

**Appendix 1: Regulatory Impact Summary Table\***

<b>Fiscal Costs</b>	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Net Fiscal Benefits:	\$0	\$0	\$0

\*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

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**Appendix 2: Regulatory Impact to Non-Small Businesses**

This rule change (R277-113) is not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. This proposed rule change is not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with fiscal and auditing policies for local education agencies and does not require any expenditures of or generate any revenues for large businesses.

This rule was due for its five-year review and continuation. The Utah State Board of Education has reviewed this rule and determined that it continues to be necessary. The rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

**R277. Education, Administration.**

**R277 113. LEA Fiscal and Auditing Policies.**

**R277-113-1. Authority and Purpose.**

(1) This rule is authorized by:

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

(b) Subsection [~~53A-1-401~~] 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 [~~53A-1-402~~] 53E-3-501(1)(e)(i), which directs the Board to establish rules and minimum standards for school productivity and cost effectiveness measures;

(d) Subsection [~~53A-1-402~~] 53E-3-501(1)(e)(iv), which allows the Board to adopt rules regarding financial, statistical, and student accounting requirements;

(e) Section [~~53A-1-404~~] 53E-3-602, which allows the Board to approve auditing standards for school boards; and

(f) Section [~~53A-1-405~~] 53E-3-603, which requires the Board to verify accounting procedures of school board for the purpose of determining the allocation of Uniform School Funds.

(2) The purpose of this rule is to:

(a) require LEAs to formally adopt and implement policies regarding the management and use of public funds;

(b) provide minimum standards, procedures and definitions for LEA policies;

(c) direct that LEAs make policies, procedures and training materials available to the public and readily accessible on LEA or public school websites, to the extent of resources available;

(d) require LEAs to train employees in:

(i) appropriate financial practices;

(ii) necessary accounting procedures; and

(iii) ethical financial practices; and

(e) specify uniform budgeting, accounting, and auditing procedures for LEAs consistent with GAAP and GAAS.

**R277-113-2. Definitions.**

(1) "Accrual basis of accounting" means a basis of accounting that records:

(a) revenue when earned and expenses when incurred; and

(b) transactions irrespective of the dates on which any associated cash flows occur.

(2) "Arm's length transaction" means a transaction between two unrelated, independent, and unaffiliated parties or a transaction between two parties acting in their own self interest that is conducted as if the parties were strangers so that no conflict of interest exists.

(3) "Exclusive contract or arrangement" means an agreement requiring a buyer to purchase or exchange all needed goods or services from one seller.

(4) "FASB" means the Financial Accounting Standards Board whose purpose is to establish GAAP for nongovernmental entities within the United States.

(5) "GAAP" means Generally Accepted Accounting Principles or a common framework of accounting rules and standards for financial reporting promulgated by either FASB or GASB, as applicable to the reporting entity.

(6) "GAAS" means Generally Accepted Auditing Standards or a set of auditing standards and guidelines promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants.

(7) "GASB" means the Governmental Accounting Standards Board whose purpose is to establish GAAP for state and local governments within the United States.

(8) "Internal controls" means a process, implemented by an entity's governing body, management, or other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (a) Effectiveness and efficiency of operations;
- (b) Reliability of reporting for internal and external use; and
- (c) Compliance with applicable laws and regulations.

(9) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(10) "Management" means:

- (a) an LEA superintendent or director;
- (b) a deputy or associate;
- (c) a business administrator or manager; or
- (d) other educational administrator or designated staff.

(11) "Modified accrual basis of accounting" means a basis of accounting, commonly used by government agencies, that recognizes revenues when they become available and measurable and recognizes expenditures when liabilities are incurred.

(12) "Non-operating LEA" means an LEA that has not received minimum school program funds or federal funds and is not providing educational services during a fiscal year, such as an LEA in a start-up period.

(13) "Operating LEA" means an LEA that has received state minimum school program funds or federal funds and is providing educational services during a fiscal year.

(14) "Public funds" has the same meaning as that term is defined in Subsection 51-7-3(26).

