protection, shall include an explanation of each term and coverage of the guarantee or warranty including the time period of coverage of the guarantee or warranty, in clear and concise language.~~

~~(ii) A motor vehicle dealer shall provide a purchaser with a written document stating the specific terms and coverage of a guarantee or warranty, including the time period of coverage of the guarantee or warranty.~~]

[~~(p)~~](n) [~~Name Your Own Deal. Statements~~]Phrases including "write your own deal," "name your own price," "name your own monthly payments," "appraise your own motor vehicle," or similar [~~statements~~]phrases may not be used.

[~~(q)(i) Disclosure of Material Facts. A disclosure of material fact that is contained in an advertisement and that involves a type of motor vehicle or motor vehicle transaction shall be made in a clear and conspicuous manner.~~

~~(ii) A disclosure under Subsection (2)(q)(i) may not include:~~

~~(A) fine print;~~

~~(B) mouse print;~~

~~(C) font or font size smaller than the smallest font or font size of the text used throughout the body of the advertisement; or~~

~~(D) use of an asterisks or other reference symbol to give additional information if the additional information contradicts or substantially changes the meaning of the advertised statements.~~

~~(iii) The speed of the words spoken in any verbal advertisement shall be constant throughout the advertisement.~~]

[~~(r)~~](o)(i) [~~Lease.~~]If an advertisement relates to a lease, the advertisement shall clearly state that the transaction advertised involves a lease.

(ii) For purposes of this Subsection (2)[~~(r)~~](o), the term "lease" shall be used and shall appear in a prominent position in the advertisement in a font and font size as large as the largest text used to directly advertise the motor vehicle.

(iii) A lease advertisement may not contain the phrase "no down payment" or use a similar phrase if any payment is required to lease the motor vehicle.

(iv) Lease terms that are not available to the general public may not be included in an advertisement directed at the general public.

(v) Limitations and qualifications applicable to the advertised lease terms [~~advertised~~]shall be clearly[~~, and conspicuously~~] disclosed.

[~~(s) Electronic Medium Disclosures. A disclosure appearing in any electronic advertising medium shall clearly and conspicuously feature all necessary information in a manner that may be read and understood if type is used, or that may be heard and understood if audio is used.~~]

[~~(t)~~](p)[~~Invoice or Cost.~~](i) The terms "invoice" or "factory invoice" may be used if the dealer is willing to show the factory invoice to the prospective buyer.

(ii) The term "cost" may not be used.

[~~(u) Rebate Offers. "Rebate", "cash rebate," or similar terms may be used only if it is clearly and conspicuously stated who is offering the rebate.~~]

[~~(v)~~](q) [~~Buy-down Interest Rates.~~]A buy-down interest rate may not be advertised unless the dealer discloses the amount of dealer contribution and states that the dealer contribution [~~by the dealership~~]may increase the negotiated price of the motor vehicle.

[~~(w)~~](r) [~~Special Status of Dealership.~~]A motor vehicle advertisement may not falsely imply that the dealer has a special sponsorship, approval status, affiliation, or connection with the manufacturer that is greater or more direct than any other [~~like~~]similar dealer.

[~~(x)~~](s)(i) [~~Price Equaling.~~]An advertisement that [~~expresses a policy of~~]addresses matching or bettering a competitor's price shall:

(A) fully disclose any conditions that apply; and

(B) specify the evidence a [~~consumer~~]buyer shall present to take advantage of the offer.

(ii) The evidence described in Subsection (2)[~~(x)~~](s)(i)[~~,~~] may not place an unreasonable burden on a [~~consumer~~]buyer.

(iii) It is not considered to be an unreasonable burden on a [~~consumer~~]buyer to require the [~~consumer~~]buyer to [~~bring~~]produce to a dealer a written offer made to that [~~consumer~~]buyer by an authorized representative of a dealership on a substantially similar motor vehicle.

[~~(y)~~](t) [~~Auction.~~]"Auction," "auction special," or other similar terms may be used only in connection with a motor vehicle offered or sold at a bona fide auction.

[~~(z) Layout and Type Size. The layout, headlines, illustrations, or font size of a printed advertisement and the broadcast words or pictures of radio, television, or electronic medium advertisements may not convey or permit an erroneous or misleading impression as to a motor vehicle offered at a featured price.~~]

[~~(aa)(i) "Clearly, conspicuously, and accurately" means:~~

~~(A) in bold print and in a font size that is capable of being read without unreasonable effort;~~

~~(B) in terms that are understandable to the buying public; and~~

~~(C) printed close to the qualified representation and not separated or buried by an asterisk in some other part of the advertisement.~~

~~(ii) An advertisement of the following may not be misleading and any necessary qualifications shall be clearly, conspicuously, and accurately stated to prevent misunderstanding:~~

~~(A) an offer;~~

~~(B) an expression;~~

~~(C) a display of price;~~

~~(D) a term;~~

~~(E) a down payment;~~

~~(F) a trade-in allowance;~~

~~(G) a cash difference;~~

~~(H) a savings; or~~

~~(I) a term similar to Subsections (2)(aa)(i)(A) through (H).~~]

[~~(bb)~~](u)(i) An advertisement shall disclose if a vehicle has a branded title or salvage certificate.

(ii) The disclosure described in Subsection [~~(2)(bb)(i)~~](2)(u)(i) shall be made by inserting the terms "salvage certificate" or "branded title," as appropriate:

(A) immediately following the year, make, and model of the advertised vehicle; and

(B) in the same font and font size as is used to advertise the year, make, and model of the vehicle.

KEY: taxation, motor vehicles
Date of Last Change: 2026[~~September 15, 2025~~]
Notice of Continuation: November 9, 2021
Authorizing, and Implemented or Interpreted Law: 41-1a-712; 41-3-105; 41-3-201; 41-3-202; 41-3-210; 41-3-301; 41-3-302; 41-3-305; 41-3-503; 41-3-505; 41-3-506; 41-3-507

NOTICE OF SUBSTANTIVE CHANGE	
TYPE OF FILING: Amendment	**Filing ID: 58325**
Rule or section number:	**R877-23V-14**

1. Agency Information

Title catchline:	Tax Commission, Motor Vehicle Enforcement
Building:	Tax Commission
Street address:	210 N 1950 W
City, state:	Salt Lake City, UT

2. Contact Persons

Name:	Phone:	Email:
Administrative Assistant	801-297-3901	officeofthecommission@utah.gov

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

3. General Information

A. Rule or section catchline:

R877-23V-14. Dealer Identification of Fees Associated with Issuance of Temporary Permits Pursuant to Utah Code Ann. Sections 41-3-301 and 41-3-302

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

The proposed amendment to Section R877-23V-7 provides definitions, requirements, and prohibitions that supersede the requirements of Section R877-23V-14.

C. Summary of the new rule or change:

This proposed amendment removes Section R877-23V-14.

5. Fiscal Information

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

A. State budget:

This proposed amendment will not have any fiscal impact on state government revenues or expenditures because the amendment is unrelated to state revenues and expenditures.

B. Local governments:

This proposed amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because the amendment is unrelated to local governments' revenues and expenditures.

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

This proposed amendment is expected to result in a small cost savings to car dealer small businesses because the businesses will no longer be required to produce a sign for display.

No data is available to identify the type or number of signs currently produced for display so the fiscal impact cannot be quantified.

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

This proposed amendment is expected to result in a small cost savings to car dealer non-small businesses because the businesses will no longer be required to produce a sign for display.

No data is available to identify the type or number of signs currently produced for display so the fiscal impact cannot be quantified.

