

1 **R277. Education, Administration.**

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

3 **R277-471-[2]1. Authority and Purpose.**

4 [A-](1) This rule is authorized by:

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

7 (b) Section 53A-1-401, which allows the Board to make rules to execute the Board's
8 duties and responsibilities under the Utah Constitution and state law; and

9 (c) Sections 53A-20-104 and 104.5 which direct the Superintendent to:

10 (i) enforce requirements and provisions ~~about~~ related to public school ~~[building and~~
11 ~~alteration;]~~ construction;

12 (ii) verify inspections of school [buildings;] construction; and

13 (iii) provide information annually to LEAs about the construction and inspection of
14 public school buildings[;]; ~~[Section 53A-1-401(3) which permits the Board to adopt rules in~~
15 ~~accordance with its responsibilities and permits the Board to interrupt disbursements of~~
16 ~~state aid to any school district or charter school which fails to comply with rules adopted~~
17 ~~by the Board.] and~~ and

18 (d) Section 53A-20-110, which directs the Board to adopt guidelines for public
19 school construction.

20 [B-](2) The purpose of this rule is to:

21 (a) provide specific provisions for the oversight of:

22 (i) permanent or temporary public school construction~~[f]~~ and renovation;

23 (ii) inspections;

24 (iii) general design; and

25 (iv) operation and maintenance of facilities; and

26 (b) ~~[to]~~ identify LEA board responsibilities and accountability to the Board in the
27 public school construction process.

28 **R277-471-2. Incorporation of School Construction Resource Manual by Reference.**

29 (1) This rule incorporates by reference the School Construction Resource Manual,
30 April 30, 2013 Revision, which provides processes and procedures for an LEA to use in the
31 construction, renovation, or maintenance of public school facilities in accordance with

32 Section 53A-20-104.5.

33 (2) A copy of the Resource Manual is available:

34 (a) online at <https://www.schools.utah.gov/financialoperations/facilities>; and

35 (b) upon request at offices of the Utah State Board of Education.

36 **R277-471-[4]3. Definitions.**

37 ~~[A. “Board” means the Utah State Board of Education.]~~

38 ~~[B. “Certified plans examiner” means a professional who has current applicable~~
39 ~~commercial certification through the International Code Council (ICC).]~~

40 ~~[C. “Charter schools” means schools acknowledged as charter schools by charter~~
41 ~~school authorizers consistent with Sections 53A-1a-515, 53A-1a-521, and this rule or by~~
42 ~~the Board under Section 53A-1a-505.]~~

43 ~~[D. “Charter school responsible person or local charter school board building officer~~
44 ~~or designee (CSBBO)” means the individual or authority designated by the charter school~~
45 ~~board who has direct administrative and operational control of charter school~~
46 ~~construction/renovation and has responsibility for the charter school’s compliance with~~
47 ~~Utah law and the Resource Manual on behalf of the charter school board.]~~

48 (1) “Active Construction and Project Closeout Checklist” means a document
49 developed and provided online by the Superintendent, which outlines the required
50 submittals for construction projects from the time the USBE project number has been
51 issued through construction and project closeout.

52 ~~[E.](2) “Certificate of inspection verification” or “SP-8 Construction Inspection~~
53 ~~Summary Report” means a form provided online by the Superintendent certifying that the~~
54 ~~entity responsible for providing inspection services has complied with: [the provisions of]~~

55 (a) Section[s] 53A-20-104[;];

56 (b) Section 53A-20-105[;];

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

58 (d) Section 17-27a-305[;]; [58-56, Section]

59 (e) Title 15A, State Construction and Fire Code Act[;]; [as well as the provisions of]

60 (f) Rule R156-56; and

61 (g) this rule. [The form is available on the USOE School Finance Section website.]

62 ~~[F.](3)(a) “Certificate of occupancy” means [the] a document issued [upon receipt~~

63 of the final inspection from the inspector of record and the 'Certificate of Fire Clearance'
64 issued by the Utah State Fire Marshal, verifying] to verify compliance with all minimum
65 requirements to safeguard the public health, safety and general welfare of occupants,
66 which authorizes permanent usage or occupancy of:

67 (i) any new [building,] construction or occupiable structure; [or]

68 (ii) an existing occupiable building [or structure alteration (remodeling)] following
69 structural alteration; or

70 (iii) [change of occupancy in] an existing structure, [or] building, or space set for a
71 change of occupancy.