(15) "School sponsored" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific LEA or public school, according to local board policy, and satisfies at least one of the following conditions:

- (a) the activity is managed or supervised by an LEA or public school, or LEA or public school employee;
- (b) the activity uses the LEA or public school's facilities, equipment, or other school resources; or
- (c) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or minimum school program dollars.

(16) "Title IX" refers to that portion of the United States Education Amendments of 1972 codified as 20 U.S.C. 1681 through 20 U.S.C. 1688.

(17) "Utah Public Officers' and Employees' Ethics Act," means Title 67, Chapter 16, [~~means an act that~~] which provides standards of conduct for officers and employees

of the state of Utah and its political subdivisions in areas where there are actual or potential conflicts of interest between public duties and private interests.

**R277-113-3. Superintendent Responsibilities.**

(1) The Superintendent shall provide training, informational materials, and model policies for use by LEAs in developing LEA and public school-specific financial policies.

(2) The Superintendent shall provide online training and resources for LEAs regarding the use and management of public funds and ethical practices for licensed Utah educators who manage, control, participate in fundraising, or expend public funds.

(3) The Superintendent shall provide and establish a cycle for state review of LEA fiscal policies and standards.

(4) The Superintendent shall work with and provide information upon request to the Utah State Auditor's Office, the Legislative Fiscal Auditors, and other state agencies with the right to information from the Board.

**R277-113-4. LEA Fiscal Responsibilities.**

(1)(a) An LEA shall develop and implement written fiscal policies, subject to approval by the LEA's board, as required by R277-113-5.

(b) An LEA shall review the LEA's fiscal policies annually.

(2) An LEA shall develop a plan for annual training of LEA and public school employees on policies enacted by the LEA specific to job function.

(3) LEA policies shall be available at each LEA main office, at individual public schools, and on the LEA's website.

(4) LEA fiscal policies and training may have different components, specificity, and levels of complexity for public elementary and secondary schools.

(5) An LEA may have one or more policies to satisfy the minimum requirements of this R277-113.

(6) An LEA policy may reference specific training manuals or other resources that provide detailed descriptions of business practices which are too lengthy or detailed to include in the LEA policy.

(7) An LEA governing board shall have the following responsibilities:

(a) ensure that LEA management properly develops and adheres to a sound system of documented internal controls consistent with R277-113-6.

(b) develop a process to regularly review:

(i) LEA management's budget and financial reporting practices;

(ii) financial statements;

(iii) LEA financial position; and

(iv) LEA and individuals school records;

(c) make monthly reports on the fiscal position of the LEA to the LEA board;

(d) monitor LEA contract services by:

(i) determining the appropriate scope of contracts with management companies that provide business services and student services;

(ii) managing the procurement process in compliance with Title 63G, Chapter 6a;

(iii) making recommendations to the LEA board on the results of the procurement process;

- (iv) assessing the performance of management companies; and
- (v) ensuring management implements sufficient internal controls over the functions of management companies;
- (e) monitor procurement and use of systems and software applications for compliance with financial and student privacy laws; and
- (f) monitor LEA expenditure of restricted funds to ensure compliance with applicable laws and grant terms and conditions.

(8) A public education foundation established by an LEA shall follow the requirements set forth in Section ~~[53A-4-205]~~ 53E-3-403.

#### **R277-113-5. LEA Audit Responsibilities.**

(1) An LEA governing board shall designate board members to serve on an audit committee, consistent with Subsection ~~[53A-30-102]~~ 53G-7-401(1).