E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed amendment is expected to result in a small cost savings to car dealers that are persons other than small business because the dealers will no longer be required to produce a sign for display. No data is available to identify the type or number of signs currently produced for display so the fiscal impact cannot be quantified.
F. Compliance costs for affected persons:
This proposed amendment is expected to result in a small compliance cost savings on affected persons because the affected persons will no longer be required to produce a sign for display. No data is available to identify the type or number of signs currently produced for display so the fiscal impact cannot be quantified.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Non-Small Businesses	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Other Persons	Inestimable	Inestimable	Inestimable	Inestimable	Inestimable
Total Fiscal Benefits	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**
Net Fiscal Benefits	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**	**Inestimable**

7. Regulatory Impact Analysis Approval

Commissioner of the Tax Commission, Rebecca L. Rockwell, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 41-3-301	Section 41-3-302	

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	12/01/2026

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/08/2026

13. Agency Authorization Information

Agency head or designee and title:	Rebecca Rockwell, Commissioner	**Date:**	10/08/2026

R877. Tax Commission, Motor Vehicle Enforcement.
R877-23V. Motor Vehicle Enforcement.
[~~R877-23V-14. Dealer Identification of Fees Associated with Issuance of Temporary Permits Pursuant to Utah Code Ann. Sections 41-3-301 and 41-3-302.~~

~~(1) As used in this section, "dealer documentary service fee" means a fee that a dealer charges a purchaser or lessee of a motor vehicle for preparing or processing any state-mandated documents or services.~~

~~(2) Only fees required by Title 41, Chapter 1a, Motor Vehicle Act, may be identified as state-mandated fees.~~

~~(3) A dealer that charges the purchaser or lessee of a motor vehicle a dealer documentary service fee shall prominently display a sign in the sales area on the dealer premises in a location that is readily discernable by all purchasers and lessees. The sign shall contain the language set forth in Subsection (3)(a).~~

~~(a) "The dealer documentary service fee of $_____ as set forth in your contract of sale or lease agreement, represents costs to the dealer for preparing and processing documents and other services related to the sale or lease of your vehicle. These fees are not set or mandated by statute or rule."~~

~~(b) The amount disclosed under Subsection (3)(a) shall be the actual amount of the dealer documentary service fee under the dealer's contract of sale or lease agreement.~~]

KEY: taxation, motor vehicles
Date of Last Change: 2026[~~September 15, 2025~~]
Notice of Continuation: November 9, 2021
Authorizing, and Implemented or Interpreted Law: 41-1a-712; 41-3-105; 41-3-201; 41-3-202; 41-3-210; 41-3-301; 41-3-302; 41-3-305; 41-3-503; 41-3-505; 41-3-506; 41-3-507

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 December 01, 2026.

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 March 02, 2027, 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 SUBSTANTIVE CHANGE	
TYPE OF FILING: CPR (Change in Proposed Rule)	**Filing ID: 58013**
Rule or section number:	**R805-7**
Date of previous publication (only for CPRs):	**06/15/2026**

1. Agency Information

Title catchline:	Higher Education (Utah Board of), University of Utah, Administration
Building:	Park Building, Room 309
Street address:	201 Presidents Circle
City, state:	Salt Lake City, UT

2. Contact Persons

Name:	Phone:	Email:
Rebekah Bradway	801-585-7002	rebekah.bradway@legal.utah.edu

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

3. General Information

A. Rule or section catchline:

R805-7. Graduate Student Due Process

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

The university is updating the policies and rules incorporated by reference.

C. Summary of the new rule or change:

This change in the proposed rule updates the version of Policy 6-100 incorporated by reference, adds Rule R6-100C incorporated by reference, and replaces graduate student due process guidelines incorporated by reference with a university rule.

(EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the June 15, 2026, issue of the Utah State Bulletin, on page 112. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

5. Fiscal Information

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

A. State budget:

Because this rule formalizes already-existing processes at the University of Utah, there is no anticipated cost or savings to the state budget.

B. Local governments:

Because this rule formalizes already-existing processes at the University of Utah, there is no anticipated cost or savings to local governments.

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

Because this rule formalizes already-existing processes at the University of Utah, there is no anticipated cost or savings to small businesses.

D. Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
Because this rule formalizes already-existing processes at the University of Utah, there is no anticipated cost or savings to non-small businesses.
E. Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
Because this rule formalizes already-existing processes at the University of Utah, there is no anticipated cost or savings to other persons.
F. Compliance costs for affected persons:
Because this rule formalizes already-existing processes at the University of Utah, there is no anticipated cost or savings to affected persons.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Cost	$0	$0	$0	$0	$0
Fiscal Benefits	**FY2027**	**FY2028**	**FY2029**	**FY2030**	**FY2031**
State Budget	$0	$0	$0	$0	$0
Local Governments	$0	$0	$0	$0	$0
Small Businesses	$0	$0	$0	$0	$0
Non-Small Businesses	$0	$0	$0	$0	$0
Other Persons	$0	$0	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**	**$0**	**$0**

7. Regulatory Impact Analysis Approval

The President of the University of Utah, Taylor Randall, has reviewed and approved this regulatory impact analysis.

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation:	☒

9. Citation Information

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 53H-7-302	Section 53H-7-303	

10. Incorporation by Reference Information

Incorporation by Reference:	
A. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*)**:**	
Official Title of Materials Incorporated (from title page)	Policy 6-100: Instruction and Evaluation
Publisher	University of Utah
Issue Date	August 1, 2026

B. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*)**:**	
Official Title of Materials Incorporated (from title page)	Rule R6-100C: Appeals of Academic Actions
Publisher	University of Utah
Issue Date	August 1, 2026

C. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*)**:**	
Official Title of Materials Incorporated (from title page)	Policy 6-410, Student Academic Performance, Academic Conduct, and Professional and Ethical Conducts
Publisher	University of Utah
Issue Date	August 15, 2023

D. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*)**:**	
Official Title of Materials Incorporated (from title page)	Rule R6-200B: Graduate Academic Standing, Performance, Probation, and Dismissal
Publisher	University of Utah
Issue Date	September 28, 2026

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.	
A. Comments will be accepted until:	No Formal Comment Period

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	12/02/2026

13. Agency Authorization Information

Agency head or designee and title:	Mitzi Montoya, Senior IT Support Technician	**Date:**	10/05/2026

R805. Higher Education (Utah Board of), University of Utah, Administration.
R805-7. Graduate Student Due Process.
R805-7-1. Purpose.

The purpose of this rule is to establish minimum standards of procedural due process for a graduate student's suspension or dismissal from a graduate program.

R805-7-2. Authority.

This rule is authorized by Sections 53H-7-302 and 53H-7-303.

R805-7-3. Due Process for Suspension or Dismissal.

(1) A University of Utah graduate student is entitled to due process before suspension or dismissal from a graduate program. These due process rights include notice of academic deficiencies, an opportunity to correct the deficiencies before suspension or dismissal, and the opportunity to engage in a neutral unbiased hearing process to challenge a suspension or dismissal after one is imposed.

(2) The following University of Utah policies and [~~guidelines~~]rules establish minimum standards of procedural due process for a graduate student's suspension or dismissal from a graduate program and are incorporated by reference within this rule, including any amendments:

(a) Policy 6-100: Instruction and Evaluation, [~~July 1, 2024,~~]August 1, 2026, and Rule R6-100C: Appeals of Academic Actions, August 1, 2026, as [~~it~~]they relate[~~s~~] to an appeal of an academic action that is a suspension or dismissal from a graduate program;

(b) Policy 6-410: Student Academic Performance, Academic Conduct, and Professional and Ethical Conduct, August 15, 2023, as it relates to academic misconduct; and

(c) Rule R6-200B: Graduate Academic Standing, Performance, [~~and~~] Probation, and Dismissal, [~~Guidelines approved by the University of Utah Graduate Council, April 7, 2026~~]September 28, 2026.

