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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Martell Menlove, Ph.D.
Chief Executive Officer

DATE: March 7, 2014

ACTION: Performance Audit Recommendations

Background:

On February 7, 2014 Performance Audit Report 2013-02 Distance and Online Education Programs in Utah Schools was released to the State Board of Education by the Board Internal Audit Section.

Key Points:

The audit identified various recommendations for both the Board and LEAs. These recommendations pertain to student data security, licensure and background checks of teachers, the use of curriculum that complies with the Utah Core Standards, proper administration of state required assessments, and the proper application of R277-419 *Pupil Accounting* for student membership for online and distance programs. The audit also recommended the Board study homeschool programs, the funding formulas for districts and charters, and competency based education.

Anticipated Action:

Information pertaining to the audit recommendations and issues identified will be presented. Corrective action required by the LEAs will be discussed. The Board will also receive recommendations for potential corrective action steps at the Board level and may prioritize an action list.

Contact: Natalie Grange, Internal Audit Director, 801-538-7813
Bruce Williams, Associate Superintendent, 801-538-7514

Performance Audit 2013-02

Distance and Online Education Programs in Utah Schools



Utah State Board of Education
Internal Audit Department

February 7, 2014



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Members of the State Board of Education:

The Internal Audit Division, under the supervision of the Utah State Board of Education has conducted *A Performance Audit of Distance and Online Programs in Utah Schools (Report #2013-02)* and presents its findings herein. The objectives and scope of this performance review are explained in the first chapter.

We recognize and appreciate the cooperation of the individual LEAs, their contractors, and various staff of the Utah State Board of Education and State Charter School Board.

Copies of this report will be released to the individual LEAs, Utah State Board of Education, the State Charter School Board, and the Utah State Auditor's Office.

Sincerely,

A handwritten signature in black ink that reads "Natalie Grange". The signature is written in a cursive, flowing style.

Natalie Grange CPA, CFE
Utah State Office of Education
Internal Auditor

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Executive Summary

Chapter 1: Introduction

Numerous complaints were received by the Utah State Board of Education (the Board), the State Charter School Board (the SCSB), and the Board's Internal Audit division (IA) regarding practices in distance and online education programs in Utah public schools. Complaints were centered on inadequate LEA supervision of programs run by contractors and taxpayer dollars funding programs that do not comply with law or Board rules. The purpose of this performance audit is to assess the operations of all types of distance and online programs in Utah schools for compliance with state law and Board rules. We contracted and visited Local Education Agencies (LEAs) with distance and online programs in school year 2012-2013 or 2013-2014 in order to gain an understanding of these programs, which are found in both school districts and charter schools. We noted that there seem to be two types of distance and online education programs, those managed by LEAs and those managed by contractors on behalf of LEAs.

Chapter 2: Student Records and Security

FERPA law allows disclosure of education records to school officials, including teachers, within the agency or institution whom the agency has determined to have legitimate educational interests. Contracts between LEAs and the various contractors were reviewed. We noted only two contracts that mentioned FERPA and the responsibility between the LEA and the contractor. Several LEAs were unable to provide specific student records demonstrating student progress and attendance for those students participating in distance and online programs sponsored by a contractor. LEAs are ultimately responsible for the security of student records, including those being maintained by contractors. LEAs do not appear to have addressed the security, storage, and transfer of sensitive student information that may be subject to FERPA.

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

Distance and Online Programs Managed by LEAs

According to Board rule, LEAs and their boards have the responsibility to ensure curriculum and courses by grade level comply with the Utah Core Standards. Vendor purchased courses, including teacher support, do not appear to be evaluated or reviewed to ensure they comply with Board rule and the Utah Core Standards. Teachers are required to hold a Utah educator license along with appropriate areas of concentration and endorsement according to state law and Board rule. If a teacher is provided through a purchased vendor course, LEAs have the responsibility to ensure that the teacher complies with law and rule. Board rule also establishes the 10-day rule which requires LEAs to stop counting student membership days after 10 consecutive days of unexcused student absences. Several LEAs use a progress-based monitoring process in for online programs where attendance during school hours may or may not be required and may not follow the 10-day rule. Board rules do not address online programs specifically. Several LEAs rent or lease distance and online student's computers or internet subsidies in order to complete their online coursework. This practice will need to be reviewed by the Board and LEAs to determine if it complies with the provisions of the Utah

Constitution and Board rule. All LEAs are required by Board rule to administer state required assessments. Some LEAs appear to allow parents to administer the DIBELS assessment, without an LEA employee monitoring the assessment. Overall, approved policies and procedures that specifically address distance and online education programs at the LEA level need to be developed and documented.

Distance and Online Programs Managed by Contractors on Behalf of LEAs

Several LEAs contract with a third party contractor for educational services. Contractors appear to determine curriculum, course schedules, and competency or mastery based standards without LEA supervision or monitoring to ensure compliance with Utah Core Standards and Board rules. Some LEAs allow contractors to hire all employees to provide instruction and mentoring for the entire program, without LEA monitoring to ensure teachers are properly licensed and endorsed, or that non-licensed employees have passed background checks. Due to these relationships, LEAs should develop and document an evaluation and review process for contracted curriculum, review the courses being offered for enrollment, and ascertain courses meet the Utah Core Standards by grade level. LEAs should have access to documentation detailing student schedules as the contractor usually maintains this information. Contractors offer parents that ability to purchase curriculum or design a course and seek reimbursement from the contractor up to \$150 per course. These types of home school courses are recorded in the LEAs system and the LEA awards credit for courses without evaluation of content or student mastery. These courses then generate public education funding. Contractors also offer students incentives for committing to the program up to \$400. All LEAs are required by Board rule to administer state required assessments. Some LEAs allow the contractor to supervise and administer all state required assessments, without proper supervision from LEA employees, and some assessments are administered at the student's home or a non LEA facility. Overall, approved policies and procedures that specifically address distance and online education programs at the LEA level need to be developed and documented.

Chapter 4: Funding Formulas

Currently, there is one funding formula for school districts and another one for charter schools. LEAs also have the ability to develop competency based education programs but there is no funding formula established in law or rule. All of these factors have complicated the use and interpretation of student membership data that has traditionally been a major factor in funding determination and allocation.

Chapter 5: Other Matters

During the course of the audit, we noted other concerns surrounding the administration of special education services, charter applications not indicating a distance or online program, and the LEAs understanding of compulsory education and truancy rules. Additionally, the contracts entered into by LEAs were reviewed for compliance with state statutes, specifically procurement. Moreover, contract employees who are not LEA employees are included in the CATCUS system and assigned to an LEA and may generate funding for individuals who may not qualify to generate funding.

Chapter 1: Introduction

The Board's IA division and some members of the Board, and the SCSB, have received complaints from numerous sources regarding distance and online education programs in Utah schools. The most substantial complaints are as follows:

1. Students enrolling in these programs get a free computer or receive money when they enroll.
2. Students enrolled in these programs have no interaction with the LEAs and the LEA does not always know which students are enrolled in their program.
3. A neighbor teaches piano, dance, or karate lessons; students earn school credit, and the LEA receives the value of the Weighted Pupil Unit (WPU) for these courses.
4. Student curriculum does not follow Utah Core Standards, and students are not required to participate in state required assessments.
5. Students are not required to take a full load of classes; however, LEAs claim a full WPU.
6. Third party providers are paid from restricted funds, such as special education (federal and state), when they do not provide those services.
7. Students are only required to stay enrolled until the October 1 headcount, and then they are withdrawn (in some cases they receive incentives to stay through October 1).
8. Board Rule 277-419 does not address how the 10-day rule applies to online students.

To evaluate the various complaints, IA reviewed state statute and Board rule. We contacted and visited LEAs with distance and online programs in school year 2012-2013 or 2013-2014 in order to gain an understanding of these programs, which are found in both school districts and charter schools. We visited the distance and online programs in Alpine School District (Alpine Online), Utah Online School K-12 (Utah Online) formerly Washington Online in Washington School District, C.S. Lewis Academy (C.S. Lewis), Walden School of Liberal Arts (Walden), Utah Virtual Academy (Utah Virtual), Utah Connections Academy (Utah Connections), Rockwell Charter High School (Rockwell), DaVinci Academy of Sciences and the Arts (DaVinci), American Leadership Academy (ALA), Mountain Heights Academy (Mountain Heights) formerly Open High School of Utah, and Provo City School District's eSchool (Provo eSchool). Due to the distance of the school, we interviewed Gateway Preparatory Academy (GPA) staff over the phone and through email. We also obtained a listing of current distance and online students and third party contracts from Mana Academy, Pacific Heritage Academy, Pioneer High School for the Performing Arts, and Aristotle Academy.

A listing of the LEAs with distance and online programs is included in **Appendix A**; it is a list of contractors categorized by services provided. This list was compiled from authorized Statewide Online Education Program (SOEP) providers, and from the partners of two contractors. There are likely other LEAs with distance and online programs and LEAs who have contracted for distance and online programs of which we are unaware.

Significant Laws and Board Rules

Significant compliance requirements were determined based on review of *Utah Code* Section 53A and the Administrative Board rules enacted in Administrative rules section R277. Based on our review of statutes, rules, and discussion with various education experts, the laws and rules listed in **Appendix B** appear to apply to all LEAs and are of significant importance when evaluating the distance and online programs in the state.

Types of Distance and Online Programs in the State

We noted that there seem to be two types of distance and online education programs, those managed by LEAs and those managed by contractors on behalf of LEAs. Programs managed by LEAs include those found in Alpine Online, Utah Online, Utah Virtual, Utah Connections, Mountain Heights, and a portion of Provo eSchool. These programs develop their own curriculum, purchase curriculum from various vendors, or get all curriculum from a national education management company that also provides administration and business services. These programs appear to function like schools, with licensed teachers and administrators delivering curriculum to students and supervising state required assessments. Each of these programs has established its own standard for required student participation and set expectations for teacher interaction with both students and parents. The programs managed by LEAs appear to have developed some practices and minimum standards that try to maintain fidelity to most state laws and Board rules. Recommendations in specific areas are included in the sections that follow.

LEAs with programs managed by contractors include C.S Lewis, DaVinci, Rockwell, and Walden, who partner with Harmony Educational Services (Harmony), and GPA and ALA who partner with My Tech High, Inc. (My Tech). Provo eSchool partners with both Harmony and My Tech. The LEAs that use these contractors have different contractual relationships and have established different responsibilities over the services provided by the contractors. Most of these LEAs do not directly supervise curriculum or course selection, do not monitor the administration of required state assessments, and do not verify licensure and proper endorsements by grade level and subject of teachers.

The contractors purchase curriculum from third party vendors, some of which are the same as the curriculum used by LEAs managing their own online and distance education programs. Both contractors offer home school options for parents to choose curriculum for a specific course, teach it at home, and provide evidence, tests, assignments, or projects to the contractor to demonstrate competency and mastery for that specific course.

These LEAs enroll the students recruited through the contractors and record student courses and membership hours in LEA student information systems (SIS). There are approximately 2,547 students enrolled in these programs in the current 2013-2014 school year.

The distance and online programs run by contractors appear to be missing minimum standards and supervision from the LEAs to ensure compliance with state laws and Board rules.

For some of the issues noted, statutes and Board rules are clear and provide sufficient guidance; in other matters, statutes and Board rules are unclear or silent and should be clarified or strengthened to provide sufficient guidance on matters pertaining to online education programs. Please see the sections that follow for a more detailed analysis of each of the areas evaluated.

Information pertaining to the 2012-2013 school year is provided only for LEAs that we visited. LEAs using My Tech as a contractor were noted late in the audit process. We only obtained student enrollment information and operational practices for the 2013-2014 school year for My Tech students. Additionally, we obtained and reviewed the contracts between LEAs and the contractors noted above; we also reviewed the charters for all of the LEAs that utilized contractors to run their distance and online programs.

Chapter 2: Student Records and Security

Student enrollment records – Programs Managed by LEAs

Students enrolling in the distance and online program managed by the Provo eSchool are registered through the same process as the Provo District's traditional schools. Students enrolling in Mountain Heights are enrolled by the LEA. Students enrolling in Alpine Online and Utah Online register via the K12 website, and all registration records are mailed or faxed to the school districts by parents. For these LEAs, registration records such as birth certificates, immunization records, and other personal information regarding income and special education records appear to be maintained by the LEA.

Students enrolling with Utah Connections register via the National Connections Academy website. The National Connections Academy in Baltimore manages the student registration files and stores all student information and all associated data that is utilized by Utah Connections and used in required state reporting. Parents provide name, date of birth, address, birth certificate, immunization records, income information, special education requests and Individualized Education Program (IEPs) via fax or email to the National Connections Academy.

Students enrolling with Utah Virtual register via the K12 website. The K12 Corporation in Virginia manages the student registration files and stores all student information. K12 manages the student information system and all associated data that is utilized by Utah Virtual and used in required state reporting. Parents provide name, date of birth, address, birth certificate, immunization records, income information, special education requests, and IEP's via fax or email to K12. Utah Virtual also keeps paper copies of the above mentioned student information at its facility.

The LEAs who partner with K12 or Connections Academy, and those who develop their own online programs appear to maintain student academic records for each student, or have access to detailed records through an educational management system. These records include enrollment records, education plans, current courses and teacher assignments, special education services, evidence of attendance, and credits awarded.

Student enrollment records – Programs Managed by Contractors on Behalf of LEAs

Students enrolling in GPA, ALA, and Provo eSchool for the My Tech online program register outside the purview of the LEA. Parents submit enrollment information to the My Tech website, such as name, date of birth, address, birth certificate, immunization records, income information, special education requests and IEP's which is stored on My Tech's servers. Once a parent has submitted all necessary information to My Tech, My Tech assigns the student to an LEA for enrollment. My Tech provides registration information to the LEA, who then enrolls the

student by putting student information in the LEA's SIS. Registration information and documents are shared via Google docs and the Dropbox program.

