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MEMORANDUM

TO: Members, Utah State Board of Education

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

DATE: August 8, 2014

ACTION: R277-471 *Oversight of School Inspections* (amendment and continuation)

Background:

1. R277-471 *Oversight of School Inspections* is amended in response to HB 111 *School Building Cost Reporting*, 2014 Legislative Session.
2. R277-471 *Oversight of School Inspections* is due for a five-year review and continuation consistent with the Utah Administrative Rulemaking Act. The rule must be approved for continuation by the Board or it will expire on October 23, 2014. Staff have reviewed R277-471 and determined that the rule continues to be necessary.

Key Points:

1. The amendments to R277-471 provide language that: (1) Requires an LEA to submit a capital outlay report for each new and existing school building project and significant school remodel since July 1, 2004, for publication on the Utah Public Finance Website; (2) requires the Board to adopt guidelines for public school construction guidelines and consult with the Division of Facilities Construction and Management Administration (DFCM) on proposed guidelines before adoption; and (3) modifies the rule title to more closely reflect the rule content.
2. R277-471 continues to be necessary because it provides specific provisions for the oversight of permanent or temporary public school construction/renovation inspections and identifies LEA responsibilities and accountability to the Board.

Anticipated Action:

It is proposed that the Finance Committee consider approving R277-471, as amended, and continuation of the rule, on first reading and, if approved by the Committee, the Board consider approving R277-471, as amended, and continuation, on second reading.

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David Robert, School Finance Director, 801-538-7668
Jenefer Youngfield, School Construction and Facilities Safety Specialist,
801-538-7669

1 **R277. Education, Administration.**

2 **R277-471. [~~Oversight of~~] School Construction Oversight,**
3 **Inspections, Training and Reporting.**

4 **R277-471-1. Definitions.**

5 A. "Board" means the Utah State Board of Education.

6 B. "Certified plans[~~+~~] examiner" means a professional
7 who has current applicable commercial certification through
8 the International Code Council [~~which requires a rigorous~~
9 testing program] (ICC).

10 [~~C. "Charter schools" means:~~

11 ~~— (1) schools acknowledged and operating as charter~~
12 ~~schools by local boards of education under Section 53A-1a-505~~
13 ~~or by the Board under Section 53A-1a-515; and~~

14 ~~— (2) charter school applicants that have their~~
15 ~~applications approved by a chartering entity in accordance~~
16 ~~with Title 53A, Chapter 1a, Part 5, the Utah Charter Schools~~
17 ~~Act.]~~

18 C. "Charter schools" means schools acknowledged as
19 charter schools by charter school authorizers consistent with
20 Sections 53A-1a-515, 53A-1a-521, and this rule or by the Board
21 under Section 53A-1a-505.

22 D. "Charter school responsible person or local charter
23 school board building officer [~~charter school~~] or designee[~~+~~]
24 (CSBBO)" means the individual or authority designated by the
25 charter school board who has direct administrative and
26 operational control of charter school construction/renovation
27 and has responsibility for the charter school's compliance
28 with the Code on behalf of the charter school board.

29 E. "Certificate of inspection verification" means a form
30 certifying that the entity responsible for providing
31 inspection services has complied with the provisions of
32 Sections 53A-20-104, 53A-20-105, 10-9a-305, 17-27a-305, [~~and~~]
33 58-56, [~~Uniform Building Standards Act~~], Section 15A, State
34 Construction and Fire Code Act, as well as the provisions of
35 R156-56 and this rule. The form is available on the USOE
36 School Finance [~~and Statistics~~] Section [~~Web page~~] website [~~+~~
37 <http://www.schools.utah.gov/finance/facilities/default.htm>].

38 F. "Certificate of occupancy" means the document issued
39 upon receipt of the final inspection from the inspector of
40 record and the 'Certificate of Fire Clearance' issued by the
41 Utah State Fire Marshal, verifying compliance with all
42 applicable fire and life safety code requirements, which
43 approves permanent usage or occupancy of any new building,
44 occupiable structure or existing occupiable building or
45 structure alteration (remodeling) or change of occupancy in an
46 existing structure or building or space.

47 [F]G. "Code" means the state-adopted construction and
48 other applicable codes, including all statutes and
49 administrative rules which control the construction,
50 renovation, and inspection of Utah public school buildings.

51 H. "Division" means the Division of Finance with
52 technical assistance from the Department of Technology
53 Services.

54 [G]I. "General plan" means a document that a municipality
55 adopts that sets forth general guidelines for proposed future
56 development of the land within the municipality, consistent
57 with Section 10-9a-103(1[+]3).

58 J. "Inspector" means a professional who holds current
59 applicable commercial certification through the International
60 Code Council (ICC) and is currently licensed in the state of
61 Utah in the applicable trades the inspector is performing
62 inspections.