(2) An LEA audit committee shall:

(a) if required by Section ~~[53A-30-103]~~ 53G-7-402, establish an internal audit program that provides internal audit services for the programs administered by the LEA;

(b) receive a report of the risk assessment process undertaken by the LEA management in collaboration with the internal audit department;

(c) monitor the internal and external audit process by:

(i) determining the appropriate scope of the independent external audit;

(ii) determining the appropriate scope of non-audit services to be performed by the independent auditor;

(iii) managing the audit procurement process in compliance with Title 63G, Chapter 6a, State Procurement Code;

(iv) making recommendations to the LEA board on the results of the procurement process;

(v) facilitating regular direct communication with independent external auditors;

(vi) receiving independent external audit report and financial statements;

(vii) ensuring management implements corrective actions;

(viii) assessing performance of the independent auditors;

(ix) reviewing disagreements between independent auditors and management;

(x) prioritizing the internal audit plan based on risk;

(xi) receiving audit reports from internal auditors, contractors providing internal audit services, and other regulatory bodies; and

(xii) providing an independent forum for internal auditors, internal audit contractors, and other regulatory bodies to report findings of fraud, waste, abuse, non-compliance, or control weaknesses, particularly if management is involved;

(d) conduct or advise the LEA board in an annual evaluation of internal audit personnel or contractors providing internal audit services;

(e) ensure that issues and exceptions reported by internal auditors, or other regulatory bodies are resolved in a timely manner;

(f) present the audit reports of external auditors, internal auditors or other regulatory bodies to the LEA board;

(g) receive reports of reviews or audits conducted by the Superintendent and ensure appropriate corrective actions is taken in a timely manner; and

(h) advise the local LEA board in the appointment of an audit director or in contracting services for internal audit services in accordance with Subsection ~~[53A-30-103]~~ 53G-7-402(3).

(3)(a) An LEA shall follow the internal auditing requirements of Title ~~53A, Chapter 30]~~ 53G, Chapter 7, Part 4, Internal Audits.

(b) An LEA internal audit director may not have responsibilities for management or operations of the LEA.

(c) If an LEA internal audit director contracts with a consultant, any contractual agreement with the consultant shall comply with the LEA's procurement policy.

(4) An LEA shall obtain all audits and financial reports required by Section 51-2a-201.

### **R277-113-6. Required LEA Fiscal Policies.**

(1)(a) An LEA shall ensure that the LEA's fiscal policies address all applicable Utah Code references or Board Rules.

(b) The requirements set forth in this Section R277-113-6 are minimum requirements.

(c) An LEA may include other related items, provide LEA specific policy and guidance, and set polices that are more restrictive and inclusive than the minimum provisions established by Board rule.

(2) LEA fiscal policies shall include the following:

(a) a cash handling policy, which shall address cash receipts (cash, checks, credit cards, and other items) collected at the LEA and individual public schools and shall include:

(i) establishment of internal controls and procedures over the collection, deposit, and reconciliation of cash receipts received; and

(ii) compliance with Utah Code 51-4-2(2) regarding deposits.

(b) an expenditure policy, which shall address all expenditures made by the LEA and individual public schools and shall include:

(i) establishment of internal controls and procedures over the initiation, approval and monitoring of expenditures, including:

(A) credit, debit, or purchase card transactions;

(B) employee reimbursements;

(C) travel; and

(D) payroll;

(ii) establishment of internal controls and procedures to record transactions when they occur in the proper program utilizing the following codes as established by the Board approved chart of accounts:

(A) fund;

(B) function;

(C) location;

(D) program; and

(E) object or revenue code as applicable;

(iii) directives regarding the appropriate use of the LEA's tax exempt status number;

(iv) compliance with Section 63G-6a-1204 regarding length of multi-year contracts;

(v) compliance with:

(A) Title 63G, Chapter 6a;

(B) Board rule regarding construction and improvements; and

(C) Title IX;

(vi) requirements for LEA contracts, including:

(A) inclusion of specific scope of work language;

(B) inclusion of federal requirements;

(C) inclusion of language regarding data privacy and use, where appropriate; and

(D) legal review prior to LEA approval; and

(vii) procedures and documentation maintained by the LEA if the LEA chooses to enter into exclusive contracts or arrangements consistent with state procurement law and the LEA procurement policy.