72 (b) The Superintendent may not issue a certificate of occupancy until the
73 Superintendent receives all applicable items listed on the Active Construction and Project
74 Closeout Checklist, including:

75 (i) the final inspection report from the inspector of record; and

76 (ii) the Certificate of Fire Clearance issued by the Utah State Fire Marshal.

77 ~~[G. "Division" means the Division of Finance with technical assistance from the~~
78 ~~Department of Technology Services.]~~

79 (4) "Certified plans examiner" means a professional who has current applicable
80 commercial certification through the International Code Council (ICC).

81 (5) "Change in occupancy" means a change in the purpose or level of activity in a
82 building, portion thereof, or structure that involves a change in the application of the local
83 building code requirements, the Americans with Disabilities Act, or other applicable law,
84 which results in the need to modify or renovate the facility to comply with more protective
85 construction.

86 (6) "Construction: means the new construction repair, renovation, remodeling,
87 upgrading, addition, alteration, enlargement, rehabilitation, conservation, clearing,
88 dredging, excavating, grading of land, or reconstruction of a building of change in the
89 character or use of a building in a manner that increases the occupancy load, other
90 demands, or safety risks of the building.

91 (7) "Construction management" means a contractual and professional working
92 relationship between the owner of a construction project and a construction manager.

93 (8) "Construction manager" means an individual retained by an LEA to manage a
94 school construction project.

95 (a) A construction manager may be an architect, engineer, general contractor, or
96 other professional consultant.

97 (b) A construction manager may be an entity, or construction management firm,
98 rather than an individual.

99 (c) A construction manager works as the agent of the LEA in a school construction
100 project.

101 (d) A construction manager may, at the discretion of an LEA, assist in the
102 development and implementation of any or all of the predesign, design, bidding,
103 construction, and occupancy stages of a school construction project.

104 (e) A construction manager is responsible for the effective, orderly, and acceptable
105 completion of a school construction project.

106 (9) “Existing construction” means:

107 (a) modification of a facility that is currently owned or leased by an LEA; or

108 (b) modification of an existing facility not currently owned or leased by an LEA, but
109 which requires modifications prior to the LEA obtaining a certificate of occupancy for future
110 use.

111 ~~[H.](10) “General plan” means a document that a county or municipality adopts that~~
112 ~~sets forth general guidelines for proposed future development of the land within the county~~
113 ~~or municipality[, consistent with Section 10-9a-103(13)].~~

114 ~~[I.](11) “Inspector” means a professional who:~~

115 ~~(a) holds current applicable commercial certification through the International Code~~
116 ~~Council (ICC); and~~

117 ~~(b) is currently licensed in the state of Utah in the applicable trades for which the~~
118 ~~inspector is performing inspections.~~

119 ~~[J. “LEA” means local education agency, including local school boards/public school~~
120 ~~districts and charter schools.]~~

121 (12) “LEA Building Official” means the individual or authority designated by an LEA
122 who has direct administrative and operational control of a public school construction project
123 and is responsible for compliance with Utah law, board rule, and the Resource Manual.

124 ~~[K.](13) “New school [building] construction project” means the construction of a~~
125 ~~school that did not previously exist in an LEA.~~

126 (14) “Pre-construction checklist” means a document, developed by the

127 Superintendent, which outlines the submittals required by the Superintendent prior to the
128 issuance of a USBE project number.

129 ~~[L.](15) “Public school construction” means construction work on a new or existing~~
130 ~~public school [building] facility, or a facility that will be occupied for use by an LEA.~~

131 ~~[M. “School Building Construction and Inspection Resource Manual, April 30, 2013,~~
132 ~~(Resource Manual)” means a manual which identifies the processes and procedures an~~
133 ~~LEA shall follow when constructing a new public school building, maintenance, or~~
134 ~~renovating existing buildings. The Resource Manual was developed by the USOE~~
135 ~~consistent with Section 53A-20-104.5, is available on the USOE School Finance website,~~
136 ~~and is hereby incorporated by reference consistent with Section 63G-3-201(7).]~~

137 (16) “Resource Manual” means the manual incorporated by reference in Section
138 R277-471-2.