63 K. "LEA" means local education agency, including local
64 school boards/public school districts and charter schools.

65 L. "New school building project" means the construction
66 of a school that did not previously exist in an LEA.

67 M. "Public school construction" means construction work
68 on a new public school.

69 [H]N. "School Building Construction and Inspection
70 Resource Manual (Resource Manual)" means a manual which
71 identifies the processes and procedures an ~~[school district or~~
72 ~~charter school]~~LEA shall follow when constructing a new public
73 school building or renovating existing buildings. The
74 Resource Manual was developed by the USOE ~~[in response to~~

75 ~~legislative direction under]~~consistent with Section 53A-20-
76 104.5, [~~and]~~is available on the USOE School Finance website,
77 and is hereby incorporated by reference consistent with
78 Section 63G-3-201(7)[~~and Statistics Section Web page:~~
79 <http://www.schools.utah.gov/finance/facilities/default.htm>].

80 [H]O. "~~Public~~ School District Building Official (SDBO)"
81 means the individual or authority designated by the public
82 school district who has direct administrative and operational
83 control of school district construction/renovation and is
84 responsible for the school district's compliance with the
85 Code.

86 P. "Significant school remodel" means the upgrading,
87 changing, alteration, refurbishment, modification, or complete
88 substitution or replacement of an existing school in an LEA
89 with a project cost equal to or in excess of \$2,000,000.

90 [I]O. "Superintendent" means the State Superintendent of
91 Public Instruction.

92 R. "Temporary certificate of occupancy" means the
93 document issued upon receipt of the final inspection report
94 from the inspector of record and the 'Temporary Certificate of
95 Fire Clearance' issued by the Utah State Fire Marshal,
96 verifying no fire and life safety code issues exist, which
97 approves temporary usage or occupancy of any new building,
98 occupiable structure or existing occupiable building or
99 structure alteration (remodeling) or change of occupancy in an
100 existing structure or building or space, valid for a specific
101 time period.

102 [K]S. "USOE" means the Utah State Office of Education.

103 **R277-471-2. Authority and Purpose.**

104 A. This rule is authorized by Utah Constitution Article
105 X, Section 3 which vests general control and supervision of
106 public education in the Board, Sections 53A-20-104 and 104.5
107 which direct the Superintendent to enforce requirements and
108 provisions about public school building and alteration, verify
109 inspections of school buildings, and provide information
110 annually to LEAs about the construction and inspection of

111 public school buildings, and Section 53A-1-401(3) which
112 permits the Board to adopt rules in accordance with its
113 responsibilities and permits the Board to interrupt
114 disbursements of state aid to any school district or charter
115 school which fails to comply with rules adopted by the Board.

116 B. The purpose of this rule is to provide specific
117 provisions for the oversight of permanent or temporary public
118 school construction/renovation inspections and to identify
119 [~~local school board and charter school~~]LEA board
120 responsibilities and accountability to the Board.

121 **R277-471-3. [~~School District Building Official, and Charter~~**
122 **School]LEA Responsible Person.**

123 A. [~~Local boards of education and local charter~~
124 ~~school~~]LEA boards shall be accountable to ensure that all
125 school district and charter school permanent or temporary
126 construction, renovation, and inspections [~~is~~]are conducted in
127 accordance with the Code.

128 (1) Local school boards shall appoint a [~~School District~~
129 ~~Building Official~~ (-)SDBO(+)] who has direct administrative and
130 operational control of all construction, renovation, and
131 inspection of public school district facilities within the
132 school district and shall provide in writing the name of the
133 SDBO to the USOE.

134 (2) Charter school boards shall be accountable to the
135 State Charter School Board and the Board to ensure that all
136 charter school permanent or temporary construction,
137 renovation, and inspections [~~is~~]are conducted in accordance
138 with the Code. Each local charter school board shall appoint
139 a [~~local charter school board building officer~~]CSBBO who has
140 direct operational responsibility for construction,
141 renovation, and inspection of the charter school. The [~~local~~
142 ~~charter school board building officer~~]CSBBO shall report
143 regularly to the local charter school board.

144 (a) The local charter school board shall provide the name
145 of this officer in writing to the Superintendent.

146 (b) The local charter school board shall promptly notify

147 the Superintendent in writing of any changes of this
148 individual.

149 ~~[(c) Following notification, the USOE shall provide a~~
150 ~~construction project number.]~~

151 B. The SDBO shall monitor school district building
152 construction to ensure compliance with the provisions of the
153 Code.

154 C. The ~~[local charter school board building officer]~~CSBBO
155 shall monitor all charter school building construction to
156 ensure compliance with the provisions of the Code.

157 D. The SDBO and ~~[local charter school board building~~
158 ~~officer]~~CSBBO shall render interpretations of the Code for the
159 school district or charter school. Such interpretations shall
160 ~~[be in]~~conform~~[ance]~~ with the intent and purpose of the Code,
161 insofar as they are expressed in the Code or in legislative
162 intent.

163 E. The SDBO and ~~[local charter school board building~~
164 ~~officer]~~CSBBO may adopt and enforce supplemental ~~[school~~
165 ~~district and charter school]~~LEA policies under appropriate
166 ~~[school district and charter school]~~LEA policies to clarify
167 the application of the provisions of the Code for ~~[school~~
168 ~~district and charter school]~~LEA personnel.

