

1 **R277. Education, Administration.**

2 **R277-471. School Construction Oversight, Inspections, Training, and Reporting.**

3 **R277-471-1. 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  
8 the Board's duties and responsibilities under the Utah Constitution and state law;

9 (c) Subsection [53E-3-401](#)(8)(ii), which permits the Board to withhold state funds  
10 from an education entity for non-compliance with the education code or administrative  
11 rules;

12 (d) Section [53E-3-706](#), which requires the Superintendent to enforce Title 53E,  
13 Chapter 3, Part 7, School Construction; and

14 (e) Section [53E-3-707](#), which requires the Board to adopt a school construction  
15 manual.

16 (2) The purpose of this rule is to:

17 (a) provide specific provisions for the oversight of permanent or temporary public  
18 school construction and renovation; and

19 (b) identify responsibilities of an LEA governing board in the school construction  
20 process.

21

22 **R277-471-2. Definitions.**

23 (1) "Certified plans examiner" means a professional who has current applicable  
24 commercial certification through the "International Code Council" or "ICC".

25 (2) "Charter school" means a school acknowledged as a charter school by a  
26 charter school authorizer consistent with [Title 53G, Chapter 5, Part 3](#), Charter School  
27 Authorization.

28           (3) "Charter school responsible person or local charter school board building  
29 officer or designee" or "CSBBO" means the individual or authority designated by a  
30 charter school governing board who:

31           (a) has direct administrative and operational control of charter school  
32 construction or renovation; and

33           (b) has responsibility for a charter school's compliance with Utah law on behalf  
34 of the charter school governing board.

35           (4) "Certificate of inspection verification" means a form, available on the Board  
36 website, certifying that the entity responsible for providing inspection services has  
37 complied with the provisions of:

38           (a) Section [53E-3-706](#);

39           (b) Section [53E-3-708](#);

40           (c) Section [10-9a-305](#);

41           (d) Section [17-27a-305](#);

42           (e) [Title 15A](#), State Construction and Fire Code Act;

43           (f) Rule [R156-56](#); and

44           (g) this Rule R277-471.

45           (5) "Certificate of occupancy" means the document issued upon receipt of the  
46 final inspection from the inspector of record and the 'Certificate of Fire Clearance'  
47 issued by the Utah State Fire Marshal, verifying compliance with all minimum  
48 requirements to safeguard the public health, safety, and general welfare of occupants,  
49 which authorizes permanent usage or occupancy of:

50           (a) any new building or occupiable structure;

51           (b) any existing occupiable building or structure alteration; or

52           (c) a change of occupancy in an existing structure, building, or space.

53           (6) "General plan" means a document that a municipality adopts that sets forth  
54 general guidelines for proposed future development of the land within the municipality,  
55 consistent with Subsection [10-9a-103](#)(13).

56           (7) "Inspector" means a professional who holds current applicable commercial  
57 certification through the International Code Council and is currently licensed in the in  
58 Utah in the applicable trades for which the inspector is performing inspections.

59           (8) "Manual" means the School Construction Resource Manual incorporated by  
60 reference in Section R277-471-3.

61           (9) "New school building project" means the construction of a school that did not  
62 previously exist in an LEA.

63           (10) "Public school construction" means construction work on a new or existing  
64 public school building.

65           (11) "School District Building Official or "SDBO" means the individual or authority  
66 designated by a school district who has direct administrative and operational control of  
67 school district construction or renovation and is responsible for the school district's  
68 compliance with Utah law.

69           (12) "Significant school remodel" means the upgrading, changing, alteration,  
70 refurbishment, modification, or complete substitution or replacement of an existing  
71 school in an LEA with a project cost equal to or in excess of \$2,000,000.

72           (13) "Temporary certificate of occupancy" means the document, valid for a  
73 limited time period, issued upon receipt of the temporary final inspection report from the  
74 inspector of record and the 'Temporary Certificate of Fire Clearance' issued by the Utah  
75 State Fire Marshal, verifying minimum requirements to safeguard the public health,  
76 safety, and general welfare of occupants, which authorizes temporary usage or  
77 occupancy of:

78           (a) any new building or occupiable structure;

79           (b) any existing occupiable building or structure alteration; or change of  
80 occupancy in an existing structure or building or space.

