

R277. Education, Administration.

R277-114. Oversight, Accountability, and Compliance to Promote General Control and Supervision, Academic Excellence, and Student Protection and Safety.

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) and (8) which allow the Board to adopt rules in accordance with its responsibilities;
 - (c) Section 53E-3-301 which requires the Superintendent to:
 - (i) administer programs assigned to the Board in accordance with the policies and the standards established by the Board; and
 - (ii) investigate matters pertaining to public schools;
 - (d) Section 53F-1-104 which requires the Superintendent to monitor state-funded education programs;
 - (e) Section 53-22-109 which requires the Board to collaborate with the State Security Chief to address school safety related compliance; and
 - (f) Subsection 63I-5-201(4) which requires the Board to establish an internal audit program to provide internal audit services, inclusive of evaluating the effectiveness of internal controls, for provisions administered by the Board.
- (2) The purpose of this rule is to establish standards and procedures to ensure oversight, accountability, transparency, and compliance and to promote academic excellence.

R277-114-2. Definitions.

- (1) "Internal control system" means the actions the Superintendent develops and establishes through policies, procedures, and rule to mitigate risks to achieving the Board's objectives to acceptable levels.
- (2) "Monitor" means activities established by the Superintendent to monitor the internal control system, LEA compliance, and evaluate the results.

- (3) "Provision" means a public education requirement or set of requirements in:
 - (a) federal law;
 - (b) state law;
 - (c) administrative rule; or
 - (d) board rule.

(3) "Recipient" means an LEA, school, or subrecipient.

(4) "Risk" means the possibility that an event will occur and adversely affect or prevent the achievement of, and compliance with, a provision.

(5) "Risk Assessment" means the systematic process of identifying, analyzing, and responding to internal and external risks related to a provision.

R277-114-3. Superintendent Responsibilities.

(1) The Superintendent shall monitor internal controls and recipient to ensure the Board's general control and supervision.

(2) Monitoring includes:

- (a) tracking systems;
- (b) relevant documentation; and
- (c) regular reporting to the Board on the status of monitored programs.

(2) The Superintendent shall provide a summary report quarterly to the Board on the development and effectiveness of internal control systems.

(3) A recipient shall comply in a timely manner with requests to provide accurate and complete information to comply with this rule.

(4)(a) The Superintendent shall prioritize coordination and collaboration with an LEA or recipient to resolve issues and to promote voluntary compliance when possible.

(b) Such collaboration does not diminish or limit the constitutional and statutory authority of the Board or the Superintendent to act independently in determining, issuing, and monitoring a corrective action plan to ensure timely resolution of identified matters.

(5) Nothing in this rule shall excuse LEA noncompliance with any federal law, state law, or Board rule.

R277-114-4. Corrective Action Plans.

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

(a) where applicable, does not demonstrate satisfactory progress or outcomes as described by the provision;

(b) is noncompliant with federal or state law, Board rule, program requirements, fiscal requirements, or other applicable standards of professional, fiduciary, or supervisory conduct required under Board rule or law;

(c) fails to comply in a timely manner with requests to provide accurate and complete information required under this rule or other Board directives;

(d) engages in fraud, waste, abuse, or other misuse of funds or resources; or

(e) engages in alleged actions that cause significant risk to the Board.

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

(a) the reason for the corrective action plan, including the provision at issue;

(b) related and relevant documentation obtained or generated as part of the monitoring process;

(c) a summary of the evidence gathered, including relevant dates;

(d) specific conditions to be met to resolve identified issues;

(e) a procedure for communication during the course of resolving the corrective action, including:

(i) designation of a primary contact of the recipient;

(ii) a schedule for the frequency of updates provided by the contact;

(iii) the format of required updates; and

(iv) the designated recipient of the updates;

(f) a procedure to close the corrective action, including:

(i) designation of an individual authorized to close the corrective action;

(ii) the criteria for closing the corrective action;

(iii) an estimated schedule for closing the corrective action; and

(iv) how the authorized individual will communicate closure to the recipient; and

(g) notice of the option for appeal as described in Section R277-114-6.

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

- (a) requiring payments as reimbursements rather than advance payments;
- (b) withholding authority to proceed to the next step until receipt of evidence of acceptable performance is provided;
- (c) requiring additional, more detailed financial reports;
- (d) requiring an extension of the existing monitoring plan or the implementation of a revised monitoring plan;
- (e) requiring the recipient to obtain technical or management assistance; or
- (f) other appropriate requirements that include adequate notice to recipient.

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

- (a) periodic meetings between a recipient administrator or governing board member and the Superintendent or the Superintendent's designee;
- (b) planned appearances before the Board or Superintendent to provide status updates; and
- (c) training for the recipient's staff.

(5) In creating a corrective action plan, the Superintendent may provide technical support to assist the recipient to achieve compliance and performance.

(6) The Superintendent may include penalties for noncompliance with a corrective action plan in accordance with Subsection 53E-3-401(8).