Students enrolling in C.S. Lewis, Rockwell, DaVinci, and Provo eSchool for the Harmony online programs also register outside the purview of the LEA. Parents submit enrollment information to the Harmony website, and registration data such as name, date of birth, address, birth certificate, immunization records, and special education requests and IEP's are stored on Harmony's servers. Once a parent has submitted all necessary information to Harmony, Harmony assigns the student to an LEA for enrollment, and provides registration information to the LEA. Harmony provides files to LEAs, we are unsure if these records are transmitted electronically.

Walden indicated that students recruited through Harmony were registered at the LEA with the LEA retaining all documentation. Walden terminated its Harmony contract after the 2012-2013 school year.

Most LEAs indicated they were responsible to enter enrollment information into their SIS. Other LEAs indicated that Harmony employees accessed the LEA's SIS to input students and make modifications to student records. Harmony reports that they have never been given their own login to the SIS of any of the LEAs, or to the state UTREx system. However, they indicated that they have occasionally used the login of LEA personnel (such as the secretary or other office staff) while on-site at the school to login to the SIS and input the students. This matter is further complicated because some LEAs have contracted with Harmony for business services, which means that Harmony employees also work in the LEAs as directors and business administrators.

FERPA law allows disclosure of education records to school officials, including teachers, within the agency or institution whom the agency has determined to have legitimate educational interests. 34 CFR §99.31 states that "a contractor, consultant, volunteer, or other party to whom an agency or institution has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party performs an institutional service or function for which the agency or institution would otherwise use employees, is under the direct control of the agency or institution with respect to the use and maintenance of education records, and is subject to the requirements of §99.33(a) governing the use and redisclosure of personally identifiable information from education records."

Additionally, 34 CFR §99.31(a)(1)(ii) states, "An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests." If contractor employees have access to the SIS at an LEA, these individuals most likely have access to every student record at the LEA, not just the students for which the contractor is responsible. If LEAs are allowing access to student records to individuals who may not have a legitimate "education interest," outside of a FERPA agreement, the LEA could potentially be violating the requirements established in FERPA.

The LEAs who partner with My Tech and Harmony were not able to provide specific records showing the student's educational plans, teachers, attendance, or progress made in courses. It appears that all evidence of student progress and attendance for those students participating in these programs is maintained by the contractor. The LEAs receive summary spreadsheets related to this information at varying frequency through the school year. As of the end of school year 2012-2013, it does not appear that LEAs have direct access to current course enrollment information, teacher assignments, or progress data. Final grades and membership records are updated in the LEA's SIS and are reported to the state; however, the LEA is unable to provide any documentation validating these results without obtaining it from the contractor. These records are required to demonstrate compliance with the requirement for attendance every 10 days as established in R277-419, as well as to properly award credit and evaluate curriculum.

Conclusion

Based on our review of the contracts between LEAs and the various contractors, we only noted two contracts that mentioned FERPA. The contracts between Utah Connections and National Connections Academy, Inc. and Utah Virtual and K12 include a FERPA section that identifies the contractor and its employees providing educational and administrative services for the charter as agents of the charter school who have legitimate educational interest and are thus entitled to access to student educational records under FERPA. The Harmony contracts include a confidentiality clause, but do not mention FERPA or student records.

At a minimum, LEAs and their contractors should establish in their contractual relationship 1) FERPA responsibilities, including who is responsible for yearly disclosure to parents, 2) a process for review and amendment of records, and 3) the custody of these records should the contract between the two parties cease. LEAs receive state and federal funding and have sole responsibility for the students and outcomes reported by the LEA. If LEAs choose to contract for educational services, sufficient monitoring should be implemented and documentation should be maintained to ensure that the LEA can demonstrate compliance with FERPA, state statute and Board rule, including being able to provide academic records for individual students.

Data Security

LEAs are ultimately responsible for the security of student records, including those being maintained by contractors. When students register through a contractor, their student information, including birth certificates, immunization records, student and parent directory information, etc. is transmitted over the internet and stored on servers outside the control of the LEA. We were unable to find a minimum state requirement or best practice for security that addresses these situations, and the LEAs did not appear to have data security policies addressing these issues. There may not be a significant financial incentive for the theft of these records; however, this information is sensitive and protected by federal law.

Recommendation for the Board:

- 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.

Recommendations for the LEAs:

- 2L-1 We recommend that the LEAs who share or allow access to student records by contractors study the requirements of FERPA found in 34 CFR §99.31, and if necessary, we recommend that a FERPA record sharing agreement and disclosure requirement be clearly defined in contracts as well as custody and retention of educational data.
- 2L-2 We recommend that the LEAs evaluate the data security measures at their entities and with their contractors and implement sufficient internal controls to ensure sensitive student data is secure and that the risk of data theft or misuse is mitigated.
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Chapter 3: Core Standards, Licensed Educators, Assessments, and Membership

Distance and Online Programs Managed by LEAs

Utah Core Standards

Board Rule 277-700 and the Utah Core Standards establish minimum skills and objectives for each standard, and make it the responsibility of each LEA board to implement and provide access to the core curriculum to all students. R277-700-4 through 6 establishes the core subject area requirements for elementary, middle school, and high school students, and provides a framework for core and elective subjects by grade level. The Utah Core Standards further outline skills and objectives students should achieve by grade level. The Teaching and Learning division at the Utah State Office of Education (USOE) publishes very specific guidance regarding the required academic areas and specific elements that each curriculum area must address by grade level. Approved course codes and descriptions can be found on the USOE's website, in the Teaching and Learning division.

Utah Online, Alpine Online, the Provo eSchool, and DaVinci utilize curriculum purchased from multiple vendors. Utah Virtual, Utah Online, Alpine Online, DaVinci (secondary school program), and the Provo eSchool K-6 program either have an evaluation team that reviews the elements of the course curriculum for compliance with the Utah Core Standards, or have individual highly-qualified licensed teachers who review the curriculum as the course progresses and modify or supplement the course to ensure it meets Utah Core Standards. Each of these LEAs has established a framework for enrollment and indicated that the SEOPs developed with students and parents determine what courses a student enrolls in, along with LEA enrollment requirements. Each LEA seems to have a process to review course selection and enter proper course information in the SIS.

These same LEAs also purchase specific subject courses, some of which include teacher support from the vendor. It does not appear that there is an evaluation and review process for the courses that are managed by a vendor employee to ensure they comply with the Utah Core Standards.

Utah Connections uses curriculum obtained from the National Connections Academy and it has licensed highly-qualified LEA teachers review the curriculum and modify or supplement the curriculum to ensure compliance with Utah Core Standards. Utah Connections requires all students to be enrolled as full time students, taking a mix of core and elective courses. Part time students are allowed if they are enrolled through the SOEP.

Utah Virtual uses curriculum obtained from K12 and has licensed highly-qualified LEA teachers review the curriculum and modify or supplement curriculum to ensure compliance with Utah Core Standards. Utah Virtual also requires all students to be enrolled as full time students,

taking a mix of core and elective courses. Part time students are allowed if they are enrolled through the SOEP program.

Mountain Heights utilizes its staff of licensed highly-qualified teachers to develop curriculum. The Director indicated that courses and teachers are reviewed on a weekly basis to ensure that core standards are met and the students are meeting core objectives. The administration also has the ability to modify or supplement courses. Mountain Heights requires all students to be enrolled as full time students, taking a mix of core and elective courses. Part time students are allowed if they are enrolled through the SOEP program, or if they have completed a dual enrollment agreement with the LEA administration and their parents.

All of these LEAs appear to have processes in place to ensure that curriculum and courses developed or administered by the LEA comply with R277-700 and Utah Core Standards. It does not appear that there is an evaluation and review process for the courses that are managed by a vendor employee to ensure they comply with the Utah Core Standards.

Recommendation for the Board:

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 R277-700 and Utah Core Standards.

Licensed Educators

All online courses at Utah Connections, Utah Virtual, and Mountain Heights are supervised and taught by properly licensed Utah teachers. Licensed teachers have completed background checks, as monitored by both the LEA and USOE. These teachers have office hours and are required to have certain amounts of interaction with the students on a weekly basis. Teachers administer curriculum, grade papers, assess progress, and develop educational plans for students. LEA administration supervises and evaluates these teachers.

All Utah Online, Alpine Online, the Provo eSchool, and DaVinci employees follow all state licensure and background check laws and rules. These LEAs indicated that most of their online courses are taught or supervised by LEA employees who are licensed teachers. Teachers at Utah Online, Alpine Online, Utah Connections, Utah Virtual, and Mountain Heights have office hours or are required to have certain amounts of interaction with the students on a weekly basis. Teachers administer curriculum, grade papers, assess progress, and develop educational plans for students which are reviewed by administration. These teachers are subject to evaluations by LEA administration.

Some of these LEAs purchase online courses from vendors that come with teacher support from the vendor. This is most commonly done when a properly licensed endorsed teacher is not on staff at the LEA to teach or administer a course. DaVinci and Provo eSchool's 7-12 program indicated that they had checked to determine that vendor provided teachers were Utah

licensed teachers. Knowledge of the teacher and their credentials are required to input the teacher in the SIS and ultimately award credit for completion of the course.

R277-520-3 (A) states, "All teachers in public schools shall hold a Utah educator license along with appropriate areas of concentration and endorsements." Utah Code 53A-1a-512 further clarifies that charter schools shall employ teachers who are licensed, and/or have charter specific licenses. Utah Code 53A-1a-512.5 and 53A-3-410 further specify that LEA employees, teachers, and volunteers are required to complete background checks. Because the LEAs are purchasing courses and teacher support to fulfil their public education responsibilities, LEAs are responsible to ensure that these teachers comply with law and rules.

Recommendation for the Board:

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.

Recommendation for the LEAs:

3L-1 We recommend that LEAs develop and document a procedure to verify the licensure and background status of vendor provided teachers who provide support and instruction for online classes purchased from a vendor to ensure compliance with *Utah Codes* 53A-1a-512.5 and 53A-3-410 and Board Rule 277-520.

Review of student records

We selected approximately 20 student records from each LEA we visited. Student records were not selected at ALA, GPA, and the Provo eSchool because student schedules were provided by all of the LEAs that contracted with My Tech for the 2013-2014 school year. We selected these records from the population of students that had transferred or withdrawn during the 2012-2013 school year. The purpose of this review was to determine if evidence existed indicating that students were dropping out of enrollment after the October 1 headcount was completed and funding had been established. Results of this review will be discussed in the student membership section below.

Student files and schedules reviewed at Alpine Online, Utah Online, Utah Virtual, Utah Connections, and Mountain Heights showed that students were enrolled in the core curriculum courses the LEAs required, as well as electives. We noted some students withdrawing or transferring after October 1, but the number of these students did not appear unusual between LEA administered and contractor administered distance and online programs. The student files appeared to correspond with the information provided by the LEAs regarding enrollment requirements.

Student Membership

R277-419 requires LEAs to establish a school schedule that provides 180 school days and 990 hours in order to qualify as an LEA eligible to receive state tax dollars. Students that are enrolled full time, based on the schedule of the LEA, are entered into the SIS as full time and generate a full WPU and all other Minimum School Program (MSP) funding. The 10-day rule, as established in R277-419-5, requires LEAs to stop counting student membership days after 10 consecutive days of unexcused absences. If the student begins attending school again the LEA may again claim membership days for the student. Students that are attending the LEA part time, or as part of a dual enrollment agreement, only generate partial membership, which is less than 180 days.

Alpine Online, Utah Online, and Mountain Heights follow the 10-day rule, and policies established by their respective LEAs. Online students in Alpine Online and Utah Online must make progress each week. If progress is made, attendance is marked for the week. Teachers and mentors review progress and attendance. If the student does not log in for a week and there is no contact with a student or parent, a truancy letter is sent to the parent. After 10 days without contact or progress being made, student records are adjusted to stop generating membership and the LEAs truancy rules are implemented. Mountain Heights expects students to work one hour per day per class for core classes and slightly less for electives. Students must keep up with the pace of instruction set by the teacher, and assignments are only available for one week at a time. Mountain Heights' students are expected to log in and work daily, attendance is logged in the LEAs learning management system. If a student does not log in for 10 consecutive days the LEAs attendance and truancy policy is followed, which complies with the 10-day rule. Mountain Heights plans their course offerings around providing 990 hours of instruction.

Provo eSchool requires that students achieve 2.5% in progress in their classes each week. Parents mark attendance and the LEA teachers and mentors monitor attendance and progress. If a student falls more than 10% behind their progress goal, has not logged in for a month, and has no teacher or parent contact, Provo eSchool then begins the truancy notification process outlined in district policy. Staff at Provo eSchool did not know when a student would be dropped from membership; it would likely occur upon the first notification, which could be more than 10 consecutive school days.

The Utah Connections school handbook requires students to engage in "school activities" for 5.5 hours a day or 27.5 hours a week, the total of which equates to 990 hours during the school year. Attendance and progress are monitored by LEA teachers and mentors. Utah Virtual requires students to engage in school work 5.5 hours a day. These LEAs hold students to their enrollment and progress policies. These policies indicate that if a student fails to make progress they can be withdrawn or exited from the LEA. These policies neither address the 10-day rule or adjusting membership as required by R277-419, nor do they seem to comply with LEA required truancy rules. See **Chapter 5** regarding Compulsory Education and Truancy Rules.

The 10-day rule, as established in R277-419-5, establishes enrollment and student membership rules for the traditional student who attends a brick and mortar school; therefore, in a virtual environment where attendance during school hours may or may not be required, compliance with the rule is more difficult to demonstrate. The Provo eSchool, Utah Connections, and Utah Virtual have established a progress-based monitoring process in absence of applicable guidelines from the Board. However, this progress-based monitoring is most likely not producing the required adjustments to membership days, may result in an overstatement of membership days claimed by the LEA during the school year, and is not in compliance with the current provisions of R277-419.