169 **R277-471-4. School Construction Inspectors.**

170 A. LEAs shall employ inspectors for school construction
171 inspection who are currently ICC commercially certified and
172 licensed in Utah, in the trade specific to the inspection,
173 consistent with Code requirements.

174 B. LEAs shall choose one of three methods for
175 inspections:

176 (1) Independent inspectors:

177 (a) shall be approved by the local jurisdiction in which
178 the construction activity occurs;

179 (b) may include inspectors working outside the
180 municipality, county, or school district in which they are
181 employed; and

182 (c) shall not be any of the following, nor an employee

183 of: the architect, developer, contractor, a subcontractor
184 working on the project, any management company or other agency
185 hired by the LEA to perform construction or construction
186 administrative services.

187 (2) School district inspectors shall be employed by and
188 performing school construction inspections within the
189 boundaries of the school district.

190 (3) School districts may hire inspectors to perform
191 school construction inspections within the boundaries of the
192 municipality or county where the inspectors are employed.

193 **R277-471-5. School Construction Inspections.**

194 ~~[F]A.~~ Before any school~~[-district or charter school]~~
195 construction project begins, ~~[school districts and charter~~
196 ~~schools]~~the SDBO or CSBBO shall obtain a construction project
197 number from the USOE ~~[and]~~by complet[~~e~~ing and submiting
198 construction project identification forms provided by the USOE
199 and other required submittals for all projects which exceed
200 \$99,999 in cost.

201 ~~[G]B.~~ ~~[All school district and charter school plans and~~
202 ~~specifications shall be approved by a]~~The appropriate
203 currently certified plans[+] examiner shall approve all LEA
204 school plans and specifications before any ~~[school district or~~
205 ~~charter school]~~LEA construction project begins.

206 ~~[H]C.~~ If an ~~[school district or charter school]~~LEA is
207 unable to provide appropriate and proper school construction
208 inspection services, the Superintendent may ~~[provide~~
209 ~~for]~~procure inspection services ~~[from a list of inspectors~~
210 ~~determined by the Superintendent]~~and charge the ~~[school~~
211 ~~district or charter school]~~LEA for those services. ~~[Fees shall~~
212 ~~be]~~The approved inspector shall establish[~~ed~~] fees in advance
213 of inspection services.

214 ~~[I]D.~~ For all ~~[school district or charter school]~~LEA
215 projects that exceed \$99,999, the SDBO and CSBBO ~~[local~~
216 ~~charter school board building officers-]~~shall:

217 ~~[(a) submit inspection summary reports monthly to the~~
218 ~~USOE;]~~

219 ([f]1) ensure that each inspector is adequately and
220 appropriately credentialed;

221 ([e]2) identify and provide to the USOE and local
222 government entity building official the total number and a
223 summary description of all inspections with the name, state
224 license number, and disciplines of each inspector performing
225 the project inspections;

226 ([e]3) submit inspection certificates and all related
227 submittals to the USOE and appropriate local government entity
228 building official;

229 ([b]4) submit inspection summary reports monthly to the
230 appropriate local government entity building official and the
231 USOE;

232 ([g]5) sign the final certificate of inspection and
233 verification form, certifying all inspections were completed
234 in compliance with [the]all applicable laws and~~[-this]~~
235 rules[-], including all life safety requirements;

236 ([h]6) send the final inspection certification~~[-and]~~,
237 inspection verification, and provide all other related project
238 closeout submittals to the USOE and to the appropriate local
239 government entity building official upon completion of the
240 project; and

241 ([d]7) maintain all submitted documentation at a
242 designated ~~[school district/charter school]~~LEA location for
243 auditing or monitoring~~[+]~~.

244 [F]E. ~~[Reports required under this rule may be]~~The
245 SDBO/CSBBO may submit paper or electronic reports to satisfy
246 this section.

247 [~~R277-471-6. Public School District/Charter School~~
248 ~~Construction Inspection.~~

249 ~~A. A public school district or charter school may employ~~
250 ~~one of three methods for school construction inspection:~~

251 ~~(1) An independent, properly licensed and certified~~
252 ~~building inspector;~~

253 ~~(2) a properly licensed and certified building inspector,~~

254 ~~employed by the school district; or~~
255 ~~—— (3) a properly licensed and certified building inspector~~
256 ~~approved by the local jurisdiction in which the construction~~
257 ~~activity occurs.~~

258 ~~—— B. Procedure for independent properly licensed and~~
259 ~~certified building inspector:~~

260 ~~—— (1) The SDBO or charter school designee shall provide, on~~
261 ~~a monthly basis during construction, a copy of each inspection~~
262 ~~certificate and a monthly inspection summary regarding the~~
263 ~~school building to the Superintendent and to the appropriate~~
264 ~~local governmental entity building official where the building~~
265 ~~is located for each project that exceeds \$99,999 in cost.~~

266 ~~—— (2) The school district, through the SDBO, or charter~~
267 ~~school designee shall identify in the monthly summary reports~~
268 ~~the total number of inspections as well as the name, state~~
269 ~~license number and discipline(s) of the state~~
270 ~~licensed/certified inspectors performing the building~~
271 ~~inspections.~~

