

R277-114 received final approval by the Utah State Board of Education on January 8, 2020. R277-114 is published in the February 1, 2020 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of March 9, 2020.

**R277. Education, Administration.**

**R277-114. Corrective Action and Withdrawal or Reduction of Program Funds.**

**R277-114-1. Authority and Purpose.**

(1) This rule is authorized by:

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

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-401(8)(c), which allows the Board to make rules setting forth the procedures to be followed for enforcing Board rules.

(2) The purpose of the rule is to provide procedures for public education program monitoring and corrective action for noncompliance with identified:

(a) program requirements;

(b) program accountability standards; and

(c) financial propriety.

**R277-114-2. Definitions.**

(1) "Program" means a public education project~~[or plan under the direction of the Board]~~, plan, or other activity required by:

\_\_\_\_\_ (a) administrative rule;

\_\_\_\_\_ (b) state law; or

\_\_\_\_\_ (c) federal law.

(2) "Recipient" means an LEA~~[or a] school, or subrecipient.~~

\_\_\_\_\_ (3) "Subrecipient" means a non-Federal entity that receives an award through the Board to carry out part of a Federal program, or a non-Federal entity that is the direct awardee of other federal awards from a Federal awarding agency.

**R277-114-3. Program Monitoring.**

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(1) For each program, the Superintendent shall design and implement a consistent monitoring plan or process that includes standards for both program outcomes and program financial compliance.

(2) The Superintendent shall notify all recipients of the initiation of or changes to any monitoring plan or process.

(3) The Superintendent shall monitor compliance with:

(a) program outcomes and requirements;

(b) reporting requirements; and

(c) financial [~~compliance~~]requirements.

(4) An LEA shall provide the Superintendent all requested information or documents to comply with this Section.

#### **R277-114-4. Corrective Action Plans.**

(1) The Superintendent shall place a recipient on a corrective action plan when a recipient:

(a) does not demonstrate satisfactory program outcomes as described by the monitoring plan or process;

(b) demonstrates noncompliance with program requirements or allowable program expenditures; or

(c) does not comply with requests to provide accurate and complete program or financial information, as described by the monitoring plan or process.

(2) The Superintendent shall clearly outline in a corrective action plan:

(a) all areas of noncompliance;

(b) the specific conditions to be met as a result of noncompliance;

~~(b)~~(c) steps required to satisfy the corrective action plan; and

~~(c)~~(d) a reasonable time frame for the recipient to correct identified issues.

(3) The specific conditions described in Subsection (2)(b) may include:

(a) requiring payments as reimbursements rather than advance payments;

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(b) withholding authority to proceed to the next step until receipt of evidence of acceptable performance within a given period of performance;

(c) requiring additional, more detailed financial reports;

(d) requiring additional project monitoring;

(e) requiring the recipient to obtain technical or management assistance; or

(f) establishing additional prior approvals.

([3]4) A corrective action plan may also include a provision and a timeline for:

(a) referral for risk-based monitoring~~[-by a Board section]~~;

(b) a referral for an audit by:

(i) an external auditor; or

(ii) [for monitoring to]the Board's internal audit department, with approval of the Board's Audit Committee;

(c) periodic meetings between a recipient administrator or governing board member and the State Superintendent of Public Instruction or a Deputy Superintendent~~[member of the Superintendency]~~;

(d) planned appearances before the Board to provide status updates; and

(e) training for the ~~[LEAs]~~recipient's staff.

(5) If the recipient is a charter school, the Superintendent shall consult with the charter authorizer in the creation of the corrective action plan and report regularly to the charter authorizer about the status of the noncompliant program recipient.

([4]6) The Superintendent may employ escalating restrictive conditions in a corrective action plan based on:

(a) the severity of the violation as determined by the program's monitoring plan or process; or

(b) repeated violations by a~~[n LEA]~~recipient.

([5]7) The Superintendent may include penalties for non-compliance with a corrective action plan in accordance with Subsection 53E-3-401(8).

([6]8) The Superintendent shall give notice and a copy of the corrective action plan

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in writing to:

- (a) the recipient~~[LEA]~~'s administrators;
- (b) the respective ~~[LEA]~~recipient's governing board; and
- (c) the charter school authorizer, if applicable.

(~~7~~9) The Superintendent shall report to the Board ~~[monthly]~~regularly about the status of noncompliant program recipients.

#### **R277-114-5. Recipient Appeals.**

(1) A recipient may file an appeal to the Board of any adverse decision of the Superintendent resulting from a corrective action plan or penalty.

(2) An appeal must be made in writing and within 30 days of the date of the Superintendent's action.

(3) Except for corrective action subject to 34 CFR 76.783, ~~[T]~~the Board may:

(a) review the appeal as a full board; or

(b) refer the matter to the Board audit committee to make a recommendation to the Board for action.

**KEY: programs, noncompliance, corrective action**

**Date of Enactment or Last Substantive Amendment: ~~[February 7, 2017]~~**

**Notice of Continuation: ~~[May 1, 2015]~~**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401~~[BR]~~(4)**