Each LEA is required to hire an external auditor to perform an annual membership audit. The specifics of this audit are set forth in the State Legal Compliance Guide, which is managed by the State Auditor’s Office. The audit firms that perform membership audits for online schools have requested more specific guidance from the Board regarding how R277-419 membership provisions and documentation requirements apply to online schools.

Some of the LEAs also described scenarios where students log in to an online class and take the unit or chapter assessments prior to completing instruction and exercises. If the student passes the assessment, they move on to the next chapter. This competency or mastery based type of class appears to be allowable per 53A-1-409 which was enacted in the 2013 legislative session; however, if a student finishes courses before the end of the school year the LEA could continue to claim full membership days for the student. Presently, there is not a funding formula in law or rule for these types of courses. See further discussion in **Chapter 4**.

Recommendations for the Board:

3B-3 We recommend that the Board or its designee revise Rule 277-419 to provide specific guidance on required school days, 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 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.

Recommendation for the LEAs:

- 3L-2 We recommend that LEAs evaluate their current practices with the provisions of R277-419 and ensure all monitoring and progress standards comply with student membership, until further guidance is provided by the Board.
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Incentives for Enrollment

In the course of our audit, we noted that a number of distance and online programs managed by LEAs offer students computers or internet subsidies in order to complete their online coursework. Utah Connections, Utah Online, Alpine Online, and Mountain Heights all offer students laptops for use in the program. Some LEAs loan, lease, or rent these computers to the students for the school year. All programs required the computers to be returned to the LEA when the student is no longer enrolled in the program. Alpine Online allows students to purchase the laptop after three years of use for \$50. Utah Connections offer subsidies to low income students for internet service in order to facilitate their participation in the distance and online programs. Utah Virtual loans computers to elementary students and provides them for students that qualify for fee waivers in 7-12 grades. Mountain Heights is a 7-12 school and are allowed to charge fees for educational services, in accordance with Board rule.

We are unable to find any law or rule that prohibits providing computers or internet access to students or sets any standards for incentives. On the contrary, the fee waiver provisions of the State Constitution seem to indicate that LEAs would have to provide computers or internet access to students who qualify and would otherwise be unable to participate in the online program without a computer or internet access. Furthermore, LEAs are not permitted to charge fees for elementary students. It appears these LEAs have controls in place to inventory computers and recover them for future usage at the LEA when students leave the school. Providing computers and internet access is not contingent upon students enrolling by October 1, and the students do not have to pay back the value of these items if they exit the program.

Recommendation for the Board:

- 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.

Recommendation for the LEAs:

- 3L-3 We recommend that the LEAs 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.
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State Required Assessments

All LEAs are required by Board Rule 277-404 and the USOE Testing Ethics Policy, established by the USOE Assessment division, to administer required assessments to eligible students. The current required assessments include the Student Assessment of Growth and Excellence (SAGE), Direct Writing Assessment (DWA), benchmark reading assessment (DIBELS), ACT, Utah Alternate Assessment (UAA), WIDA ACCESS for English Language Learners, and the National Assessment of Educational Progress (NAEP). These assessments range in administration from first grade through eleventh grade and can vary depending on enrolled courses.

The Testing Ethics Policy outlines appropriate assessment practices and the responsibilities of educators. This policy states that “LEAs are required to ensure all school testing coordinators, administrators, and teachers administering tests are aware of their role in state-wide assessments...” The Policy further states that “Educators are accountable to their LEA and the Utah State Board of Education for ethical practices.” Based on review of the Board rule, it appears that LEA employees such as school coordinators, school administrators, and school teachers should be administering assessments. The Testing Ethics Policy further states that educators should make sure an appropriate environment is established to limit distractions, ensure all students eligible for testing are tested, and perform active test proctoring (which includes walking around the room to make sure students are taking the correct test, the test is administered ethically, and all testing materials are secure before, during, and after testing, etc.).

We noted that all required assessments are administered by the LEAs certified licensed teachers and assessment coordinators at Utah Online, Utah Connections, Utah Virtual, Mountain Heights, and for the K-12 students in Provo eSchool. These same LEAs proctor assessment’s at their facility and/or at proctor locations throughout the state.

DIBELS reading assessment is administered three times a year. If a student is unable to come to a proctor location, these LEAs, except for Mountain Heights who do not have grades 1-3, allow online administration of DIBELS. Utah Virtual stated that beginning in fiscal year 2014, their teachers would be traveling around the state to perform face-to-face assessments with its students. We noted that Alpine Online allows for parents to proctor DIBELS when teachers cannot facilitate them; however, the parent has to pass the mandatory training. Teachers from Utah Online, Utah Connections, Alpine Online, and Utah Virtual administer the DIBELS assessment via electronic classrooms using web cameras. The Testing Ethics Policy states, “It is unethical for educators to jeopardize the integrity of an assessment or the validity of student responses.” This includes allowing parent volunteers to proctor their child’s test. However, the current policy does not provide specific guidance for the administration of required assessments for online and virtual classrooms. The fidelity of DIBELS assessment data becomes increasingly more important as K-3 reading improvement funding may be determined based on proficiency scores in the future.

Recommendation for the Board:

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.

Recommendation for the LEAs:

3L-4 We recommend that LEAs ensure the administration of assessments is occurring through LEA testing coordinators, administrators, or teachers who have taken the assessment specific and USOE ethics trainings. Parents should not be administering state required assessments to their own children.

Established Policies and Procedures

Not all of the LEAs we visited were able to provide approved policies and procedures that specifically address their distance and online education programs. School district online programs largely rely on policy and procedures already enacted for other district programs. Utah Connections, Utah Virtual, and Mountain Heights provided a written school handbook.

Recommendation for the LEAs:

3L-5 We recommend that LEAs develop and document policies and requirements regarding online curriculum evaluation and approval and for teacher licensure and background checks in an online program. These policies should also include procedures to comply with student membership rules and assessment procedures.

Summary

The above LEAs purchase curriculum from specific vendors in totality by grade, and by specific courses. The LEAs have established review or monitoring processes to ensure that the courses offered, by grade level, meet the requirements or the Utah Core Standards. Each of these LEAs has established a framework for enrollment and creation of the SEOP along with entering the proper course information in the SIS. The LEAs do not appear to have an evaluation or review process in place to determine that teachers that support courses purchased from a vendor are licensed, or have completed background checks. Some LEAs do not have an evaluation process in place to review purchased curriculum for compliance with Utah Core Standards.

The 10-day rule, as established in R277-419-5, requires LEAs to stop counting student membership days after 10 consecutive days of unexcused absences. It appears that some of the distance and online programs administered by LEAs are adhering to the 10-day rule as per

their LEA's policy. Other LEAs have established progress based monitoring, in absence of applicable guidelines from the Board for a distance or online education model. However, this progress based monitoring is most likely not producing the required adjustments to membership days, and thereby could result in an overstatement of membership days claimed by the LEA during the school year.

All LEAs are required by Board Rule 277-404 and the USOE Testing Ethics Policy, established by the USOE Assessment division, to administer required assessments to eligible students. We noted that most required assessments appear to be administered by the LEA's certified, licensed teachers and assessment coordinators; however, some LEAs allow the administration of DIBELS to be proctored by a student's parents. The Testing Ethics Policy states, "It is unethical for educators to jeopardize the integrity of an assessment or the validity of student responses." The Policy does not provide specific guidance for the administration of required assessments for online and virtual classrooms and should be revised.

Distance and Online Programs Managed by Contractors on Behalf of LEAs

Utah Core Standards

Board Rule 277-700 and the Utah Core Standards establish minimum skills and objectives for each standard, and make it the responsibility of each LEA board to implement and provide access to the core standards to all students. R277-700-4 through 6 establishes the core subject area requirements for elementary, middle school, and high school students, and provides a framework for core and elective subjects by grade level. The Utah Core Standards further outline skills and objectives students should achieve by grade level. The USOE Teaching and Learning division publishes very specific guidance regarding the required academic areas and specific elements that each curriculum area must address by grade level. Approved course codes and descriptions can be found on the USOE's website, in the Teaching and Learning division.

Several LEAs contract with Harmony and My Tech for their distance and online programs. These LEAs have different relationships and have established different responsibilities over the services provided by the contractors.

Harmony offers various programs including independent learning, options day, flex courses, and a multi-age program (MAP). Harmony purchases curriculum through third party curriculum providers such as Compass Learning, Rosetta Stone, Williamsburg, K12, BYU Independent Study, Odyssey, Aleks, Edgenuity, etc. Harmony also creates various curricula, kits, and resource packets. Students can select one or two "option days" each week where students attend a site for elective courses such as music, art, or PE classes. These option sites are completely managed by Harmony employees.

C.S. Lewis indicated that all students are required to be enrolled in four core classes of math, language, science, and history. For online students, parents are able to choose the remainder of the curriculum their child gets from the various Harmony options. C.S Lewis had approximately 30 MAP students through Harmony, in addition to the 150 enrolled in the strictly online Harmony programs. These MAP students meet on campus four days a week for core classes taught by Harmony teachers.

Walden contracted with Harmony for the 2012-2013 school year only. The LEA indicated that students enrolling in Harmony were required to take the four core subjects (language art, math, science, and social studies) and then choose electives (art, health and physical education, career and technical education, etc.) to make up their full time schedules.

DaVinci utilizes Harmony for elementary grades and indicated that for the 2013-2014 school year, a curriculum committee will review the curriculum used by Harmony students at DaVinci to ensure it complies with Utah Core Standards. The director did not manage the elementary online program in the prior year and was unable to answer specific questions regarding the relationship between DaVinci and Harmony in the previous school year.

Rockwell and the Provo eSchool could not provide details regarding what curriculum was being utilized by their Harmony students for the 2012-2013 school year, although they thought students were required to enroll in core classes in addition to electives.

Harmony assured us that all of their courses are compliant with Utah Core Standards, but there does not appear to be any LEA oversight to verify this assertion. In our conversation with Harmony, they indicated that in the very near future a new delivery platform will be utilized that will make specific course information available to LEAs. However during the 2012-2013 and the 2013-2014 school years, we do not believe this type of information is available to LEAs without them requesting information from Harmony. These LEAs do not appear to participate in the SEOP process with parents and students, as required by law.

ALA, GPA and the Provo eSchool contracted with My Tech for their distance and online programs. My Tech allows students and parents to select curriculum purchased from third party curriculum providers such as Rosetta Stone, Williamsburg Intermediate, K12, Compass Learning, Edgenuity, etc. These LEAs could not describe the types of curriculum being utilized by their My Tech students in the current 2013-2014 school year. My Tech students are required to enroll in one test prep period, math, language arts, science or history, a technology class, and one elective. Students have the option for a seventh period. Students and/or parents can also purchase other curriculum from third party providers or custom build the curriculum and the cost is reimbursed to the parent by My Tech.

A representative from My Tech stated that only a small percentage of students enrolled in their program are actually seeking a diploma. Due to this, he felt the majority of students do not need to adhere to the Utah Core Standards as the students take the ACT and proceed to a college that will accept them without a diploma. Only students seeking a diploma work with the counselor at the LEA to develop an SEOP.

With the exception of DaVinci's policy in the current school year and the C.S. Lewis's MAP students on campus, these LEAs have not established a process to review curriculum, review the courses being offered for enrollment, or established any method by which they ascertain that students are enrolled in the proper combination of core or elective courses that meet the Utah Core Standards by grade level. The LEAs did not have access to individual student schedules without going through these two contractors. Details provided to the LEAs are brief course descriptions, and do not always appear to disclose the actual course or provider.

Because Harmony and My Tech purchase curriculum from some of the same vendors as other LEA online schools, it is likely that if these courses were evaluated, they may meet the Utah Core Standards. R277-700 makes it the responsibility of the LEA to ensure that all courses and curriculum offered comply with the Utah Core Standards. It is impossible for LEAs to know this without establishing review and evaluation processes over contractor provided services, especially since most of the LEAs did not seem to know what courses their students were enrolled in. Furthermore, these courses are being used to grant credit towards graduation for secondary students. Course completion information, as provided in summary by the contractor, is entered into the LEA's SIS to grant credit, using the LEA's accreditation. If an LEA

is not sure what courses or curriculum are used to determine credit, it is difficult to know if the course complies with graduation requirements or meets the LEAs credit awarding policy.

Recommendation for the LEAs:

3L-6 We recommend that LEAs who contract with a third party for educational services develop and document into LEA policy an evaluation and review process for contracted curriculum. We also recommend that these LEAs review the courses being offered for enrollment, participate in the SEOP process, and ascertain that students are enrolled in the proper combination of core and elective courses that meet the Utah Core Standards by grade level. LEAs should have access to documentation detailing student schedules, including actual course descriptions and course providers, in order to grant credit appropriately.

Licensed Educators

The employment and interaction of teachers or mentors with the Harmony programs at C.S. Lewis, Walden, Rockwell, the Provo eSchool, and DaVinci vary depending on the LEA. Some LEAs employ licensed highly qualified teachers and non-licensed mentors to supervise Harmony students. Other LEAs allow Harmony to hire the teachers and mentors without verifying if the teachers are licensed, highly qualified, properly endorsed, or have completed background checks. The teachers are administering curriculum, interacting with students, and providing additional assistance via electronic or other communication means. Mentors, if utilized, track attendance, answer non-academic questions, and act as a help desk. Most LEAs request that the teacher or mentor have weekly contact with the student and monitor the student's progress.