272 ~~—— (3) The independent building inspector shall:~~

273 ~~—— (a) not be an employee of the architect, contractor or~~
274 ~~any subcontractor on the project;~~

275 ~~—— (b) be approved by the applicable local government or~~
276 ~~school district building inspector; and~~

277 ~~—— (c) be properly licensed and certified to perform all of~~
278 ~~the inspections that the inspector is required to perform.~~

279 ~~—— (4) After completion of the project, the SDBO or charter~~
280 ~~school designee shall, upon completion of all required~~
281 ~~inspections of the school building, file with the USOE and the~~
282 ~~building inspector of the local jurisdiction in which the~~
283 ~~building is located, a certificate of inspection verification,~~
284 ~~certifying that all inspections were completed in accordance~~
285 ~~with the Code.~~

286 ~~—— (5) The school district or charter school shall seek a~~
287 ~~certificate authorizing permanent occupancy of the school~~
288 ~~building from the Superintendent.~~

289 ~~—— (6) Within 30 days after the school district or charter~~
290 ~~school files a request for the issuance of a certificate~~

291 ~~authorizing permanent occupancy of the school building, the~~
292 ~~Superintendent shall:~~

293 ~~—— (a) issue to the school district or charter school a~~
294 ~~certificate authorizing permanent occupancy of the school~~
295 ~~building; or~~

296 ~~—— (b) deliver to the local school board or charter school~~
297 ~~board a written notice indicating deficiencies in the school~~
298 ~~district's or charter school's compliance with the inspection~~
299 ~~findings; and~~

300 ~~—— (c) mail a copy of the certificate authorizing permanent~~
301 ~~occupancy or the notice of deficiency to the building official~~
302 ~~of the local government entity in which the school building is~~
303 ~~located.~~

304 ~~—— (7) Upon the local school or charter school board's~~
305 ~~filing of the certificate of inspection verification and~~
306 ~~requesting the issuance of a certificate authorizing permanent~~
307 ~~occupancy of the school building with the USOE, the school~~
308 ~~district or charter school shall be entitled to temporary~~
309 ~~occupancy of the school building for a period up to 90 days,~~
310 ~~beginning on the date the request is filed, if the school~~
311 ~~district or charter school has complied with all applicable~~
312 ~~fire and life safety code requirements.~~

313 ~~—— (8) Upon the school district or charter school remedying~~
314 ~~any inspection deficiencies and notifying the Superintendent~~
315 ~~that the deficiencies have been remedied, following~~
316 ~~certification of the information, the Superintendent shall~~
317 ~~issue a certificate authorizing permanent occupancy of the~~
318 ~~school building and mail a copy of the certificate to the~~
319 ~~building official of the local governmental entity in which~~
320 ~~the school building is located authorizing permanent occupancy~~
321 ~~of the school building.~~

322 ~~—— (9) The Superintendent may contract with any~~
323 ~~appropriately qualified entity or person(s) to provide~~
324 ~~inspection services that the Superintendent considers~~
325 ~~necessary to enable the Superintendent to issue a certificate~~
326 ~~authorizing permanent occupancy of the public school building.~~

327 ~~—— (10) The Superintendent may charge the school district~~

328 ~~or charter school a fee not to exceed the actual cost of~~
329 ~~performing the inspection(s) for inspection services that the~~
330 ~~Superintendent considers necessary to enable the~~
331 ~~Superintendent to issue a certificate authorizing permanent~~
332 ~~occupancy of the school building.~~

333 ~~—— (11) A certificate authorizing permanent occupancy~~
334 ~~issued by the Superintendent shall be considered to satisfy~~
335 ~~any municipal or county requirement(s) for an inspection or a~~
336 ~~certification of occupancy.~~

337 ~~—— C. Procedures for properly licensed and certified school~~
338 ~~district building inspector:~~

339 ~~—— (1) The SDBO or charter school designee shall provide, on~~
340 ~~a monthly basis during construction, a copy of each inspection~~
341 ~~certificate and a monthly inspection summary regarding the~~
342 ~~school building to the Superintendent and to the appropriate~~
343 ~~local governmental entity building official where the building~~
344 ~~is located for each project that exceeds \$99,999 in cost.~~

345 ~~—— (2) The school district, through the SDBO, or the charter~~
346 ~~school designee shall identify in the monthly summary reports~~
347 ~~the total number of inspections as well as the name, state~~
348 ~~license number and discipline(s) of the state~~
349 ~~licensed/certified inspectors performing the building~~
350 ~~inspections.~~

351 ~~—— (3) School districts:~~

352 ~~—— (a) After completion of the project, the SDBO shall sign~~
353 ~~a certificate of inspection verification and a certificate of~~
354 ~~occupancy certifying that all inspections were completed in~~
355 ~~accordance with the Code and file the form with the USOE and~~
356 ~~the building official of the jurisdiction in which the~~
357 ~~building is located.~~

