

~~[R277. Education, Administration.~~

~~R277-114. Response to Compliance and Related Issues.~~

~~R277-114-1. Authority, Purpose, and Oversight Category.~~

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

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

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

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

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

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

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

~~—— (ii) investigate matters pertaining to public schools.~~

~~—— (2) The purpose of the rule is to provide procedures for responses to compliance and related issues, including corrective action and related appeals procedures.~~

~~—— (3) Except for Section R277-114-6, this rule does not apply to oversight of federal programs.~~

~~—— (4) This Rule R277-114 is categorized as Category 4 as described in Rule R277-111.~~

~~R277-114-2. Definitions.~~

~~—— (1) "Framework" means the Board Oversight Framework established in Rule R277-111.~~

~~—— (2) "Oversight entity" means the same as that term is defined in Rule R277-111.~~

~~———— (3) "Program or set of requirements" means the same as that term is defined in Rule R277-111.~~

~~R277-114-3. Use of Framework for Compliance and Related Issues.~~

~~———— (1)(a) Except as provided in Subsection (1)(b), for an alleged compliance issue regarding a program or set of requirements in framework category one or two, the Superintendent shall refer reports and complaints back to the oversight entity for resolution.~~

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

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

~~———— (ii) the oversight entity needs additional training.~~

~~———— (2) For a compliance issue arising under a program or set of requirements in framework category three or four, the Superintendent shall pursue formal corrective action:~~

~~———— (a) as described in Section R277-114-4 or R277-114-5; and~~

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

~~———— (3)(a) In response to an alleged compliance issue regarding a program or set of requirements, Board leadership may work informally with the oversight entity toward resolving the issue, which efforts may include:~~

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

~~———— (ii) considering whether training or additional time will allow the oversight entity to resolve the issue.~~

~~———— (b) Before Board leadership works informally with an oversight entity as described in Subsection (3)(a), Board leadership shall notify the Board member or members who represent the area where the oversight entity is located.~~

~~—— (c)(i) For an alleged compliance issue regarding a program or set of requirements uncategorized or in framework category one or two, the Board's audit committee may determine an appropriate method to investigate the alleged compliance issue, including requesting the Board's internal audit function to investigate the alleged issue in accordance with Rule R277-116.~~

~~—— (ii) If the Board's audit committee directs an investigation as described in Subsection (3)(c)(i), the entity conducting the investigation shall notify the oversight entity that the investigation will review an alleged compliance issue in accordance with this section.~~

~~—— (d) Based on the results of an investigation described in Subsection (3)(c), the Board may:~~

~~—— (i) take no further action;~~

~~—— (ii) resolve the issue informally;~~

~~—— (iii) direct the Superintendent to pursue corrective action as described in Section R277-114-4 or R277-114-5; or~~

~~—— (iv) take other action.~~

~~R277-114-4. Corrective Action for Contract Requirements.~~

~~—— For corrective action related to a program or set of requirements established or culminating in a contract between the Board and an oversight entity, the Superintendent shall take corrective action in accordance with the provisions of the contract.~~

~~R277-114-5. Corrective Action for Non-Contractual Requirements.~~

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

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

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

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

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

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

~~—— (B) the oversight entity needs additional training.~~

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

~~—— (3) The Superintendent may place an oversight entity on a corrective action plan if the Board, the Superintendent, or an external or internal audit determines that the oversight entity:~~

~~—— (a) demonstrates non-compliance with published expectations for program outcomes or allowable program expenditures;~~

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

~~—— (c) demonstrates financial fraud, waste, or abuse; or~~

~~—— (d) did not comply with a request to provide timely, accurate and complete program or financial information, in accordance with oversight procedures.~~

~~—— (4) A corrective action plan shall contain the following elements:~~

~~—— (a) the background information that led to corrective action;~~

~~—— (b) each identified issue, including the reasons for the corrective action plan as described in Subsection (3);~~

~~—— (c) details of the identified issue, based on evidence gathered, including dates;~~

~~—— (d) the specific conditions the oversight entity must meet as a result of the issues;~~

~~—— (e) steps required to satisfy the corrective action plan and estimated time frame for completing the steps;~~

~~—— (f) a procedure for communication during the course of the corrective action, including:~~

