

1 **R277. Education, Administration.**

2 **~~R277-114. Corrective Action and Withdrawal or Reduction of Program Funds.~~Board**
3 **Oversight Framework and Corrective Action Procedures.**

4 **R277-114-1. Authority and Purpose.**

5 (1) This rule is authorized by:

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

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

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

12 (d) Section 53F-1-104, which requires the Board to monitor state-funded
13 education programs and the expenditure of state funds in accordance with certain
14 statutory provisions; and

15 (e) Section 53E-3-301, which requires the Superintendent to:

16 (i) administer programs assigned to the state board in accordance with the
17 policies and the standards established by the state board; and

18 (ii) investigate matters pertaining to public schools.

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

21 ~~—— (a) program requirements;~~

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

23 ~~—— (c) financial propriety.~~ define minimum Board oversight standards, including:

24 (a) establishing an oversight framework for public education-related
25 requirements; and

26 (b) providing related corrective action and appeals procedures.

27

28 **R277-114-2. Definitions.**

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

- 30 ——— ~~(a) administrative rule;~~
31 ——— ~~(b) state law; or~~
32 ——— ~~(c) federal law.~~
33 ——— ~~(2) "Recipient" means an LEA, school, or subrecipient.~~
34 ——— ~~(3) "Subrecipient" means a non-Federal entity that receives an award through the~~
35 ~~Board to carry out part of a Federal program, or a non-Federal entity that is the direct~~
36 ~~awardee of other federal awards from a Federal awarding agency.~~
37 ~~(1) "Chief Audit Executive" means the same as that term is defined in R277-116.~~
38 ~~(2)~~(1) "Framework" means the Board Oversight Framework established in this
39 rule.
40 ~~(3)~~(2) "Oversight entity" means:
41 (a) an LEA;
42 (b) a regional service agency, as that term is defined in Section 53G-4-410;
43 (c) an entity that enters into a contract with the Board:
44 (i) to provide an educational good or service; or
45 (ii) as the Board is directed by the Legislature;
46 (d) a charter school authorizer, as that term is defined in Section 53G-5-102, if
47 the charter school authorizer has an approved charter school;
48 (e) an institution of higher education that is associated with an educator
49 preparation program, as defined in R277-303-2;
50 (f) an entity that receives a distribution of state funds through a grant program
51 funded by the state board; or
52 (g) a nonfederal entity that receives an award through the Board to carry out part
53 of a federal program.
54 ~~(4)~~(3) "Program or other set of requirements" means a requirement or set of
55 requirements in state or federal law that is related to:
56 (a) the public education system; and
57 (b) an oversight entity.
58

59 **R277-114-3. ~~Program Monitoring~~ Board Oversight of Public Education Programs and**
60 **Requirements.**

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

64 ~~——(2) The Superintendent shall notify all recipients of the initiation of or changes to any~~
65 ~~monitoring plan or process.~~

66 ~~——(3) The Superintendent shall monitor compliance with:~~

67 ~~——(a) program outcomes and requirements;~~

68 ~~——(b) reporting requirements; and~~

69 ~~——(c) financial requirements.~~

70 ~~——(4) An LEA shall provide the Superintendent all requested information or documents~~
71 ~~to comply with this Section.~~

72 (1) The Superintendent shall create a framework, as described in R277-114-4,
73 that sets minimum standards for oversight of a program or other set of requirements.

74 (2) In accordance with R277-114-4, the Superintendent shall:

75 (a) on or before July 31, 2029, designate each program or other set of
76 requirements into a framework category that corresponds to the Board's oversight role
77 for that program or set of requirements; and

78 (b) fulfill related oversight duties as described in rule and internal policy and
79 procedures.

80 (3) In accordance with R277-114-5, the Board or Superintendent may take
81 investigative or corrective action with regard to any program or set of requirements.

82 (4) An oversight entity shall provide all information and documents requested by
83 the Board or the Superintendent [in a timely manner](#).

84

85 **R277-114-4. Board Oversight Framework.**

86 (1) The framework shall consist of four categories that represent an increasing
87 degree of Board oversight for each subsequent category.