358 ~~—— (b) A school district may issue its own certificate~~
359 ~~authorizing permanent occupancy of a school building if it~~
360 ~~used a building inspector employed by the public school~~
361 ~~district for inspection of the school building.~~

362 ~~—— (4) Charter schools:~~

363 ~~—— (a) After completion of the project, the charter school~~
364 ~~may seek a certificate of occupancy from the SDBO of the~~

365 ~~school district providing the inspection services.~~

366 ~~—— (b) If the charter school seeks a certificate of~~
367 ~~occupancy from the SDBO, the SDBO shall sign a certificate of~~
368 ~~inspection verification and a certificate of occupancy~~
369 ~~certifying that all inspections were completed in accordance~~
370 ~~with the Code and file the form with the USOE and the building~~
371 ~~official of the municipality or county in which the building~~
372 ~~is located.~~

373 ~~—— (c) A certificate authorizing permanent occupancy issued~~
374 ~~by a SDBO with authority to issue the certificate shall~~
375 ~~satisfy any municipal or county requirement for an inspection~~
376 ~~or a certification of occupancy.~~

377 ~~—— D. Procedure for properly licensed and certified local~~
378 ~~municipal or county building inspector:~~

379 ~~—— (1) The SDBO or charter school designee shall provide, on~~
380 ~~a monthly basis during construction, a copy of each inspection~~
381 ~~certificate and a monthly inspection summary regarding the~~
382 ~~public school building to the Superintendent for each project~~
383 ~~that exceeds \$99,999 in cost.~~

384 ~~—— (2) The school district, through the SDBO or charter~~
385 ~~school designee, shall identify in the monthly summary reports~~
386 ~~the total number of inspections as well as the name, state~~
387 ~~license number and discipline(s) of the state~~
388 ~~licensed/certified inspectors performing the building~~
389 ~~inspections.~~

390 ~~—— (3) School districts:~~

391 ~~—— (a) After completion of the project, the SDBO shall sign~~
392 ~~a certificate of inspection verification form certifying that~~
393 ~~all inspections were completed in accordance with the Code and~~
394 ~~file the form with the USOE and the building official of the~~
395 ~~jurisdiction in which the building is located.~~

396 ~~—— (b) A public school district shall seek a certificate~~
397 ~~authorizing permanent occupancy of a school building from the~~
398 ~~jurisdiction in which the building is located; a copy of the~~
399 ~~certificate of occupancy shall be filed with the USOE.~~

400 ~~—— (4) Charter schools:~~

401 ~~—— (a) After completion of the project, the charter school~~

402 ~~designee shall obtain a completed certificate of inspection~~
403 ~~verification form from the local municipal or county building~~
404 ~~inspector certifying that all inspections were completed in~~
405 ~~accordance with the Code and file the form with the USOE.~~

406 ~~—— (b) A charter school shall seek a certificate authorizing~~
407 ~~permanent occupancy of a school building from the jurisdiction~~
408 ~~in which the building is located; a copy of the certificate of~~
409 ~~occupancy shall be filed with the USOE.~~

410 ~~—— E. A municipality or county may not:~~

411 ~~—— (1) require school districts or charter schools to~~
412 ~~landscape, fence, make aesthetic improvements, use specific~~
413 ~~construction methods or materials, impose requirements for~~
414 ~~buildings used only for educational purposes, or place~~
415 ~~limitations prohibiting the use of temporary classroom~~
416 ~~facilities on school property. All temporary classroom~~
417 ~~facilities shall be properly inspected to meet the Code.~~

418 ~~—— (2) require a school district or charter school to~~
419 ~~participate in the cost of any roadway or sidewalk, or a study~~
420 ~~of the impact of a school on a roadway or sidewalk, that is~~
421 ~~not reasonably necessary for the safety of school children and~~
422 ~~not located on or contiguous to school property, unless the~~
423 ~~roadway or sidewalk is required to connect an otherwise~~
424 ~~isolated public school or an existing roadway;~~

425 ~~—— (3) require a school district or charter school to pay~~
426 ~~fees not authorized under 10-9a-305 or 17-27a-305;~~

427 ~~—— (4) require inspection of school construction or assess~~
428 ~~a fee or other charges for inspection, unless the school~~
429 ~~district or charter school is unable to provide for inspection~~
430 ~~by properly licensed and certified inspectors, other than the~~
431 ~~project architect, contractor or subcontractors;~~

432 ~~—— (5) require a school district or charter school to pay~~
433 ~~any impact fee for an improvement project that is not~~
434 ~~reasonably related to the impact of the school project upon~~
435 ~~the need that the improvement is to address; or~~

436 ~~—— (6) impose regulations upon the location of a public~~
437 ~~school project except as necessary to avoid unreasonable risks~~
438 ~~to health or safety of students.~~

439 ~~F. A municipality or county may, at its discretion,~~
440 ~~schedule a time with school district or charter school~~
441 ~~officials to:~~

442 ~~(1) provide a walk-through of school construction at no~~
443 ~~cost and at a time convenient to the school district or~~
444 ~~charter school; and~~

