R277-113 WAS APPROVED BY THE UTAH STATE BOARD OF EDUCATION ON FEBRUARY 8, 2013. THE AMENDED RULE IS SCHEDULED TO BE PUBLISHED IN THE MARCH 15, 2013 UTAH STATE BULLETIN, SUBJECT TO A 30-DAY COMMENT PERIOD, WITH A FIRST POSSIBLE EFFECTIVE DATE OF APRIL 22, 2013.

R277. Education, Administration.
R277 113. LEA Fiscal Policies and Accountability.
R277-113-1. Definitions.

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

B. "Board" means the Utah State Board of Education.

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

D. "Internal controls" are procedures designed to safeguard assets, detect errors and misappropriations, produce timely and accurate financial reports, and ensure compliance with laws and rules.

E. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and for purposes of this rule, the Utah Schools for the Deaf and the Blind.

F. "Management" means an LEA superintendent or director, deputy or associate, business administrator or manager, or other educational administrator or designated staff.

G. "Public funds" (Utah Code Section 51-7-3(25)) means money, funds, and accounts, regardless of the source from which the funds are derived, that are owned, held, or administered by the state or any of its political subdivisions including LEAs or other public bodies.

H. "School sponsored" means an activity, fundraising event, club, camp, clinic or other event or activity that is authorized by a specific LEA or public school which supports the LEA or authorized school club, activity, sport, class or program, that also satisfies at least one of the following conditions:

(1) it is managed or supervised by an LEA or public school, or LEA or public school employee;

(2) it uses the LEA or public school's facilities, equipment, or other school resources; or

(3) it is supported or subsidized, more than inconsequently, by public funds, including the public school's activity funds or minimum school program dollars.

I. "Utah Public Officers' and Employees' Ethics Act" (Utah Code Sections 67-16-1 through 15) means an Act that provides standards of conduct for officers and employees of the state of Utah and its political subdivisions in areas where there are actual or potential conflicts of interest between their public duties and their private interests.

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R277-113-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and by Section 53A-1-402(1)(e) which directs the Board to establish rules and minimum standards for school productivity and cost effectiveness measures.

B. The purpose of this rule is to (1) require LEAs to formally adopt and implement policies regarding the management and use of public funds; (2) provide minimum standards, procedures and definitions for LEA policies; (3) direct that LEAs make policies, procedures and training materials available to the public and readily accessible on LEA or public school websites, to the extent of resources available; (4) require LEAs to train employees in appropriate financial practices, necessary accounting procedures and ethical financial practices; and (5) provide for consistency among LEAs regarding fiscal policies, procedures and accountability practices.

R277-113-3. Board Responsibilities.

A. The Board shall provide training and informational materials and model policies for use by LEAs in developing LEA and public school-specific financial policies about the use and management of public funds before March 31, 2013.

B. The Board shall provide online training and resources for LEAs regarding the use and management of public funds and ethical practices for licensed Utah educators who manage, control, participate in fundraising, or expend public funds before March 31, 2013.

C. The Board may provide and establish a cycle for state review of LEA fiscal policies and standards.

D. The Board shall work with and provide information upon request to the Utah State Auditors Office, the Legislative Fiscal Auditors and other state agencies with the right to information from the Utah State Office of Education.

R277-113-4. LEA Responsibilities.

A. LEAs shall develop, have approved by local/charter boards and implement the fiscal policies required in R277-113-5 before September 15, 2013. These policies shall be in writing.

B. LEAs shall also develop a plan for training LEA and public school employees, at least annually, on policies enacted by the LEA specific to job function.

(1) These policies shall be available at each LEA main

office, at individual public schools, and on the LEA's website.

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

(3) LEAs may have one policy or more than one satisfying the minimum requirements of this rule.

(4) An LEA policy shall address how often the policy shall be reviewed, including periodic updates or training and resource manuals.

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

C. An LEA shall designate board members to serve on an audit or finance committee. The LEA audit or finance committee has the following responsibilities:

(1) ensuring that management properly develops and adheres to a sound system of internal controls consistent with the requirements of R277-113-5;

(2) receiving a report of the risk assessment process undertaken by management in developing the system of internal controls;

(3) developing a process to review financial information, financial statements, and LEA and individual school records on a regular basis;

(4) ensuring that management conducts a competitive RFP process to hire external auditors and other professional services and making a recommendation to the LEA board on the results of the RFP process consistent with the State Procurement Code;

(5) receiving communication from or meeting with the external auditors annually and receiving a direct report of the audit findings, exceptions, and other matters noted by the auditor;

(6) reporting the annual audit reports and findings or other matters communicated by the external auditor or other regulatory bodies to the LEA board in a public meeting;

(7) ensuring that matters reported by external audits, internal audits, or other regulatory bodies are resolved in a timely manner.

D. The definition of school sponsored and requirements of R277-113-4F do not apply to activities, fundraising events, clinics, clubs, camps, or activities organized by a third party which have not been designated by the LEA as school sponsored. All transactions pertaining to nonschool sponsored events shall be conducted at arm’s length; revenues and expenditures shall not be commingled with public funds.