- 88 (2) Before categorizing a program or set of requirements, the Superintendent
89 shall analyze the program or set of requirements based on the following factors:
- 90 (a) the quantity and content of the legal requirements, including explicit
91 monitoring requirements in state or federal law;
- 92 (b) the risk inherent in:
- 93 (i) the requirements; and
- 94 (ii) the individual oversight entities subject to the requirements, with regard to the
95 effectiveness of each oversight entity’s internal control system;
- 96 (c) all general and dedicated resources available to carry out the requirements,
97 including:
- 98 (i) the restricted or unrestricted nature of applicable funding; and
- 99 (ii) options for using dedicated staff; and
- 100 (d) any other factors the Superintendent considers relevant to the analysis.
- 101 (3) Based on the analysis described in Subsection (2), the Superintendent shall
102 [typically] categorize a program or set of requirements in the framework typically as
103 follows:
- 104 (a) a program or set of requirements belongs in category one if the
105 Superintendent determines that:
- 106 (i) the Superintendent will not [specifically] dedicate specific staff to the program
107 or set of requirements; and
- 108 (ii) either:
- 109 (A) local control is critical to the purpose of the requirements; or
- 110 (B) the Superintendent will not use resources for implementing the requirements
111 and will typically refer complaints and allegations back to the oversight entity for
112 resolution;
- 113 (b) a program or set of requirements belongs in category two if the
114 Superintendent determines that:
- 115 (i) the Superintendent will not specifically dedicate staff to the program or set of
116 requirements; and

- 117 (ii) the Superintendent will provide assistance as needed to an oversight entity
118 implementing the requirements;
- 119 (c) a program or set of requirements belongs in category three if the
120 Superintendent determines:
- 121 (i) that the Superintendent will dedicate staff to the program or set of
122 requirements; and
- 123 (ii) at least one of the following:
- 124 (A) that less frequent than annual desk monitoring is sufficient to fulfill the
125 requirements; or
- 126 (B) that resources are limited to either completely fulfill monitoring requirements
127 or to appropriately mitigate identified risks; and
- 128 (d) a program or set of requirements belongs in category four if the
129 Superintendent determines that:
- 130 (i) the Superintendent will dedicate staff to the program or set of requirements;
131 (ii) annual or more frequent monitoring is necessary to ensure accountability of
132 the oversight entity;
- 133 (iii) monitoring may include on-site visits; and
134 (iv) resources are sufficient to fulfill the requirements.
- 135 (4) When the Board makes, amends, or continues a rule regarding a program or
136 set of requirements, the rule:
- 137 (a) shall state the Board's oversight objectives and related duties, based on the
138 Superintendent's analysis and framework categorization of the program or set of
139 requirements; and
- 140 (b) may include, as necessary for the intended category of oversight:
- 141 (i) designing an internal control system to achieve the Board's oversight
142 objectives and creating an implementation plan;
- 143 (ii) creating a mechanism to check the effectiveness of the oversight process;
144 and

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

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

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

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

151

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

153 (1) The framework does not supersede or limit the Board's power of general
154 control and supervision and the Board may vote to change part or all of the framework
155 or categorizations within the framework at any time.

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

158 (3) (a) Except as provided in Subsection (3)(b), for an alleged compliance issue
159 regarding a program or set of requirements in category one or two, the Superintendent
160 shall refer reports and complaints back to the oversight entity for resolution.

161 (b) The Superintendent may work informally with an oversight entity to resolve an
162 alleged compliance issue arising under a program or set of requirements in category one
163 or two, including discussing whether:

164 (i) the oversight entity had adequate time to comply; or

165 (ii) the oversight entity needs additional training.

166 (4) For a compliance issue arising under a program or set of requirements in
167 category three or four, the Superintendent shall pursue formal corrective action:

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

169 (b) in accordance with ~~the~~ a state law, administrative rule, or a contract
170 associated with the program or set of requirements.

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

174 (i) for an issue regarding an LEA, meeting with the chair of the LEA's governing
175 board, the LEA's superintendent, or charter director; or

176 (ii) determining whether training or additional time will allow the oversight entity
177 to resolve the compliance issue and, as appropriate, providing resources and an
178 extended deadline to support the entity into compliance.

179 (b)(i) For an alleged compliance issue regarding a program or set of
180 requirements uncategorized or in [framework](#) category one or two, if the Board or Board
181 leadership [does](#) not elect to resolve an issue or if the issue is not resolved through
182 efforts described in Subsection (5)(a), the Board's audit committee may determine an
183 appropriate method to investigate the alleged compliance issue, including requesting
184 the Board's internal audit function to investigate the alleged issue in accordance with
185 Rule [R277-116](#).