(3) A University of Utah college or department may create graduate student policies or handbooks that address a graduate student's suspension or dismissal from the college or department's academic programs. Any such policy or handbook must meet minimum due process standards established in the policies and [~~guidelines~~]rules described in Subsection (2).

KEY: Graduate Student Due Process
Date of Last Change: 2026
Authorizing, and Implemented or Interpreted Law: 53H-7-302; 53H-7-303

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 (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (**. . . . . .**) indicates that unaffected text was removed to conserve space.

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

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

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

NOTICE OF EMERGENCY (120-DAY) RULE		
Rule or section Number:	**R909-19**	**Filing ID: 58315**

Effective date:	**10/05/2026**

1. Agency Information

Title catchline:	Transportation, Motor Carrier
Building:	Calvin Rampton
Street address:	4501 S 2700 W
City, state:	Taylorsville, UT
Mailing address:	PO Box 148455
City, state and zip:	Salt Lake City, UT 84114-8455

2. Contact Persons

Name:	Phone:	Email:
Leif Elder	801-580-8296	lelder@utah.gov
James Godin	801-573-7181	jamesjgodin@agutah.gov
Lori Edwards	385-341-3414	loriedwards@agutah.gov

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

3. General Information

A. Rule or section catchline:
R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification
B. Purpose of the new rule or reason for the change:
Rising fuel prices have exposed vehicle owners to excessive fuel surcharges under the existing formula laid out in Section R909-19-16. The Utah Department of Transportation (UDOT) is advancing an emergency adoption to the current fuel surcharge formula by adopting the proposed language that is in the current proposed Rule R909-19 changes, which otherwise would not go into effect until approximately five weeks from the date of this emergency filing.
C. Summary of the new rule or change:
The proposed new language in Section R909-19-16 changes the current fuel surcharge formula in Section R909-19-16.

5. Emergency Rule Information

A. 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:	
Under the current version of Rule R909-19, the fuel surcharge for a vehicle that is towed is $82 for a private property non-consent tow and for a police-generated, non-consent tow, it is $82 per hour. When the fuel surcharge provisions in Section R909-19-16 were created, their purpose was to cover the additional cost of fuel used for a tow service. With the unprecedented cost of fuel, the current allowed surcharge is likely more than double the additional fuel cost in many cases. UDOT finds there is a significant impact to the financial welfare of hundreds of Utah citizens each day that vehicles are towed under the current fuel surcharge provisions in Section R909-19-16 and as a result are required to pay an exorbitant fee. This emergency rule will provide immediate relief to the affected parties that will have their vehicles towed.	

6. Fiscal Information

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
The amendments in this rule related to certain costs and fees address outlier situations, or situations where UDOT cannot readily quantify anticipated costs or savings to the state budget. In any event, UDOT anticipates there will be no measurable fiscal impact on the state budget.
B. Local governments:
The amendments in this rule related to certain costs and fees address outlier situations, or situations where UDOT cannot readily quantify anticipated costs or savings on local governments. In any event, UDOT anticipates there will be no measurable fiscal impact on local governments.
C. Small businesses ("small business" means a business employing 1-49 persons)**:**
Towing companies currently charge a fuel surcharge, in addition to the normal tow rate, calculated based on gas prices and a formula outlined in this rule.

The current formula allows for charges that far exceed actual fuel costs. For example, based on today's gas prices, a light duty tow service is allowed an $82 fuel surcharge, while the actual cost for the additional fuel could be $40 or less.

The rule change modifies the formula so that the fuel surcharge does not escalate as quickly and caps it at $40 ($40 per hour for certain tow types). This change will decrease the amount a tow company may collect for a fuel surcharge, aligning it more closely with actual fuel costs.

Based on approximately 400 vehicles towed daily and a new $40 fuel surcharge cap, towers would collect $16,800 less in fuel surcharge revenue daily. If gas prices remain the same, this would equate to a reduction in tower revenue of $6,132,000 over the course of a year. If the tow service takes longer or the vehicle being towed is larger, the decrease in revenue will increase proportionally.

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

A vehicle owner must pay a fuel surcharge, in addition to the normal tow rate, as part of fees charged by a tow company.

The current formula allows charges that far exceed actual fuel costs. For example, based on today's gas prices, a light duty tow service is allowed an $82 fuel surcharge, while the actual cost for the additional fuel could be $40 or less.

The rule change modifies the formula so that the fuel surcharge does not escalate as quickly and caps it at $40 ($40 per hour for certain tow types). This change will decrease the amount a vehicle owner may pay for a fuel surcharge, aligning it more closely with the towers' actual fuel costs.

Based on approximately 400 vehicles towed daily and a new fuel surcharge cap of $40, towers would collect $16,800 less in fuel surcharge revenue daily. If gas prices remain the same, this would equate to a $6,132,000 reduction in tow costs over the course of a year. If the tow service takes longer or the vehicle being towed is larger, the fuel surcharge savings will increase proportionally.

E. Compliance costs for affected persons:

A vehicle owner must pay a fuel surcharge, in addition to the normal tow rate, as part of fees charged by a tow company.

The current formula allows charges that far exceed actual fuel costs. For example, based on today's gas prices, a light duty tow service is allowed an $82 fuel surcharge, while the actual cost for the additional fuel could be $40 or less.

The rule change modifies the formula so that the fuel surcharge does not escalate as quickly and caps it at $40 ($40 per hour for certain tow types). This change will decrease the amount a vehicle owner may pay for a fuel surcharge, aligning it more closely with the towers' actual fuel costs.

Based on approximately 400 vehicles towed daily and a new fuel surcharge cap of $40, towers would collect $16,800 less in fuel surcharge revenue daily. If gas prices remain the same, this would equate to a $6,132,000 reduction in tow costs over the course of a year. If the tow service takes longer or the vehicle being towed is larger, the fuel surcharge savings will increase proportionally.

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):

If fuel prices stay the same, these changes could result in a $6,132,000 decrease in revenue for all tow businesses over the course of a year.

This is based on 400 vehicles towed daily and the adjustments to the fuel surcharge formula, including a new fuel surcharge cap.

Carlos M Braceras, Commissioner

7. Citation Information

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 72-9-601	Section 72-9-602	Section 72-9-603
Section 72-9-604	Section 53-1-106	Section 41-6a-1405

9. Agency Authorization Information

Agency head or designee and title:	Carlos M Braceras, PE, Commissioner, UDOT	**Date:**	10/05/2026

R909. Transportation, Motor Carrier.
R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification.
R909-19-1. Authority.

Sections 72-9-601, 72-9-602, 72-9-603, 72-9-604, 53-1-106, and 41-6a-1405 authorize the Department to make this rule.

R909-19-2. Applicability.

Tow truck motor carriers and employees must comply with and observe administrative rules, including Rule R909-1, federal regulations, state and local traffic laws and guidelines as prescribed by law, including Sections 41-6a-401.9, 41-6a-1404, 41-6a-1405, 41-6a-1406, 72-9-301, 72-9-303, 72-9-601, 72-9-602, 72-9-603, 72-9-604, 72-9-701, 72-9-702, and 72-9-703.

R909-19-3. Definitions.

(1) "Consent tow" means any tow truck service done at the vehicle, vessel, or outboard motor owner's or its legal operator's knowledge or approval.

(2) "Department" means the Utah Department of Transportation.

(3) "Division" means the Motor Carrier Division.

(4) "Emergency moves" means a tow operation initiated by law enforcement to move a wrecked or disabled motor vehicle.