81

82 **R277-471-3. Incorporation of School Construction Resource Manual by**  
83 **Reference.**

84           (1) This rule incorporates by reference the School Construction Resource  
85 Manual dated April 30, 2013.

86           (2) The School Construction Resource Manual was developed by the Board in  
87 accordance with Section [53E-3-707](#).

88           (3) A copy of the manual is located at:

89           (a) [https://www.schools.utah.gov/administrativerules/documentsincorporated](https://www.schools.utah.gov/administrativerules/documentsincorporated;);  
90 and

91           (b) the offices of the Board.

92           (4) The Superintendent shall review the manual annually and recommended  
93 changes, if necessary, to the Board.

94           (5) Each public school construction project shall be conducted in accordance  
95 with the manual.

96

97 **R277-471-4. LEA Responsible Person.**

98           (1) An LEA board shall be accountable to ensure that all school district and  
99 charter school permanent or temporary construction, renovation, and inspections are  
100 conducted in accordance with the law to provide minimum requirements to safeguard  
101 the public health, safety, and general welfare of occupants while using the most  
102 comprehensive, cost-effective, and efficient design means and methods.

103           (2) A school district governing board shall:

104           (a) appoint an SDBO who has direct administrative and operational control of all  
105 construction, renovation, and inspection of public school district facilities within the  
106 school district; and

107           (b) provide in writing the name of the SDBO to the Superintendent.

108           (3) A charter school governing board shall account to the school's authorizer and  
109 the Board to ensure that all charter school permanent or temporary construction,  
110 renovation, and inspections are conducted in accordance with Utah law.

111           (4)(a) A charter school governing board shall appoint a CSBBO who has direct  
112 operational responsibility for construction, renovation, and inspection of the charter  
113 school.

114           (b) The CSBBO shall report regularly to the charter school governing board.

115           (c) A charter school governing board shall provide the name of its CSBBO in  
116 writing to the Superintendent.

117           (d) A charter school governing board shall promptly notify the Superintendent in  
118 writing of any changes to the school's CSBBO.

119           (5) An SDBO or a CSBBO may adopt and enforce supplemental LEA policies  
120 under appropriate LEA policies to clarify the application of the provisions of Utah law for  
121 LEA personnel.

122

123 **R277-471-5. School Construction Inspectors.**

124           (1) An LEA shall employ or contract with inspectors for school construction  
125 inspection who are currently ICC commercially certified and licensed in Utah, in the  
126 trade specific to the inspection, consistent with Utah law.

127           (2) An LEA shall choose one of three methods for inspections:

128           (a) Independent inspectors:

129           (i) shall receive approval from the local jurisdiction in which the construction  
130 activity occurs;

131           (ii) may include inspectors working outside the municipality, county, or school  
132 district in which they are employed; and

133           (iii) may not be associated with:

134           (A) the architect, developer, contractor, or a subcontractor working on the  
135 project; or

136           (B) any management company or other agency hired by the LEA to perform  
137 construction or construction administrative services.

138           (3) Inspectors employed by school districts may only perform school  
139 construction inspections within the boundaries of the school district.

140 (4) Inspectors employed by municipalities and counties may only perform school  
141 construction inspections within the boundaries of the municipality or county where they  
142 are employed.

143

144 **R277-471-6. School Construction Inspections.**

145 (1) Before any school construction project begins, the SDBO or CSBBO shall  
146 obtain a construction project number from the Superintendent by completing and  
147 submitting construction project identification forms provided by the Superintendent and  
148 other required submittals for all projects consistent with [Title 53E, Chapter 3, Part 7](#),  
149 School Construction, and the manual.

150 (2) A certified plans examiner shall approve all LEA school plans and  
151 specifications before any LEA construction project begins.

152 (3)(a) If an LEA cannot provide appropriate and proper school construction  
153 inspection and plan review services, the Superintendent may procure inspection  
154 services and charge the LEA for those services.

155 (b) An approved inspector shall establish fees in advance of inspection services.