139 ~~[N. “School District Building Official (SDBO)” means the individual or authority~~
140 ~~designated by the public school district who has direct administrative and operational~~
141 ~~control of school district construction/renovation and is responsible for the school district’s~~
142 ~~compliance with Utah law and the Resource Manual.]~~

143 ~~[O.](11) “Significant school remodel” means the upgrading, changing, alteration,~~
144 ~~refurbishment, modification, or complete substitution or replacement of an existing school~~
145 ~~in an LEA with a project cost equal to or in excess of \$2,000,000.~~

146 ~~[P. “Superintendent” means the State Superintendent of Public Instruction.]~~

147 ~~[Q.](12)(a) “Temporary certificate of occupancy” means [the] a document [issued~~
148 ~~upon receipt of the temporary final inspection report from the inspector of record and the~~
149 ~~‘Temporary Certificate of Fire Clearance’ issued by the Utah State Fire Marshal,] verifying~~
150 ~~minimum requirements to safeguard the public health, safety and general welfare of~~
151 ~~occupants, which authorizes temporary usage or occupancy of:~~

152 ~~(i) [any] a new [building,] facility or occupiable structure; [or]~~

153 ~~(ii) an existing occupiable [building or structure alteration (remodeling)] facility~~
154 ~~following structural alteration; or~~

155 ~~(iii) [change of occupancy in] an existing structure or [building] facility or space~~
156 ~~following a change of occupancy[;] [valid for a specific time period].~~

157 (b) A temporary certificate of occupancy is valid for a limited time to be specified on
158 the temporary certificate of occupancy.

159 (c) The Superintendent may not issue a temporary certificate of occupancy until the
160 Superintendent receives all applicable items listed on the Active Construction and Project
161 Closeout Checklist, including:

162 (i) the temporary final inspection report from the inspector of record; and

163 (ii) the Temporary Certificate of Fire Clearance issued by the Utah State Fire
164 Marshal.

165 ~~[R. "USOE" means the Utah State Office of Education.]~~

166 (13)(a) "USB E Project Number" means an authorization issued by the
167 Superintendent upon receipt of all required submittals outline on the Pre-Construction
168 Checklist used by the Board to track each school construction project and LEA reporting.

169 (b) A "USB E Project Number" replaces a building permit issued by a municipality or
170 county.

171 **R277-471-[3]4. LEA Responsible Person.**

172 ~~[A.](1) An LEA governing board[s] shall [be accountable to] ensure that all [school~~
173 ~~district and charter school] permanent or temporary construction[, renovation, and]~~
174 ~~inspections are conducted in accordance with the law and Board rule to provide minimum~~
175 ~~requirements to safeguard the public health, safety and general welfare of occupants while~~
176 ~~using the most comprehensive, cost effective and efficient design means and methods.~~

177 ~~[(1)2](a) An LEA [local school] governing board[s] shall appoint a [SDBO] building~~
178 ~~official who has direct administrative and operational control of all construction, renovation,~~
179 ~~and inspection of public school [district] facilities within the [school district] LEA. [and]~~

180 ~~(b) An LEA shall provide in writing the name of the [SDBO] building official~~
181 ~~designated under Subsection (2)(a) to the [USOE] Superintendent.~~

182 ~~(c) An LEA shall promptly report a change in a designated building official to the~~
183 ~~Superintendent.~~

184 ~~[(2) Charter school boards shall be accountable to the State Charter School Board~~
185 ~~and the Board to ensure that all charter school permanent or temporary construction,~~
186 ~~renovation, and inspections are conducted in accordance with Utah law and the Resource~~
187 ~~Manual. Each local charter school board shall appoint a CSBBO who has direct operational~~
188 ~~responsibility for construction, renovation, and inspection of the charter school.]~~

189 ~~(2) [The CSBBO] An LEA building official shall report regularly to the [local charter~~

190 school] LEA board.

191 ~~[(a) The local charter school board shall provide the name of this officer in writing~~
192 ~~to the Superintendent.~~

193 ~~——(b) The local charter school board shall promptly notify the Superintendent in writing~~
194 ~~of any changes of this individual.]~~

195 [B.](4) [The] An [SDBO] LEA Building Official shall monitor [school district building]
196 construction to ensure compliance with the provisions of Utah law and [the Resource
197 Manual] Board rule.

198 [C. The CSBBO shall monitor all charter school building construction to ensure
199 compliance with the provisions of Utah law and the Resource Manual.

200 D. The SDBO and CSBBO shall ensure that public school construction conforms
201 with the intent and purpose of Utah law and the Resource Manual.]

202 [E.](5) [The SDBO and CSBBO] An LEA may adopt and enforce [supplemental LEA
203 policies under appropriate LEA] policies to [clarify the application of] supplement the
204 provisions of Utah law and [the Resource Manual for LEA personnel] Board rule, as long
205 as an LEA policy does not conflict with applicable law or rule.

