

1 **R277. Education, Administration.**

2 ~~**[R277-114. Corrective Action and Withdrawal or Reduction of Program Funds.**~~

3 ~~**R277-114-1. Authority and Purpose.**~~

4 ~~——(1) This rule is authorized by:~~

5 ~~——(a) Utah Constitution Article X, Section 3, which vests general control and~~
6 ~~supervision of public education in the Board;~~

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

9 ~~——(c) Subsection 53E-3-401(8)(c), which allows the Board to make rules setting forth~~
10 ~~the procedures to be followed for enforcing Board rules.~~

11 ~~——(2) The purpose of the rule is to provide procedures for public education program~~
12 ~~monitoring and corrective action for noncompliance with identified:~~

13 ~~——(a) program requirements;~~

14 ~~——(b) program accountability standards; and~~

15 ~~——(c) financial propriety.~~

16

17 ~~**R277-114-2. Definitions.**~~

18 ~~——(1) "Program" means a public education project, plan, or other activity required by:~~

19 ~~——(a) administrative rule;~~

20 ~~——(b) state law; or~~

21 ~~——(c) federal law.~~

22 ~~——(2) "Recipient" means an LEA, school, or subrecipient.~~

23 ~~——(3) "Subrecipient" means a non-Federal entity that receives an award through the~~
24 ~~Board to carry out part of a Federal program, or a non-Federal entity that is the direct~~
25 ~~awardee of other federal awards from a Federal awarding agency.~~

26

27 ~~**R277-114-3. Program Monitoring.**~~

28 ~~——(1) For each program, the Superintendent shall design and implement a consistent~~
29 ~~monitoring plan or process that includes standards for both program outcomes and~~
30 ~~program financial compliance.~~

31 ~~_____ (2) The Superintendent shall notify all recipients of the initiation of or changes to~~
32 ~~any monitoring plan or process.~~

33 ~~_____ (3) The Superintendent shall monitor compliance with:~~

34 ~~_____ (a) program outcomes and requirements;~~

35 ~~_____ (b) reporting requirements; and~~

36 ~~_____ (c) financial requirements.~~

37 ~~_____ (4) An LEA shall provide the Superintendent all requested information or~~
38 ~~documents to comply with this Section.~~

39

40 **~~R277-114.4. Corrective Action Plans.~~**

41 ~~_____ (1) The Superintendent shall place a recipient on a corrective action plan when a~~
42 ~~recipient:~~

43 ~~_____ (a) does not demonstrate satisfactory program outcomes as described by the~~
44 ~~monitoring plan or process;~~

45 ~~_____ (b) demonstrates noncompliance with program requirements or allowable program~~
46 ~~expenditures; or~~

47 ~~_____ (c) does not comply with requests to provide accurate and complete program or~~
48 ~~financial information, as described by the monitoring plan or process.~~

49 ~~_____ (2) The Superintendent shall clearly outline in a corrective action plan:~~

50 ~~_____ (a) all areas of noncompliance;~~

51 ~~_____ (b) the specific conditions to be met as a result of noncompliance;~~

52 ~~_____ (c) steps required to satisfy the corrective action plan; and~~

53 ~~_____ (d) a reasonable time frame for the recipient to correct identified issues.~~

54 ~~_____ (3) The specific conditions described in Subsection (2)(b) may include:~~

55 ~~_____ (a) requiring payments as reimbursements rather than advance payments;~~

56 ~~_____ (b) withholding authority to proceed to the next step until receipt of evidence of~~
57 ~~acceptable performance within a given period of performance;~~

58 ~~_____ (c) requiring additional, more detailed financial reports;~~

59 ~~_____ (d) requiring additional project monitoring;~~

60 ~~_____ (e) requiring the recipient to obtain technical or management assistance; or~~