~~—— (i) designation of a primary contact at the oversight entity;~~

~~—— (ii) a schedule for the frequency of updates provided by the contact;~~

~~—— (iii) the format of required updates; and~~

~~—— (iv) the designated recipient of the updates;~~

~~—— (g) a procedure to close the corrective action, including:~~

~~—— (i) designation of an individual authorized to close the corrective action;~~

~~—— (ii) the criteria for closing the corrective action;~~

~~—— (iii) an estimated schedule for closing the corrective action; and~~

~~—— (iv) how the authorized individual will communicate closure to the oversight entity; and~~

~~—— (h) notice of the option for appeal as described in Section R277-114-6.~~

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

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

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

~~—— (b) requiring the oversight entity to receive payment as a reimbursement instead of advance payment;~~

~~—— (c) requiring evidence of acceptable performance within a given period before the oversight entity may proceed to the next corrective action step;~~

~~—— (d) requiring more frequent or more intensive monitoring than what is required from the related program or set of requirements;~~

~~—— (e) requiring additional or more detailed financial or compliance reports; or~~

~~—— (f) establishing additional prior approvals.~~

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

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

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

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

~~———— (i) an external auditor; or~~

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

~~———— (d) periodic meetings between an oversight entity administrator or governing board member and the Superintendent or a Deputy Superintendent; and~~

~~———— (e) a planned appearance before the Board or a Board committee to provide status updates~~

~~———— (8) For an oversight entity that is a charter school the Superintendent shall:~~

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

~~———— (b) report regularly to the charter authorizer about the status of the oversight entity.~~

~~———— (9) The Superintendent may implement escalating restrictive conditions in a corrective action plan based on:~~

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

~~———— (b) repeated violations by an oversight entity.~~

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

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

~~———— (i) the circumstances that led to the determination;~~

~~———— (ii) a timeline for withholding funds; and~~

~~_____ (iii) the steps the oversight entity is required to satisfy to reinstate funding.~~

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

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

~~_____ (b) the respective oversight entity's governing board; and~~

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

~~_____ (12) As requested, the Superintendent shall report to the Board about the status of a corrective action plan in force for an oversight entity.~~

~~R277-114-6. Corrective Action Appeals.~~

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

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

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

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

~~_____ (2) For an appeal described in Subsection (1), the oversight entity shall:~~

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

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

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

~~_____ (a) review the appeal as a full board;~~

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

~~_____ (c) identify another method to review the appeal.~~

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

~~Date of Last Change: February 7, 2025~~

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

R277. Education, Administration.

R277-114. Response to Compliance and Related Issues.

R277-114-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3;

(b) Utah Code Section 53E-3-401(4) and (8);

(c) Utah Code Section 53E-3-301;

(d) Utah Code Section 53F-1-104;

(e) Utah Code Section 63G-7-301; and

(f) Utah Code Section 53-22-109.

(2) The purpose of this rule is to provide procedures for public education monitoring and corrective action for noncompliance.

R277-114-2. Definitions.

(1) "Provisions" means a public education requirement or set of requirements in:

(a) administrative rule;

(b) state law; or

(c) federal law.

(2) "Monitoring" means the ongoing review and evaluation of a recipient's activities and internal control systems to assess the quality of performance over time and determine whether controls are effective and compliance with provisions is achieved.

(3) "Recipient" means an LEA, school, or subrecipient.

(4) "Risk Assessment" means the ongoing and iterative process of identifying, analyzing, and responding to internal and external risks that could prevent a recipient from achieving its objectives and complying with provisions.

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

R277-114-3. Oversight and Accountability Subcommittee Structure.

(1) A subcommittee of the Executive Committee shall be created consisting of:

(a) the Board Chair;

(b) one Vice Chair, as determined by the Board Chair; and

(c) the Chair of each Standing Committee.

(2) This subcommittee shall serve as the Oversight and Accountability Subcommittee.

R277-114-4. Oversight and Accountability Subcommittee.

(1) The Oversight and Accountability Subcommittee may review and take action on matters involving:

(a) referrals made by Board leadership;

(b) referrals from the Superintendent;

(c) referrals from the Audit Committee;

(d) referrals from the Chief Audit Executive; and

(e) any matter that a majority of the subcommittee determines is appropriate for consideration involving an alleged violation of Board rule.

(2) Upon referral, the Oversight and Accountability Subcommittee shall, as appropriate:

(a) review the original findings of noncompliance;

(b) examine the corrective action plan issued by the Superintendent; and

(c) evaluate supporting documentation and data, as provided, demonstrating continued noncompliance.