445 ~~(2) provide recommendations based on the walk-through.]~~

446 **R277-471-[4]6. Coordination with Local Governments, Utility**
447 **Providers and State Fire Marshal.**

448 A. Prior to developing plans and specifications for a
449 new public school, or the expansion of an existing public
450 school, ~~[school districts and charter schools]~~LEAs shall
451 coordinate with affected local government land use authorities
452 and utility providers to:

453 (1) ensure that the siting or expansion of a school in
454 the intended location will comply with applicable local
455 general plans and land use laws and will not conflict with
456 entitled land uses;

457 (2) ensure that all local government services and
458 utilities required by the school construction activities can
459 be provided in a logical and cost-effective manner;

460 (3) avoid or mitigate existing and potential traffic
461 hazards, including consideration of the impacts between the
462 new school and future roadways; and

463 (4) maximize school, student and site safety.

464 B. LEAs shall cooperate with municipalities and counties
465 and conform to municipal and county land use ordinances
466 consistent with Sections 10-9a-305 and 17-27a-305.

467 ~~[B]~~C. Prior to developing plans and specifications for
468 a new public school, or the expansion of an existing school,
469 ~~[school districts and charter schools]~~LEAs shall coordinate
470 with local health departments and the State Fire Marshal.

471 D. An LEA shall have a open meeting to seek and secure a
472 variance from the appropriate government entity if the LEA
473 selects a school site in a municipality or county-designated
474 zone for sexually oriented businesses or businesses that sell

475 alcohol.

476 E. Parking requirements for a charter school may not
477 exceed the minimum parking requirements for a traditional
478 public school of a like size and grade levels or other
479 institutional public use throughout the municipality or
480 county.

481 ~~[E]F. [School districts and charter schools]~~LEAs shall
482 maintain documentation for audit purposes of coordination,
483 meetings, and agreements required under this section.

484 ~~[R277-471-5. Charter School Land Use Zoning within~~
485 ~~Municipalities and Counties.~~

486 ~~— A. If consistent with the general plan, a charter school~~
487 ~~shall be considered a permitted use in all zoning districts~~
488 ~~within a municipality or county, except as provided in R277-~~
489 ~~471-5D.~~

490 ~~— B. Each land use application for any approval required~~
491 ~~for a charter school, including an application for a building~~
492 ~~permit, shall be processed on a first priority basis by~~
493 ~~municipalities and counties.~~

494 ~~— C. Parking requirements for a charter school may not~~
495 ~~exceed the minimum parking requirements for traditional public~~
496 ~~schools of like size and grade levels or other institutional~~
497 ~~public uses throughout the municipality or county.~~

498 ~~— D. If a municipality or county has designated zones for~~
499 ~~sexually oriented businesses, or businesses which sell~~
500 ~~alcohol, a charter school may be prohibited from locations~~
501 ~~which would defeat the purpose for the zone, unless the~~
502 ~~charter school provides a waiver of liability for the local~~
503 ~~government entity by the charter school governing board in an~~
504 ~~open meeting.]~~

505 R277-471-7. Superintendent's Authority to Request Additional
506 Inspections.

507 A. The Superintendent may contract with any appropriately
508 qualified entity or person(s) to provide inspection services

509 that the Superintendent considers necessary to enable the
510 Superintendent to issue a certificate authorizing temporary or
511 permanent occupancy of the public school building.

512 B. The Superintendent may charge the LEA a fee not to
513 exceed the actual cost of performing the inspection(s) for
514 inspection services.

515 **R277-471-8. Certification of Occupancy.**

516 A. School districts:

517 (1) After completion of the project when a school
518 district provides inspections, the SDBO shall sign a
519 certificate of inspection verification form certifying that
520 all inspections were completed in accordance with Utah law,
521 and file the form with the USOE and the building official of
522 the jurisdiction in which the building is located.

523 (2) After completion of the project when a local
524 jurisdiction provides inspections, the school district shall
525 seek a certificate authorizing permanent occupancy of a school
526 building from the jurisdiction in which the building is
527 located; a copy of the certificate of occupancy shall be filed
528 with the USOE.

529 (3) After completion of the project when independent
530 inspectors provide inspections, the SDBO shall seek a
531 certificate authorizing temporary or permanent occupancy of
532 the school from the Superintendent.

533 B. Charter schools:

534 (1) After completion of the project when a charter
535 school contracts with a school district for inspections, the
536 CSBBO shall obtain a completed certificate of inspection
537 verification form from the SDBO certifying that all
538 inspections were completed in accordance with Utah law, and
539 file the form with the USOE.

540 (2) After completion of the project when a local
541 jurisdiction provides inspections, a charter school shall seek
542 a certificate authorizing permanent occupancy of a school
543 building from the jurisdiction in which the building is
544 located; a copy of the certificate of occupancy shall be filed

545 with the USOE.

546 (3) After completion of the project when independent
547 inspectors provide inspections, the CSBBO shall seek a
548 certificate authorizing temporary or permanent occupancy of
549 the school from the Superintendent.