156 (4) LEA construction projects shall comply with [Title 53E, Chapter 3, Part 7](#),  
157 School Construction, and this Rule R277-471 to:

158 (a) ensure that each inspector is adequately and appropriately credentialed;

159 (b) identify and provide to the Superintendent and local government entity  
160 building official reports of all inspections with the name, state license number, and  
161 disciplines of each inspector performing the project inspections;

162 (c) submit inspection certificates and all related submittals to the Superintendent  
163 and appropriate local government entity building official;

164 (d) submit inspection summary reports monthly to the appropriate local  
165 government entity building official and the Superintendent;

166 (e) sign the final certificate of inspection and verification form, certifying all  
167 inspections were completed in compliance with all applicable laws and rules to  
168 safeguard the public health, safety, and general welfare of occupants;

169 (f) send the final inspection certification, inspection verification, and provide all  
170 other related project closeout submittals to the Superintendent and to the appropriate  
171 local government entity building official upon completion of the project; and

172 (g) maintain all submitted documentation at a designated LEA location for  
173 auditing or monitoring.

174 (5) The SDBO or CSBBO may submit either paper or electronic reports to satisfy  
175 this section.

176

177 **R277-471-7. Coordination with Local Governments, Utility Providers, and the**  
178 **State Fire Marshal.**

179 (1) Prior to developing plans and specifications for a public school construction  
180 project, an LEA shall coordinate with affected local government land use authorities and  
181 utility providers to:

182 (a) ensure that the siting or expansion of a school in the intended location will  
183 comply with applicable local general plans and land use laws and will not conflict with  
184 entitled land uses;

185 (b) ensure that all local government services and utilities required by the school  
186 construction activities can be provided in a logical and cost-effective manner;

187 (c) avoid or mitigate existing and potential traffic hazards, including  
188 consideration of the impacts between the public school construction and future  
189 roadways; and

190 (d) maximize school, student, and site safety.

191 (2) An LEA shall cooperate with municipalities and counties and conform to  
192 municipal and county land use ordinances consistent with Sections [10-9a-305](#) and [17-](#)  
193 [27a-305](#).

194 (3) Prior to developing plans and specifications for a public school construction  
195 project, an LEA shall coordinate with local health departments and the State Fire  
196 Marshal.

197           (4) A charter school shall have an open meeting to seek and secure a variance  
198 from the appropriate government entity if the LEA selects a school site in a municipality  
199 or county-designated zone for sexually oriented businesses or businesses that sell  
200 alcohol.

201           (5) Parking requirements for a charter school may not exceed the minimum  
202 parking requirements for a traditional public school of a like size and grade levels or  
203 other institutional public use throughout the municipality or county.

204           (6) An LEA shall maintain documentation for audit or monitoring purposes of  
205 coordination, meetings, and agreements required under this section.

206           (7) Prior to developing plans and specifications for a public school construction  
207 project, an LEA shall coordinate with local jurisdictions to comply with Federal  
208 Emergency Management Agency flood plain requirements and restrictions, including  
209 applicable mitigation measures.

210

211 **R277-471-8. Superintendent's Authority to Request Additional Inspections.**

212           (1) The Superintendent may contract with any appropriately qualified entity or  
213 person to provide inspection services that the Superintendent considers necessary to  
214 enable the Superintendent to issue a certificate authorizing temporary or permanent  
215 occupancy of a public school building.

216           (2) The Superintendent may charge an LEA a fee, not to exceed the actual cost  
217 of performing the inspection, for inspection services.

218

219 **R277-471-9. Certification of Occupancy.**

220           (1) For a school district:

221           (a) After completion of a project when a school district's appropriately  
222 credentialed inspector provides inspections, an SDBO shall sign a certificate of  
223 inspection verification form certifying that all inspections were completed in accordance  
224 with Utah law, and file the form with the Superintendent and the building official of the  
225 jurisdiction in which the building is located.



226           (b)(i) After completion of a project when a local jurisdiction provides inspections,  
227 the school district shall obtain a certificate authorizing permanent occupancy of a school  
228 building from the jurisdiction in which the building is located.

229           (ii) A school district shall provide a copy of the certificate of occupancy to the  
230 Superintendent.

231           (c) After completion of a project when independent inspectors provide  
232 inspections, an SDBO shall seek a certificate authorizing temporary or permanent  
233 occupancy of the school from the Superintendent.