Some of Harmony's courses are provided by a third party vendor, who provides a teacher for the course. The LEAs are unaware of who these teachers are and are unable to verify that they are licensed and have passed a background check. Knowledge of the teacher and their credentials is required to input the teacher in the SIS and ultimately award credit for completion of the course for secondary courses. LEAs indicated that the teacher of record in the SIS is usually the mentor, who is a licensed teacher and Harmony employee. However, the mentor or teacher is not the individual providing actual instruction to the student.

The Harmony programs offer options for students and parents to select a school or center based option where students attend some classes at a school or learning center for a portion of the week. The students do not always attend the school where they are enrolled, and can attend any Harmony learning center. The students who attend these schools and centers are instructed and supervised by employees of Harmony, not the LEA. We also noted that Harmony contracts with other parties to deliver art and music instruction, which is further removed from LEA supervision.

The employment and interaction of teachers or mentors with the My Tech online program at ALA, GPA, and the Provo eSchool seems consistent between LEAs. My Tech has 10 part time

teachers/mentors on staff. Mentors are not required to be certified teachers although they are responsible for answering questions and holding a weekly, one-hour virtual tech talk. My Tech stated that all teachers and mentors have had background checks; however, the LEAs did not verify the licensure of the teachers or the background checks performed. Depending on the LEA and the school year, some students are monitored by a LEA employed mentor and some are monitored by a My Tech employed mentor. Students at My Tech may also enroll in courses that come with teachers from a third party vendor.

R277-520-3 (A) states “All teachers in public schools shall hold a Utah educator license along with appropriate areas of concentration and endorsements.” Utah Code 53A-1a-512 further clarifies that charter schools shall employ teachers who are licensed, including Board approved charter specific licenses. Utah Code 53A-3-410 and 53A-1a-512.5 requires LEA employees, potential employees, and volunteers who have significant unsupervised access to students to submit to a background check. Contractors who work in public schools and apply for a license are also required to have a background check.

The teachers and mentors hired by the contractors are not LEA employees or volunteers, but they do have significant unsupervised access to public school students. This is also true for teachers that are provided with the purchase of online courses from third party vendors. These LEAs are allowing contractors to purchase courses and teacher support to fulfil their public education responsibilities. Compliance with this law is charged to LEAs, superintendents, or the chief administrative officer of a charter school. LEAs have a responsibility to ensure that all teachers, volunteers, and employees have submitted to background checks and are adequately licensed.

Recommendation for the Board:

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

Recommendation for the LEAs:

3L-7 We recommend that LEAs develop and document a procedure to verify the licensure and background status of vendor provided teachers who provide support and instruction for online classes purchased from a vendor, and for teachers hired by their contractors to ensure compliance with *Utah Code* 53A-1a-512.5 and 53A-3-410 and Board Rule 277-520.

Home School Courses

Harmony offers a program called the flex program. In this program, a student's parents select either a Harmony-recommended curriculum or design their own course using curriculum of their choice. Harmony establishes learning objectives for specific subjects and grade levels for the students in the flex program. Curriculum purchases made by parents for these home school courses can be reimbursed up to \$125 per subject, per student by Harmony. Parents administer curriculum to their child in a home school setting and determine what evidence will be submitted back to Harmony to demonstrate student mastery and competency. Based on information on Harmony's website, 6-9 work submissions are required per quarter or semester, which can include scans or pictures of work, a parent learning journal, narration samples from the student, or audio and video files. Middle school and high school students may be required to take weekly assignments or quizzes, depending on the curriculum selected. Harmony's staff indicated that their teachers approve the curriculum and are charged with determining the competency or mastery of each flex course. Elementary courses are pass or fail. Middle and high school courses are mastery based, and assigned letter grades based on assessments. In our review of student schedules, we noted numerous students across all LEAs contracting with Harmony who had flex courses listed for core subject areas.

We also noted reimbursements to parents for music lessons. Harmony staff indicates that music lessons are taught either through an independent study class, or from a specific music lesson vendor in Utah County. The classes appear to be large group or individual music lessons and do not appear to be taught under the supervision of the LEA, nor the contractor. We also noted that Harmony has other programs which allow students enrolled in their programs to gather at learning centers for arts, physical education, and other elective classes.

My Tech provides parents the option to purchase curriculum not offered through My Tech. The curriculum must be available and affordable for the general public, must be a group course and include an instructor, must be secular course, and the website must be provided prior to approval. Up to \$300 per course can be reimbursed by My Tech. My Tech also allows parents to determine and administer curriculum in a home school setting. Parents can purchase learning resources or curriculum materials for parent determined courses and be reimbursed up to \$150 per course. Examples include textbooks, literature books, science lab equipment, math learning manipulatives, workbooks, online subscriptions, etc. Private tutoring from a non-family member is approved for custom-built courses and only secular courses are allowed.

Only one LEA disclosed that these home school classes were part of the educational services their contractor was providing. None of the LEAs appear to have supervised the creation of the learning objectives or standards that govern these courses and are unable to describe what is required when credit is awarded for these types of courses. None of the LEAs appear to have any monitoring processes in place to review these types of courses and curriculum selected by parents to determine if the Utah Core Standards are being met or if the course meets the standards for funding.

Board Rule 277-705-3 requires LEAs to accept credits and grades awarded to students from schools or providers accredited by the Northwest Accreditation Commission (which is now called AdvancEd) or approved by the Board without alteration. It allows for LEAs to enact policies to provide various methods for students to earn credit from non-accredited sources, coursework or education providers. Methods may include: (1) Satisfaction of coursework by demonstrated competency, as evaluated at the LEA level; (2) Assessment as proctored and determined at the school or school level; (3) Review of student work or projects by LEA administrators; and (4) Satisfaction of electronic or correspondence coursework, as approved at the LEA level. LEAs may require documentation of compliance with Section 53A-11-102 prior to reviewing student home school or competency work, assessment or materials. An LEA has the final decision-making authority for the awarding of credit and grades from non-accredited sources consistent with state law, due process, and this rule. This rule does not provide funding for credits awarded outside of the regular school day. Credits awarded in this manner are entered in the SIS as a type of transfer credit that does not generate membership days for funding purposes.

We were unable to find Harmony, My Tech, or any version of the company or owners' names on the accreditation list published by AdvancEd as of January 23, 2014. Some of the courses purchased by these contractors are sold by vendors that are on the accreditation list. The courses administered by these contractors and claimed for credit towards graduation and membership hours through their partner LEAs are administered during the regular school day, and do not seem to fall under the credit only awarding provisions of R277-705-3.

Board Rule 277-520-3 (A) states, "All teachers in public schools shall hold a Utah educator license along with appropriate areas of concentration and endorsements." *Utah Code* 53A-1a-512 further clarifies that charter schools shall employ teachers who are licensed, including Board approved charter specific licenses. Rule 277-700 establishes minimum course description standards and objectives for each course in the required general core as the core curriculum, and makes it the responsibility of each LEA board to implement and provide access to the core curriculum to all students. R277-419-1 (U) defines a school as "an educational entity governed by an LEA that is supported with public funds, includes enrolled or prospectively enrolled full time students, employees licensed educators as instructors that provide instruction consistent with R277-502-5, has one or more assigned administrators, is accredited consistent with R277-410-3, and administers required statewide assessments..."

The distance and online programs run by these contractors are supported by public funds and their students are enrolled as public school students in authorized LEAs. Only authorized LEAs and their "schools" are eligible to receive state education dollars. These distance and online programs are part of eligible schools, and it appears that the membership, curriculum and licensure rules apply to the programs of the schools. Home school courses do not appear to qualify for state tax dollars under the provisions of R277-419 as the curriculum is not supervised or approved by an LEA and instruction may not be provided by a licensed educator. While we only found home school courses in the online and distance programs of these two contractors, any LEA could develop a home school program and claim courses for funding.

These home school courses seem to be competency or mastery based, which appear allowable per 53A-1-409; however, if a student finishes courses before the end of the school year the LEA could continue to claim full membership days for the student. Presently, there is not a funding formula in law or rule for these types of courses. See further discussion in **Chapter 4**.

Recommendation for the Board:

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.

Recommendation for the LEAs:

3L-8 We recommend that the LEAs who contract with a third party for educational services review the types of courses and curriculum being provided to their students and determine if they comply with R277-700 regarding Utah Core Standards, R277-520 regarding proper licensure and endorsements, R277-410 regarding accreditation and awarding of credit, and R277-419 regarding the qualification of schools, programs of a school, and proper recording of membership hours.

Review of student records

We selected approximately 20 student records from each LEA we visited. Student records were not selected at ALA, GPA, and the Provo eSchool because student schedules were provided by all of the LEAs that contracted with My Tech for the 2013-2014 school year. We selected these records from the population of students that had transferred or withdrawn during the 2012-2013 school year. The purpose of this review was to determine if evidence existed indicating that students were dropping out of enrollment after the October 1 headcount was completed and funding had been established. Results of this review will be discussed in the student membership section below.

We reviewed the spreadsheets provided to LEAs by My Tech and noted My Tech does not list specific course titles, aside from grade level math, science, language arts, and history classes. It is unclear what types of curricula are being utilized and the percentage of parent administered classes to other online or virtual classes. However, the students listed did appear to be enrolled in three courses of core subjects, a test prep course, a technology class, an elective class, and, in some cases, a 7th period elective.

We noted numerous Harmony students with less than a full time schedule across all grade levels for all LEAs that use Harmony. Some students did not appear to be enrolled in a full course load in comparison to the courses required by their respective LEAs for students attending classes at the LEA. Some of the student schedules do not include courses that were required to satisfy grade-specific standards as established in R277-700 and the Utah Core Standards. We noted students missing core classes for language arts, math, science, and/or history. We noted students who only took core courses in language arts, math, science, or history. These students' schedules did not appear to include any electives in areas such as art, health, or physical education. Many students were enrolled in only four courses for the year. We also noted many students had registered for all flex or option classes for their core classes.

Some students had kits included in their course schedule, but were not enrolled in a course that appeared to relate to the kits. We reviewed the contents of the kits as listed on the Harmony website. Kits can include story books, games, reading material, novels, flashcards, workbooks, model construction sets, building blocks, etc. Some of the kits looked like they might contain worksheets, lesson ideas, or quizzes. These kits appear to be curriculum materials that relate to areas of the Utah Core Standards, but by themselves do not appear to be robust enough to fulfill a full core subject area. Examples of the kits we noted for elementary student schedules include a typing kit, a dinosaur kit, a microscope kit, a write your own story kit, and a super heroes kit. Some of these kits were not coupled with a core course. Using the UTREx system at the USOE, we verified that the students who appear to be enrolled for less than full time were not enrolled in another LEA during this time period.

The LEAs were unable to provide the details of specific courses for the students we selected. Detailed information had to be compiled by Harmony, created files from the various management and online systems they use to track students.

For both contractors, the LEAs were unable to provide agreed upon standards between the LEA and the contractor regarding course or curriculum requirements, or verify that students stayed enrolled and completed all courses.

Student Membership

R277-419 requires LEAs to establish a school schedule that provides 180 days of instruction or 990 hours in order to qualify as an LEA eligible to receive state tax dollars. Students that are enrolled full time, based on the schedule of the LEA, are entered into the SIS as full time and generate a full WPU and all other MSP funding. The 10-day rule, as established in R277-419-5, requires LEAs to stop counting student membership days after 10 consecutive days of unexcused absences. If the student begins attending school again, the LEA may begin claiming membership days for the student. Students that are attending the LEA part time, or as part of a dual enrollment agreement, should generate only partial membership.

The LEAs that contract with Harmony and My Tech do not appear to be monitoring instructional hours and have not established a required level of daily participation for their distance and online students. The LEAs have established schedules that comply with R277-419, but the schedules only seem to apply to students attending the LEA, not those participating in distance

and online programs. Based on our review of student records, not all students enrolled through Harmony appear to be enrolled in a full time schedule, when compared to the hours of instruction and number of courses required in the other programs of the LEA. The data we received from My Tech is not detailed enough to draw conclusions regarding student courses; however, on the spreadsheets provided to us all students appeared to be enrolled for 6-7 courses.

Harmony has mentors and teachers that review the progress of students throughout the school year. Harmony requires parents to log attendance daily. In some cases, LEAs have hired employees to perform this tracking process. My Tech requires active participation throughout the year, which is achieved by the parent or student submitting weekly learning logs and daily attendance records online. The student also must participate at least monthly in “Study Island” (a test prep program), and complete all required state assessments.

Some LEAs indicated that they meet with contractor mentors or teachers frequently to receive reports on student progress. These LEAs indicated that a spreadsheet is provided by the contractors that show a progress total by student, but were unable to provide any explanation of monitoring or review processes conducted by the LEA to verify the validity of this spreadsheet. The LEAs report that when they are notified of a student withdrawing from one of the contractor programs, they immediately update the SIS which stops the student from generating membership.

In the student records we reviewed, we noted numerous instances of students who made no progress for more than 10 days before being withdrawn from the programs of Harmony. We noted many students withdrawing or transferring to home school after October 1, but the number of these students did not appear unusual between LEA administered and contractor administered distance and online programs. This could be due to the fact that LEAs rely on the contractor to monitor the attendance of the students in their online programs or that parents are allowed to mark attendance for students. This doesn’t seem to comply with the LEAs charge to remove students from membership after 10 days of unexcused absences. We did note a large number of students being transferred to home school or withdrawn without explanation, which will be discussed in **Chapter 5**.

At the end of the semester, the LEA receives a summary report of courses passed by student and enters these into the SIS. Entry of courses in the SIS generates membership, which is used for the ADM funding calculation, and in the case of secondary students, awarding credit towards graduation. The 10-day rule does not appear to be applied to these students, and the LEAs have not established a monitoring or progress standard that the contractor is required to follow. Each contractor has a monitoring and progress reporting protocol and utilizes mentors to track student progress, but the LEAs are not reviewing compliance with this protocol and they have not reviewed these measures to ensure they comply with the rules governing student membership.