(5) "Drop Fee" means a fee a vehicle owner, authorized, operator, or authorized agent of a vehicle owner pays to a tow truck motor carrier to relinquish a vehicle.

(a) of which a tow truck motor carrier has taken possession to perform a non-consent tow; and

(b) the vehicle owner, authorized operator, or authorized agent of a vehicle owner is attempting to retrieve after the tow truck motor carrier is in possession of the vehicle but before the vehicle is removed from the property or scene.

(6) "Gross combination weight rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination articulated motor vehicle. In the absence of a value specified by the manufacturer, GVCR will be determined by adding the GVWR of the power unit and the total weight of the towed unit, and any load thereon.

(7) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

(8) "Life-essential personal property" includes those items essential to sustain life or health, including prescription medication, medical equipment, essential clothing, such as shoes, coat, food and water, child safety seats, and government-issued photo identification.

(9) "Non-consent police generated tow" means tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or highway authority, as defined in Section 72-1-102.

(10) "Non-consent non-police generated tow" means towing services performed without the prior consent or knowledge of the owner of the vehicle or the person authorized by the owner to operate the vehicle from private property. The tow truck service must be from private property, at the request of the property landowner or agent for the landowner.

(11) "Normal office hours" means hours of operation where the office or yard shall be staffed and open for public business during normal business hours Monday through Friday, except for designated state and federal holidays.

(12) "Recovery operation" means a towing service that may require charges in addition to the normal one-truck one-operator towing service requirements. The additional charges may include charges for manpower, extra equipment, and supplies necessary for the recovery operation.

(13) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission under Subsection 41-1a-1101(5).

(14) "Tow truck" means a commercial vehicle constructed, designed, altered, or equipped primarily to tow or remove damaged, disabled, abandoned, seized, repossessed, or impounded vehicles from a highway or other place using a crane, hoist, tow bar, tow line, dolly tilt bed, or other similar means of vehicle transfer without its own power or control.

(15) "Tow truck certification program" means a program to authorize and approve tow truck motor carriers, operators, and vehicles is the process by which the Department, acting under Section 72-9-602, shall verify compliance with the State and Federal Motor Carriers Safety Regulations.

(16) "Tow truck motor carrier" means a motor carrier as defined in Section 72-9-102.

(17) "Tow truck operator" means an individual who performs operations related to a tow truck service as an employee or as an independent contractor on behalf of a tow truck motor carrier.

(18) "Tow truck service" means the functions and ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place using a tow truck.

(a) Tow truck service, with regards to authorized towing fees, is determined by the type and size of the towed vehicle, not the type and size of the tow truck performing the service.

(b) Towed vehicle classifications will be used when determining authorized fees. Information regarding the GVWR to determine the classification category of towed vehicles can be found on the identification plate on the vehicle driver-side doorframe. Towed vehicle classifications are as follows:

(i) "Light duty" means any towed vehicle with a GVWR 10,000 pounds or less;

(ii) "Medium duty" means any towed vehicle with a GVWR between 10,001 to 26,000 pounds;

(iii) "Heavy duty" means any towed vehicle with a GVWR or GCWR 26,001 pounds and greater.

(19) "Tow truck motor carrier steering committee" means a committee established by the Motor Carrier Division and will include enforcement personnel, industry representatives, and other persons as deemed necessary.

R909-19-4. Duties - Enforcement - Complaints, Compliance Audits, Inspections, and Right of Entry.

The Department shall administer and, in cooperation with the Department of Public Safety, Utah Highway Patrol Division, as specified under Section 53-8-105, shall administer and enforce state and federal laws related to the operation of tow truck motor carriers within the state. In addition, a tow truck motor carrier shall submit its lands, property, buildings, and equipment for inspection and examination. It must submit its accounts, books, records, or other documents for inspection and copying to verify compliance as authorized by Section 72-9-301.

R909-19-5. Insurance.

(1) Tow truck motor carriers performing emergency moves shall maintain liability insurance coverage of at least $750,000 per occurrence. Tow truck motor carriers performing non-emergency moves shall maintain liability insurance coverage of at least $1,000,000 per occurrence.

(2) Tow truck motor carriers performing consent or non-consent tows are required to obtain an MCS-90 endorsement for environmental restoration as required in 49 CFR Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers.

(3) Evidence of required insurance must be maintained at the principal place of business and made available to the Department or Investigator upon request and before issuance of the tow truck motor carrier certification.

R909-19-6. Penalties and Fines.

(1) Any tow truck motor carrier that fails or neglects to comply with State or Federal Motor Carrier Safety Regulations, other statutes, any part of this rule, any term or condition of the permit or any materials that it incorporates by reference or a Departmental order, is subject to:

(a) a civil penalty as authorized by Sections 72-9-701 and 72-9-703;

(b) suspension or revocation of a carrier, operator, or tow truck certification, suspension, or revocation will be based upon the severity of violations to this rule, Sections 41-6a-1406 and 72-9-603;

(c) issuance of a cease-and-desist order as authorized by Section 72-9-303; and

(d) the revocation or suspension of registration by the Utah State Tax Commission under Section 72-9-303.

R909-19-7. Towing Notice Requirements.

(1) Non-consent police generated, and non-consent non-police generated tows conducted by tow truck motor carriers must input required information in electronic form on the Division of Motor Vehicles State Tax Commission's website, at "https://secure.utah.gov/ivs/ivs" as required by Subsection 41-6a-1406(11).

(2) Tow truck motor carriers must notify the local enforcement agency having jurisdiction over the area from where the vehicle, vessel, or outboard motor was removed on non-consent non-police generated tows immediately upon arrival at the impound or storage yard.

(a) For tows conducted on vehicles, vessels, and outboard motors and the owner information does not appear in the IVS or Title License Registration ("TLR") systems, a tow truck motor carrier has met this requirement if they can provide proof that a letter has been sent to the Utah State Tax Commission Division of Motor Vehicle or the appropriate state where the vehicle, vessel, and outboard motor is registered, within two business days requesting the needed information to send the letter.

(3) The tow truck motor carrier or the tow truck operator must provide a copy of the Utah Consumer Bill of Rights Regarding Towing at first contact with the owner of a vehicle, vessel, or outboard motor that was towed or for which a drop fee is paid.

(a) The tow truck motor carrier must be able to verify that the consumer received their copy of the Utah Consumer Bill of Rights Regarding Towing.

(4) The Utah Consumer Bill of Rights Regarding Towing shall contain the language and information as published at, https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/utah-bill-of-rights-regarding-towing/.

(a) The consumer has a right to receive documentation from the tow truck motor carrier showing the date and time the storage began.

(b) A consumer has the right to file a complaint alleging:

(i) overcharges;

(ii) inadequate certification for the operator, truck or company, and;

(iii) violations of the Federal Motor Carrier Safety Regulations, Utah Code Annotated, or Utah Administrative Code.

(c) Complaints may be filed online with the Utah Department of Transportation at https://app.udot.utah.gov/public/mcs/f?p=345:3::::3 or by contacting the Motor Carrier Division at (801) 965-4892.

R909-19-8. Required Tow Truck Operator Certification.

(1) Effective July 1, 2004, tow truck operators will be tested and certified in accordance with Towing and Recovery Association of America Inc (TRAA) standards and carry evidence of certification for the appropriate level of vehicle they are operating. These standards of conduct and proficiency may be tested and certified through an accepted program approved by the Department.

(2) Information on qualified certification programs may be obtained at the UDOT Motor Carrier Division website at https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/tow-truck-certification/ or by contacting the Motor Carrier Division at (801) 965-4892.