61 ~~_____ (f) establishing additional prior approvals.~~

- 62 ——— (4) A corrective action plan may also include a provision and a timeline for:
- 63 ——— (a) referral for risk-based monitoring;
- 64 ——— (b) a referral for an audit by:
- 65 ——— (i) an external auditor; or
- 66 ——— (ii) the Board's internal audit department, with approval of the Board's Audit
67 Committee;
- 68 ——— (c) periodic meetings between a recipient administrator or governing board
69 member and the State Superintendent of Public Instruction or a Deputy Superintendent;
- 70 ——— (d) planned appearances before the Board to provide status updates; and
- 71 ——— (e) training for the recipient's staff.
- 72 ——— (5) If the recipient is a charter school, the Superintendent shall consult with the
73 charter authorizer in the creation of the corrective action plan and report regularly to the
74 charter authorizer about the status of the noncompliant program recipient.
- 75 ——— (6) The Superintendent may employ escalating restrictive conditions in a corrective
76 action plan based on:
- 77 ——— (a) the severity of the violation as determined by the program's monitoring plan or
78 process; or
- 79 ——— (b) repeated violations by a recipient.
- 80 ——— (7) The Superintendent may include penalties for non-compliance with a corrective
81 action plan in accordance with Subsection 53E-3-401(8).
- 82 ——— (8) The Superintendent shall give notice and a copy of the corrective action plan in
83 writing to:
- 84 ——— (a) the recipient's administrators;
- 85 ——— (b) the respective recipient's governing board; and
- 86 ——— (c) the charter school authorizer, if applicable.
- 87 ——— (9) The Superintendent shall report to the Board regularly about the status of
88 noncompliant program recipients.
- 89
- 90 **~~R277-114-5. Recipient Appeals.~~**
- 91 ——— (1) A recipient may file an appeal to the Board of any adverse decision of the
92 Superintendent resulting from a corrective action plan or penalty.

93 ~~_____ (2) An appeal must be made in writing and within 30 days of the date of the~~
94 ~~Superintendent's action.~~
95 ~~_____ (3) Except for corrective action subject to 34 CFR 76.783, the Board may:~~
96 ~~_____ (a) review the appeal as a full board; or~~
97 ~~_____ (b) refer the matter to the Board audit committee to make a recommendation to the~~
98 ~~Board for action.~~

99

100 ~~**KEY: programs, noncompliance, corrective action**~~

101 ~~**Date of Enactment or Last Substantive Amendment: March 12, 2020**~~

102 ~~**Notice of Continuation: January 13, 2020**~~

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

104

105 ~~**R277-114. [USBE] Board Oversight Framework and Corrective Action**~~

106 ~~**Procedures.**~~

107 ~~**R277-114-1. Authority and Purpose.**~~

108 ~~(1) This rule is authorized by:~~

109 ~~(a) Utah Constitution [Article X, Section 3](#), which vests general control and~~
110 ~~supervision over public education in the Board;~~

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

113 ~~(c) Subsections [53E-3-401\(8\)](#), which allows the Board to make rules setting forth~~
114 ~~the procedures to be followed for enforcing Board rules; ~~[-and]~~~~

115 ~~~~[(e)](d) [Section 53F-1-104](#), which requires the Board to monitor state-funded~~~~
116 ~~[education programs and the expenditure of state funds in accordance with certain](#)~~
117 ~~[statutory provisions; and](#)~~

118 ~~~~[(e)](e) [Section 53E-3-301](#), which requires the Superintendent to:~~~~

119 ~~(i) [administer programs assigned to the state board in accordance with the](#)~~
120 ~~[policies and the standards established by the state board; and](#)~~

121 ~~(ii) [investigate matters pertaining to public schools.](#)~~

122 (2) The purpose of this rule is to define minimum ~~[USBE]~~Board oversight
123 standards, including ~~[creating]~~establishing an oversight framework for public education-
124 related requirements and [providing related](#) corrective action and appeals procedures.
125

126 **R277-114-2. Definitions.**

127 (1) “Chief Audit Executive” means the same as that term is defined in [R277-116](#).

128 ~~[(1)]~~(2) “Framework” means the ~~[]~~Board Oversight Framework established in
129 this rule.