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

F. LEAs and individual public schools shall comply with the following regarding school and nonschool sponsored activities:

(1) may enter into contractual agreements to allow for fundraising and use of LEA facilities. An agreement shall take into consideration the LEA's fiduciary responsibility for the management and use of public funds. LEAs should consult with the LEA insurer or legal counsel, or both, to ensure risks are adequately considered and managed;

(2) shall annually review fundraising activities that support or subsidize LEA or public school-authorized clubs, activities, sports, classes or programs to determine if the activities are school sponsored consistent within R277-113-1H;

(3) shall ensure that revenues raised from school sponsored activities and funds expended from the proceeds are considered public funds consistent with R277-113-1G;

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

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

(6) shall make records of activities available to parents, students, and donors and shall maintain the records in sufficient detail to track individual contributions and expenditures as well as overall financial outcome. Records may be private or protected consistent with Sections 63G-2-302, 303, 305, and the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g;

G. Public Education Foundations established by LEAs shall follow the requirements provided in Section 53A-4-205.

R277-113-5. Required LEA Fiscal Policies.

A. The following fiscal policies shall be required in each LEA. LEAs shall ensure that each policy addresses the specific Utah Code references or Board Rules in each section. The required items are minimum requirements. LEAs may include other related items, provide LEA specific policy and guidance, and set polices that are more restrictive and inclusive than the minimum provisions established by the Board.

B. LEAs shall ensure that policies address applicable elements from the Utah Public Officers' and Employees' Ethics Act, Utah

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Educator Standards (R277-515), and the definition of public funds.

C. LEA fiscal policies shall address the following:

(1) Cash Handling: The LEA cash handling policy shall address cash receipts (cash, checks, credit cards, and other items) collected at the LEA and individual public schools through school sponsored activities and shall include:

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

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

(2) Expenditure of Public Funds: The LEA expenditure policy shall address expenditures made by checks, electronic transfers and credit/debit cards that are made by the LEA and individual public schools through school sponsored activities and shall include:

(a) establishment of internal controls and procedures over the initiation, approval and monitoring of expenditures, credit or debit card transactions, employee reimbursements, travel, and payroll;

(b) directives regarding the appropriate use of the LEA tax exempt status number;

(c) compliance with Section 63G-6a-1204(7) regarding length of multi-year contracts;

(d) compliance with Section 63G-6-201 et seq. procurement state law and Board rule regarding construction and improvements, and compliance with Title IX; and

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

(3) Fundraising: The LEA fundraising policy shall establish procedures for LEA and public school fundraising in general, establish an approval process for fundraising activities, school sponsored activities, provide for compliance with school fee and fee waiver provisions, and shall include:

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

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

(c) directives regarding the appropriate use of the LEA tax exempt status number, and issuance of charitable donation receipts;

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

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

(f) This policy shall be in harmony with Article X of the Utah Constitution establishing a free public education system, with R277-407 regarding school fees, and compliance with Title IX.

(g) The LEA may include procedures governing student participation and incentives offered to students, allowable types of fundraising activities, and participation in school sponsored activities by volunteer or outside organizations.

(4) Donations and Gifts: The LEA donation and gift policy shall establish acceptance and approval process for monetary donations, donations and gifts with donor restrictions, donations of gifts, goods, materials or equipment, and funds or items designated for construction or improvements of facilities, and shall include:

(a) establishment of internal controls and procedures over the acceptance and approval of donations and gifts and compliance with associated cash handling and expenditure policies;

(b) directives regarding the appropriate use of the LEA tax exempt status number, and issuance of charitable donation receipts;

(c) procedures regarding the objective valuation of donations or gifts if advertising or other services are offered to the donor in exchange for a donation or gift;

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

(e) procedures establishing provisions to direct donations or gifts to the LEA or LEA programs, individual public school or public school programs, and restricting donations from being directed at specific LEA employees, individual students, vendors, or brand name goods or services;

(f) compliance with Title 63G, Chapter 6 regarding the procurement code, state law and Board rule regarding construction and improvements, IRS regulations and tax deductible directives, and compliance with Title IX.

(g) The LEA may include procedures for accepting donations and gifts through an LEA's legally organized foundation, if applicable, or procedures for recognition of donors, or granting naming rights.

R277-113-6. LEA Financial Policies and Compliance with State and Federal Law.

A. LEAs are responsible to ensure that policies comply with the following state laws and Board Rules:

(1) Utah Constitution Article X, Section 3;

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(2) Utah Code 63G-6a, Utah Procurement Code;
(3) Utah Code 51-4, Deposit of Funds Due State;
(4) Utah Code 67-16, Utah Public Officers' and Employees' Ethics Act;
(5) 20 U.S.C. Section 1232g, Family Educational Rights and Privacy Act;
(6) Utah Code 63G-2, Government Records Access and Management Act;
(7) Utah Code Section 53A-12, Fees and Textbooks;
(8) Utah Code Section 53A-4-205, Public Education Foundations;
(9) R277-407, School Fees;
(10) R277-107, Educational Services Outside of Educator's Regular Employment;
(11) R277-515, Utah Educator Standards.
B. In establishing policies and providing staff training, LEAs shall consider requirements of Title IX, including:
(1) Fundraising shall equitably benefit boys and girls;
(2) Boys and girls shall have reasonably equal access to facilities, fields and equipment;
(3) School sponsored activities shall be reasonably equal for boys and girls.

KEY: school sponsored activities, public funds, fiscal policies and procedures, audit committee
Date of Enactment or Last Substantive Amendment: 2013
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-401(3); 53A-1-402(1)(e)