Presently, Board Rule 277-419 does not provide separate guidance for online or distance programs. These programs do not appear to have the same daily attendance requirements,

and Board rule does not define how virtual classes or programs should be measured to comply with continuing student membership requirements, which impact funding.

Recommendations for the Board:

3B-9 We recommend that the Board or its designee revise R277-419 to provide specific guidance on required school days, 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.

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.

Recommendations for the LEAs:

3L-9 We recommend that LEAs evaluate their current practices and those of their contractors with the provisions of R277-419 to ensure all monitoring and progress standards comply with student membership, until further guidance is provided by the Board.

3L-10 We recommend that LEAs who contract with third party contractors implement sufficient monitoring procedures to ensure that contractor monitoring and progress requirements comply with Board rule and that the LEA receives sufficient detailed information to ensure compliance with all of the provisions of student membership rules in R277-419.

Incentives for Enrollment

Since at least the 2011-2012 school year, various LEAs have contracted with both Harmony and My Tech to recruit and enroll a specific number of students by the October 1 headcount date, in some cases establishing a certain number of spots within the charter's cap for Harmony and My Tech students.

When students enroll with Harmony and agree to participate in state required assessments, they are eligible for a \$300/per student education allowance. Harmony’s website indicates these reimbursements are “to help pay for educational materials, supplies, equipment, curriculum, and other expenses directly related to the education” of the student. Harmony also reimburses up to \$35 a month/per class (limit 2 classes) for music lessons through a specific approved provider. Additionally, each flex course in which a student is enrolled is eligible for up to \$125 reimbursement for the parent to purchase course materials to use in the home school type program. Harmony indicates that one of their employees collects receipts for these purchases and verifies their validity before sending the reimbursement to the parents. If a parent enrolls their child in 4 flex courses and provided receipts for curriculum purchases for courses, they could receive approximately \$800 per student, per year.

My Tech provides a \$300 technology allowance for new students. Students that return the next school year receive \$400. My Tech’s website indicates that this allowance is for laptops, printers, digital cameras, tech gadgets, lab equipment, ebooks, and other educational resources. A reimbursement form requires receipts to be submitted prior to reimbursement. Students who leave the My Tech program before the end of the year must reimburse the school. My Tech will reimburse parents up to \$300 for courses purchased from a third party provider. Custom built courses, mostly taught at home, can be reimbursed up to \$150 per course. If a parent enrolls a child in 4 custom built courses, they could receive approximately \$900, per student, per year.

We were unable to find any law or rule that prohibits the practice of reimbursement and/or incentives to students; however, it should be noted that these reimbursements are made from public tax dollars that are paid to these contractors. The students enrolled in the same LEAs as in-seat students are not provided the same technology allowance. The online programs managed by LEAs do provide laptops, in some cases rented or leased from the LEA, and subsidized access to the internet to enable students to participate in the online programs. However, the equipment is the property of the LEA and is returned to the LEA, or purchased at a discount when the student leaves the program. The value of these computers or subsidized services is significantly less than those available to the students enrolled in the Harmony and My Tech programs.

Recommendation for the Board:

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

Participation in State Required Assessments

All LEAs are required by Board Rule 277-404 and the USOE Testing Ethics Policy, established by the USOE Assessment division, to administer required state assessments to eligible students. The current required assessments include the Student Assessment of Growth and Excellence (SAGE), Direct Writing Assessment (DWA), benchmark reading assessment (DIBELS), ACT, Utah Alternate Assessment (UAA), WIDA ACCESS for English Language Learners, and the National Assessment of Educational Progress (NAEP). These assessments range in administration from first grade through eleventh grade and can vary depending on enrolled courses.

The Testing Ethics Policy outlines appropriate assessment practices and the responsibilities of educators. The Policy states that “LEAs are required to ensure all school testing coordinators, administrators, and teachers administering tests are aware of their role in state-wide assessments...” The Policy further states that these “Educators are accountable to their LEA and the Utah State Board of Education for ethical practices.” Based on review of the Board rule, it appears that only LEA employees such as school coordinators, school administrators, and school teachers should be administering assessments.

ALA and GPA indicated that all state required assessments for their My Tech students are administered by the LEA’s certified licensed teachers and assessment coordinators. State required assessments for the My Tech students enrolled through the Provo eSchool’s My Tech program were administered by a certified, licensed teacher or assessment coordinator from GPA in the 2012-13 school year. In the current school year, the contract between My Tech and the Provo eSchool changed to make My Tech responsible to administer all required assessments.

Required state assessments for Harmony students enrolled through DaVinci, C.S. Lewis, Rockwell, Walden, and the Provo eSchool are administered by a Harmony employee. The LEAs and Harmony indicated that the Harmony employees administering assessments receive the USOE training on proctoring assessments and ethics training. It does not appear that the assessments are supervised by the LEA.

The Provo eSchool provided the assessment director of GPA its login credentials in order for him to login to the Provo eSchool account and obtain the student’s state ID ticket that is required for a student to access the test online. The GPA assessment director was only assigned students he would be actually testing. It is likely that a similar exchange of information or ID tickets would be required for all LEAs who allow contractors to administer state required tests. The Testing Ethics Policy was written to provide ethical proctoring practices for LEA employees. According to the State Assessment Director, when assessments are provided by a third party, it challenges the validity and integrity of the assessment.

The Testing Ethics Policy further states that educators should ensure that an appropriate environment is set to limit distractions, ensure all students eligible for testing are tested, and perform active test proctoring (which includes walking around the room to make sure students are taking the correct test and the test is administered ethically, ensure that all testing materials are secure before, during, and after testing, etc.). The My Tech students at ALA and

GPA, and the 2012-2013 Provo eSchool students took their required assessments at the LEA or at a testing site designated by ALA or the assessment director of GPA.

Harmony students enrolled through DaVinci, C.S. Lewis, Rockwell, Walden, and the Provo eSchool took assessments at the LEA and/or at proctor locations throughout the state. The Harmony assessment director has an administrator logon that each LEA set up for him. He is then able to access the print off ID tickets for students for their corresponding assessments. We are unsure of the security of the test because LEA employees do not supervise the administration of these assessments. It is possible that since proctor locations can include LEA facilities, LEA employees may monitor or oversee assessments. We are unsure of the location and security of assessment administration for the Provo eSchool My Tech students as they will now be proctored by My Tech employees for the 2013-14 school year.

DIBELS reading assessments are required to be administered three times a year in grades 1-3. Harmony's assessment director indicated that online students receive the DIBELS test online in the student's profile. Students log into their student profile and click the link that takes the student to a secure portal to take the DIBELS assessment. A paraprofessional, who may not be the teacher of record, administers the test as long as the students have sufficient technology such as a webcam and microphone. If a student does not have adequate technology, the parent can administer the DIBELS assessment or bring the student to a proctor location. Once the assessment is complete, the Harmony assessment director receives the data. The director does not administer or score the test, and has no procedures to ensure that only the student is logging into the assessment. We are unsure how the assessment is graded as the proctor may not have any contact with the student. The fidelity of DIBELS assessment data becomes increasingly more important as K-3 reading improvement funding may be determined based on proficiency scores in the future.

GPA's assessment director indicated that DIBELS is administered to My Tech students through an online webcam program which enables the LEA employee to view the student and score the assessment.

The Testing Ethics Policy states, "It is unethical for educators to jeopardize the integrity of an assessment or the validity of student responses." This includes allowing parent volunteers to proctor their child's test. However, the policy does not provide specific guidance for the administration of required assessments for online and virtual classrooms.

Board Rule 277-404-6(A)(2) states that LEAs shall not "download, copy, print, or make any facsimile of protected assessment material prior to assessment administration without express permission of the USOE and LEA administrators." Harmony's website states that students in fifth and eighth grade will receive the DWA writing assessment in the mail. We are unsure if the test is copied, printed, etc. from the prompt issued by the USOE. We inquired of Harmony's assessment director as to how the DWA is administered and he stated that it has never been mailed to students. Students have to visit a proctor location or LEA in order to take the

assessment. If assessments are administered by mail, it appears not to be in compliance with this Board rule.

The LEA is also charged with the responsibility to secure all assessment content. Board Rule 277-404-6(D) states, "Each LEA shall ensure that all assessment content is secured so that only authorized personnel have access and that assessment materials are returned to USOE following testing..." The USOE Testing Ethics Policy states that each LEA "shall ensure that all test materials are secured in an area where only authorized personnel have access..." The risks surrounding the security of assessment content increases when assessments are administered at a third party location or administered by parents, and not monitored or supervised by LEA employees. LEAs who relinquish their assessment responsibility to a third party contractor are unable to provide assurances that administration of assessments follow proper protocol or that they are administered in an ethical manner.

From lists provided by the LEAs for the 2012-2013 school year, we selected individual students from C.S. Lewis, DaVinci, GPA, the Provo eSchool, Rockwell, and Walden that were enrolled in the Harmony or My Tech programs of the LEAs. Course schedules, via the UTREx system were compared to completed state required assessments for 28 individual students. The purpose of this review was to determine if students took the assessments required by their course enrollment and grade level.

We noted that the majority of students appear to be enrolled in appropriate grade level courses. We noted six of the 28 students did not take the DIBELS reading assessment or CRTs for their specific grade level. We noted two other students who did not take all of their required CRTs. We also noted two students who did not generate or take any assessments. This may be due to the student providing the required assessment waiver or some circumstance that prevented the student from testing; however, we are unable to verify this.

Because the Provo eSchool modified its contract with My Tech in the current school year, we selected 12 students to review for required assessments and coordinating courses for the 2013-2014 school year. We compared the schedules provided by My Tech to the student's course enrollments in UTREx and noted six students who were only enrolled in one generic study hall course. This study hall course, as reflected in UTREx, does not reflect the courses the contractor represents the student is enrolled in, and is not a course that will generate the required state assessment, by grade level, for these individual students.

Specific assessments are required by law and are used in the school grading system and UCAS systems. These systems are designed to provide accountability to the public. Each LEA is responsible to ensure that student schedules are being entered correctly into the LEA's SIS, and to determine that all required assessments are being administered to students. Based on the small number of students we reviewed, we are not confident that the LEAs and their contractors are administering all required assessments to their students and that students' course schedules are not accurately reflected in the SIS. These matters have been referred to the Assessment and the Data and Statistics divisions at the USOE for further investigation. Specific findings of noncompliance will be reported to the Board if any are identified.

Recommendations for the Board:

- 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.
- 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.

Recommendations for the LEAs:

- 3L-11 We recommend that LEAs ensure the administration of assessments is occurring through LEA testing coordinators, administrators, or teachers that have taken the assessment specific and USOE ethics trainings. Parents of students should not be administering state required assessments.
- 3L-12 We recommend that an appropriately trained LEA employee perform active proctoring during the administering of the assessment, ensure that the administration of assessments is done ethically in accordance with the USOE’s Testing Ethics Policy, and ensure the assessment content is secure (that only authorized LEA personnel have access to it and it complies with Board Rule 277-404).
- 3L-13 We recommend that LEAs ensure or get assurances from contractors that assessments are not downloaded, copied, or printed without the permission of the USOE and LEA administrators and comply with Board Rule 277-404.
- 3L-14 We recommend that LEAs develop and implement a monitoring policy over assessments administered outside the purview of the LEA and ascertain that the administration of assessments complies with Board Rule 277-404.
- 3L-15 We recommend that LEAs review the course schedules in their SIS for students participating in distance and online educational programs to determine if they are reflective of actual enrolled courses. Additionally, LEAs should ensure that all required state assessments are being administered to all applicable students.

Contract Costs to LEAs

We obtained the contracts of Utah Virtual and Utah Connections, and noted the contracts do not discuss the financial arrangement between the non-profit corporation that holds the Utah charter and the provider. These contracts are for total curriculum, management, and business

services, and it appears that all funding received by the LEAs are managed and expended in cooperation with the national providers. Nearly all of the employees of Utah Connections and the management personnel of Utah Virtual are employees of the national provider, not the charter school.

We also obtained the contracts of all LEAs that have entered into agreements with Harmony and My Tech. These contracts appear fairly consistent, with the exception of Pioneer High School and C.S. Lewis. Harmony charges a \$500 per student recruiting fee, a \$215-\$250 per half credit curriculum fee, and a student and mentoring fee that ranges between \$750-\$1,250 based on grade level. Pioneer does not pay any recruiting or student mentor fees, and C.S. Lewis only pays a flat fee per student. My Tech contracts do not provide an actual fee per student, only an estimated calculation that includes a percentage of the WPU, plus a curriculum fee of \$250 per course, per student.

The contracts with these vendors did not specify a total dollar amount per student, as the curriculum fee is based on the number of credits in which a student is enrolled. We calculated a per student contract cost based on the assumption that a student was enrolled in 6 courses, which approximates full time enrollment.

To determine what portion of the state funded unrestricted WPU is being paid to the contractors, we prepared an estimate. We obtained state MSP allocations for the 2013-2014 school year for all charters schools from the USOE School Finance Division. See **Appendix C** for the schedule. The calculated state funded unrestricted WPU value per student includes an average K-12 WPU of \$2,746, WPU flexible allocation of \$36, local replacement funding of \$1,671, and administrative costs funding of \$100. The calculated value was used because the charter school WPU is weighted by grade, as required by state law. Total state funded unrestricted WPU funding was divided by the LEA's October 1 enrollment to determine an average unrestricted WPU value.