130 ~~[(2)]~~(3) “Oversight entity” means:

131 (a) an LEA;

132 (b) a regional service agency, as that term is defined in Section [53G-4-410](#);

133 (c) an entity that enters into a contract with the Board:

134 (i) to provide an educational good or service; or

135 (ii) as the Board is directed by the Legislature;

136 (d) a charter school authorizer, as that term is defined in Section [53G-5-102](#), if
137 the charter school authorizer has an approved charter school;

138 (e) an institution of higher education that is associated with an educator
139 preparation program, as defined in [R277-303-2](#);

140 ~~[(e)]~~(f) an entity that receives a distribution of state funds through a grant
141 program ~~[managed]~~funded by the state board; or

142 ~~[(e)]~~(g) a nonfederal entity that receives an award through the Board to carry out
143 part of a federal program.

144 ~~[(3)]~~(4) “Program or other set of requirements” means a [requirement or set of](#)
145 requirements in state or federal law that is related to:

146 (a) the public education system; and

147 (b) an oversight entity.

148

149 **R277-114-3. ~~[]~~Board Oversight of Public Education Programs and Requirements.**

150 (1) The Superintendent shall create a ~~[Oversight F]~~framework, as described in
151 [R277-114-4](#), that sets minimum standards for ~~[]~~Board oversight of a program or other
152 set of requirements.

- 153 (2) In accordance with R277-114-~~5~~4, the Superintendent shall:
- 154 (a) on or before July 31, 2029, designate each program or other set of
- 155 requirements into a framework category that corresponds to ~~[USBE]~~the Board's
- 156 oversight role for that program or set of requirements; and
- 157 (b) fulfill related oversight duties as described in rule and internal policy and
- 158 procedures.
- 159 (3) In accordance with R277-114-5, the Board or Superintendent may take
- 160 investigative or corrective action with regard to any program or set of requirements.
- 161 (4) An oversight entity shall provide all information and documents requested by
- 162 the Board or the Superintendent.
- 163
- 164 **R277-114-4. ~~[]~~Board Oversight Framework.**
- 165 (1) The ~~[Oversight F]~~framework shall consist of four categories that represent an
- 166 increasing degree of ~~[USBE]~~Board oversight for each subsequent category.
- 167 (2) Before categorizing a program or set of requirements, the Superintendent
- 168 shall analyze the program or set of requirements based on the following factors:
- 169 (a) the quantity and content of the legal requirements, including explicit
- 170 monitoring requirements in state or federal law;
- 171 (b) the risk inherent in:
- 172 (i) the requirements; and
- 173 (ii) ~~[the each oversight entity with responsibility for assuming risk, including the~~
- 174 ~~effectiveness of the entity's internal control system.]~~the individual oversight entities
- 175 subject to the requirements, with regard to the effectiveness of each oversight entity's
- 176 internal control system;~~[and]~~
- 177 (c) all general and dedicated resources available to carry out the requirements,
- 178 including:
- 179 (i) the restricted or unrestricted nature of applicable funding; and
- 180 (ii) options for using dedicated staff~~[]~~; and
- 181 (d) any other factors the Superintendent considers relevant to the analysis.
- 182 (3) Based on the analysis described in Subsection (2), the Superintendent shall
- 183 typically categorize a program or set of requirements in the framework as follows:

- 184 (a) a program or set of requirements belongs in category one if the
185 Superintendent determines that:
- 186 (i) the Superintendent will not specifically dedicate staff to the program or set of
187 requirements; and
- 188 (ii) either:
- 189 (A) local control is critical to the purpose of the requirements; or
- 190 (B) the Superintendent will not use resources for implementing the requirements
191 and will typically refer complaints and allegations back to the oversight entity for
192 resolution;
- 193 (b) a program or set of requirements belongs in category two if the
194 Superintendent determines that:
- 195 (i) the Superintendent will not specifically dedicate staff to the program or set of
196 requirements; and
- 197 (ii) the Superintendent will provide assistance as needed to an oversight entity
198 implementing the requirements;
- 199 (c) a program or set of requirements belongs in category three if the
200 Superintendent determines:
- 201 (i) that the Superintendent will dedicate staff to the program or set of
202 requirements; and
- 203 (ii) at least one of the following:
- 204 (A) that ~~less than annual USBE~~less frequent than annual desk monitoring is
205 sufficient to fulfill the requirements; or
- 206 (B) that resources are limited to either completely fulfill ~~[USBE's]~~monitoring
207 requirements or to appropriately mitigate identified risks; and
- 208 (d) a program or set of requirements belongs in category four if the
209 Superintendent determines that:
- 210 (i) ~~[USBE]~~the Superintendent will dedicate staff to the program or set of
211 requirements;
- 212 (ii) annual or more frequent monitoring is necessary to ensure accountability of
213 the oversight entity;
- 214 (iii) monitoring may include on-site visits; and