(3) Tow truck motor carriers shall ensure that tow truck operators:

(a) are properly trained and certified to operate tow truck equipment;

(b) are licensed, as required under Sections 53-3-101 through 53-3-909 Uniform Driver License Act;

(c) are complying with the requirements under Sections 41-6a-1406 and 72-9-603;

(d) have cleared the criminal background check required in Subsections 72-9-602(2) and (3). In addition, if a tow truck operator has not cleared the criminal background check required in Subsections 72-9-602(2) and (3), then the tow truck motor carrier must notify the Department of a tow truck operator who is not in compliance with Subsection 72-9-602(3) within two business days of obtaining knowledge from the Bureau of Criminal Identification.

(e) obtain and maintain a valid medical examiner's certificate under 49 CFR Sec 391.45.

R909-19-9. Required Tow Truck Vehicle Certification.

(1) Tow trucks shall receive and pass a tow truck certification inspection biannually.

(2) Tow trucks must be equipped with the required safety equipment. Safety Equipment List can be found at https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/tow-truck-certification/ or by calling 801-965-4892.

(3) Upon vehicle certification, an UDOT certification sticker will be issued and shall be affixed to the driver's side rear window.

(4) Documentation of UDOT tow truck vehicle certification shall be retained and available upon request by Department personnel.

R909-19-10. Required Tow Truck Motor Carrier Certification.

Tow truck motor carriers shall be certified biannually to ensure compliance as required by the Federal Motor Carrier Safety Regulations, Utah Code Annotated, Utah Administrative Code, and local laws when applicable.

R909-19-11. Certification Fees.

The Department may charge tow truck motor carriers a fee biannually as authorized by Section 72-9-603 to cover costs associated with driver, vehicle, and carrier certifications.

R909-19-12. Information Required on Towing Receipt.

(1) Charges for services provided must be clearly reflected on a company receipt and a copy shall be provided to the paying customer. The receipt must include the following information:

(a) company name;

(b) address;

(c) phone number;

(d) transportation, administration, fuel surcharge, storage fees, and after-hours fees charged;

(e) name of company driver;

(f) unit number;

(g) the license plate of the towed vehicle;

(h) make, model, Vehicle Identification Number, and year of the towed vehicle;

(i) start and end time with total hours for services provided; and

(j) the date vehicle was retrieved from tow yard or other storage area.

(2) Any charges for a consent tow should be listed on a separate towing receipt.

R909-19-13. Non-Consent Towing Fee.

(1) A tow truck motor carrier may charge up to but not exceed the approved tow rate, based upon the type of non-consent tow, as indicated in the Towing Fee Schedule published online at https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/.

(a) An additional 15% of the fee for tow truck service may be charged if the towed vehicle is used in the transportation of materials found to be hazardous in accordance with the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.

(b) If a tow truck apparatus is mechanically connected to a vehicle, the tow truck motor carrier shall be considered in possession of the vehicle.

(c) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle is attempting to retrieve that vehicle before the tow truck motor carrier is in possession of the vehicle, no fee shall be charged to the vehicle owner.

(d)(i) If the owner, authorized operator, or authorized agent of the owner of the vehicle is attempting to retrieve the vehicle after the tow truck motor carrier is in possession of the vehicle but before the vehicle is removed from the property or scene, the tow truck motor carrier shall relinquish the vehicle to the owner, authorized operator, or authorized agent of the owner upon payment of a drop fee.

(ii) A tow truck motor carrier may not charge a drop fee that exceeds 50% of the posted rate schedule.

(e) Charges for recovery operations, as defined by Section R909-19-3, shall be coordinated with the towed vehicle owner, or directed by law enforcement before initiating the additional charges relating to the recovery operation. Coordination with the towed vehicle owner should result in an agreement between the towed vehicle owner and tow truck motor carrier.

(i) If attempts to coordinate the recovery operation charges with the towed vehicle owner fail, law enforcement personnel may authorize the recovery operation.

(ii) At least two attempts must be made to contact the towed vehicle owner.

(iii) Record of owner coordination or law enforcement authorization shall be maintained by a tow truck motor carrier for each recovery operation. The record shall include a contact name, entity, contact time and date, and agreement made.

(iv) Uncoordinated or unauthorized recovery operation fees may be subject to penalty and reimbursement of recovery operation fees.

R909-19-14. Police Generated Towing Fee Calculation.

(1) Tows dispatched during business hours: Tow time shall be calculated from dispatch time to completion of tow service.

(2) Tows dispatched after business hours: Tow time shall be calculated from dispatch time to completion of tow service and return to dispatch location. Time to return to the dispatch location may not exceed the allowed rotation response time.

(3) Time charged shall be to the nearest fifteen-minute increment.

(4) Charges may not extend to include the towing notice requirement period pursuant to Subsections 72-9-603(1)(a)(i) and 41-6a-1406(4)(a)(ii).

R909-19-15. Non-consent Towing Storage Fee.

(1) Daily storage fees for non-consent police generated tow service may not exceed:

(a) Outside storage: light duty $40, medium duty $60, heavy duty $60.

(b) Inside Storage: light duty $45, medium duty $85, heavy duty $85.

(c) Outside hazardous materials: medium duty $115, heavy duty $115.

(d) Inside hazardous materials: medium duty $165, heavy duty $165.

(2) Daily storage fees for non-consent non-police generated tow service may not exceed:

(a) Outside storage: light duty $40, medium duty $60, heavy duty $60.

(b) Inside Storage: light duty $45, medium duty $85, heavy duty $85.

(c) Outside hazardous materials: medium duty $115, heavy duty $115; and

(d) Inside hazardous materials: medium duty $165, heavy duty $165.

(3) A tow truck motor carrier may charge up to but not exceeding the amount for storage per day for the type of non-consent tow.

(a) A tow truck motor carrier may charge a higher fee for inside storage per day per unit only if requested by the owners, or a law enforcement agency or highway authority.

(b) Vehicles used in the transportation of materials found to be hazardous in accordance with the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F may be charged a higher storage fee rate.

(c) To calculate storage rates, if the first six hours of storage for a vehicle include more than one day, the authorized storage fee is only the charge for one day.

(d) Storage fees may only be charged if the place of storage is a state impound yard that meets the requirements of rules made by the commission under Subsection 41-1a-1101(5).

(e) Except as provided in Subsection (3)(f), a tow truck motor carrier vehicle must store towed vehicles within the county where the tow occurred.

(f)(i) A tow truck motor carrier must store a vehicle that is towed as a result of a non-consent police generated tow within the boundaries of the police rotation where the tow occurred.

(ii) For purposes of Subsection (3)(f)(i), the boundary of a police rotation is the boundary established by the law enforcement agency that dispatched the tow truck motor carrier.

R909-19-16. Non-consent Fuel Surcharge Fee.

(1)(a) [~~A~~]Subject to Subsection (2), a tow truck motor carrier may charge a fuel surcharge for a non-consent tow if the daily Rocky Mountain Average, as determined by the Department of Energy, for the price of fuel reaches $3.25 per gallon, a tow truck motor carrier may charge a surcharge equal to 3% of the base tow rate. An additional 3% shall be allowed for each $0.[~~2~~]50 per gallon increase. Conversely, as the price of fuel drops, the fuel surcharge shall decrease by the same rate.

[~~(a)~~](b) To determine the Rocky Mountain daily average per gallon diesel cost, refer to the US Energy Information Administration's website at https://www.eia.gov/.

[~~(b) The~~](c) A tow truck motor carrier may only charge a fuel surcharge described in Subsection (1)(a)[~~may be charged on non-consent police generated tow~~] if the vehicle is being used in the function of a tow truck[~~vehicle such as travel to and from the scene and during the operation of equipment for the recovery operation~~].