(3) The Oversight and Accountability Subcommittee may require:

(a) additional information, materials, or records to be provided to the subcommittee; or

(b) the recipient to appear before the subcommittee to provide responses, in public or private session, on any matter outlined in R277-114-4(1)(a)–(e).

(4) Following review, the Oversight and Accountability Subcommittee may impose any compliance-related action outlined in R277-114-7.

(5) The imposition of a corrective action by the subcommittee is subject to R277-114.9.

R277-114-5. Superintendent Responsibilities.

(1) The Superintendent shall, as part of the issuance of any proposed new Rule or Rule modification:

(a) perform a risk assessment for each provision that considers impact on students, teachers, and taxpayers; and

(b) design a monitoring plan for each provision or group of provisions that includes:

(a) the results of the risk assessment

(b) program outcomes and requirements;

(c) reporting requirements;

(d) financial requirements; and

(e) all general and dedicated resources available to carry out the requirements including:

(i) the restricted or unrestricted nature of applicable funding, and

(ii) options for using dedicated staff; and

(f) any other factors the Superintendent considers relevant to the analysis.

285 (2) The Superintendent shall notify all recipients of the initiation of or changes to
286 any monitoring plan or process.

287 (3) The Superintendent shall perform monitoring as outlined in the monitoring
288 plan.

289 (4) A recipient shall comply in a timely manner with requests to provide accurate
290 and complete information to comply with this rule.

291 (5) Upon completion of monitoring, the Superintendent shall develop a monitoring
292 report that includes:

293 (i) the dates of the monitoring;

294 (ii) the provisions monitored; and

295 (iii) the overall result of the monitoring.

296 (6) The Superintendent shall retain all program monitoring reports and related
297 documentation in accordance with applicable retention laws and schedules.

298 (7) Nothing in this section shall excuse LEA noncompliance with any active State
299 Law or Board Rule.

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301 **R277-114-6. Corrective Action Plans.**

302 (1) The Superintendent shall place a recipient on a corrective action plan when a
303 recipient:

304 (a) does not demonstrate satisfactory program outcomes as described by the
305 plan;

306 (b) b) engages in noncompliance with federal or state law, Board rule, program
307 requirements, fiscal requirements, or other applicable standards of conduct and care; or

308 (c) fails to comply in a timely manner with requests to provide accurate and
309 complete information required under this rule or other Board directives; or

310 (d) engages in fraud, waste, abuse, or other misuse of funds or resources.

311 (2) The Superintendent shall clearly outline in a corrective action plan:

312 (a) the reason for the corrective action plan, including the provision or group of
313 provisions at issue;

- (b) related documentation obtained or generated as part of the monitoring process;
- (c) details about the evidence gathered, including relevant dates;
- (d) the specific conditions to be met to resolve identified issues;
- (e) a procedure for communication during the course of resolving the corrective action, including:
- (i) designation of a primary contact of the recipient;
- (ii) a schedule for the frequency of updates provided by the contact;
- (iii) the format of required updates; and
- (iv) the designated recipient of the updates;
- (f) a procedure to close the corrective action, including:
- (i) designation of an individual authorized to close the corrective action;
- (ii) the criteria for closing the corrective action;
- (iii) an estimated schedule for closing the corrective action; and
- (iv) how the authorized individual will communicate closure to the recipient; and
- (g) notice of the option for appeal as described in Section R277-114-7.
- (3) The specific conditions described in Subsection (2)(d) may include:
- (a) requiring payments as reimbursements rather than advance payments;
- (b) withholding authority to proceed to the next step until receipt of evidence of acceptable performance within a given period of performance;
- (c) requiring additional, more detailed financial reports;
- (d) requiring additional project monitoring;
- (e) requiring the recipient to obtain technical or management assistance; or
- (f) establishing additional prior approvals.
- (4) A corrective action plan may also include a provision and a timeline for:
- (a) periodic meetings between a recipient administrator or governing board member and the Superintendent or the Superintendent's delegate;
- (b) planned appearances before the Board to provide status updates; and
- (c) training for the recipient's staff.

(5) In creating a corrective action plan, the Superintendent shall provide providing technical support to assist the recipient to achieve compliance and performance.

(6) The Superintendent may include penalties for noncompliance with a corrective action plan in accordance with Subsection 53E-3-401(8) and R277-114-8.