215 ~~[(iii)](iv)~~ resources are sufficient to fulfill the requirements.

216 (4) When the Board makes, amends, or continues a rule regarding a program or
217 set of requirements, the rule:

218 (a) shall state the Board's oversight objectives and related duties, based on the
219 Superintendent's analysis and framework categorization of the program or set of
220 requirements; and

221 (b) may include, as necessary for the intended ~~[level]~~category of oversight:

222 (i) designing an internal control system to achieve the Board's oversight
223 objectives and creating an implementation plan;

224 (ii) creating a mechanism to check the effectiveness of the oversight process;
225 and

226 (iii) setting a standard for satisfactory outcomes for the program or set of
227 requirements.

228 (5) For a program or set of requirements that needs monitoring, the details of the
229 monitoring system shall be described:

230 (a) in the rule relating to the program or set of requirements; or

231 (b) in contract, if the program or set of requirements is established in contract.

232

233 **R277-114-5. Use of Framework for Compliance Issues.**

234 (1) The framework does not supersede or limit ~~[USBE's]~~the Board's power of
235 general control and supervision and the Board may vote to change part or all of the
236 framework or categorizations within the framework at any time.

237 (2) The Board's internal audit function is not part of the framework and is not
238 limited by the framework.

239 (3) (a) Except as provided in Subsection~~[s]~~ (3)(b) ~~[and (c)]~~, for an alleged
240 compliance issue regarding a program or set of requirements in category one or two,
241 the Superintendent ~~[]~~shall refer reports and complaints back to the oversight entity for
242 resolution.

243 (b) The Superintendent may work informally with an oversight entity to resolve an
244 alleged compliance issue arising under a program or set o~~[f]~~ requirements in category
245 one or two.

246 ~~[(c) The Board may determine that the individual circumstances of an alleged~~
247 ~~compliance issue arising under a program or set of requirements in category one or two~~
248 ~~warrants the use of the Board’s internal audit function to investigate the alleged issue~~
249 ~~and possibly pursue formal corrective action as described in R277-114-6 and R277-~~
250 ~~1164-7.]~~

251 (4) For a~~[n-alleged]~~ compliance issue arising under a program or set of
252 requirements in category three or four, the Superintendent ~~[may]~~shall pursue formal
253 corrective action:

254 (a) as described in R277-114-6 or R277-114-7; and

255 (b) in accordance with the administrative rule or contract associated with the
256 program or set of requirements.

257 (5)(a) For an alleged compliance issue regarding a program or set of
258 requirements, the Board or Board leadership may work informally with the oversight
259 entity to resolve the issue, including:

260 (i) for an issue regarding an LEA, meeting with the chair of the LEA’s governing
261 board, the LEA’s superintendent, or charter director; or

262 (ii) determining whether training or additional time will allow the oversight entity
263 to resolve the compliance issue and, as appropriate, providing resources and an
264 extended ~~[time frame]~~ deadline to support the entity into compliance.

265 (b)(i) For an alleged compliance issue regarding a program or set of
266 requirements uncategorized or in ~~category one or two~~, if the Board or Board leadership
267 do ~~[does]~~ not elect to resolve an issue or if the issue is not resolved through efforts
268 described in Subsection (5)(a), ~~[the Board may]~~ the Board’s audit committee may
269 determine an appropriate method to investigate the alleged compliance issue, including
270 requesting the Board’s internal audit function to investigate the alleged issue in
271 accordance with Rule R277-116.

272 (ii) If the Board’s audit committee directs an investigation as described in
273 Subsection (5)(b)(i), the entity conducting the investigation shall notify the oversight
274 entity that the investigation will review an alleged compliance issue in accordance with
275 this Section.

