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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Martell Menlove, Ph.D.
Chief Executive Officer

DATE: June 6, 2014

ACTION: R277-113-4 *LEA Fiscal Policies and Accountability – LEA Responsibilities*
(Amendment)

Background: SB93 *Internal Audit Amendments* was passed during the 2014 legislature. This legislation establishes requirements for audit committees for all LEAs, including the makeup of audit committee members. This bill requires all LEAs with 10,000 or more students to establish their own Internal Audit function.

Key Points: The bill requires that LEAs establish an audit committee, which is already part of Board rule R277-113 *LEA Fiscal Policies and Accountability*. The bill also requires that a local board of seven or more members designate three members as the audit committee, and a board of six or fewer members designate two members as the audit committee. The bill further indicates that the audit committee members cannot be administrators or employees of the LEA. Additional clarifications of audit committee responsibilities and amendments to add these provisions to R277-113-4 are proposed.

LEAs with 10,000 or more students are required to implement an Internal Audit Program. The LEAs can restructure existing internal audit functions and personnel, hire new personnel, or contract for internal audit services. Newly-enacted 53A-30-130 (7) establishes a provision that allows LEAs to contract with the State Board of Education and the Office of the State Auditor for internal audit services.

Anticipated Action:

1. It is proposed that the Finance Committee consider approving R277-113-4, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-113-4, as amended, on second reading.
2. The Finance Committee will discuss whether the Board should allow LEAs to contract with Board auditors to serve as LEA auditors. The Board could, based upon the Committee's recommendation, direct staff to investigate interest from affected LEAs and estimate required resources.

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Natalie Grange, Internal Audit Director, 801-538-7813

1 **R277. Education, Administration.**

2 **R277 113. LEA Fiscal Policies and Accountability.**

3 **R277-113-4. LEA Responsibilities.**

4 A. LEAs shall develop, have approved by local/charter
5 boards and implement ~~[the]~~written fiscal policies as required
6 ~~[in]by~~ R277-113-5~~[-before September 15, 2013]~~. LEAs shall
7 review~~[These]~~ policies ~~[shall be in writing]~~annually.

8 B. LEAs shall also develop a plan for training LEA and
9 public school employees, at least annually, on policies
10 enacted by the LEA specific to job function.

11 (1) These policies shall be available at each LEA main
12 office, at individual public schools, and on the LEA's
13 website.

14 (2) The LEA fiscal policies and training may have
15 different components, specificity, and levels of complexity
16 for public elementary and secondary schools.

17 (3) LEAs may have one~~[-policy]~~ or more ~~[than one]~~policies
18 to satisfy~~[ing]~~ the minimum requirements of this rule.

19 ~~[(4) An LEA policy shall address how often the policy~~
20 ~~shall be reviewed, including periodic updates or training and~~
21 ~~resource manuals.]~~

22 ~~[(5)4)~~ An LEA policy may reference specific training
23 manuals or other resources that provide detailed descriptions
24 of business practices which are too lengthy or detailed to
25 include in the LEA policy.

26 C. ~~[An]~~The LEA board shall designate board members to
27 serve on an audit or finance committee, consistent with
28 Section 53A-30-102(1). The LEA audit or finance committee has
29 the following responsibilities:

30 (1) establish an internal audit program that provides
31 internal audit services for the programs administered by the
32 LEA, consistent with Section 53A-30-103 (required only if LEAs
33 have 10,000 or more students);

34 (2) receive a report of the risk assessment process

35 undertaken by the LEA management in ~~[developing the system of~~
36 ~~internal controls]~~conjunction with internal audit, if
37 applicable;

38 ([1]3) ensur[ing]e that the LEA management properly
39 develops and adheres to a sound system of documented internal
40 controls consistent with the requirements of R277-113-5;

41 ([3]4) develop[ing] a process to review LEA management's
42 financial ~~[information]~~reporting practices, financial
43 statements, LEA financial position, and LEA and individual
44 school records on a regular basis;

45 (5) report the fiscal position of the LEA to the LEA
46 board monthly;

47 [~~(4) ensuring that management conducts a competitive RFP~~
48 ~~process to hire external auditors and other professional~~
49 ~~services and making a recommendation to the LEA board on the~~
50 ~~results of the RFP process consistent with the State~~
51 ~~Procurement Code;~~]