The Provo City School District does not receive local replacement funding or administrative costs funding from the state, but does collect unrestricted funding from local property tax sources. The Provo eSchool state funded unrestricted WPU was calculated by adding \$2,899, the K-12 WPU funding from the state and \$36 the estimated flexible allocation. The unrestricted local property tax available to the District was not included in our analysis because the addition of these online students in Provo City School District's enrollment does not increase their property tax revenue. The exclusion of local revenue makes Provo's state funded unrestricted WPU value appear much lower than the calculated state funded unrestricted WPU for the charter schools, which then makes their total percentage paid to the contractor appear much higher than other LEAs. We compared the state funded unrestricted WPU value to the amount charged by the contractor per student. See **Table 2** below.

TABLE 2 Percentage of Unrestricted WPU Paid to Contractors

Harmony: LEA/Cost per student:	Grade Level				Total Unrestricted WPU*	Average % of unrestricted WPU per	Students in 2013-2014 school year
	K	Grades 1-6	Grades 7-8	Grades 9-12			
Pioneer High School	\$ -	\$ -	\$ -	\$ 2,880	\$ 5,306.49	54.3%	306
Rockwell	-	-	3,730	4,030	4,697.99	82.6%	79
DaVinci	3,040	3,840	-	-	4,635.30	74.2%	527
CS Lewis	-	3,759	3,976	-	4,294.77	90.1%	200
Mana	-	3,840	4,450	4,450	4,463.93	92.9%	420
Aristotle	3,040	3,840	-	-	4,264.95	80.7%	25
Pacific Heritage	3,040	3,840	4,150	-	4,433.55	82.9%	97
Provo School District's eSchool	3,040	3,840	4,150	4,450	2,935.00 **	131.9%	55
							1,709
My Tech:	All	Grades 1-8	Grades 9-12				
Gateway Prep	3,540	-	-		4,340.97	81.5%	167
American Leadership Academy	3,710	-	-		4,699.26	78.9%	82
Provo School District's eSchool	-	2,697	3,097		2,935.00 **	98.7%	589
							838
*From Appendix C						TOTAL	2,547

**Includes \$2,899 in K-12 funding and an estimated \$36 in WPU Flexible Allocation Funding. Districts also receive unrestricted funding from local property tax levies, which are not included in the District's unrestricted WPU value.

We noted that on average the charter schools that contract with Harmony are paying between 54% and 93% of the calculated state unrestricted WPU for these online students. The charters that contract with My Tech are paying 79% and 82% of the calculated state unrestricted WPU to the contractor. The Provo eSchool has contracts with both Harmony and My Tech. The District is paying between 99% and 132% of the calculated state unrestricted WPU to the contractors.

GPA indicated that the amount actually paid to their contractor in the 2012-2013 school was a flat fee of \$2,300 and \$2,750 per student in the 2013-2014 school year. ALA indicated that the amount actually paid to their contractor in the 2013-2014 school year was a flat fee of \$2,900 for grades 9-12 and \$2,700 for grades 1-8. It does not appear that GPA or ALA's contracts were amended to reflect changes in the fee structure. We are unsure if these changes to the contract terms were ratified by their respective boards.

Established Policies and Procedures

None of the LEAs we visited were able to provide approved policies and procedures that specifically address their distance and online education programs. School district online programs largely rely on policy and procedures already enacted for other district programs.

Recommendation for the LEAs:

3L-16 We recommend that LEAs develop and document policies and requirements regarding online curriculum evaluation and approval and for teacher licensure and background checks in an online program. These policies should also include procedures to comply with student membership rules and assessment procedures.

Summary

As a result of their contracts with Harmony and My Tech, students are enrolled as public education students in an LEA; the LEA has delegated nearly all curriculum and course determination, supervision of contract employees, and nearly all interaction with students to Harmony and My Tech. The contractors have indicated that they only hire licensed teachers who have passed background checks, but the LEAs cannot provide any verification of this. The LEAs have not established a review or monitoring process to ensure that the courses offered meet the requirements or the Utah Core Standards, or that the courses students are enrolling in, by grade level, meet these standards. Numerous programs and options in these two programs indicate that courses are being administered in home school environments, and are being claimed for membership days and credit towards graduation through the LEA's accreditation. These home school courses seem to be competency and mastery based, as allowed by 53A-1-409. None of the LEAs appear to have supervised the creation of the learning objectives or standards that govern these courses and cannot describe what is required when credit is awarded for these types of courses. The LEAs do not supervise student course selection to ensure sufficient hours of instruction are achieved, nor do they review student attendance to ensure compliance with student membership rules. Not all of the LEAs supervise the administration of required state assessments.

State law and Board rules apply to the LEAs, and should also apply to the services provided by these contractors, because the LEAs have hired them to fulfill their charge of running a public school program. Though these LEAs may find that curriculum and courses being used by the two contractors comply with Utah Core Standards, and that teachers and mentors hired by the contractors are licensed employees that have completed background checks, it is the responsibility of the LEAs and their boards to verify, and not just rely on contractor assertions, that all curriculum and courses, school days, attendance, and administration of assessments comply with state law and Board rule.

We believe that approximately 2,547 students are enrolled through LEAs in Harmony and My Tech programs in the current 2013-2014 school year. Not all partner LEAs were listed on the contractor's websites; therefore, it is possible that other LEAs are using these contractors. We estimate the total unrestricted state dollars that are generated by claiming these students as full time, could be as much as \$10.5 million in the current school year. That estimate does not include special education dollars, other restricted funds, or school trust land monies that are determined or allocated based on WPU values. If even 10% of the courses or membership days claimed by the LEAs were deemed out of compliance with state law and Board rule, it could result in a little over \$1 million in potential questioned costs.

The staff and hours that would be required to review all 2,547 student schedules and the associated curriculum exceed the scope of this audit. Additionally, education expertise and SIS experts would be required to determine the appropriateness of each course and what portions of the student schedule should qualify for WPU funding. See further discussion in **Chapter 5**.

Chapter 4: Funding Formulas

School District Funding

Utah code presently includes two funding formulas for public education for school districts and charter schools. 53A-17a-106(3)(a) establishes the WPU calculation as an LEA's average daily membership (ADM) from the previous school year, plus growth. Board Rule 277-419 further defines LEA eligibility, student eligibility, and student membership rules.

R277-419 requires LEAs to establish a school schedule that provides 180 days of instruction or 990 hours in order to qualify as an LEA eligible to receive state tax dollars. It further defines a school day as having a minimum of 2 hours per day per session in kindergarten, and a minimum of 4 hours per day in grades 1-12.

To generate membership, students must be eligible, meaning they do not have a diploma, are not enrolled in a youth in custody program, are a resident of Utah, are of compulsory age, and are expected to attend a regular learning facility operated by the LEA on each regularly scheduled school day. Students are considered enrolled and earning days of membership if the school schedule complies with the requirements of R277-419, regardless of whether the student attended each day. However, the rule also requires LEAs to comply with the 10-day rule and stop students from generating membership after 10 consecutive days of unexcused absences. When students return to the school, the LEA may again claim membership days for these students. Provisions to reduce membership days exist for Health Department Emergencies, pandemics, and student home and hospice situations.

The 10-day rule establishes membership directives for the traditional student who attends a brick and mortar school. Membership rules help the USOE ensure that students are only generating one WPU per year, regardless of where they receive educational services. School districts are funded for the current school year based on membership earned in the previous school year. When a school district complies with the 10-day rule, membership is reduced for students who have significant unexcused absences. Compliance with the 10-day rule reduces a school district's overall days of membership and overall funding for the next year. In a virtual environment where attendance during school hours may or may not be required, compliance with the rule is more difficult to demonstrate. In our review of student records, we noted some cases where a student had not logged into a virtual class for more than 10 consecutive school days and the student's membership records were not adjusted.

Utah Code 53A-11-102.5(4)(a-b) indicates that students enrolled in a district or charter school are considered students of the LEA for the purposes of state funding to the extent of the students' participation in the LEA's school programs. Some LEAs we visited allowed part time students in K-6 grades; some allowed part time students in grades 7-12. These students were not dual enrolled in another LEA. R277-419 allows for students to be enrolled less than full

time and outlines how student membership data should be recorded so that the total student membership reflects the students' partial participation in the regular school day.

Student membership days are summed at the end of the school year and are used to determine the WPU for the next school year. In a school district, a student who enrolls at the beginning of the school year and transfers to another district after 35 days will earn membership in two districts. The first district records 35 days of membership and the second records 145, the sum of which is 180. If a student is enrolled in a school district part time, their membership days are prorated to reflect only partial amount of 180 days.

Charter School Funding

Charters schools are governed by a different funding formula than school districts. 53A-1a-513 (3)(b) was enacted in the 2013 legislative session and states, "For the 2013-14 and 2014-2015 school years, the number of WPUs assigned to a charter school for the kindergarten and grades 1 through 12 programs of the basic school program shall be: based on the higher of October 1 enrollment in the current school year, or the ADM in the prior school year plus growth as determined under Section 53A-17a-106..." This law sunsets after school year 2014-2015.

The October 1 headcount is a census of students, by grade, that were enrolled in the LEA as of October 1. Only charter schools that are experiencing decreasing enrollment are benefited by calculating funding on their prior year ADM plus growth. The census is a count of each student, while ADM plus growth reflects part time students, and reduced membership for those that transfer or withdraw during the year. The use of the October 1 head count is necessary in cases of charters schools that are new, or for charters that are significantly expanding, both of which do not have appropriate ADM data from the prior year to correctly calculate funding.

All LEAs are expected to follow membership guidelines in R277-419. Because charters may be funded on October 1 enrollment, and not on membership days, prorating membership and compliance with the 10-day rule, after October 1, has no impact on total funding. Under the current funding law, charters are paid for students if students were counted on October 1, regardless of the days of membership generated by that student. For example, if a student enrolls in a charter school and then transfers to a district school after October 1, the charter will continue to receive the full value of the WPU and all other MSP funding for the entire school year. Likewise, the school district that the student transfers to would record membership days for the student, which are paid to the district in the following school year.

A student that is enrolled in one charter school and then transfers to another charter school mid-year will only generate funding in the school the student was enrolled in on October 1. The second charter receives no funding for the educational services provided. Presently, there are no provisions in law or rules that establish a method for LEAs or the USOE to reconcile membership days to October 1 funding.

R277-419 establishes minimum requirements for the LEAs and school schedules, and allows LEAs to determine their schedules. One LEA may teach 6-8 periods a day, other LEAs have

established block schedules. The LEAs are allowed to establish schedules that fit student and local preferences, as long as the 990 hours of instruction are met and the standard school days meet a minimum 2 hour requirement for kindergarten and a minimum 4 hours for grades 1-12. The LEAs then establish a value of membership days per course, so that the total membership does not exceed 180 days per student. Students enrolling part time are prorated, to only reflect the hours of instruction and portions of the day they actually participated in.

As we reviewed the schedules for the distance and online programs run by contractors, we noted that students may not be held to the same standard as the students that attend the LEAs in person. LEA school schedules meet the required standard and hours of instruction, so they qualify for funding. However, the schedules of the distance and online programs were much less consistent. Many students were enrolled in only four courses for the year. Other students were not enrolled in the required core curriculum according to their grade level. Some students were only registered for the three or four core courses and others were only registered for one or two core courses and two elective courses, the combination of which do not appear to satisfy the requirements of R277-700, or the LEA's school schedule for full time students. However, because each of these students was enrolled on October 1, the LEA was paid the full value of the WPU and all other MSP funding. Even if the student's schedule and membership days were prorated, in compliance with Board rule, the LEAs still receive the full value of the WPU and MSP funding based on the October 1 count, not actual student membership.

We were unable to find a statute or rule that establishes the minimum number of courses or credit hours required to claim a student as full time in a virtual or online environment. In the absence of a specific rule for online classes, some of the LEAs we interviewed established progress and hour requirements to comply with the various provisions of R277-419. The present rule does not address how virtual classes apply to these standards, or how courses that are not tied to instructional hours are to be valued. Under the present funding laws and rules, a student enrolled full time in a charter, who attends all classes at the LEA, generates exactly the same funding as a student who attends the same school for only one or two classes a day. This same full time student that attends all classes at a charter generates the same amount of funding as a student enrolled in an online program, which may or may not receive direct instruction from a licensed teacher, regardless of the number of courses the student is taking. Furthermore, Board policy does not provide guidance on how a WPU should be split between LEAs when the LEAs have not developed a dual enrollment agreement.

The prior year ADM plus growth formula appears to be the most equitable formula for all LEAs. It allows for proper accounting of partial memberships, transfers and withdrawals, for dual enrollment between LEAs, and results in the most efficient allocation of available public school dollars. Extensive studies were conducted by the school finance division at the USOE in 2013, which included charter school representation, that discussed an agreed upon funding formula, based on the prior year ADM plus growth formula for all LEAs. This modified ADM formula provided for a phase-in over three years which resulted in less a significant financial impact to charter schools. The ADM formula and associated membership rules, if applied appropriately has the potential to eliminate duplicate funding and enable USOE staff to audit membership data for anomalies and inconsistencies, further stretching the public education dollar.

Competency Based Funding

As we examined the distance and online programs, it became apparent that another substantial issue that had not been addressed is competency based education. In the 2013 legislative session, 53A-1-409 was enacted establishing the allowability of competency based education. This law states that prior to the beginning of the 2014 legislative session, the Board is required to make recommendations to the Education Appropriations Subcommittee regarding the development and implementation of a competency based education program and required assessments. These recommendations were to include a funding formula, funding requirements, and a plan for remediation.

Sections 4 and 5 of the law allow LEAs to establish a competency based education program and establish any required competency based assessments. LEAs are required to submit their plan to the Board for review. However, the law does not require Board approval, nor does it make the adoption of these programs contingent upon the development and approval of a funding formula. Section 5 allows LEAs to limit enrollment in competency based programs and waive or change traditional attendance requirements.