550 C. Within 30 days after the LEA files a request for the
551 issuance of a certificate authorizing permanent occupancy of
552 the school building, the Superintendent shall:

553 (1) issue to the LEA a certificate authorizing permanent
554 occupancy of the school building; or

555 (2) deliver to the LEA board a written notice indicating
556 deficiencies in the LEA's compliance with the inspection
557 findings; and

558 (3) issue a copy of the certificate authorizing permanent
559 occupancy or the notice of deficiency to the building official
560 of the local government entity in which the school building is
561 located.

562 D. Upon the LEA board filing the certificate of
563 inspection verification and requesting the issuance of a
564 certificate authorizing permanent occupancy of the school
565 building with the USOE, the LEA shall be entitled to temporary
566 occupancy of the school building for a period up to 90 days,
567 beginning on the date the request is filed, if the LEA has
568 complied with all applicable fire and life safety code
569 requirements.

570 E. Upon the LEA remedying any inspection deficiencies and
571 notifying the Superintendent that the deficiencies have been
572 remedied, following certification of the information, the
573 Superintendent shall issue a certificate authorizing permanent
574 occupancy of the school building and mail a copy of the
575 certificate to the building official of the local governmental
576 entity in which the school building is located authorizing
577 permanent occupancy of the school building.

578 **R277-471-[7]9. School Building Construction and Inspection**
579 **Resource Manual.**

580 A. The USOE shall develop and distribute [~~to each school~~

581 ~~district and charter school a Resource Manual]~~a Resource
582 Manual, or provide an electronic version, on the USOE School
583 Finance website, consistent with Section 53A-20-104.5.

584 B. The Resource Manual shall include process, legal
585 requirements and resource information on school building
586 construction, operations, maintenance, safety and inspections.

587 C. The USOE shall review and, if necessary, update the
588 Resource Manual annually.

589 D. The Board[~~, local school boards, charter school]~~ and
590 LEA boards, as well as [school district and charter school]LEA
591 personnel, shall act consistent with the Resource Manual.

592 **R277-471-10. School Construction Guidelines.**

593 A. The Board shall adopt public school construction
594 guidelines that take into consideration the factors identified
595 in Section 53A-20-110 and other factors identified by USOE
596 staff or the Division of Facilities Construction and
597 Management Administration staff.

598 B. LEAs shall review and take into consideration the
599 school construction guidelines when planning and prior to
600 proceeding with public school construction.

601 **R277-471-[9]11. Enforcement.**

602 A. ~~[School districts and charter schools]~~An LEA which
603 fails to comply with the provisions of this rule ~~[are]~~is
604 subject to interruption of state~~[aid]~~ dollars by the Board
605 ~~[in accordance]~~consistent with Section 53A-1-401(3) and 53A-
606 17a-144(4)(d).

607 (1) If an an ~~[school district or charter school]~~LEA fails to
608 meet or satisfy a school construction inspection requirement
609 or timeline designation under this rule, the Superintendent
610 shall, as directed by the Board, send the school district
611 superintendent or local charter school director~~[shall~~
612 ~~receive]~~ notice by certified mail; and

613 (2) If after 30 days the requirement has not been met,
614 the USOE ~~[shall]~~may, as directed by the Board, interrupt the
615 Minimum School Program fund transfer process to the following

616 extent:

617 (a) 10 percent of the total monthly Minimum School
618 Program transfer amount the first month;

619 (b) 25 percent in the second month; and

620 (c) 50 percent in the third and subsequent months.

621 B. If the USOE interrupt~~ed~~s the Minimum School Program
622 fund transfer process, the USOE shall:

623 (1) upon receipt of confirmation that the proper
624 inspection(s) has (have) taken place or upon receipt of a late
625 report, restart the transfer process within the month (if the
626 confirmation or report is submitted before the tenth working
627 day of the month) or in the following month (if the
628 confirmation or report is submitted after 10:00 a.m. on or
629 after the tenth working day of the month); and

630 (2) inform the~~appropriate~~ Board ~~[Committee]~~at its
631 next regularly scheduled~~[Committee]~~ meeting;~~and]~~

632 (3) inform the chair of the local governing board if the
633 school district superintendent or charter school director is
634 not responsive in correcting ongoing school construction
635 inspection and reporting problems.

636 C. The Board may assess an LEA [A]a nonrefundable fine in
637 the amount of one half of one percent of the total
638 construction costs [shall be assessed school districts and
639 charter schools that]if an LEA fails to report a new or
640 remodeling project[s] to the USOE that exceeds \$99,999, before
641 construction begins.

642 (1) The USOE, under the direction of the Board, shall
643 deduct [N]nonrefundable fine amounts[shall be deducted] from
644 the respective [school district's and charter school's]LEA's
645 Minimum School Program allotment at a rate sufficient to
646 complete collection of the nonrefundable fine by the end of
647 the current fiscal year.