234           (2) For a charter school:

235           (a) After completion of a project and inspection by an appropriately credentialed  
236 inspector when a charter school contracts with a school district for inspections, the  
237 CSBBO shall obtain a completed certificate of inspection verification form from the  
238 SDBO certifying that all inspections were completed in accordance with Utah law, and  
239 file the form with the Superintendent and the building official of the jurisdiction where the  
240 charter school is located.

241           (b)(i) After completion of a project when a local jurisdiction provides inspections,  
242 a charter school shall obtain a certificate authorizing permanent occupancy of a school  
243 building from the jurisdiction in which the building is located.

244           (ii) The CSBBO shall provide a copy of the certificate of occupancy to the  
245 Superintendent.

246           (c) After completion of a project when independent inspectors provide  
247 inspections, the CSBBO shall seek a certificate authorizing temporary or permanent  
248 occupancy of the school from the Superintendent.

249           (3) Within 30 days after an LEA files a request for the issuance of a certificate  
250 authorizing permanent occupancy of a school building from the Superintendent, the  
251 Superintendent shall:

252           (a) issue to the LEA a certificate authorizing permanent occupancy of the school  
253 building; or

254 (b) deliver to the LEA board a written notice indicating deficiencies in the LEA's  
255 compliance with the inspection findings.

256 (4) If the Superintendent does not issue the certificate authorizing permanent  
257 occupancy, an LEA shall provide notice of the deficiency to the building official of the  
258 local government entity in which the public school building is located.

259 (5) Upon an LEA board filing the certificate of inspection verification and  
260 requesting the issuance of a certificate authorizing permanent occupancy of the school  
261 building with the Superintendent, the LEA shall be entitled to temporary occupancy of  
262 the school building for a period up to 90 days, beginning on the date the request is filed,  
263 if the LEA has complied with all minimum requirements to safeguard the public health,  
264 safety, and general welfare of occupants.

265 (6) Upon an LEA remedying any deficiencies and notifying the Superintendent  
266 that the deficiencies have been remedied, following certification of the information, the  
267 Superintendent shall issue a certificate authorizing permanent occupancy of the school  
268 building.

269 (7) Upon receipt of the certificate of occupancy, an LEA shall provide a copy of  
270 the certificate to the building official of the local jurisdiction in which the school building  
271 is located authorizing permanent occupancy of the school building.

272

273 **R277-471-10. Enforcement.**

274 (1) An LEA which fails to comply with the provisions of this rule is subject to  
275 consequences from the Board consistent with Subsections [53E-3-401](#)(8) and [53F-2-](#)  
276 [202](#)(4)(d).

277 (a) If an LEA fails to meet or satisfy a school construction inspection requirement  
278 or timeline designation under this rule, the Superintendent shall, as directed by the  
279 Board, send the school district superintendent or local charter school director notice by  
280 certified mail; and

281 (b) If after 30 days the requirement has not been met, the Superintendent may,  
282 as directed by the Board, interrupt the Minimum School Program fund transfer process  
283 to the following extent:

284 (i) 10% of the total monthly Minimum School Program transfer amount the first  
285 month;

286 (ii) 25% in the second month; and

287 (iii) 50% in the third and subsequent months.

288 (2) If the Superintendent interrupts the Minimum School Program fund transfer  
289 process, the Superintendent shall:

290 (i) upon receipt of confirmation that the proper inspections have taken place or  
291 upon receipt of a late report:

292 (A) restart the transfer process within the month if the confirmation or report is  
293 submitted before the tenth working day of the month; or

294 (B) restart the transfer process in the following month if the confirmation or  
295 report is submitted after 10 a.m. on or after the tenth working day of the month;

296 (ii) inform the Board at its next regularly scheduled meeting; and

297 (iii) inform the chair of the local governing board if the school district  
298 superintendent or charter school director is not responsive in correcting ongoing school  
299 construction inspection and reporting problems.

300 (3) An LEA may be subject to a nonrefundable fine in the amount of one half of  
301 one percent of the total construction costs of a public school construction project if an  
302 LEA fails to report a public school construction project consistent with [Title 53E, Chapter](#)  
303 [3, Part 7](#), School Construction and the manual to the Superintendent.