The law prescribes that a funding formula cannot be dependent on the amount of time a student is instructed in a course and the establishment of a weighted competency unit (WCU), similar to the WPU. The law requires a base funding recommendation, and a distribution pattern for the remainder of the WCU to LEAs for a student's successful completion of a course through demonstrated competency and subject mastery. Some of the online courses we reviewed in both the LEA managed and contractor managed programs (including the home school courses utilized by the contractors) appear to be competency based rather than based on student membership.

Presently, there is no approved funding formula for competency based education programs, and awarding credit for demonstrated mastery in a subject. In the absence of an allowable method, many courses are being claimed for membership hours to generate funding. These courses do not appear to comply with student membership rules upon which funding is presently based. The fact that the charter schools have a different funding formula, which does not include provisions for part time or prorated students, further complicates this matter. The existence of two different funding formulas and the allowability of competency based education, without a funding definition or rules to guide application, results in misapplication of student membership rules. This could result in overpayment of education funds to various LEAs if competency based courses are claimed through the membership funding formula.

Recommendations for the Board:

- 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:
- 1) Are virtual schools/students subject to the 180 days, 990 instructional hour provisions?

- 2) Does the 10-day rule apply to virtual students? Is there a suitable substitute such as a progress measure?
- 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?
- 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?
- 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.

Chapters 5: Other Matters

Special Education Services

Since the beginning of the 2013-2014 school year, the Special Education division of the USOE has been receiving reports of concerns regarding the transfer of special education records and timely provision of special education services to students with disabilities at the LEAs that enroll students through contractors. These complaints pertaining to special education services were received simultaneously with those that were received by the IA division. It is the responsibility of the USOE to monitor the implementation of Part B of the Individuals with Disabilities Education Act (IDEA), including the requirements for child find and the provision of a free appropriate public education (FAPE) in public schools for all LEAs. The administration of special education services and determinations of compliance are best completed by experts in the Special Education division. These matters have been referred to the Special Education Director who began a detailed monitoring process of the LEAs that are using third party contractors for the administration of curriculum in December of 2013. Specific findings of noncompliance will be reported to the Board, if any are identified.

Contract Concerns

We obtained the contracts of Utah Virtual and Utah Connections Academy, as well as the contracts of all LEAs that have entered into agreements with Harmony and My Tech. We reviewed these contracts for compliance with state statutes and the state procurement code.

Revisions to the state procurement code rules went into effect on May 1, 2013. Utah Code 63G-6a-1204(7) states, "A multiyear contract, including any renewal periods, may not exceed a period of five years..." The law allows contracts to exceed a period of five years if the procurement officer determines, in writing, that the contract satisfies one of the exceptions listed in the code. The terms and automatic renewal periods included in the contracts of DaVinci, Rockwell, and Mana Academy (formerly known as Salt Lake Charter School), which were signed or became effective after May 1, 2013, appear to exceed the five year period.

Procurement code requires all contracts greater than \$5,000 to be the result of an invitation to bid or request for proposal (RFP) process. As we inquired of LEAs as to the bidding process or RFP process for their contracts, LEAs were unable to provide any evidence of a competitive purchasing process or sole source determination. Provo City School District indicated their Harmony contract had been cleared through purchasing, but did not provide any documentation to verify this. There does not appear to be evidence to indicate that any of these contracts for educational services followed the state procurement law. Numerous penalties are outlined in the code, and 63G-6a-2302 requires procurement units, such as the USOE, to report violations of the procurement code or anticompetitive practices relating to procurements to the attorney general.

Some contracts calculated an amount per student using state unrestricted and restricted funding sources. Restricted funding sources such as special education add-on and self-contained state dollars are to be used by LEAs in their special education programs, and to provide special education services required by law. This matter was reported to the Special Education division at the USOE.

Every charter contains required assurances; one of those is that the LEAs will follow state law, which includes the state procurement code.

Recommendation for the Board:

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.

Recommendation for the LEAs:

5L-1 We recommend that the LEAs follow the state procurement code, establish sufficient internal controls to ensure that all existing and future contracts comply with state procurement code, including proper observance and documentation of bidding or RFP practices.

CACTUS and SIS systems

We reviewed many student schedules and files and noted numerous instances of students being assigned to a “teacher of record” in the CACTUS system that did not have current educator license, or did not have an appropriate license or endorsement(s) for the grade or courses taken by the student. We noted students being assigned to individuals in CACTUS who were not employees of an LEA, but rather employees of the contractor. We noted numerous instances of courses in the SIS not aligning with those provided by the contractor or LEA.

If educators who are not LEA employees are included in the CACTUS system and assigned to an LEA, their statistics may be included in the professional staff, educator salary adjustment, and teacher supply funding calculations and result in funding being generated and sent to the LEA for individuals who may not qualify to generate funding. We were unable to find specific guidance on how these teachers, who are not LEA employees, should be reflected in CACTUS. We were also unable to find any rule providing guidance on whether it is appropriate for non LEA teachers to be included in these funding calculations. We did not have sufficient time to thoroughly analyze this data or estimate an impact on funding. This matter will be referred to the Teaching and Learning division for investigation.

Recommendations for the Board:

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.

- 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.
- 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.
- 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.

Recommendations for the LEAs:

- 5L-2 We recommend LEAs review the licensure status of their employees and ensure teachers are properly licensed and endorsed for their assignments, and that information is appropriately reflected in CACTUS.
- 5L-3 We recommend LEAs ensure that students and their schedules are recorded appropriately in SIS and that the appropriate teachers and course codes are recorded in the SIS.
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Charter Review

We inquired of the state charter school director regarding the Utah Virtual, Utah Connections and Mountain Height charters. The director indicated that all three of these charters were approved by the SCSB and included clear provisions that each LEA would provide curriculum and courses online.

We reviewed the charters of Aristotle, Pioneer High School for the Performing Arts, Mana Academy, GPA, Walden, Rockwell, ALA, Pacific Heritage Academy, Merit College Preparatory Academy, DaVinci, and C.S. Lewis, who are the LEAs that are currently or recently have partnered with Harmony or My Tech. Walden and Merit College Preparatory Academy terminated their programs prior to the 2013-2014 school year.

We noted that each charter application contained specific assurances made by the LEA's chief administrative officer that the LEA would comply with appropriate rules, regulations, state guidelines, FERPA, and procurement policies and would employ the use of the Utah State Core Curriculum as the foundation for the instructional program for the school.

Only three of these charters included any mention of a distance or online program. Pioneer High School for the Performing Art's charter states that online/virtual classes will be used for 75% of core classes to allow more time for elective classes. Mana Academy's charter indicates they will use a variety of software programs (K12, Giant Campus, Harmony Online) that will

allow students to learn at their own pace and provide immediate feedback to students on both practice and formal assessments. Rockwell’s charter indicates that students will have access to virtual education opportunities through technology and that students will be able to access accredited coursework in the virtual educational community.

None of the charters indicated that the LEAs intended to contract out all curriculum determination, instruction, or the administration of state required assessments.

Recommendation for the Board:

5B-6 We recommend that the Board and the SCSB determine whether the distance and online programs that LEAs have contracted with met the terms of their charter agreement, and take appropriate action.

Compulsory Education and Truancy Rules

We noted during our interviews with the LEAs that manage their own programs and those that have hired contractors to manage their programs, that a large portion of the LEAs do not understand the laws and rules surrounding student suspension and expulsion from a public school, nor the compulsory education and truancy rules. Many LEAs indicated that it was their policy to withdraw or “counsel” students back to their neighborhood school if the student did not comply with LEAs rules regarding progress, logins, etc. Some contractors indicated that if a student did not take the required state assessments then the LEA would not enroll the student for the next school year. 53A-11-903 and 904 provide guidance for LEAs regarding suspension or expulsion from a public school, which include parent and student notification rights. Counseling out a student who is not doing well in an online environment, are unable to keep up, or refuse to take state required assessments does not seem to fall under the provisions of this law. There was no mention of student disciplinary rules, hearings, due process, or appeal rights.

In our review of Harmony students, we noted numerous students who appeared to be leaving one Harmony LEA and transferring to another Harmony LEA in the same school year, some indicating that the first LEA’s rules were too restrictive. Many students were withdrawn with no explanation provided; many were exited from the charter to home school. We only noted two LEAs, DaVinci and Rockwell that required the parent of students withdrawing to home school to provide a copy of the notification filed with the student’s school district of residence. The Director of DaVinci indicated that a copy of the home school notification to the District was required to ensure that his LEA was complying with compulsory education law.

One of the initial complaints received was that LEAs are exiting students to home school prior to the LEA determining what state required assessment would be generated and administered to the student. As we reviewed student files at each LEA, we noted numerous students being exited from the LEA using the “CH” exit code in their SIS. This code removes the student from the LEAs responsibility; they are not counted in dropout rates, nor are assessments generated

in years when they may have been required. Because documentation in the student file was insufficient, we were unable to determine in most cases whether the “CH” code was used appropriately, and in consultation with the student’s district of residence LEA. We noted other withdrawals or transfers for which documentation was insufficient to determine if the proper SIS exit code was used.

53A-1a-506.5 establishes guidelines for parents when they withdraw or transfer a charter school student to another charter or school district. The law requires the parent to submit a notice of intent to enroll, or requires a letter of acceptance after June 30 be submitted to the charter school. 53A-11-102(2) further indicates that only a local board of education, in the students’ district of residence, can excuse a minor from compulsory attendance in a public school if the minor’s parents provide an affidavit indicating education will be provided through home school instruction. Charters schools do not seem to have the authority to excuse minors to home school.

Many students are enrolled in charters that are not in their district of residence. When a student attends any public school, that school is then responsible to comply with the compulsory education laws regarding that student. If an LEA exits or transfers a student to home school and does not notify the district of residence, the district of residence has no way to know if the charter or themselves are responsible for the compulsory education of the minor, which is set forth in 53A-11-101 and 102.

Recommendations for the Board:

- 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.
- 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.

Recommendations for the LEAs:

- 5L-4 We recommend that LEAs comply with 53A-11-903 and 904 regarding student suspension, expulsion, and removal from charter school programs to ensure student and parent rights are protected and observed in accordance with law.
 - 5L-5 We recommend LEAs review guidelines on the appropriate use of transfer and exit codes to ensure compliance with law.
 - 5L-6 We recommend that LEAs ensure sufficient documentation is retained in student files to verify the validity of the use of transfer and exit codes, and verify their compliance with compulsory education and truancy laws.
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Appendix A - LEAs that Currently Operate a Distance/Online Education Program

LEA	Online School Name	Grades Served	Curriculum	Visited During Testwork
Alpine District	Alpine Online School	K-8	K12, Saxon Math, Rosetta Stone	X
Canyons District	Canyons Virtual High School	9-12	BrainHoney, GradPoint	
Davis District	Davis Connect	K-6, 9-12	K-6: Houghton Mifflin, Go Math, In house curriculum for Science and Social Studies. 9-12: Utah Students Connect	
Duchesne District	Duchesne High School Online	9-12		
Garfield District	Garfield Online	7-12	K12, Aventa	
Granite District	Connection High School	9-12		
Iron District	Iron County School District Online	9-12		
Jordan District	Jordan School District Online	9-12	Utah Students Connect	
Juab District	Juab High School - Wasp Online	9-12		
Millard District	Millard Education Online	9-12	Utah Electronic High School, Odysseyware	
Morgan District	Morgan High Online	9-12		
Murray District	MHS Utah Students Connect	9-12	Utah Students Connect	
Nebo District	Nebo Online	9-12	Utah Students Connect	
Park City District	Park City Online	9-12	Utah Students Connect	
Provo District	Provo eSchool	K-12	K-12, MyTech, Harmony	X
Salt Lake District	East High Online, Highland High Online, Horizonte Online, West High Online	9-12		
Sevier District	Sevier Connection Online High School	9-12	K12, Aventa	
South Summit District	South Summit High School Online	9-12		
Tooele District	Tooele Utah Students Connect	9-12	Utah Students Connect	
Uintah District	Uintah Online - Ashley Valley Education Center	K-12	K12, Aventa	
Wasatch District	Wasatch Learning Academy (K-8), Wasatch High eSchool (9-12)	K-12	K12, Little Lincoln, e2020	
Washington District	Utah Online School K-12	K-12	K12	X
Weber District	Weber Online	K-12	K12	
American Leadership Academy		K-12	MyTech	X
Aristotle Academy		K-8	Harmony	
CS Lewis Academy		K-8	Harmony, K12	X
Davinci Academy		1-6	Harmony	X
Gateway Preparatory Academy		K-12	MyTech	
Itineris Early College High		10-12	Aventa K12	
Mana Academy		K-12	Harmony	
Mountain Heights Academy		7-12	In-house curriculum	X
Pacific Heritage Academy		7-8	Harmony	
Pioneer High School for the Performing Arts		9-12	Harmony	
Canyon Grove Academy	Canyon Grove Distance Learning Program	K-8	In-house curriculum	
Rockwell Charter High School		7-12	Harmony	X
Utah Connections Academy		K-12	Connections Education Platform	X
Utah Virtual Academy		K-12	K12	X

Source: USOE Survey of School Websites, 1/21/14

Appendix B - Applicable Laws and Rules

The Family Educational Rights and Privacy Act (FERPA)

The Code of Federal Regulations Title 34 section 99 sets guidelines for LEAs to protect the privacy of students and parents and establish the proper use and disclosure of educational records. FERPA defines an educational record as records that directly relate to a student and are maintained by an LEA or party acting for the LEA. 34 CFR §99.7 requires LEAs to notify the parents of eligible students currently in attendance that the parents and students have the right to inspect and review student records, seek amendments, and consent to disclosures of personally identifiable information contained in the student education records. FERPA also requires LEAs to outline procedures for exercising the right to inspect and review educational records and procedures for requesting amendments to records. If the LEA has a practice of disclosing education records under the provisions of §99.31, the LEA must determine who is a school official and what constitutes a legitimate education interest.

