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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: February 5-6, 2015

ACTION: R277-114 *Corrective Action and Withdrawal or Reduction of Program Funds* (Continuation and Amendment)

Background:

1. R277-114 *Corrective Action and Withdrawal or Reduction of Program Funds* is due for its 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 May 12, 2015. Staff have reviewed R277-114 and determined that the rule continues to be necessary.
2. R277-114 *Corrective Action and Withdrawal or Reduction of Program Funds* is amended to clarify the notification process for correction action plans and to clarify the approval process required when reduction or withholding of funds is required.

Key Points:

1. R277-114 continues to be necessary because it provides procedures for public education program monitoring and corrective action for noncompliance with identified program requirements, program accountability standards, and financial propriety.
2. The amendments to R277-114 provide language that clarifies the notification and approval process for corrective action plans and reduction or withholding of funds.

Anticipated Action:

1. It is proposed that the Finance Committee consider approving R277-114 for continuation on first reading and, if approved by the Committee, the Board consider approving R277-114 for continuation on second reading.
2. It is proposed that the Finance Committee consider approving R277-114, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-114, as amended, on second reading.

Contact: Bruce D. Williams, Associate Superintendent, 801-538-7514
Natalie Grange, School Finance Director, 801-538-7668

1 **R277. Education, Administration.**

2 **R277-114. Corrective Action and Withdrawal or Reduction of**
3 **Program Funds.**

4 **R277-114-1. Definitions.**

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

6 B. "LEA" means a local education agency, including local
7 school boards/public school districts and charter schools.

8 ~~[B]~~C. "Program" for purposes of the rule means a public
9 education project or plan under the direction of the Board,
10 with a specific goal or outcome for which public education
11 funding is provided.

12 ~~[C]~~D. "Recipient" means an ~~[school district or school~~
13 ~~district program, charter school or charter school]~~ LEA or LEA
14 program, contractor, or any other entity that receives program
15 funding as defined in this rule.

16 ~~[D]~~E. "State Superintendent" means the State
17 Superintendent of Public Instruction as defined under Section
18 53A-1-301.

19 ~~[E]~~F. "USOE" means the Utah State Office of Education.

20 **R277-114-2. Authority and Purpose.**

21 A. This rule is authorized by Utah Constitution Article
22 X, Section 3 which vests general control and supervision of
23 public education in the Board and by Section 53A-1-401(3)
24 which allows the Board to adopt rules in accordance with its
25 responsibilities.

26 B. The purpose of the rule is to provide procedures for
27 public education program monitoring and corrective action for
28 noncompliance with identified program requirements, program
29 accountability standards, and financial propriety.

30 **R277-114-3. USOE Responsibilities.**

31 A. USOE ~~[D]~~directors, coordinators and program
32 specialists shall act as designees of the State Superintendent

33 and shall review compliance with program outcomes and
34 financial propriety.

35 B. Designated program reviewers shall act and carry out
36 responsibilities consistent with federal requirements, state
37 law and administrative rules.

38 C. The following minimum procedures shall be followed
39 prior to reducing or withholding funds from a recipient:

40 (1) The USOE, with assistance from directors,
41 coordinators and program specialists, shall draft and
42 implement a consistent monitoring procedure that includes
43 standards for both recipient program outcomes and financial
44 compliance. This monitoring program shall be communicated to
45 the recipient regularly, and proper documentation of
46 monitoring and compliance procedures conducted by USOE staff
47 shall be maintained at the USOE.

48 (2) Recipients that do not demonstrate satisfactory
49 outcomes, demonstrate noncompliance with program requirements
50 or allowable program expenditures, or those that do not comply
51 with requests to provide accurate and complete program or
52 financial information enabling determination of compliance may
53 be placed on corrective action.

54 (3) All courses of action should be discussed with the
55 USOE deputy~~[+]~~ or associate superintendent who supervises the
56 program, with notification to the State Superintendent, prior
57 to placing recipients on a corrective action plan as follows:

58 (a) Corrective action plans shall clearly outline all
59 areas of noncompliance and establish a reasonable time frame
60 for the recipient to correct identified issues.

61 (b) Notification and a copy of the corrective action plan
62 shall be communicated in writing to ~~[a]~~ the program
63 administrator at the LEA or subrecipient, ~~[as well as the]~~
64 superintendent~~[/CEO and]~~, business administrator of the
65 ~~[school district or school district program, charter school or~~
66 ~~charter school program, contractor, other recipient in~~

67 ~~question, t]~~LEA or the program director and administrator of
68 all non-LEA subrecipients. The USOE deputy[7] or associate
69 superintendent over the program[~~, the USOE internal auditor,~~]
70 and the State Superintendent shall also receive notification.
71 If a charter school is placed on corrective action,
72 notification shall also be given to the state charter school
73 director.

74 (4) Directors, coordinators and program specialists shall
75 follow up with the recipient to clarify questions and assist
76 the recipient in establishing appropriate corrective measures
77 to further compliance.

78 (5) If a recipient does not respond or does not satisfy
79 the requirements of the corrective action plan by established
80 deadline(s), the program director, coordinator, or supervisor
81 shall notify the [~~Internal Auditor, who will notify the~~]State
82 Superintendent, deputy and associate superintendent over the
83 program prior to reducing awards, or requesting payment from
84 the LEA or subrecipient.

85 (6) Verification of noncompliance and contact with the
86 recipient to discuss and investigate the issues addressed in
87 the corrective action plan shall be left to the discretion of
88 the State Superintendent[7] and Board Audit Committee[~~and~~
89 ~~Internal Auditor~~].

90 (7) The Board shall determine[~~if and~~] at what level of
91 funding for programs may be withheld or terminated[~~by the~~
92 ~~State Superintendent and when t~~]. The Board should withhold or
93 terminate a program or validate the State Superintendent's
94 recommendation for withholding or termination of funding. The
95 school finance director shall be notified if minimum school
96 program funding is to be reduced or withheld consistent with
97 R277-484-8.

98 **KEY: programs, noncompliance, corrective action**

99 **Date of Enactment or Last Substantive Amendment: May 12, 2010**

100 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**
101 **53A-1-401(3)**