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Brad C. Smith, Chief Executive Officer  
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## MEMORANDUM

**TO:**                                      Members, Utah State Board of Education

**FROM:**                                  Brad C. Smith  
Chief Executive Officer

**DATE:**                                  April 9-10, 2015

**DISCUSSION/ACTION:**          Pupil Accounting

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### **Background:**

During the February meeting of the Board Finance Committee, there was a discussion concerning pupil accounting and its relationship to funding of local education agencies (LEAs). The Finance Committee requested that staff provide information to the committee concerning several issues as noted below.

- Make privacy of student records the responsibility of the enrolling entity (LEA) in rule.
- Identify disparities that policy incentives are posing for students.
- Provide a copy of the Executive Summary of the R277-419-9 hearing prepared by Assistant Attorney General Chris Lacombe to identify and consider additional concerns brought up regarding distance and online education programs.
- Verify if a district can charter a school and be funded in the same manner as a charter and whether statute or rule allow for funding to happen in the same way or differently.
- Provide information on how other states approach funding charter schools and online courses.
- Add more content to the LEA Funding Task Force Recommendations to provide more explanation of how the recommendations came about.
- Pull out the recommendations and anything the Task Force addressed and compare with what has been studied by the Public Education Appropriations Subcommittee.
- Discussion is also needed on "enrollment" definition, "attendance" definition, and the responsibility of LEAs, parents, teachers and students.

### **Key Points:**

- There are still questions outstanding regarding the accounting of pupils receiving education services in traditional and non-traditional settings.
- As the Board moves forward to make decisions about pupil accounting, it will be helpful to work from a set of guiding principles.

### **Anticipated Action:**

The Finance Committee will receive information from staff concerning issues raised during the February meeting and continue to discuss guiding principles for pupil accounting.

**Contact:**                              Jennifer Johnson, Second Vice Chair, 801-742-1616  
Bruce Williams, Associate Superintendent, 801-538-7514

**Performance Audit 2013-02**  
**“Distance and Online Education Programs in Utah Schools”**

**Chapter 2: Student Records and Security**

2B-1 We recommend that the Board, or designee, review the security of student enrollment data being transmitted and stored by LEAs and their contractors, and consider adopting a best practice or minimum recommendations regarding the security, transmission, and disclosure of sensitive student data.

**Chapter 3: Core Standards, Licensed Educators, Assessments, and Membership**

*Distance and Online Programs Managed by LEAs*

3B-1 We recommend that LEAs develop and document a procedure to evaluate and approve curriculum and virtual courses purchased from a vendor and administered by a vendor teacher for compliance with to R277-700 and Utah Core Standards.

3B-2 We recommend that the Board determine if licensure and background check laws and rule (*Utah Code* 53A-1a-512.5 and 53A-3-410 and R277-520) apply to vendor provided teachers who provide support and instruction for online classes purchased from a vendor.

We further recommend that the Board modify existing Board rules to clarify expectations for LEAs for vendor provided teachers.

3B-3 We recommend that the Board or its designee revise Rule 277-419 to provide specific guidance on required school days and instructional hours, and the 10-day rule and its application to virtual or online classes. We recommend the Board consider allowing a progress based policy established by an LEA for online

**Has been studied or addressed?**

Partially addressed in  
R277-419-9

No

No

No

programs. A progress based policy could be used as a measure to determine compliance with membership standards and could be monitored and documented using existing management systems.

Additionally, we recommend the Board or its designee communicate all changes in R277-419 to the State Auditor’s Office for inclusion in the State Legal Compliance Guide.

3B-4 We recommend that the Board evaluate virtual classes and determine how competency based measures and membership funding apply to these classes. We recommend the Board provide guidance to the USOE and LEAs regarding funding and membership rules for these courses.

No

3B-5 We recommend that the Board or its designee review the practice of leasing or renting computers and providing subsidies for internet access to elementary students and determine if this practice complies with provisions of the Utah Constitution and Board rule requiring elementary education to be free.

Partially addressed in R277-419-9

3B-6 We recommend that the Board and the Assessment division review and develop specific guidance in the USOE’s Testing Ethics Policy to address appropriate practices for the administration of required assessments for distance and online classrooms. Guidance should include who can administer the required state assessments and how to facilitate assessments in distance or online classrooms.

No

*Distance and Online Programs Managed by Contractors on Behalf of LEAs*

3B-7 We recommend that the Board determine if licensure and background check laws and rule (*Utah Code* 53A-1a-512.5 and 53A-3-410 and R277-520) apply to vendor-provided teachers who provide support and instruction for online classes purchased from a

No

vendor, or to teachers that are hired by LEA contractors. We further recommend that the Board modify existing Board rules to clarify expectations for LEA for vendor provided teachers.

3B-8 We recommend that the Board evaluate law and rule regarding home school courses and the ability of LEAs to claim home school courses for funding. We recommend the Board provide guidance to LEAs and USOE staff to clarify if these courses qualify for state funding, how these course should be recorded in an SIS, and potentially establish minimum standard to govern this decision. We recommend the Board consider the provisions of 53A-1-409 in their review of this issue.