206 **R277-471-[4]5. School Construction Inspectors.**

207 [A.](1) An LEA[s] shall employ or contract with an inspector[s] for each public school
208 construction project in accordance with Subsections (2) through (4). [inspection who are
209 currently ICG commercially certified and licensed in Utah, in the trade specific to the
210 inspection, consistent with Utah law and the Resource Manual requirements:]

211 [B.](2) An LEA[s shall] may [choose one of three methods for inspections:]
212 contract with an [(1)]independent inspector[s:].

213 (a) An independent inspector shall be approved by the local jurisdiction in which the
214 construction activity occurs;

215 (b) An independent inspector may [include inspectors working] also work outside the
216 municipality, county, or school district in which they are [employed] retained; and

217 (c) An independent inspector [shall not be any of the following, nor] may not be a
218 principal or an an employee of:

219 (i) the architect[;];

220 (ii) the developer[;];

221 (iii) the contractor[-];
222 (iv) a subcontractor working on the project[-]; or
223 (v) any management company or other agency hired by the LEA to perform
224 construction or construction administrative services.

225 ~~[(2)3]~~(a) A school district may employ [~~School district inspectors shall be employed~~
226 ~~by and~~] an inspector to perform school construction inspections within the boundaries of
227 the school district.

228 (b) A charter school may contract with a school district for the services of a district
229 employed inspector in conjunction with a charter school building project.

230 ~~[(3)4]~~ An LEA may use the services of an [~~Inspectors employed by municipalities~~
231 ~~and counties may~~] inspector employed by a municipality or county to perform school
232 construction inspections within the boundaries of the municipality or county where [~~they~~
233 ~~are~~] the inspector is employed.

234 **R277-471-[5]6. School Construction Inspections.**

235 ~~[A-]~~(1) Before any school construction project begins, [the SDBO or CSBBO] an LEA
236 building official shall obtain a [construction project number] USBE Project Number from the
237 [USOE] Superintendent by completing and submitting:

238 (a) required construction project identification forms [provided by the USOE and
239 other required submittals for all projects consistent with Section 53A-20 and the Resource
240 Manual.] outlined in the Pre-Construction Checklist; and

241 (b) any other submittals required by applicable law.

242 ~~[B-]~~(2) [The appropriate currently] A certified plans examiner shall approve all LEA
243 school plans and specifications during the pre-construction process before any LEA
244 construction project begins.

245 ~~[C-]~~(3)(a) If an LEA is unable to provide appropriate and proper school construction
246 inspection and plan review services, the Superintendent may procure [inspection] required
247 services and charge the LEA for those services.

248 (b) If the Superintendent procures services in accordance with Subsection (3)(a),
249 [The approved inspector shall establish fees in advance of inspection services.] the
250 Superintendent shall apprise the LEA of the fees to be charged in advance of any work
251 performed.

252 ~~[D-](4) An LEA [construction projects] shall comply with [Section 53A-20] Title 53A,~~
253 Chapter 20, School Construction, and the Resource Manual to:

254 ~~([1]a) ensure that each inspector is adequately and appropriately credentialed;~~

255 ~~([2]b) identify and provide to the [USOE] Superintendent and local government entity~~
256 ~~building official reports of all inspections with the name, state license number, and~~
257 ~~disciplines of each inspector performing the project inspections;~~

258 ~~([3]c) complete and submit the SP-8 Construction Inspection Summary Report~~
259 ~~inspection certificates, testing reports, reviews, and all related submittals to the [USOE]~~
260 ~~Superintendent and appropriate local government entity building official monthly throughout~~
261 ~~the project;~~

262 ~~[(4) submit inspection summary reports monthly to the appropriate local government~~
263 ~~entity building official and the USOE;]~~

264 ~~([5]d) [sign the final certificate of inspection and verification form,] submit the SP-9~~
265 ~~Final Inspection Certificate and the SP-11 School Construction Building Certificate of~~
266 ~~Verification and Performance Evaluation (Closeout) Form, along with supporting~~
267 ~~documentation, certifying all inspections were completed in compliance with all applicable~~
268 ~~laws, [and] rules, and the Resource Manual [to safeguard the public health, safety and~~
269 ~~general welfare of occupants];~~