186 (ii) If the Board's audit committee directs an investigation as described in
187 Subsection (5)(b)(i), the entity conducting the investigation shall notify the oversight
188 entity that the investigation will review an alleged compliance issue in accordance with
189 this Section.

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

192 (i) take no further action;

193 (ii) resolve the issue informally;

194 (iii) pursue corrective action as described in R277-114-6 or R277-114-7; or

195 (iv) take other action~~[as the Board determines]~~.

196

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

198 For corrective action related to a program or set of requirements established or
199 culminating in a contract [between the Board and an oversight entity](#), the Superintendent
200 ~~[will]~~shall take corrective action in accordance with the provisions of the contract.

201

202 ~~R277-114-4. Corrective Action Plans.~~ 7. Corrective Action for Non-Contractual
203 Requirements.

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

207 (2)(a) In taking corrective action under this section, the Superintendent shall act
208 in accordance with state and federal law applicable to the program or set of
209 requirements.

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

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

214 (ii) during the 30 days, discuss with the LEA's superintendent, charter director or
215 the oversight entity's primary contact the nature of the issue and attempt to resolve the
216 issue informally, including discussing whether:

217 (A) the oversight entity has adequate time to comply; or

218 (B) the oversight entity needs additional training.

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

222 ~~(4)(3)~~ The Superintendent shall may place a recipient an oversight entity on a
223 corrective action plan when a recipient if the Board, the Superintendent, or an external or
224 internal audit determines that the oversight entity:

225 ~~(a) does not demonstrate satisfactory program outcomes as described by the~~
226 ~~monitoring plan or process;~~

227 ~~(b)(a)~~ demonstrates noncompliance with published expectations for program
228 requirements outcomes or allowable program expenditures; or

229 (b) demonstrates unsatisfactory outcomes in performance as evidenced by audit
230 results or framework category three or four monitoring;

- 231 (c) demonstrates financial fraud, waste, or abuse; or
232 ~~(d) lacks a sufficient internal control system; or~~
233 ~~(e)(e)(d)~~ does ~~did~~ not comply with a requests to provide accurate and complete
234 program or financial information, ~~as described by the monitoring plan or process in~~
235 accordance with oversight procedures.
- 236 ~~—(2) (4) The Superintendent shall clearly outline in a~~ A corrective action plan shall
237 contain the following elements:
- 238 ~~(a) all areas of noncompliance~~ the background information that led to corrective
239 action; ~~[-, including:]~~
- 240 ~~(i)(b)~~ each identified issue and ~~the related requirement or best practice a~~
241 citation to the law related to the issue; and
- 242 ~~(ii)(c)~~ details of the discrepancy from the requirement ~~[- or best practice], based~~
243 on evidence gathered, including dates;
- 244 ~~(b)(d)~~ the specific conditions to be met as a result of noncompliance the oversight
245 entity must meet as a result of the issues;
- 246 ~~(e)(e)~~ steps required to satisfy the corrective action plan and estimated time frame
247 for completing the steps; and
- 248 ~~—(d) a reasonable time frame for the recipient to correct identified issues~~
- 249 ~~(e)(f)~~ a procedure for communication during the course of the corrective action,
250 including:
- 251 (i) designation of a primary contact at the oversight entity;
252 (ii) a schedule for the frequency of updates provided by the contact;
253 (iii) the format of required updates; and
- 254 (iv) the designated recipient of the updates;
- 255 ~~(e)(g)~~ a procedure to close the corrective action, including:
- 256 (i) designation of an individual authorized to close the corrective action;
257 (ii) the criteria for closing the corrective action;
258 (iii) an estimated schedule for closing the corrective action; and

259 (iv) how the authorized individual will communicate closure to the oversight
260 entity; and

261 ~~(f)~~(h) notice of the option for appeal as described in R277-114-8.

262 (5) In creating a corrective action plan, the Superintendent shall emphasize
263 providing technical support to assist the oversight entity to achieve compliance and
264 performance.

265 ~~—(3)(6)~~ The specific conditions described in Subsection ~~(2)(4)~~(b) may include:

266 (a) requiring the oversight entity to obtain technical or management support,
267 including program assistance ~~like~~such as mentoring;

268 (b) requiring the oversight entity to receive payments as a reimbursements rather
269 than ~~an~~ instead of advance payments;

270 ~~(b)(c) withholding authority to proceed to the next step until receipt of~~ requiring
271 evidence of acceptable performance within a given period of performance before the
272 oversight entity may proceed to the next corrective action step;

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

274 (d) requiring additional project monitoring more frequent or more intensive
275 monitoring than what is typically required from the related program or other set of
276 requirements;

277 ~~(e) requiring the recipient to obtain technical or management assistance; or~~
278 additional or more detailed financial or compliance reports; or

279 (f) establishing additional prior approvals.