(d) For a non-consent non police generated tow, a tow truck motor carrier[~~Non-consent non-police tows~~] may only charge [~~a~~]one fuel surcharge[~~-one-time~~] fee.

[~~(c) Surcharge fee shall be listed as a separate fee on the tow bill.~~]

(2) Notwithstanding the other provisions of this section, a tow truck motor carrier may not charge a fuel surcharge greater than $40 for a non-consent tow originating in a first or second class county, as defined by Section 17-60-104.

R909-19-17. Non-consent Administrative Fee.

A tow truck motor carrier may charge an administrative fee for reporting the removal of up to but not exceeding the amount indicated in the Towing Fee Schedule as published online at, https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/ per vehicle notification for reporting non-consent tows to the Department of Motor Vehicles and for sending notifications to the owner and lienholder, if applicable.

R909-19-18. Non-consent After-Hours Fee.

(1) A tow truck motor carrier may charge for the after-hours release of a vehicle, vessel, or outboard motor stored in response to:

(a) a peace officer dispatch call;

(b) a motor vehicle division call; and

(c) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal.

(2) A tow truck motor carrier may charge up to but not exceed the approved tow rate, based upon the type of non-consent tow, as indicated in the Towing Fee Schedule published online at https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/ and the Utah Consumer Bill of Rights Regarding Towing published at https://site.utah.gov/connect/wp-content/uploads/sites/50/2021/12/Tow-Truck-Bill-of-Rights-Combined-2022-1.pdf.

(3) The After-hours fee shall be listed as a separate fee on the tow bill.

R909-19-19. Tow Truck Service and Administrative Fee Adjustment.

(1)(a) The Motor Carrier Division will establish the allowable maximum fee for a tow truck service and administrative fee for reporting the removal, as per Section 72-9-603.

(b) The Towing Fee Schedule is published on the Division's website at https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/.

(2) The allowable maximum fee for tow truck service, the maximum allowable administrative fee for reporting the removal, and the storage fees described in Section R909-19-15 shall be tied to the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) in the West Urban Region of the US. The CPI-W is calculated by the US Department of Labor, Bureau of Labor and Statistics (BLS), which publishes CPI Detailed Report Tables each month on its website at https://www.bls.gov/cpi/tables/home.htm.

(3) The Motor Carrier Division shall adjust the allowable maximum fees once annually as follows:

(a) The base fee schedule for each calendar year after a year in which the Motor Carrier Division determines the allowable maximum fees pursuant to Subsection R909-19-13(1) shall be adjusted effective January 1 of each calendar year.

(b) The adjustment amount of the allowable maximum fees shall be equal to the change in the CPI-W for the twelve-month period before the October CPI-W figure reported by the BLS immediately preceding the January 1 adjustment date.

(c) If the twelve-month change in the CPI-W from October to October is negative, the allowable maximum fees shall remain unchanged.

(d) The Division of Motor Carriers shall round the allowable maximum fees to the nearest whole number.

R909-19-20. Public Consent Towing and Storage Rates.

Towing rates for public consent tows are the responsibility of the consumer and the tow truck motor carrier as contracted for services provided and are not regulated by the Department.

R909-19-21. Rates and Storage Posting Requirements.

Pursuant to Section 72-9-603, a tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose its current non-consent fees and rates for towing and storage of a vehicle at locations at which vehicles are retrieved, or payment is accepted.

R909-19-22. Federal Motor Carrier Safety Requirements.

Tow truck motor carriers that meet the definition of a commercial motor carrier shall comply with State and Federal Motor Carrier Safety Regulations, in addition to any other legal requirements established in statute, rule, or permit.

R909-19-23. Consumer Protection Information.

Pursuant to Section 72-9-602, the Department shall make consumer protection information available to the public that may use a tow truck motor carrier. To obtain such information, including a list of tow truck motor carriers that are currently certified by the Department, the public can access this information online at https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/, or by calling the Motor Carrier Division at (801) 965-4892.

R909-19-24. Establishment of Tow Truck Steering Committee and Work Group.

(1) The Administrator for the Motor Carrier Division will establish a steering committee to provide advisory information and input.

(2) The Motor Carrier Advisory Board, established by the Department, will serve as the steering body for regulatory guidance and the Department's certification process.

R909-19-25. Review of Rates, Fees, and Certification Process.

(1) During a regularly scheduled Motor Carrier Advisory Board meeting, the board may review rates, fees, tow truck motor carrier procedures, and the certification process. The board is not required to review each of these items each year.

(2)(a) Interested parties must notify the Department of their desire to appear and be heard at a regularly scheduled Motor Carrier Advisory Board meeting. To ensure placement on the agenda, notify the Motor Carrier Division at 801-965-4892, by the first day of the month of the scheduled meeting.

(b) Interested parties must be present at the Motor Carrier Advisory Board meeting to submit evidence supporting or challenging proposed rate or fee adjustments, or issues related to procedures regarding the certification process.

R909-19-26. Ability to Petition for Review.

Any tow truck motor carrier who believes the Division has acted wrongfully in denying or suspending certification or in imposing a cease-and-desist order may petition the Department for review of that action pursuant to Rule R907-1, Administrative Procedures.

R909-19-27. Record Retention.

Tow truck motor carriers shall retain records relating to rates charged for services for a period of six months after the service has been provided. However, if the Division or the vehicle owner have notified the carrier that it disputes its ability to charge a particular fee, the carrier shall retain the record until six months after the dispute has concluded or a court rule or order requires a longer retention period.

R909-19-28. Life-Essential Property.

Property that is deemed as life-essential shall be given to the vehicle owner regardless of payment for services provided.

KEY: safety regulations, tow trucks, towing, certifications
Date of Last Change: October 5, 2026
Notice of Continuation: April 15, 2026
Authorizing, and Implemented or Interpreted Law: 41-6a-1404; 41-6a-1405; 41-6a-1406; 53-1-106; 53-8-105; 72-9-601; 72-9-602; 72-9-603; 72-9-604; 72-9-301; 72-9-303; 72-9-701; 72-9-702; 72-9-703

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.

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule number:	**R152-6**	**Filing ID: 58141**

Effective date:	**10/08/2026**

1. Agency Information

Title catchline:	Commerce, Consumer Protection
Building:	Heber Wells Building
Street address:	160 E 300 S
City, state:	Salt Lake City, UT
Mailing address:	PO Box 146704
City, state and zip:	Salt Lake City, UT 84114-6704

2. Contact Persons

Name:	Phone:	Email:
Andrea Mitton	801-530-6601	dcprules@utah.gov

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

3. General Information

A. Rule catchline:
R152-6. Administrative Procedures Act Rule

B. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:	
Subsection 13-2-106(1)	This subsection authorizes the Division of Consumer Protection (division) to make rules and administer and enforce chapters listed in Section 13-2-102, and to designate adjudicative proceedings as informal adjudicative proceedings.
Subsection 63G-4-202(1)	This subsection authorizes the division to make rules designating adjudicative proceedings as informal adjudicative proceedings.

C. 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 division has not received any comments since the last five-year review of this rule.
D. 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 designates the division's adjudicative proceedings as information adjudicative proceedings. This rule is necessary to be in effect. Therefore, this rule should be continued.