52 (6) determine the appropriate scope of the independent
53 audit, determine the appropriate scope of nonaudit services to
54 be performed by the independent auditor, manage the audit
55 procurement process in compliance with State Procurement Code
56 Section 63G-6a, and make recommendations to the LEA board on
57 the results of the procurement process;

58 [~~(5) receiving communication from or meeting with the~~
59 ~~external auditors annually and receiving a direct report of~~
60 ~~the audit findings, exceptions, and other matters noted by the~~
61 ~~auditor;~~]

62 (7) facilitate regular direct communication with
63 independent auditors, receive independent audit report and
64 financial statements, ensure management implements corrective
65 actions, assess performance of the independent auditors, and
66 review disagreements between independent auditors and
67 management;

68 (8) determine the appropriate scope of contracts with

69 management companies that provide business services and
70 student services, manage the procurement process in compliance
71 with Section 63G-6a, make recommendations to the LEA board on
72 the results of the procurement process, assess the performance
73 of management companies, and ensure management implements
74 sufficient internal controls over the functions of the
75 management company;

76 (9) prioritize internal audit plan, receive audit reports
77 from internal auditors or contractors providing internal audit
78 services and other regulatory bodies, and provide an
79 independent forum for internal auditors or internal audit
80 contractors or other regulatory bodies to report findings of
81 management abuse or control override;

82 (10) ensure that issues and exceptions reported by
83 external audits, internal audits, or other regulatory bodies
84 are resolved in a timely manner; and

85 ~~(11) [reporting] present the annual audit reports and~~
86 ~~findings or other matters communicated by the external auditor~~
87 ~~or other regulatory bodies to the LEA board in a public~~
88 ~~meeting[+].~~

89 ~~(7) ensuring that matters reported by external audits,~~
90 ~~internal audits, or other regulatory bodies are resolved in a~~
91 ~~timely manner.]~~

92 D. The definition of school sponsored and requirements of
93 R277-113-4[F]G do not apply to activities, fundraising events,
94 clinics, clubs, camps, or activities organized by a third
95 party which have not been designated by the LEA as school
96 sponsored. All transactions pertaining to nonschool sponsored
97 events shall be conducted at arm's length; revenues and
98 expenditures shall not be commingled with public funds.

99 E. For nonschool sponsored events, funds may be managed
100 or held by a public school employee, only consistent with
101 R277-107.

102 F. The definition of school sponsored and requirements of

103 R277-113-4[F]G do not apply to non-curricular clubs
104 specifically authorized and meeting all criteria of Sections
105 53A-11-1205 through 1208.

106 G. LEAs and individual public schools shall comply with
107 the following regarding school and nonschool sponsored
108 activities:

109 (1) may enter into contractual agreements to allow for
110 fundraising and use of LEA facilities. An agreement shall
111 take into consideration the LEA's fiduciary responsibility for
112 the management and use of public funds. LEAs should consult
113 with the LEA insurer or legal counsel, or both, to ensure
114 risks are adequately considered and managed;

115 (2) shall annually review fundraising activities that
116 support or subsidize LEA or public school-authorized clubs,
117 activities, sports, classes or programs to determine if the
118 activities are school sponsored consistent within R277-113-1H;

119 (3) shall ensure that revenues raised from school
120 sponsored activities and funds expended from the proceeds are
121 considered public funds consistent with R277-113-1G;

122 (4) shall maintain adequate records to ensure that funds
123 collected from or during school sponsored activities are in
124 compliance with LEA cash handling policies as required by
125 R277-113-5;

126 (5) shall maintain adequate records to show that
127 expenditures made to support activities from LEA or public
128 school funds are in compliance with LEA expenditure of funds
129 policies as required by R277-113-5; and

130 (6) shall make records of activities available to
131 parents, students, and donors and shall maintain the records
132 in sufficient detail to track individual contributions and
133 expenditures as well as overall financial outcome. Records
134 may be private or protected consistent with Sections 63G-2-
135 302, 303, 305, and the Family Educational Rights and Privacy
136 Act (FERPA), 20 U.S.C. Section 1232g[+].

137 H. Public Education Foundations established by LEAs
138 shall follow the requirements provided in Section 53A-4-205.

139 **KEY: school sponsored activities, public funds, fiscal**
140 **policies and procedures, audit committee**

141 **Date of Enactment or Last Substantive Amendment: [~~November 7,~~**
142 **2013]2014**

143 **Authorizing, and Implemented or Interpreted Law: Art X, Sec**
144 **3; 53A-1-401(3); 53A-1-402(1)(e)**