304 (4) The Superintendent, with approval from the Board, shall deduct  
305 nonrefundable fine amounts from the respective LEA's Minimum School Program  
306 allotment at a rate sufficient to complete collection of the nonrefundable fine by the end  
307 of the current fiscal year.

308 (a) The Superintendent shall deposit school district nonrefundable fine amounts  
309 into the School Building Revolving Account; and

310           (b) The Superintendent shall deposit charter school nonrefundable fine amounts  
311 into the Charter School Building Subaccount within the School Building Revolving  
312 Account.

313

314 **R277-471-11. Appeals Procedure for Nonrefundable Fines.**

315           (1) The Board designates the procedure outlined in this Section R277-471-11 as  
316 an informal adjudicative proceeding, under Section [63G-4-203](#).

317           (2) An LEA board may appeal a fine assessed under this rule consistent with the  
318 following:

319           (a) An LEA may not appeal a fine until a final administrative decision has been  
320 made to assess the fine by the Board.

321           (b) A district superintendent on behalf of a local school board or a local charter  
322 board chair on behalf of a local charter school board may appeal an assessed fine by  
323 filing an appeal on a form, and in the manner prescribed by the Superintendent.

324           (c) An LEA must file the appeal within ten business days of final Board action.

325           (d) An LEA shall provide, as stated on the form, an explanation of unanticipated  
326 or compelling circumstances that resulted in the local board's or charter school's failure  
327 to report new construction or remodeling projects as required.

328           (e) The school district superintendent or local charter board chair shall provide a  
329 notarized statement that the information and explanation of circumstances are true and  
330 factual statements.

331           (3) At least three members of the Finance Committee appointed by the Board  
332 shall act as a review committee to review the written appeal.

333           (a) The appeal committee may request additional information from the LEA  
334 board.

335           (b) The appeal committee may ask the district superintendent or local school  
336 district or charter school board chair or LEA business staff to appear personally and  
337 provide information.

338           (c) The appeal committee shall presume the fine appropriate and legitimate.

339 (d) The appeal committee shall make a written recommendation within ten  
340 business days of receipt of the appeal request.

341 (e) The full Finance Committee of the Board shall review the recommendation.

342 (f) The Finance Committee shall make a formal recommendation to the Board to  
343 accept, modify, or reject the appeal explanation and fine.

344 (4) The Board, in a regular monthly meeting, may accept or reject the Finance  
345 Committee's final recommendation to affirm the fine, modify the fine, or grant the  
346 appeal.

347 (5) Consistent with the Board's general control and supervision of the Utah  
348 public school system and given the significant public policy concern for safe schools  
349 and cost-effective public school building projects, a local board of education or a local  
350 charter board has no further administrative appeal opportunity.

351

352 **R277-471-12. Annual Construction and Inspection Conference.**

353 (1) The Superintendent shall sponsor an annual school construction conference  
354 for representatives from each LEA and interested persons involved in the school  
355 building construction, design, operation, maintenance, safety and related industries.

356 (2) Conference presenters and participants shall provide and discuss current  
357 information and training on public school building construction and inspection, including:

358 (a) the design, construction, operation, and inspection process of public school  
359 buildings;

360 (b) public school building site selection;

361 (c) best building life-cycle costing;

362 (d) construction inspection requirements and schedules; and

363 (e) information to improve the existing public school building design,  
364 construction, operation, and safety inspection program.

365

366 ~~**R277-471-13. School Plant Capital Outlay Report.**~~

367 ~~—— (1) The Superintendent shall prepare an annual School Plant Capital Outlay~~  
368 ~~Report of all school construction projects completed and under construction, including~~  
369 ~~information on the number and size of buildings.~~

370 ~~—— (2) An LEA shall prepare and submit the School Plant Capital Outlay Report to~~  
371 ~~the Office of the State Auditor annually, by a date designated by the State Auditor.~~

372 ~~—— (3) The School Plant Capital Outlay Report shall include information as required~~  
373 ~~by the Superintendent.]~~

374

375 **KEY: educational facilities**

376 **Date of Last Change: January 15, 2023**

377 **Notice of Continuation: August 6, 2019**

378 **Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-3-401\(3\)](#); [53E-](#)**  
379 **[3-706](#); [53E-3-707](#); [10-9a-305](#); [~~17-27-105~~;] [53F-2-202\(4\)\(d\)](#)**