(c) a fundraising policy that:

(i) establishes procedures for LEA and public school fundraising in general;

(ii) establishes an approval process for fundraising activities for school sponsored activities;

(iii) provides for compliance with school fee and fee waiver provisions; and

(iv) includes:

(A) specific designation of employees by title or job description who are authorized to approve fundraising, school sponsored activities, and grant fee waivers with appropriate attention to student and family confidentiality;

(B) establishment of internal controls and procedures over the approval of fundraising and school sponsored activities and compliance with associated cash handling and expenditure policies;

(C) directives regarding the appropriate use of the LEA's tax exempt status number and issuance of charitable donation receipts;

(D) procedures governing LEA or public school employee interaction with parents, donors, and nonschool sponsored organizations;

(E) disclosure requirements for LEA and public school employees approving, managing, or overseeing fundraising activities, who also have a financial or controlling interest or access to bank accounts in the fundraising organization or company;

(F) Provisions establishing compliance with:

(I) Utah Constitution, Article X, Section 2, establishing a free public education system;

(II) R277-407; and

(III) Title IX;

(v) An LEA may include procedures governing:

(A) student participation and incentives offered to students;

(B) allowable types of fundraising activities; and

(C) participation in school sponsored activities by volunteer or outside organizations;

(d) an LEA donation and gift policy that includes:

(i) an acceptance and approval process for:

(A) monetary donations;

- (B) donations and gifts with donor restrictions;
- (C) donations of gifts, goods, materials, or equipment; and
- (D) donation of funds or items designated for construction or improvements of facilities;
- (ii) establishment of internal controls and procedures over the acceptance and approval of donations and gifts and compliance with associated cash handling and expenditure policies;
- (iii) directives regarding the appropriate use of the LEA's tax exempt status number, and issuance of charitable donation receipts;
- (iv) procedures regarding the objective valuation of donations or gifts if advertising or other services are offered to the donor in exchange for a donation or gift;
- (v) procedures governing LEA or public school employee conduct with parents, donors, and nonschool sponsored organizations;
- (vi) procedures establishing provisions for direct donations or gifts to the LEA or LEA programs, individual public school or public school programs;
- (vii) provisions restricting donations from being directed at specific LEA employees, individual students, vendors, or brand name goods or services;
- (viii) compliance with:
  - (A) Title 63G, Chapter 6a;
  - (B) state law and Board rule regarding construction and improvements;
  - (C) IRS regulations and tax deductible directives; and
  - (D) Title IX;
- (ix) procedures for:
  - (A) accepting donations and gifts through an LEA's legally organized foundation, if applicable;
  - (B) recognition of donors; or
  - (C) granting naming rights; and
  - (e) an LEA Financial Reporting policy, which shall include the following:
    - (i) a requirement that the LEA shall ensure financial reporting in accordance with GAAP and audits of LEA financial reporting in accordance with GAAS;
    - (ii)(A) a requirement that the LEA shall provide financial reporting in a manner consistent with the basis of accounting as required by GAAP, as applicable to the entity; and
    - (B) if an LEA follows FASB standards, a requirement that the LEA shall provide reconciliation between the accrual basis of accounting and modified accrual basis of accounting; and
    - (iii) a requirement that the LEA shall provide data and information consistent with budgeting, accounting, including the uniform chart of accounts for LEAs, and auditing standards for Utah LEAs provided online annually by the Superintendent.
- (3) The Superintendent shall maintain a School Finance website with applicable Utah statutes, Board rules, and uniform rules for:
  - (a) budgeting;
  - (b) financial accounting, including a chart of accounts required for an LEA;
  - (c) student membership and attendance accounting;
  - (d) indirect costs and proration;
  - (e) financial audits;



- (f) statistical audits; and
- (g) compliance and performance audits.

### **R277-113-7. School Sponsored Activities.**

(1)(a) If an activity, fundraising event, clinic, club, camp, or activity does not meet the definition of school sponsored and is organized by a third party, then the requirements of Subsection R277-113-4(11) do not apply.

(b) All transactions pertaining to nonschool sponsored events shall be conducted at arm's length.

(c) Revenues and expenditures from nonschool sponsored events may not be commingled with public funds.