280 ~~—(4) A(7) The Superintendent may also include in a corrective action plan may also~~
281 include a provision and a timeline for:

282 (a) training for the oversight entity's staff;

283 (b) a referral for risk-based monitoring, for a program or set of requirements that
284 does not already perform risk-based monitoring;

285 ~~(b)(c)~~ a referral for an audit or other agreed-upon procedure by:

286 (i) an external auditor; or

287 (ii) the Board's internal audit ~~department~~ section, with approval of the Board's Audit
288 Committee;

289 ~~(e)~~(d) periodic meetings between a ~~recipient~~ an oversight entity administrator or
290 governing board member and the State Superintendent of ~~Public Instruction~~ or a Deputy
291 Superintendent; and

292 ~~(d)~~(e) a planned appearances before the Board or a Board committee to provide
293 status updates; and

294 ~~(e)~~ training for the recipient's staff.

295 ~~——(5)~~ (8) For an oversight entity that is a charter school, ~~if the corrective~~
296 ~~action plan addresses issues at the governance level,~~ the Superintendent shall:

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

299 (b) report regularly to the charter authorizer about the status of the noncompliant
300 program recipient.

301 ~~——(6)~~(9) The Superintendent may employ escalating restrictive conditions in a
302 corrective action plan based on:

303 (a) the severity of the violation as determined by the program's monitoring plan or
304 process; or

305 (b) repeated violations by a ~~recipient~~ an oversight entity.

306 ~~——(7)~~(10)(a) The Superintendent may include penalties for non-compliance with a
307 corrective action plan in accordance with Subsection 53E-3-401(8).

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

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

311 (ii) a timeline for withholding funds~~[when the funds will be withheld]; and~~

312 (iii) the steps the oversight entity ~~[must]~~is required to satisfy to reinstate funding.

313 ~~——(8)~~(11) The Superintendent shall give notice and a hard or electronic copy of the
314 corrective action plan ~~in writing~~ to:

315 (a) ~~the recipient's administrators;~~ the designated primary contact described in
316 Subsection (4)(d)(i);

317 (b) the respective recipient's oversight entity's governing board; and

318 (c) the charter school authorizer, if applicable in accordance with Subsection (8).

319 ~~_____ (9) The(12) As requested, the~~ Superintendent shall report to the Board regularly
320 about the status of noncompliant program recipients a corrective action plan in force for an
321 oversight entity.

322

323 **R277-114-5. Recipient Appeals.-8. Corrective Action Appeals.**

324 (1) ~~A recipient~~ An oversight entity may file submit an appeal to the Board of any
325 ~~adverse decision of the Superintendent resulting from a corrective action plan or penalty~~
326 relating to:

327 (a) a reason the Superintendent is imposing the corrective action plan;

328 ~~(a)~~ (b) the requirements of a corrective action plan; or

329 ~~(b)~~ (c) an action the Superintendent takes to impose or implement a corrective
330 action plan.

331 (2) ~~An appeal must be made in writing and within 30 days of the date of the~~
332 Superintendent's action. For an appeal described in Subsection (1), the oversight entity
333 shall:

334 (a) state in the appeal the plan requirement or action with which the oversight
335 entity disagrees; and

336 (b) submit the appeal to the Board in accordance with R277-102-3.

337 (3) Except for corrective action subject to 34 CFR 76.783, the Board may:

338 (a) review the appeal as a full board; ~~or~~

339 (b) refer the matter to the Board audit committee to make a recommendation to the
340 Board for action; or

341 (c) [choose] identify another method to review the appeal.

342

343 **R277-114-9. Superintendent Status Reports on Oversight Framework.**

344 The Superintendent shall provide a report to the Board that reviews and evaluates
345 the effectiveness of the framework:

346 (1) before December 15, 2024; and
347 (2) at the request of the Board thereafter.

348

349 ~~KEY: programs, noncompliance, corrective action~~

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

351 ~~Notice of Continuation: January 13, 2020~~

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

353 ~~KEY: monitoring, corrective action, oversight,~~

354 ~~Date of Enactment or Last Substantive Amendment:~~

355 ~~Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-3-~~
356 ~~401(4); 53F-1-104~~