(7) All corrective action plans shall be reviewed and approved by the Superintendent's designee prior to finalization and issuance.

(a) If a corrective action plan includes financial noncompliance or conditions related to fiscal oversight, the corrective action plan shall be reviewed by the Deputy Superintendent of Operations or the Assistant Superintendent of Operations.

(8) The Superintendent shall work collaboratively with the LEA to resolve issues and in developing, implementing, and monitoring a corrective action plan to ensure timely resolution of identified matters.

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

(a) the recipient's administrators;

(b) the recipient's governing board;

(c) the Board; and

(d) Internal Audit.

(10) Internal audit shall maintain a centralized tracking system of corrective action plans.

(11) The tracking system shall:

(a) be updated upon issuance of a corrective action plan;

(b) record progress and completion of corrective actions; and

(c) support regular reporting to the Board on the status of monitored programs and corrective actions.

R277-114-7. Corrective Action Plan Appeals.

(1) A recipient may submit an appeal to the Board within 14 business days of receiving the corrective action plan relating to:

- 372 (a) a reason the Superintendent is imposing the corrective action plan;
373 (b) the requirements of a corrective action plan; or
374 (c) an action the Superintendent takes to implement a corrective action plan.

375 (2) For an appeal described in Subsection (1), the recipient shall:

376 (a) state in the appeal the corrective action plan requirement or action with which
377 the recipient disagrees; and

378 (b) submit the appeal to the Board Secretary in accordance with Section R277-
379 102-3, as appropriate.

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

381 (a) review the appeal as a full Board;
382 (b) refer the matter to the Board audit committee to make a recommendation to
383 the Board for action; or

384 (c) identify another method to review the appeal.

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387 **R277-114-8. Enforcement Provisions.**

388 (1) If an LEA fails to comply in a timely manner with:

- 389 (a) any provision of this Rule;
390 (b) any request or corrective action; or
391 (c) any provision of a corrective action plan that the recipient is subject to.

392 (2) The Superintendent may recommend to the full Board one or more of the
393 following actions, consistent with the provisions of Section 53E-3-401:

- 394 (a) recipient to enter into a corrective action plan;
395 (b) temporarily or permanently withhold state funds from the recipient;
396 (c) require the recipient to pay a penalty;
397 (d) require the recipient to reimburse specified state funds to the state board;
398 (e) require additional reporting or monitoring;
399 (f) refer the complaint, evidence, and findings to the attorney general's office or
400 the relevant district attorney's office;

401 (g) require the recipient to hire a third-party provider to provide services the state
402 board determines necessary;

403 (h) require reimbursement from the recipient instead of future allocations from the
404 Board;

405 (i) require a follow-up investigation;

406 (j) refer the violation and corresponding evidence to the state auditor or the
407 legislative auditor general, if the violation relates to finances;

408 (k) request additional evidence of compliance; or

409 (l) take other action Board deems appropriate.

410 (3) Enforcement actions shall remain in effect until the recipient demonstrates full
411 compliance with applicable requirements to the satisfaction of the Board.

412
413 **R277-114-9. Appeals.**

414 (1) Subject to all the provisions of R277-102-3, a recipient subject to corrective
415 action under this rule may appeal the corrective action decision of the Superintendent or
416 Subcommittee to the full Board."

417 (2) Appeals shall be conducted in accordance with R277-102-3, as appropriate.

418 (3) The Superintendent shall recommend to the Superintendent one or more of
419 the following actions, consistent with the provisions of...

420
421 **R277-114-10. Relationship to State Security Chief.**

422 (1) Pursuant to Utah Code § 53-22-102, the State Security Chief holds statutory
423 responsibilities for statewide coordination of school safety.

424 (2) Nothing in this rule shall be construed to limit, expand, or otherwise alter the
425 statutory powers and duties of the State Security Chief.

426 (3) The Board affirms its constitutional delegation of authority in the area of public
427 education and school safety, including oversight, compliance, and rulemaking, and shall
428 exercise that authority in coordination with the State Security Chief as provided by law.

429 (4) Local education agencies shall comply with both:

(a) directives and requirements of the State Security Chief made pursuant to
state law; and

(b) rules and policies adopted by the Board under its constitutional and statutory
authority.

KEY: monitoring, corrective action, oversight

Date of Last Change:

Notice of Continuation:

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-
3-401(8); 53E-3-301; 53F-1-104; 63G-7-301**