270 ~~([6]e) send the final inspection certification, inspection verification, and provide all~~
271 ~~other related project closeout submittals to the [USOE] Superintendent and to the~~
272 ~~appropriate local government entity building official upon completion of the project,~~
273 ~~consistent with the Active Construction and Project Closeout Checklist and the Resource~~
274 ~~Manual; and~~

275 ~~([7]f) maintain all submitted documentation at a designated LEA location for auditing~~
276 ~~or monitoring.~~

277 ~~[E-](g) [The] An [SDBO/CSBBO] LEA building official may submit paper or electronic~~
278 ~~reports to satisfy the requirements of this S[s]ection R277-471-6.~~

279 **R277-471-[6]7. Coordination with Local Governments, Utility Providers and State**
280 **Fire Marshal.**

281 ~~[A-](1) Prior to developing plans and specifications for a public school construction~~
282 ~~project, an LEA[s] shall coordinate with affected local government land use authorities and~~

283 utility providers to:

284 ([1]a) ensure that the siting or expansion of a [school] facility in the intended location
285 will comply with applicable local general plans and land use laws and will not conflict with
286 entitled land uses;

287 ([2]b) ensure that all local government services and utilities required by the school
288 construction activities can be provided in a logical and cost-effective manner;

289 ([3]c) avoid or mitigate existing and potential traffic hazards, including consideration
290 of the impacts between the public school construction and future roadways; and

291 ([4]d) maximize school, student and site safety.

292 [B-](2) An LEA[s] shall cooperate with municipalities and counties and conform to
293 municipal and county land use ordinances consistent with Sections 10-9a-305 and 17-27a-
294 305.

295 [C-](3) Prior to developing plans and specifications for a public school construction
296 project, an LEA[s] shall coordinate with local health departments and the State Fire
297 Marshal.

298 [D-](4) A charter school shall have an open meeting to seek and secure a variance
299 from the appropriate government entity if the [LEA] charter school selects a school site in
300 a [municipality or county-designated] zone designated by a municipality or a county for
301 sexually oriented businesses or businesses that sell alcohol.

302 [E. Parking requirements for a charter school may not exceed the minimum parking
303 requirements for a traditional public school of a like size and grade levels or other
304 institutional public use throughout the municipality or county.]

305 (5) An LEA shall coordinate with local jurisdictions to comply with Federal
306 Emergency Management Agency flood plan requirements and restrictions, including
307 applicable mitigation measures prior to developing plans and specifications for a public
308 school construction project.

309 [F-](6) An LEA[s] shall maintain documentation for audit purposes of coordination,
310 meetings, and agreements required under this [s]Section R277-471-7.

311 [G. Prior to developing plans and specifications for a public school construction
312 project, LEAs shall coordinate with local jurisdictions to comply with Federal Emergency
313 Management Agency flood plain requirements and restrictions, including applicable
314 mitigation measures.]

315 **R277-471-[7]8. Superintendent's Authority to Request Additional Inspections.**

316 [A:](1) The Superintendent may contract with any appropriately qualified entity or
317 person[~~(s)~~] to provide inspection services that the Superintendent considers necessary to
318 enable the Superintendent to issue a certificate authorizing temporary or permanent
319 occupancy of [~~the public school building~~] a project area.

320 [B:](2) The Superintendent may charge [~~the~~] an LEA a fee not to exceed the actual
321 cost of performing the inspection[~~(s) for inspection services~~] for services authorized in
322 accordance with Subsection (1).

323 **R277-471-[8]9. Certification of Occupancy.**

324 [~~A. School districts:~~]

325 (1)(a) After completion of [~~the~~] a school construction project when [~~a school district's~~]
326 an LEA's appropriately credentialed inspector provides inspections, the [~~SDBO~~] LEA
327 building official shall sign a certificate [~~of inspection verification form certifying~~] authorizing
328 occupancy verifying that all inspections were completed in accordance with [~~Utah law and~~
329 the Resource Manual] applicable law and rule[;]. [~~and~~]

330 (b) An LEA building official shall file the [~~form~~] certification required by Subsection
331 (1)(a) with the [~~USOE~~] Superintendent and the building official of the jurisdiction in which
332 the [~~building~~] construction project is located.

333 (2)(a) After completion of [~~the~~] a school construction project when a local jurisdiction
334 provides inspections, [~~the school district~~] an LEA shall seek a certificate authorizing
335 [~~permanent~~] occupancy [~~of a school building~~] for the project from the jurisdiction in which
336 the [~~building~~] project is located[;].