4. Agency Authorization Information

Agency head or designee and title:	Andrea Mitton, Commerce Analyst	**Date:**	10/08/2026

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule number:	**R152-15**	**Filing ID: 58146**

Effective date:	**10/08/2026**

1. Agency Information

Title catchline:	Commerce, Consumer Protection
Building:	Heber Wells Building
Street address:	160 E 300 S
City, state:	Salt Lake City, UT
Mailing address:	PO Box 146704
City, state and zip:	Salt Lake City, UT 84114-6704

2. Contact Persons

Name:	**Phone:**	**Email:**
Andrea Mitton	801-530-6601	dcprules@utah.gov

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

3. General Information

A. Rule catchline:
R152-15. Business Opportunity Disclosure Act Rule

B. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:	
Subsection 13-2-106(1)	This subsection authorizes the Division of Consumer Protection (division) to make rules and administer and enforce chapters listed in Section 13-2-102, including Title 13, Chapter 15, Business Opportunity Disclosure Act (BODA).
Subsection 13-15-201(4)	This subsection authorizes the division to make rules to implement the required filings in Section 13-15-201.

C. 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 division has not received any comments since the last five-year review of this rule.

D. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The rule's provisions assist the division's administration and enforcement of the BODA required filings. Therefore, this rule should be continued.

4. Agency Authorization Information

Agency head or designee and title:	Andrea Mitton, Commerce Analyst	**Date:**	10/08/2026

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule number:	**R152-20**	**Filing ID: 53138**

Effective date:	**10/08/2026**

1. Agency Information

Title catchline:	Commerce, Consumer Protection
Building:	Heber Wells Building
Street address:	160 E 300 S
City, state:	Salt Lake City, UT
Mailing address:	PO Box 146704
City, state and zip:	Salt Lake City, UT 84114-6704

2. Contact Persons

Name:	Phone:	Email:
Andrea Mitton	801-530-6601	dcprules@utah.gov

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

3. General Information

A. Rule catchline:
R152-20. New Motor Vehicle Warranties Act Rule

B. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:	
Subsection 13-2-106(1)	This subsection authorizes the Division of Consumer Protection (division) to make rules and administer and enforce chapters listed in Section 13-2-102, including Title 13, Chapter 20, New Motor Vehicle Warranties Act (NMVWA).

C. 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 division has not received any comments since the last five-year review of this rule.
D. 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 assists the division's administration and enforcement of the NMVWA. For the foregoing reasons, this rule is necessary to be in effect. Therefore, this rule should be continued.

4. Agency Authorization Information

Agency head or designee and title:	Andrea Mitton, Analyst	**Date:**	10/08/2026

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule number:	**R277-726**	**Filing ID: 58068**

Effective date:	**10/06/2026**

1. Agency Information

Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

2. Contact Persons

Name:	**Phone:**	**Email:**
Ben Rasmussen	801-538-7992	ben.rasmussen@schools.utah.gov

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

3. General Information

A. Rule catchline:
R277-726. Statewide Online Education Program

B. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:	
Utah Constitution, Article X, Section 3	Vests general control and supervision over public education in the Board.
Section 53F-4-502	Creates the program to enable eligible students, through publicly-funded online courses, to earn college credit by July 1, 2025, earn high school graduation credit, and earn middle school credit.
Section 53F-4-514	Requires the Utah State Board of Education (Board) to make rules providing for the administration of the applicable statewide assessments to students enrolled in online courses, establishing a course credit acknowledgment form and procedures for completing and submitting the form to the Board, and establishing protocols for an online course provider to obtain approval to become an authorized or certified online course provider.
Subsection 53E-3-401(4)	Allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

C. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No public comments received since the last five-year review of this rule.

D. 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 defines necessary terms, provides and describes a program registration agreement, and provides other requirements for a Local Education Agency (LEA), the Superintendent, a parent, and a student, and an authorized online course provider for program implementation and accountability. Therefore, this rule should be continued.

4. Agency Authorization Information

Agency head or designee and title:	Ben Rasmussen, Director of Policy	**Date:**	10/06/2026

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule number:	**R392-401**	**Filing ID: 55921**

Effective date:	**10/13/2026**

1. Agency Information

Title catchline:	Health and Human Services, Population Health, Environmental Health
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state:	Salt Lake City, UT
Mailing address:	PO Box 142102
City, state and zip:	Salt Lake City, UT 84114-2102

2. Contact Persons

Name:	Phone:	Email:
Sarah Cheshire	801-538-6191	scheshire@utah.gov
Chris Nelson	801-538-6191	chrisnelson@utah.gov

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

3. General Information

A. Rule catchline:
R392-401. Roadway Rest Area Sanitation

B. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:	
Section 26B-1-202	This section gives authority to the Department of Health and Human Services (department) to establish, maintain, and enforce rules to protect public health, prevent illness, and stop the spread of communicable diseases. This rule is written to protect public health, prevent illness, and stop the spread of communicable diseases by maintaining sanitary conditions at a roadway rest area or highway rest stop.
Section 26B-7-402	This section gives authority to the department to establish and enforce minimum rules of sanitation necessary to protect public health in a roadway rest area or highway rest stop.

C. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received since the last five-year review of this rule.

D. 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 fulfill a statutory mandate to protect public health. This rule establishes definitions and sets standards for health and welfare of individuals and for the prevention of the spread of disease in or from a roadway rest area. Therefore, this rule should be continued. As there have been no comments in opposition to this rule, the department did not disagree with or respond to any such comments.

4. Agency Authorization Information

Agency head or designee and title:	Tracy S Gruber, Commissioner	**Date:**	10/11/2026

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule number:	**R414-10**	**Filing ID: 57359**

Effective date:	**10/13/2026**

1. Agency Information

Title catchline:	Health and Human Services, Integrated Healthcare
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state:	Salt Lake City, UT
Mailing address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116

2. Contact Persons

Name:	**Phone:**	**Email:**
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov

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

3. General Information

A. Rule catchline:
R414-10. Physician Services

B. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:	
Section 26B-1-213	Section 26B-1-213 authorizes the Department of Health and Human Services (department) to adopt rules as necessary to carry out the provisions of Title 26B, Utah Health and Human Services Code, including Medicaid program implementation.
Section 26B-3-108	Section 26B-3-108 requires the department to implement the Medicaid program through administrative rules.

C. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received since the last five-year review of this rule.

D. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it provides a scope of physician services to meet Medicaid member needs, specifies member eligibility, and set forth requirements for program access. Therefore, this rule should be continued. As there were no comments in opposition to this rule, the department did not respond to any such comments.

4. Agency Authorization Information

Agency head or designee and title:	Tracy S Gruber, Commissioner	**Date:**	10/11/2026

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule number:	**R657-20**	**Filing ID: 57015**

Effective date:	**10/05/2026**

1. Agency Information

Title catchline:	Natural Resources, Wildlife Resources
Building:	DNR – Salt Lake Complex
Street address:	1594 W North Temple
City, state:	Salt Lake City, UT 84116
Mailing address:	PO Box 146301
City, state and zip:	Salt Lake City, UT 84114-6301

2. Contact Persons

Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov

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

3. General Information

A. Rule catchline:
R657-20. Falconry

B. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:	
Section 23A-2-208	Under authority of Section 23-17-7 and in accordance with the Migratory Bird Treaty Act in 16 U.S.C. 703-12 (50 CFR 21 10/01/2000), and the Bald and Golden Eagle Protection Act in 16 U.S.C. 668-668d (50 CFR 22), which is incorporated by reference, the Wildlife Board has established this rule for the practice of falconry in the state of Utah.
Section 23A-4-1106	The Division of Wildlife Resources has the authority to suspend or revoke any or all the privileges granted under this rule. A permittee whose falconry Certificate of Registration (COR) (permit) has been suspended may reapply for a COR, pursuant to the application procedures in this rule at the end of the suspension period.

C. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received during or since the last five-year review of Rule R657-20.

D. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R657-20 provides the requirements, procedures and standards for possessing and using raptors for falconry. The provisions adopted in this rule are effective in providing the requirements, procedures and standards for managing the falconry program. This rule is necessary for continued success of this program. Therefore, this rule should be continued.