276 (c) Based on the results of an investigation described in Subsection (5)(b), the
277 Board may:

278 (i) ~~[close the investigation and]take no further action;~~

279 (ii) ~~[use the evidence gathered in the investigation to-]resolve the issue~~
280 informally; ~~[or]~~

281 (iii) ~~[use the evidence gathered in the investigation to-]pursue corrective action~~
282 as described in R277-114-6 or R277-114-7; or

283 (iv) take other action as the Board determines.

284

285 **R277-114-6. Corrective Action for Contract Requirements.**

286 For corrective action related to a program or set of requirements established or
287 culminating in a contract, the Superintendent will take corrective action in accordance
288 with the provisions of the contract.

289

290 **R277-114-7. Corrective Action for Non-Contractual Requirements.**

291 (1) For corrective action related to a program or set of requirements not
292 established in contract, the Superintendent may take corrective action as described in
293 this section.

294 (2)(a) In taking corrective action under this section, the Superintendent shall act
295 in accordance with state and federal law ~~[and administrative rule-]~~ applicable to the
296 program or set of requirements.

297 (b) Before the Superintendent places an oversight entity on a corrective action
298 plan as described in Subsection (3), the Superintendent shall:

299 (i) provide written notice of initiating the process 30 days before the day on
300 which the corrective action plan is finalized; and

301 (ii) during the 30 days, discuss with the LEA's superintendent, charter director or
302 the oversight entity's primary contact the nature of the issue and attempt to resolve the
303 issue informally.

304 (c) If the corrective action plan is due to an oversight entity's failure to provide
305 information, the notice described in Subsection (2)(b)(i) shall include a statement
306 confirming that the information is not available elsewhere.

- 307 (3) The Superintendent may place an oversight entity on a corrective action plan
308 if the Board, the Superintendent, or an external or internal audit determines that the
309 oversight entity:
- 310 (a) demonstrates noncompliance with program outcomes or allowable program
311 expenditures;
 - 312 (b) demonstrates unsatisfactory outcomes in performance as evidenced by audit
313 results or category three or four monitoring;
 - 314 (c) demonstrates financial fraud, waste, or abuse;
 - 315 (d) lacks a sufficient internal control system; or
 - 316 (e) did not comply with a request to provide accurate and complete program or
317 financial information, in accordance with oversight procedures.
- 318 (4) A corrective action plan shall contain the following elements:
- 319 (a) the background information that led to corrective action, including:
 - 320 (i) each identified issue and the related requirement or best practice citation; and
 - 321 (ii) details of the discrepancy from the requirement or best practice, based on
322 evidence gathered, including dates;
 - 323 (b) the specific conditions the oversight entity must meet as a result of the
324 issues;
 - 325 (c) the steps required to satisfy the corrective action plan and estimated time
326 frame for completing the steps;
 - 327 (d) a procedure for communication during the course of the corrective action,
328 including:
 - 329 (i) designation of a primary contact at the oversight entity;
 - 330 (ii) a schedule for the frequency of updates provided by the contact;
 - 331 (iii) the format of required updates; and
 - 332 (iv) the designated recipient of the updates;
 - 333 (e) a procedure to close the corrective action, including:
 - 334 (i) designation of an individual authorized to close the corrective action;
 - 335 (ii) the criteria for closing the corrective action;
 - 336 (iii) an estimated schedule for closing the corrective action; and