337 (b) [~~a~~] A copy of [~~the~~] a certificate of occupancy issued in accordance with
338 Subsection (2)(a) shall be filed with the [~~USOE~~] Superintendent.

339 (3) After completion of [~~the~~] a school construction project when independent
340 inspectors provide inspections, [~~the SDBO~~] an LEA building official shall seek a certificate
341 authorizing temporary or permanent occupancy of the [~~school~~] project area from the
342 Superintendent.

343 [~~B. Charter schools:~~]

344 ~~— (1) After completion of the project and inspection by an appropriately credentialed~~
345 ~~inspector when a charter school contracts with a school district for inspections, the CSBBO~~

346 shall obtain a completed certificate of inspection verification form from the SDBO certifying
347 that all inspections were completed in accordance with Utah law and the Resource Manual,
348 and file the form with the USOE and the jurisdiction where the public school is located:

349 ~~——(2) After completion of the project when a local jurisdiction provides inspections, a~~
350 ~~charter school shall seek a certificate authorizing permanent occupancy of a school~~
351 ~~building from the jurisdiction in which the building is located; a copy of the certificate of~~
352 ~~occupancy shall be filed with the USOE.~~

353 ~~——(3) After completion of the project when independent inspectors provide inspections,~~
354 ~~the CSBBO shall seek a certificate authorizing temporary or permanent occupancy of the~~
355 ~~school from the Superintendent.]~~

356 (4) An LEA may not use or occupy a building or structure until a certificate of
357 occupancy has been issued by the appropriate authority.

358 [C:](5) Within 30 days after [the] an LEA files a request for the issuance of a
359 certificate authorizing [permanent] occupancy of the [school building] project area from the
360 [USOE] Superintendent, the Superintendent shall:

361 ([1]a) issue to the LEA a certificate authorizing [permanent] occupancy of the [school
362 building] project area; or

363 ([2]b) deliver to the LEA board a written notice indicating deficiencies in the LEA's
364 compliance with the inspection findings.

365 [D:](6) If the Superintendent does not issue [the] a certificate authorizing
366 [permanent] occupancy, the LEA shall provide notice of the deficiency to the building
367 official of the local government entity in which the [public school building] construction
368 project is located.

369 [E:](7) Upon the LEA board filing the certificate of inspection verification and
370 requesting the issuance of a certificate authorizing [permanent] occupancy of the [school
371 building] project area with the [USOE] Superintendent, the [LEA shall be entitled to]
372 Superintendent shall issue a temporary certificate of occupancy [of] for the [school building]
373 project area or approved portion of the project area for a period up to 90 days, beginning
374 on the date the request is filed, if the LEA has complied with all minimum requirements
375 outlined in Section 111 of the International Building Code to safeguard the public health,
376 safety and general welfare of occupants.

377 [F:](8) Upon [the] an LEA providing proof that the LEA has cured [remediating] any

378 identified deficiencies [and notifying] to the Superintendent [that the deficiencies have been
379 remedied, following certification of the information,] the Superintendent shall issue a
380 certificate authorizing [permanent] occupancy of the [school building] project area.

381 [G.](9) Upon receipt of [the] a certificate of occupancy, [the] an LEA shall provide
382 a copy of the certificate to the building official of the local governmental entity in which the
383 [school building] project is located [authorizing permanent occupancy of the school
384 building] and post a copy of the certificate in a conspicuous location at the project site at
385 all times.

386 **~~[R277-471-9. School Building Construction and Inspection Resource Manual.~~**

387 ~~—— A. The USOE shall develop and distribute a Resource Manual, or provide an~~
388 ~~electronic version, on the USOE School Finance website, consistent with Section 53A-20-~~
389 ~~104.5.~~

390 ~~—— B. The Resource Manual shall include process, legal requirements and resource~~
391 ~~information on school building construction, operations, maintenance, minimum~~
392 ~~requirements to safeguard the public health, safety and general welfare of occupants, and~~
393 ~~inspections.~~

394 ~~—— C. The USOE shall review and, if necessary, update the Resource Manual~~
395 ~~annually.~~

396 ~~—— D. The Board and LEA boards, as well as LEA personnel, shall act consistent with~~
397 ~~the Resource Manual.~~

398 **~~R277-471-10. School Construction Guidelines.~~**

399 ~~—— A. The Board shall adopt public school construction guidelines that take into~~
400 ~~consideration the factors identified in Section 53A-20-110 and other factors identified by~~
401 ~~USOE staff or the Division of Facilities Construction and Management Administration staff.~~

402 ~~—— B. LEAs shall review and take into consideration the school construction guidelines~~
403 ~~when planning and prior to proceeding with public school construction.]~~

404 **~~R277-471-1[4]0. Enforcement.~~**

405 ~~[A.](1) An LEA which fails to comply with the provisions of this rule is subject to~~
406 ~~interruption of state dollars by the Board consistent with Subsections 53A-1-401 ([3]8) and~~

407 53A-17a-144(4)(d).