(2) For nonschool sponsored events, funds may only be managed or held by a public school employee consistent with Rule R277-107.

(3) The definition of school sponsored and requirements of Subsection R277-113-4(11) do not apply to non-curricular clubs specifically authorized and meeting all criteria of Sections [~~53A-11-1205~~] 53G-7-704 through [~~53A-11-1208~~] 53G-7-707.

(4) An LEA or individual public school shall comply with the following regarding school and nonschool sponsored activities:

(a) An LEA may establish LEA specific rules or polices designating categories of school sponsored activities or groups and establishing LEA policy regarding use of facilities or LEA resources.

(b) An LEA may enter into contractual agreements to allow for fundraising and use of LEA facilities.

(i) An agreement under Subsection (4)(a) shall take into consideration the LEA's fiduciary responsibility for the management and use of public funds.

(ii) An LEA should consult with the LEA's insurer or legal counsel, or both, to ensure risks are adequately considered and managed;

(c) An LEA shall annually review fundraising activities that support or subsidize LEA or public school-authorized clubs, activities, sports, classes or programs to determine if the activities are school sponsored;

(d) An LEA shall ensure that revenues raised from school sponsored activities and funds expended from the proceeds are classified and processed as public funds;

(e) An LEA shall maintain adequate records to verify that funds collected from or during school sponsored activities are in compliance with LEA cash handling policies as required by Section R277-113-5;

(f) An LEA shall maintain adequate records to show that expenditures made to support activities from LEA or public school funds are in compliance with LEA expenditure of funds policies as required by Section R277-113-5; and

(g) An LEA shall:

(i) make records of activities available to parents, students, and donors;

(ii) maintain records in sufficient detail to track individual contributions and expenditures, as well as overall financial outcome.

(iii) restrict access to records as required by state or federal law.

### **R277-113-8. LEA Policies and Compliance with State and Federal Law.**

(1) An LEA is responsible to ensure that its policies comply with the following state laws and Board Rules:

- (a) Utah Constitution Article X, Section 3;
  - (b) Title 63G, Chapter 6a, Utah Procurement Code;
  - (c) Title 51, Chapter 4, Deposit of Funds Due State;
  - (d) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;
  - (e) Family Educational Rights and Privacy Act, 20 U.S.C. 1232g;
  - (f) Title 63G, Chapter 2, Government Records Access and Management Act;
  - (g) Title ~~[53A]~~ 53G, Chapter ~~[42]~~ 7, Fees and Textbooks;
  - (h) Section 53A-4-205, Public Education Foundations;
  - (i) Title ~~[53A]~~ 53G, Chapter ~~[44]~~ 7, Part ~~[42]~~ 7, Student Clubs Act;
  - (j) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;
  - (k) Additional state legal compliance guides for operating LEAs and non-operating LEAs as published by the office of the state Auditor;
  - (l) Subsection 51-7-3(26), Definition of Public Funds;
  - (m) Title ~~[53A]~~ 53G, Chapter ~~[30]~~ 7, Part 4, Internal Audits;
  - (n) Rule R277-407, School Fees;
  - (o) Rule R277-107, Educational Services Outside of Educator's Regular Employment;
  - (p) Rule R277-515, Utah Educator Standards;
  - (q) Rule R277-605, Coaching Standards and Athletic Clinics.
- (2) An LEA shall include the following requirements of Title IX in LEA policies:
- (a) Fundraising shall equitably benefit males and females;
  - (b) Males and females shall have reasonably equal access to facilities, fields, and equipment;
  - (c) School sponsored activities shall be reasonably equal for males and females.

**KEY: school sponsored activities, public funds, fiscal policies and procedures, audit committee**

**Date of Enactment or Last Substantive Amendment: ~~[October 10, 2017]~~2018**  
**Authorizing, and Implemented, or Interpreted Law: Art X, Sec 3; ~~[53A-1-401; 53A-1-402(1)(e)]~~ 53E-3-401(4); 53E-3-501(1)(e)**