648 (a) The USOE shall deposit [S]school district
649 nonrefundable fine amounts[collected by USOE shall be
650 deposited] into the School Building Revolving Account; and

651 (b) The USOE shall deposit charter school nonrefundable
652 fine amounts[collected by USOE shall be deposited] into the

653 Charter School Building Subaccount within the School Building
654 Revolving Account.

655 ~~[D. Violation of any land use regulation and the~~
656 ~~substantive provisions of all Codes is a class C misdemeanor~~
657 ~~and may be subject to further civil penalties, as established~~
658 ~~by local ordinance.]~~

659 **R277-471-~~[10]~~12. Appeals Procedure for Nonrefundable Fines.**

660 A. ~~[School districts or local charter school]~~LEA boards
661 may appeal a fine assessed under R277-471-~~[9]~~11C consistent
662 with the following:

663 (1) An LEA may not appeal a fine~~[may not be appealed]~~
664 until a final administrative decision has been made to assess
665 the fine by the USOE and the fine has been affirmed by the
666 Board.

667 (2) A district superintendent on behalf of a local
668 school board or a local charter board chair on behalf of a
669 local charter school board may appeal an assessed fine by
670 filing an appeal form provided on the USOE website.

671 (3) An LEA must file [T]the appeal~~[must be filed]~~ within
672 10 business days of final affirmation of USOE
673 action/withholding by the Board.

674 (4) An LEA shall deliver or provide electronically [T]the
675 appeal~~[shall be delivered or provided electronically]~~ to the
676 USOE as provided by the appeal form.

677 (5) An LEA shall provide, as stated on the form, [The
678 ~~appeal form shall require~~]an explanation of unanticipated or
679 compelling circumstances that resulted in the local board's or
680 charter school's failure to report new construction or
681 remodeling projects that exceed \$99,999.

682 (6) The school district superintendent or local charter
683 board chair shall provide [The appeal form shall require] a
684 notarized statement~~[from the district superintendent or local~~
685 ~~charter board chair]~~ that the information and explanation of
686 circumstances are true and factual statements.

687 (7) At least three members of the Finance Committee
688 appointed by the Board shall act as a review committee to

689 review the written appeal.

690 (a) The appeal committee may request additional
691 information from the [~~local school board/local charter~~]LEA
692 board.

693 (b) The appeal committee may ask the district
694 superintendent or local school district or charter school
695 board chair or [~~school district/charter school~~]LEA business
696 staff to appear personally and provide information.

697 (c) The fine shall be presumed appropriate and legitimate
698 when reviewed by the appeal committee.

699 (d) The appeal committee shall make a written
700 recommendation within 10 business days of receipt of the
701 appeal request.

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

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

707 B. The Board, in a regular monthly meeting, may accept
708 or reject the Finance Committee's final recommendation to
709 affirm the fine, modify the fine, or grant the appeal.

710 C. Consistent with the Board's general control and
711 supervision of the Utah public school system and given the
712 significant public policy concern for safe schools and
713 cost-effective public school building projects, a local board
714 of education or a local charter board has no further
715 administrative appeal opportunity.

716 **R277-471-[8]13. Annual Construction and Inspection Conference.**

717 A. The USOE shall sponsor an annual school construction
718 conference for representative(s) from each [~~school district,~~
719 ~~charter school,~~]LEA and interested persons involved in the
720 school building construction industry.

721 B. The conference shall:

722 (1) provide current information on the design,
723 construction, and inspection process of school buildings;

724 (2) provide training on school site selection, design,

725 construction, lowest life-cycle costing, and construction
726 inspection matters as determined by the USOE; and

727 (3) offer and discuss information to improve the
728 existing public school building construction inspection
729 program.

730 **R277-471-14. School Plant Capital Outlay Report.**

731 A. The Board shall prepare an annual School Plant
732 Capital Outlay Report of all school construction projects
733 completed and under construction, including information on the
734 number and size of buildings.

735 B. An LEA shall prepare and submit an annual School
736 Plant Capital Outlay Report to the Utah Public Finance
737 website, consistent with Section 63A-3-402, for each new
738 school building construction project or significant school
739 remodel, completed between July 1, 2004 and May 13, 2014. An
740 LEA shall submit the report no later than May 15, 2015. For
741 new school building projects or significant remodel projects
742 completed after May 13, 2014, the LEA shall provide the School
743 Plant Capital Outlay Report to the Division annually, by a
744 date designated by the Division.

745 C. The School Plant Capital Outlay Report shall include
746 information required under Section 63A-3-402(6)(c).

747 D. The LEA shall report to the Utah Public Finance
748 website the actual cost, fee, or other expense for any figures
749 required to be reported under R277-471-14B.

750 E. The report shall be in a format, including any raw
751 data or electronic formatting, prescribed by applicable
752 Division policy.

753 F. The Division may require a LEA to provide further
754 itemized data on information listed in Section 63A-3-402(b) or
755 R277-471-14B.

756 **KEY: educational facilities**

757 **Date of Enactment or Last Substantive Amendment: [~~July 8,~~**
758 **2008]2014**

759 **Notice of Continuation: [~~October 23, 2009~~]2014**

760 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**
761 **53A-1-401(3); 53A-20-104; 53A-20-104.5; 10-9a-305; 17-27a-105;**
762 **53A-17a-144(4) (d)**