408 ([1]2) If an LEA fails to meet or satisfy a school construction [inspection] requirement
409 or timeline designation under this rule, the Superintendent shall[, as directed by the Board,]
410 send the school district superintendent or local charter school director notice by certified
411 mail[; and].

412 ([2]3) If after 30 days the requirement has not been met, the [USOE] Superintendent
413 may, as directed by the Board, interrupt the Minimum School Program fund transfer
414 process to the following extent:

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

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

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

419 [B-](4) If the [USOE] Superintendent interrupts the Minimum School Program fund
420 transfer process, the [USOE] Superintendent shall:

421 ([1]a) upon receipt of confirmation that the proper inspection[(s)]has-(]have[)] taken
422 place or upon receipt of a late report[;]:

423 (i) restart the transfer process within the month [(if the confirmation or report is
424 submitted before the tenth working day of the month)]; or

425 (ii) restart the transfer process in the following month [(if the confirmation or report
426 is submitted after 10:00 a.m. on or after the tenth working day of the month)];

427 ([2]b) inform the Board at its next regularly scheduled meeting; and

428 ([3]c) inform the chair of the local governing board if the school district
429 superintendent or charter school director is not responsive in correcting ongoing school
430 construction inspection and reporting problems.

431 [C-](5) The Superintendent may assess a nonrefundable fine to [A]an LEA [may be
432 subject to a nonrefundable fine] in the amount of one half of one percent of the total
433 construction costs if an LEA fails to report a public school construction project to the
434 Superintendent consistent with [Section 53A-20] Title 53A, Chapter 20, School
435 Construction and the Resource Manual [to the USOE].

436 ([1]a) The [USOE] Superintendent, under the direction of the Board, shall deduct
437 nonrefundable fine amounts from the respective LEA's Minimum School Program allotment
438 at a rate sufficient to complete collection of the nonrefundable fine by the end of the current

439 fiscal year.

440 ([a]b) The [USOE] Superintendent shall deposit school district nonrefundable fine
441 amounts into the School Building Revolving Account; and

442 ([b]c) The [USOE] shall deposit charter school nonrefundable fine amounts into the
443 Charter School Building Subaccount within the School Building Revolving Account.

444 **R277-471-1[2]1. Appeals Procedure for Nonrefundable Fines.**

445 [A-](1) The Board designates the procedure outlined in this Section R277-471-12
446 as an informal adjudicative proceeding[;] under Section 63G-4-203.

447 [B-](2) An LEA board[s] may appeal a fine assessed under Subsection
448 R277-471-[11G]10(5) consistent with the following:

449 ([1]a) An LEA may not appeal a fine until a final administrative decision has been
450 made to assess the fine by the [USOE] Superintendent and the fine has been affirmed by
451 the Board.

452 ~~[(2) A district superintendent on behalf of a local school board or a local charter~~
453 ~~board chair on behalf of a local charter school board may appeal an assessed fine by filing~~
454 ~~an appeal form provided on the USOE website.]~~

455 (b) An LEA may initiate an appeal by submitting a written appeal request to the
456 Superintendent, which shall include:

457 (i) an explanation of unanticipated or compelling circumstances that resulted in the
458 LEA's failure to report new construction or remodeling projects as required; and

459 (ii) a notarized statement that the information and explanation of circumstances
460 provided by the LEA are true and factual statements.

461 ([3]c) An LEA must file the appeal within 10 business days of final [affirmation of
462 USOE] action [withholding] by the Board.

463 ~~[(4) An LEA shall deliver or provide electronically the appeal to the USOE as~~
464 ~~provided by the appeal form:~~

465 ~~——(5) An LEA shall provide, as stated on the form, an explanation of unanticipated or~~
466 ~~compelling circumstances that resulted in the local board's or charter school's failure to~~
467 ~~report new construction or remodeling projects as required.~~

468 ~~——(6) The school district superintendent or local charter board chair shall provide a~~
469 ~~notarized statement that the information and explanation of circumstances are true and~~

470 ~~factual statements.]~~

471 ([7]3) At least three members of the Finance Committee appointed by the Board
472 shall act as an [review] appeal committee to review ~~[the]~~ written appeal filed in accordance
473 with this section.