53A-1-402.6 Core Curriculum Standards/R277-700 Elementary and Secondary School Core Curriculum

Statute requires the Board of Education to “Identify basic knowledge, skills, and competencies each student is expected to acquire or master as they advance through the public education system.” Local school boards are required to design their school programs and curriculum to focus on the core curriculum standards. R277-700 establishes a framework for core standards by grade level and subject and makes it the responsibility of local school boards to implement these standards.

53A-1a-104(2) and 106/R277-108-5(3) Student Education Occupation Plans

Statute and rule requires that each student have a personalized student education occupation plan (SEOP). It is defined as a plan developed by a student and the student’s parent or guardian, in consultation with school counselors, teachers and administrators and initiated at the beginning of grade seven. The SEOP should identify the student’s skills and objectives, map out a strategy to guide student’s course selection, and link a student to post-secondary options, including higher education and careers.

53A-1-409 Competency Based Education

Prior to the beginning of the 2014 legislative session, the Board is required to make recommendations to the Education Appropriations Subcommittee regarding the development and implementation of a competency based education program and required assessments. These recommendations were to include a funding formula, funding requirements, and a plan for remediation. Sections 4 and 5 of this statute allow LEAs to establish a competency based education program and establish any required competency based assessments. LEAs are required to submit their plan to the Board for review. Section 5 allows LEAs to limit enrollment in competency based programs and waive or change traditional attendance requirements. These programs are not currently tied to a funding formula.

53A-1a-512(4)(a) / R277-520.3 Licensure Requirements for Teachers in LEAs

This statute and Board rule require all teachers in public schools to hold an educator license along with appropriate areas of concentration and endorsements, or be qualified to teach under alternative certification or authorization programs.

53A-1a-512.5 /53A-3-410 Criminal Background Checks on School Personnel

This statute requires LEAs to ensure that all applicants submit to a background check as a condition of employment. It also requires all LEA employees to periodically submit to background checks in accordance with Board policies. It requires all individuals applying for a license issued by the Board to submit to a background check, and all contract employees who work at public schools that are not licensed to submit to background checks at least every six years.

53A-1a-513 Funding for Charter Schools

Section 3(b) states, "For the 2013-14 and 2014-2015 school years, the number of weighted pupil units assigned to a charter school for the kindergarten and grades 1 through 12 programs of the basic school program shall be: based on the higher of October 1 enrollment in the current school year, or the average daily membership in the prior school year plus growth as determined under Section 53A-17a-106..."

53A-17a-106 (3)(a) Funding for School Districts

Statute requires that the number of weighted pupil units assigned to school districts is determined based on the average daily membership from the prior year, plus growth.

R277-404 Requirement for Assessments of Student Achievement

This rule provides definitions of and standards and procedures for a Board developed and directed comprehensive assessment system for all students.

R277-410-3 Accreditation of Public Schools

This rule requires that Utah public secondary schools be members of AdvancED Northwest and be accredited by AdvancED Northwest.

R277-419 Pupil Accounting Rule

This rule establishes criteria for schools, school days, and student attendance requirements. The rule defines student membership guidelines, including eligibility, the 10-day rule, and criteria required for students to generate membership days (which correspond to the calculation and distribution of the WPU). This rule further interprets 53A-17a-106.

R277-705 LEAs Required LEA Policy Explaining Student Credit

This board rule requires LEAs to accept credits and grades awarded to students from schools or providers accredited by the Northwest Accreditation commission or approved by the Board without alteration. It allows for LEA policies to provide various methods for students to earn credit from non-accredited sources, coursework or education providers. Methods may include:

- (1) Satisfaction of coursework by demonstrated competency, as evaluated at the LEA level;
- (2) Assessment as proctored and determined at the school or school level;
- (3) Review of student work or projects by LEA administrators; and
- (4) Satisfaction of electronic or correspondence coursework, as approved at the LEA level.

LEAs may require documentation of compliance with Section 53A-11-102 prior to reviewing student home school or competency work, assessment or materials. An LEA has the final decision-making authority for the awarding of credit and grades from non- accredited sources consistent with state law, due process, and this rule.

Appendix C - Calculation of Per Pupil Unrestricted Funds for Charter Schools 2013-2014

LOCAL EDUCATION AGENCY							2013-2014
	K-12	WPU Flex	Local Replacement	Admin	Total	Total	Average
	Funding	Funding	Funding	Funding	Unrestricted	Enrollment	Per Pupil
Ogden Preparatory Academy	\$ 2,737,062	\$ 36,478	\$ 1,758,249	\$ 104,100	\$ 4,635,889	1,041	\$ 4,453
American Preparatory Academy	9,245,405	116,743	5,793,270	343,000	15,498,418	3,430	4,518
Walden School	1,432,111	19,011	748,227	44,300	2,243,649	511	4,388
Freedom Academy	2,510,679	31,157	1,612,995	95,500	4,250,331	955	4,451
AMES	1,708,341	20,266	829,299	49,100	2,607,006	491	5,310
Pinnacle Canyon Academy	1,506,338	23,899	873,213	51,700	2,455,150	517	4,749
City Academy	781,600	10,651	396,915	23,500	1,212,666	235	5,160
Soldier Hollow School	735,360	9,924	498,255	29,500	1,273,039	295	4,315
Tuacahn Performing Arts	1,325,423	15,577	643,509	38,100	2,022,609	381	5,309
Uintah River High School	257,806	3,530	124,986	7,400	393,722	74	5,321
John Hancock	470,218	6,454	312,465	18,500	807,637	185	4,366
Thomas Edison	3,364,086	44,400	2,221,035	131,500	5,761,021	1,315	4,381
Timpanogos Academy	1,109,535	13,546	738,093	43,700	1,904,874	437	4,359
Salt Lake Arts Academy	1,064,188	13,242	658,710	39,000	1,775,140	390	4,551
Fast Forward High School	845,329	10,322	401,982	23,800	1,281,433	238	5,384
NUAMES	1,739,400	21,740	925,572	54,800	2,741,512	500	5,483
Ranches Academy	896,950	12,008	614,796	36,400	1,560,154	364	4,286
DaVinci Academy	3,082,507	39,884	1,852,833	109,700	5,084,924	1,097	4,635
Summit Academy	2,562,020	32,488	1,685,622	99,800	4,379,930	998	4,389
Itineris Early College High School	1,033,329	11,725	501,633	29,700	1,576,387	297	5,308
North Davis Preparatory Academy	2,635,974	32,850	1,702,512	100,800	4,472,136	1,008	4,437
Moab Community School	281,348	3,631	195,924	11,600	492,503	116	4,246
East Hollywood High School	1,075,470	12,741	521,901	30,900	1,641,012	309	5,311
SUCCESS Academy	1,304,550	14,577	633,375	37,500	1,990,002	375	5,307
UCAS	1,403,103	16,820	678,978	40,200	2,139,101	402	5,321
Lincoln Academy	1,721,630	22,641	1,155,276	68,400	2,967,947	640	4,637
Beehive Science & Technology	901,966	10,694	496,566	29,400	1,438,626	294	4,893
Wasatch Peak Academy	1,013,346	12,930	702,624	41,600	1,770,500	416	4,256
North Star Academy	1,400,537	17,544	890,103	52,700	2,360,884	527	4,480
Reagan Academy	1,713,077	22,493	1,138,386	67,400	2,941,356	674	4,364
American Leadership Academy	4,829,618	62,535	2,839,209	168,100	7,899,462	1,681	4,699
Navigator Pointe Academy	1,344,267	17,437	874,902	51,800	2,288,406	518	4,418
Odyssey Charter School	1,305,129	16,679	905,304	53,600	2,280,712	536	4,255
Intech Collegiate High School	630,819	8,853	305,709	18,100	963,481	181	5,322
Entheos Academy	2,724,219	33,955	1,749,804	103,600	4,611,578	1,036	4,451
Lakeview Academy	2,410,027	29,633	1,572,459	93,100	4,105,219	931	4,409
Legacy Preparatory Academy	2,821,510	36,393	1,812,297	107,300	4,777,500	1,073	4,452
Liberty Academy	1,011,445	13,993	646,887	38,300	1,710,625	401	4,263
Monticello Academy	1,979,842	24,847	1,270,128	75,200	3,350,017	750	4,467
Mountainville Academy	1,934,068	24,488	1,266,750	75,000	3,300,306	750	4,400
Paradigm High School	2,105,141	24,725	1,087,716	64,400	3,281,982	630	5,209
Renaissance Academy	1,808,803	22,052	1,205,946	71,400	3,108,201	714	4,353
Channing Hall	1,669,171	21,255	1,111,362	65,800	2,867,588	659	4,351
Spectrum Academy	1,574,244	41,003	915,438	54,200	2,584,885	542	4,769
Syracuse Arts Academy	2,679,836	35,760	1,732,914	102,600	4,551,110	1,025	4,440

Appendix C (Continued) - Calculation of Per Pupil Unrestricted Funds for Charter Schools 2013-2014

George Washington Academy	2,567,471	33,141	1,729,536	102,400	4,432,548	1,024	4,329
Noah Webster Academy	1,399,602	17,842	905,304	53,600	2,376,348	573	4,147
Salt Lake SPA	1,016,435	11,640	493,188	29,200	1,550,463	292	5,310
Open Classroom	980,355	13,320	650,265	38,500	1,682,440	385	4,370
Canyon Rim Academy	1,289,621	16,746	891,792	52,800	2,250,959	525	4,288
Guadalupe Schools	326,862	4,026	228,015	13,500	572,403	135	4,240
Karl G. Maeser Prep Academy	2,021,878	23,577	1,045,491	61,900	3,152,846	619	5,093
C.S. Lewis Academy	1,110,607	14,483	758,361	44,900	1,928,351	449	4,295
Dual Immersion Academy	1,063,817	13,509	738,093	43,700	1,859,119	437	4,254
Edith Bowen Lab School	744,464	10,278	513,456	30,400	1,298,598	304	4,272
Gateway Preparatory	1,681,930	21,888	1,065,759	63,100	2,832,677	653	4,341
Merit College Prep Academy	1,769,222	24,015	434,073	25,700	2,253,010	527	4,279
Providence Hall	4,242,781	55,812	2,606,127	154,300	7,059,020	1,547	4,563
Quest Academy	2,435,247	32,255	1,606,239	95,100	4,168,841	951	4,384
Rockwell Charter High School	2,224,251	28,694	903,615	53,500	3,210,060	683	4,698
Venture Academy	2,079,685	24,731	1,222,836	72,400	3,399,652	724	4,696
SL Center for Science Ed.	1,187,072	14,858	638,442	37,800	1,878,172	378	4,967
Utah Virtual Academy	5,633,872	85,390	3,303,684	195,600	9,218,546	1,960	4,703
Early Light Academy	1,974,451	25,913	1,270,128	75,200	3,345,692	750	4,461
Excelsior Academy	1,722,296	21,293	1,153,587	68,300	2,965,476	675	4,393
Hawthorn Academy	2,128,533	27,025	1,369,779	81,100	3,606,437	810	4,452
Open High School of Utah	1,303,833	15,359	657,021	38,900	2,015,113	389	5,180
Oquirrh Mountain Charter School	1,939,923	25,188	1,287,018	76,200	3,328,329	762	4,368
Vista at Entrada	2,081,108	28,135	1,349,511	79,900	3,538,654	811	4,363
Bear River Charter School	457,983	6,409	304,020	18,000	786,412	180	4,369
Maria Montessori Academy	1,358,849	17,085	918,816	54,400	2,349,150	544	4,318
Quail Run Primary School	1,091,595	14,474	763,428	45,200	1,914,697	457	4,186
Weilenmann School of Discovery	1,481,708	18,806	979,620	58,000	2,538,134	580	4,376
Summit Academy High School	2,092,669	24,162	842,811	49,900	3,009,542	601	5,005
Good Foundations Academy	1,146,990	14,529	790,452	46,800	1,998,771	468	4,271
Alianza Academy	1,190,918	15,451	771,873	45,700	2,023,942	471	4,295
Utah Connections Academy	2,032,779	24,856	1,163,721	68,900	3,290,256	691	4,765
Endeavor Hall	1,551,197	19,728	1,037,046	61,400	2,669,371	614	4,348
Aristotle Academy	539,895	7,872	371,580	22,000	941,347	221	4,265
High Mark Charter School	1,827,936	22,181	1,143,453	67,700	3,061,270	677	4,522
Promontory School of EL	1,188,069	14,875	783,696	46,400	2,033,040	464	4,382
Pacific Heritage Academy	1,036,973	12,915	670,533	39,700	1,760,121	397	4,434
Valley Arts Academy	1,026,502	13,277	707,691	41,900	1,789,370	419	4,271
Pioneer High School	1,666,345	18,535	809,031	47,900	2,541,811	479	5,306
Utah International School	328,312	4,546	175,656	10,400	518,914	104	4,990
Leadership Learning Academy	1,091,908	14,209	760,050	45,000	1,911,167	450	4,247
Mana Academy	1,717,716	20,989	1,097,850	65,000	2,901,555	650	4,464
Voyage Academy	1,223,378	15,349	844,500	50,000	2,133,227	500	4,266
WSU Charter Academy	65,372	985	69,249	4,100	139,706	41	3,407
Utah Career Path High School	608,790	7,174	295,575	17,500	929,039	175	5,309
TOTAL CHARTERS	\$ 152,338,027	\$ 1,971,099	\$ 92,726,100	\$ 5,490,000	\$ 252,525,226	\$ 55,486	\$ 4,553
Average Per Charter School	\$ 2,746	\$ 36	\$ 1,671	\$ 100	\$ 4,553		

Source: USOE School Finance Division