4. Agency Authorization Information

Agency head or designee and title:	Riley Peck, DWR Director	**Date:**	10/05/2026

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule number:	**R850-8**	**Filing ID: 52025**

Effective date:	**10/06/2026**

1. Agency Information

Title catchline:	School and Institutional Trust Lands, Administration
Building:	102 Tower
Street address:	102 S 200 E, #600
City, state:	Salt Lake City, UT
Mailing address:	102 S 200 E, #600
City, state and zip:	Salt Lake City, UT 84111

2. Contact Persons

Name:	Phone:	Email:
Mike Johnson	801-538-5180	mjohnson@utah.gov
Lisa Wells	801-538-5154	lisawells@utah.gov

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

3. General Information

A. Rule catchline:
R850-8. Adjudicative Proceedings

B. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:	
Subsection 53C-1-204(3)	This statute gives the Trust Lands Board the right to establish due process procedures governing adjudicative proceedings to be conducted by the Trusts Lands Board and administration.
Subsection 53C-1-204(8)(c)	The statute gives authority to the Trust Lands Board to issue subpoenas or authorizes a hearing officer to issue subpoenas, compel the attendance of witnesses, and the production of documents in adjudicative proceedings authorized by law and administer oaths in the performance of official duties.
Section 53C-1-304	The statute requires the Board of Trustees for the School and Institutional Trust Lands Administration (SITLA) to establish due process rules for the resolution of conflicts regarding actions taken by the board, director, and the agency.

	This rule provides the procedures for aggrieved parties to petition for administrative or judicial review of the actions taken.

C. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received by the agency concerning this rule since the previous five-year review filed in 10/07/2021.
D. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
There continues to be a need for a mechanism for aggrieved parties to petition for redress of agency or board actions which affect an interest held by the parties. This rule provides for a reasonable and effective way for the board to address challenges to agency and board actions. Therefore, this rule should be continued.

4. Agency Authorization Information

Agency head or designee and title:	Michelle McConkie, Director	**Date:**	10/02/2026

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF
RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food
Marketing and Development
No. 58208 (Repeal and Readopt) R65-13. Utah's Own
Published: 09/15/2026
Effective: 10/23/2026

Specialized Products
No. 58356 (Amendment) R66-3. Quality Assurance Testing on Cannabis
Published: 07/01/2026
Effective: 10/22/2026

Commerce
Consumer Protection
No. 58211 (Amendment) R152-22. Charitable Solicitations Act Rule
Published: 09/15/2026
Effective: 10/26/2026

No. 58212 (Amendment) R152-23. Fitness Center Services Protection Act Rule
Published: 09/15/2026
Effective: 10/26/2026

No. 58214 (Amendment) R152-34. Utah Postsecondary School and State Authorization Act Rule
Published: 09/15/2026
Effective: 10/26/2026

No. 58213 (New) R152-83. Virtual Currency Kiosk Regulation Rule
Published: 09/15/2026
Effective: 10/26/2026

Professional Licensing
No. 58209 (Amendment) R156-46a. Hearing Instrument Specialist Licensing Act Rule
Published: 09/15/2026
Effective: 10/26/2026

Education
Administration
No. 58149 (Amendment) R277-101 Public Participation in Utah State Board of Education Meetings
Published: 09/01/2026
Effective: 10/08/2026

No. 58150 (Amendment) R277-108 Annual Assurance of Compliance by Local School Boards
Published: 09/01/2026
Effective: 10/08/2026

No. 58151 (Amendment) R277-110 Educator Salary Adjustment
Published: 09/01/2026
Effective: 10/08/2026

No. 58152 (Amendment) R277-211 Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions
Published: 09/01/2026
Effective: 10/08/2026

No. 58153 (Amendment) R277-301 Educator Licensing
Published: 09/01/2026
Effective: 10/08/2026

No. 58154 (Amendment) R277-304 Teacher Preparation Programs
Published: 09/01/2026
Effective: 10/08/2026

No. 58155 (Amendment) R277-306 Educator Preparation Programs for School Psychologists, Audiologists, Speech-Language Pathologists, Speech-Language Technicians, Counselors, and School Social Workers
Published: 09/01/2026
Effective: 10/08/2026

No. 58156 (Amendment) R277-322 LEA Codes of Conduct
Published: 09/01/2026
Effective: 10/08/2026

No. 58157 (New Rule) R277-334 Classroom Technology and Artificial Intelligence Governance
Published: 09/01/2026
Effective: 10/08/2026

No. 58158 (Amendment) R277-406 Early Learning Program and Assessments
Published: 09/01/2026
Effective: 10/08/2026

No. 58159 (Amendment) R277-409 Public School Membership in Associations
Published: 09/01/2026
Effective: 10/08/2026

No. 58160 (Amendment) R277-445 Classifying Small Schools as Necessarily Existent
Published: 09/01/2026
Effective: 10/08/2026

No. 58161 (Amendment) R277-460 Distribution of Substance Abuse Prevention Account
Published: 09/01/2026
Effective: 10/08/2026

No. 58162 (Amendment) R277-462 Comprehensive School Counseling Program
Published: 09/01/2026
Effective: 10/08/2026

No. 58163 (Amendment) R277-465 CPR in Schools
Published: 09/01/2026
Effective: 10/08/2026

No. 58164 (Repeal) R277-486 Professional Staff Cost Program
Published: 09/01/2026
Effective: 10/08/2026

No. 58165 (Amendment) R277-626 Carson Smith Opportunities Scholarship Program
Published: 09/01/2026
Effective: 10/08/2026

No. 58166 (Amendment) R277-717 High School Course Grading Requirements
Published: 09/01/2026
Effective: 10/08/2026

No. 58167 (New Rule) R277-802 Educational Enrichment Programs for Deaf, Hard of Hearing, Blind, and Visually Impaired Students
Published: 09/01/2026
Effective: 10/08/2026

No. 58168 (Amendment) R277-927 Teacher and Student Success Act (TSSA) Program
Published: 09/01/2026
Effective: 10/08/2026

Environmental Quality
Air Quality
No. 57882 (Amendment) R307-110-13 Section IX, Control Measures for Area and Point Sources, Part D, Ozone
Published: 04/15/2026
Effective: 10/02/2026

No. 57882 (Change in Proposed Rule) R307-110-13 Section IX, Control Measures for Area and Point Sources, Part D, Ozone
Published: 09/01/2026
Effective: 10/02/2026

No. 58102 (Repeal) R307-124 General Requirements: Conversion to Alternative Fuel Grant Program
Published: 07/15/2026
Effective: 10/07/2026

No. 58103 (Amendment) R307-840 Lead-Based Paint Program Purpose, Applicability, and Definitions
Published: 07/15/2026
Effective: 10/07/2026

No. 58104 (Amendment) R307-841 Residential Property and Child-Occupied Facility Renovation
Published: 07/15/2026
Effective: 10/07/2026

No. 58105 (Amendment) R307-842 Lead-Based Paint Activities
Published: 07/15/2026
Effective: 10/07/2026

Government Operations
Technology Services
No. 58137 (Amendment) R895-4 Subdomain Naming Conventions for Executive Branch Agencies
Published: 09/01/2026
Effective: 10/09/2026

Health and Human Services
Integrated Healthcare
No. 58202 (Amendment) R414-11. Podiatric Services
Published: 09/15/2026
Effective: 10/27/2026

No. 58144 (Amendment) R414-303-10. Refugee Medicaid
Published: 09/01/2026
Effective: 10/27/2026

End of the Notices of Rule Effective Dates Section