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

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

478 (c) The appeal committee shall presume the fine ~~[shall be presumed]~~ to
479 be appropriate and legitimate when reviewed by the appeal committee.

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

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

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

485 ~~[C.]~~(4) The Board, in a regular monthly meeting, may accept or reject the Finance
486 Committee's final recommendation to affirm the fine, modify the fine, or grant the appeal,
487 which decision shall be final.

488 ~~[D. Consistent with the Board's general control and supervision of the Utah public~~
489 ~~school system and given the significant public policy concern for safe schools and~~
490 ~~cost-effective public school building projects, a local board of education or a local charter~~
491 ~~board has no further administrative appeal opportunity.]~~

492 **R277-471-1[3]2. Annual Construction and Inspection Conference.**

493 ~~[A.]~~(1) The ~~[USOE]~~ Superintendent shall sponsor an annual school construction
494 conference for representative~~[(s)]~~ from each LEA and interested persons involved in the
495 school ~~[building]~~ construction, design, operation, maintenance, safety and related
496 industries.

497 ~~[B.]~~(2) Conference presenters ~~[and participants]~~ shall provide ~~[and discuss]~~ current
498 information and training on public school ~~[building]~~ construction and inspection for
499 discussion with participants, including:

500 ([4]a) the design, construction, operation and ~~[the]~~ inspection process ~~[of]~~ for ~~[public]~~

501 school ~~[buildings]~~ facilities;
502 ~~[(2)b]~~ public school ~~[building]~~ site selection;
503 ~~[(3)c]~~ best building life-cycle costing;
504 ~~[(4)d]~~ construction inspection requirements and schedules; and
505 ~~[(5)e]~~ information to improve the existing public school ~~[building]~~ facility design,
506 construction, operation and safety inspection program.

507 **R277-471-13. Construction Management Contracts.**

508 ~~[(1)]~~ An LEA may contract with a construction manager to manage contractors on a
509 school building project.

510 ~~[(2)]~~ An LEA shall bid each component part of the school building project in
511 accordance with advertising, public opening, performance bond, payment bond, and other
512 statutory procurement requirements.

513 ~~[(3)]~~ A construction management contract shall clearly specify the duties of the
514 construction manager with respect to the school building project.

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

516 ~~[A:]~~~~(1)~~ The ~~[Board]~~ Superintendent shall prepare an annual School Plant Capital
517 Outlay Report of all school construction projects completed and under construction,
518 including information on the number and size of buildings.

519 ~~[B:]~~~~(2)~~ An LEA shall prepare and submit an annual School Plant Capital Outlay
520 Report to the Utah Public Finance website, consistent with Section 63A-3-402, ~~[for each~~
521 ~~new school building construction project or significant school remodel, completed between~~
522 ~~July 1, 2004 and May 13, 2014. An LEA shall submit the report no later than May 15,~~
523 ~~2015. For new school building projects or significant remodel projects completed after May~~
524 ~~13, 2014, the LEA shall provide the School Plant Capital Outlay Report to the Division]~~
525 annually, by a date designated by the Division of Finance.

526 ~~[C:]~~~~(3)~~ The School Plant Capital Outlay Report shall include information required
527 under Subsection 63A-3-402(6)(c).

528 ~~[D:]~~~~(4)~~ ~~[The]~~ An LEA shall report to the Utah Public Finance website the actual cost,
529 fee, or other expense for any figures required to be reported under ~~[R277-471-14B]~~
530 Subsection (2).

531 [E-](5) The report shall be in a format, including any raw data or electronic
532 formatting, prescribed by [applicable] the Division of Finance [policy].

533 [F-](6) The Division of Finance may require an LEA to provide [further] itemized
534 data [~~on information listed~~] beyond that specified in Subsection 63A-3-402(b) or [R277-
535 471-14B] this rule.

536 **KEY: educational facilities**

537 **Date of Enactment or Last Substantive Amendment: November 10, 2014**

538 **Notice of Continuation: September 9, 2014**

539 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401[~~(3)~~]; 53A-**
540 **20-104; 53A-20-104.5; 10-9a-305; 17-27a-105; 53A-17a-144(4)(d)**