No

3B-9 We recommend that the Board or its designee revise R277-419 to provide specific guidance on required school days and instructional hours, and the 10-day rule and its application to virtual or online classes. We recommend the Board consider developing minimum standards or a framework to allow a progress measurement to be used to determine compliance with, or as an alternative to the 10-day rule for online schools or virtual classes. A progress based policy could be used as a measure to determine compliance with membership standards and could be monitored and documented using existing management systems.

Additionally, we recommend the Board or its designee communicate all changes in R277-419 to the State Auditor's Office for inclusion in the State Legal Compliance Guide.

No

3B-10 We recommend that the Board evaluate virtual classes and determine how competency based measures and membership funding apply to these classes. We recommend the Board provide guidance to the USOE and LEAs regarding funding and membership rules for these courses.

No

3B-11 We recommend that the Board or its designee review the practice of reimbursing parents for an education or tech allowance or course material reimbursements in a distance or online education program to determine if

Partially addressed in R277-419-9

these reimbursements and/or incentives are appropriate and provide for equity among school programs. The Board should consider creating a rule to establish acceptable parameters and allowable terms or uses of reimbursements and incentives to ensure that all students are given an equal opportunity and assistance with their education goals and that public funds are expended appropriately.

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|-------|---|----|
| 3B-12 | We recommend that the Board and the Assessment division review and develop specific guidance in the USOE's Testing Ethics Policy to address appropriate practices for the administration of required assessments for distance and online classrooms. Guidance should include who can administer the required state assessments, how to facilitate assessments in distance or online classrooms, and adequate test security. | No |
| 3B-13 | We recommend that the Assessment and Data and Statistic divisions develop data audit procedures to investigate student's schedules in correlation to their taken assessments to verify if students are enrolled in appropriate courses specific to grade level and determine if all required assessments were administered.   | No |

## Chapter 4: Funding Formulas

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|------|--|----|
| 4B-1 | We recommend that the Board or its designee review R277-419 and modify the rule or develop a new rule that clarifies the following areas pertaining to membership and funding in virtual schools or online classes:<br><br><ol style="list-style-type: none"><li>1) Are virtual schools/students subject to the 180 days, 990 instructional hour provisions?</li><li>2) Does the 10-day rule apply to virtual students? Is there a suitable substitute such as a progress measure?</li><li>3) Are virtual schools required to offer a minimum of 2 hours of instruction for kindergarten, and 4 hours for grades 1-12 per day?</li><li>4) Are online courses that are mastery based, not seat time based, to be valued the same for funding as courses taught in a school?</li></ol> | No |
|------|--|----|

- 5) Should a minimum number of courses or hours be required to claim a full WPU?
- 6) How do LEAs share the WPU in dual enrollment situation when full time enrollment may not be the same in each LEA?

4B-2 We recommend that the Board study the method by which charter schools are funded based on 53A-1a-513(3)(b). The Board could consider developing rules to require a funding reconciliation of October 1 headcounts to actual year end ADM in charters to ensure that students are not generating more than one WPU for regular school attendance, and that charters do not receive full funding for students who do not attend a full school year. We recommend that the Board consider acceptable variances from ADM for charters schools enrolling at their maximum authorized capacity to allow for growth in charter schools so as not to cause irreparable financial hardships to charters. The Board could also seek to modify law to bring the funding formulas for school districts and charters schools into alignment.

4B-3 We recommend the Board evaluate 53A-1-409 and consider seeking modifications to the law or developing Board rule to require that competency-based programs must either be approved by the Board, or follow a set of minimum standards approved by the Board.

4B-4 We recommend the Board determine how to address existing competency based programs and courses, including whether LEAs can continue to claim these programs and courses for membership hours and corresponding funding in the absence of a competency based funding formula.

Discussed by Task Force  
August – November 2014

No

No

## Chapters 5: Other Matters

5B-1 We recommend that the Board and the SCSB ensure that LEAs are following all applicable state laws and their charter when establishing contracts.

Low

5B-2	We recommend that the Teaching and Learning and the School Finance divisions of the USOE determine if non LEA employees are being included in the various MSP funding calculations related to teacher licensure and credentials, the monetary impact if they are included, and provide this information to the Board.	Low
5B-3	We recommend that the Board determine if non LEA employees should generate funding through the various MSP programs and modify existing Board rules to govern this decision.	Low
5B-4	We recommend that the Teaching and Learning division develop data audit procedures to investigate students being assigned to teachers with expired licenses, or licenses and endorsements not appropriate for the grade level or subject.	Low
5B-5	We recommend that the Teaching and Learning division provide guidance on how non- LEA employees should be reflected in CACTUS for funding purposes and make recommendations to the Board for changes to rules.	Low
5B-7	We recommend that the SCSB continue to provide training to the charter schools regarding student suspension, expulsion, and removal from charter school programs to ensure compliance with 53A-11-903 and 904 and ensure student and parent rights are protected and observed.	Moderate
5B-8	We recommend that the Board, the SCSB, and the Data and Statistics division develop clear guidance on the appropriate use of SIS exit codes, and provide instructions to charters on how to comply with compulsory education law.	Moderate