- 337 (iv) how the authorized individual will communicate closure to the oversight
338 entity; and
- 339 (f) notice of the option for appeal as described in R277-114-8.
- 340 (5) In creating a corrective action plan, the Superintendent shall emphasize
341 providing technical support to assist the oversight entity to achieve compliance and
342 performance.
- 343 (6) The specific conditions described in Subsection (4)(b) may include:
- 344 (a) requiring the oversight entity to obtain technical or management support,
345 including program assistance like mentoring;
- 346 (b) requiring the oversight entity to receive payment as a reimbursement instead
347 of advance payment;
- 348 (c) requiring evidence of acceptable performance within a given period before
349 the oversight entity may proceed to the next corrective action step;
- 350 (d) requiring more frequent or more intensive monitoring than what is required
351 from the related program or other set of requirements;
- 352 (e) requiring additional or more detailed financial or compliance reports; or
353 (f) establishing additional prior approvals.
- 354 (7) The Superintendent may also include in a corrective action plan a provision
355 and timeline for:
- 356 (a) training for the oversight entity's staff;
- 357 (b) a referral for risk-based monitoring, for a program or set of requirements that
358 does not already perform risk-based monitoring;
- 359 (c) a referral for an audit or other agreed-upon procedure by:
- 360 (i) an external auditor; or
361 (ii) the Board's internal audit section, with approval of the Board's Audit
362 Committee;
- 363 (d) periodic meetings between an oversight entity administrator or governing
364 board member and the Superintendent or a Deputy Superintendent; and
- 365 (e) a planned appearance before the Board or a Board committee to provide
366 status updates.

367 (8) For an oversight entity that is a charter school, if the corrective action plan
368 addresses issues at the governance level, the Superintendent shall:

369 (a) consult with the charter authorizer in the creation of the corrective action
370 plan; and

371 (b) report regularly to the charter authorizer about the status of the corrective
372 action plan.

373 (9) The Superintendent may employ escalating restrictive conditions in a
374 corrective action plan based on:

375 (a) the severity of the violation as determined by the program’s monitoring plan
376 or process; or

377 (b) repeated violations by an oversight entity.

378 (10) (a) The Superintendent may include penalties for noncompliance with a
379 corrective action plan in accordance with Subsection [53E-3-401\(8\)](#).

380 (b) If the Superintendent determines to withhold funding as part of a corrective
381 action plan, the corrective action plan will state:

382 (i) the circumstances that led to the determination;

383 (ii) a timeline for when the funds will be withheld; and

384 (iii) ~~the~~ steps the oversight entity ~~[needs to complete to receive funding again~~
385 ~~]must satisfy to reinstate funding.~~

386 (11) The Superintendent shall give notice and a hard or electronic copy of the
387 corrective action plan to:

388 (a) the designated primary contact described in Subsection (4)(d)(i);

389 (b) the respective oversight entity’s governing board; and

390 (c) the charter school authorizer, in accordance with Subsection (8).

391 (12) ~~[The]~~As requested, the Superintendent shall report to the Board ~~[regularly]~~
392 about the status of ~~[each]~~a corrective action plan in force for an oversight entity.

393

394 **R277-114-8. Corrective Action Appeals.**

395 (1) An oversight entity may submit an appeal to the Board relating to:

396 (a) the requirements of a corrective action plan; or

397 (b) an action the Superintendent takes to implement a corrective action plan.

- 398 (2) For an appeal described in Subsection (1), the oversight entity shall:
- 399 (a) state [in the appeal](#) the plan requirement or action with which the oversight
- 400 entity disagrees; and
- 401 (b) submit the appeal to the Board in [accordance with R277-102-3](#).~~[hard copy or~~
- 402 ~~electronically within 30 days after the day on which:~~
- 403 ~~(i) the plan was transmitted to the oversight entity, if the appeal relates to a~~
- 404 ~~requirement of the originally created plan; or~~
- 405 ~~(ii) the Superintendent took the action to implement corrective action, if the~~
- 406 ~~appeal relates to the action the Superintendent took to implement corrective action.~~
- 407 (3) Except for corrective action subject to [34 CFR 76.783](#), the Board may:
- 408 (a) review the appeal as a full board; [\[ef\]](#)
- 409 (b) refer the matter to the Board audit committee to make a recommendation to
- 410 the Board for action~~[.];~~ or
- 411 [\(c\) choose another method to review the appeal.](#)

412

413 **KEY: monitoring, corrective action, oversight,**

414 **Date of Enactment or Last Substantive Amendment:**

415 **Authorizing, and Implemented, or Interpreted Law: [Art X Sec 3](#); [53E-3-401](#); [53E-3-](#)**

416 **[401\(4\)](#); [53F-1-104](#)**