(7)(a) All corrective action plans shall be reviewed and approved by the Superintendent or designee before finalization and issuance.

(b) If a corrective action plan includes financial noncompliance or conditions related to fiscal oversight, the corrective action plan shall be reviewed by the Deputy Superintendent of Operations or the Assistant Superintendent of Operations.

(8)(a) The Superintendent shall provide written notice of the corrective action plan to the recipient's chief administrator and the chair, or equivalent presiding officer, of the recipient's governing board.

(b) If additional administrators or board members are designated in writing by the recipient as points of contact for such matters, notice shall also be provided to those individuals.

(c) If one or more required recipients cannot reasonably be identified or contacted, delivery to the recipient's central administrative office or official email address shall constitute sufficient notice.

(10) The Superintendent shall also provide the written notice of the corrective action plan to:

- (a) the Board; and
- (b) internal controls.

(11) Internal controls, under the direction of the Superintendent, shall maintain a centralized tracking system of corrective action plans which shall be implemented by USBE to ensure consistency of internal processes, predictability to recipients, and increased transparency.

(12) The tracking system shall:

- (a) be updated upon issuance of a corrective action plans;
- (b) record progress and completion of corrective actions; and
- (c) support quarterly reporting to the Board on the status of monitored provisions and corrective actions.

(13) If a recipient placed on a Corrective Action Plan for violations of school safety law as outlined in Sections 53-22-101 through 53-22-109 fails to comply with the conditions outlined in the corrective action plan within the specified timeframe, the Superintendent shall provide notice to the State Security Chief and may refer the matter for further review or action as deemed appropriate.

R277-114-5. Review and Appeals Committee and Duties.

(1) Board leadership shall select a five-member Review and Appeals Committee.

(2) Board leadership shall select a chair and vice-chair for the Committee.

(3) Committee Duties:

(a) The Committee shall review and may take action on:

- (i) appeals regarding corrective action plans as outlined in Section R277-114-5-6;
- (ii) referrals made by Board leadership;
- (iii) referrals from the Superintendent; or

- (iv) referrals from the Audit Committee.
- (b) Upon referral to the Committee, the Committee shall, as appropriate:
 - (i) review allegations or findings of noncompliance of an LEA or recipient corrective action plan;
 - (ii) review a corrective action plan issued by the Superintendent;
 - (iii) review supporting documentation and data that demonstrate ongoing noncompliance; and
 - (iv) review other relevant materials, as well as aggravating and mitigating factors.
- (c) The Committee may require:
 - (i) additional information, materials, or records from the recipient; and
 - (ii) the recipient or recipient's representative to appear before the Committee to provide responses as requested and consistent with Title 52, Chapter 4, Open and Public Meetings Act;
- (d) review matters referred to the Committee by the Board, Board leadership, or the Superintendent.

(5) Following review, the Committee may make any of the following recommendations:

- (a) request the Superintendent to strengthen, modify or expand an existing corrective action plan;
- (b) recommend that the Superintendent or Internal Audit conduct additional inquiry, risk assessment, or monitoring;
- (c) recommend to the full Board the imposition of sanctions or other enforcement actions;
- (d) request that an item be placed on the Board agenda; or
- (e) other action consistent with the law and Board by-laws and policies.

(6) Any action recommended or taken by the Committee is subject to full Board approval, consistent with actions by all Board committees.

(7)(a) Discussion and actions by the Committee and subsequent Board discussion and decisions shall be consistent with Board By-laws and policies;

(b) If the Committee holds an open and public meeting it shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

R277-114-6. Corrective Action Plan Appeals.

(1) A recipient may appeal a corrective action plan within 14 business days after receipt of the plan, amendment to a plan, or a proposed closure to the plan, to the Board secretary, on any of the following grounds:

- (a) the basis or reason the Superintendent identified for imposing the corrective action plan;
- (b) one or more requirements contained in the corrective action plan; or
- (c) an action the Superintendent takes to implement the corrective action plan.

(2) The appeal shall:

- (i) identify the specific plan provisions or implementation actions at issue;
- (ii) include any supporting documentation; and
- (iii) state the relief requested.

(3) Except for corrective action subject to 34 CFR 76.783, the Board shall refer the matter to the Board Review and Appeals Committee (the Committee).

(4) The Committee shall provide information to the appellant regarding the procedures and timeline for an appeal no later than 10 days following the Committee's receipt of the appeal request.

(5) The Committee shall review the appeal and:

- (a) recommend changes to the corrective action plan;
- (b) refer the matter to internal audit; or
- (c) refer the matter to the full Board with recommendations.

(6)(a) Appeals under this section are conducted pursuant to Rule R277-102 to the extent applicable.

(b) If a procedure is not specified in this rule, the Board may establish reasonable procedures consistent with Rule R277-102.

(7) The appeal shall be decided on the written record, unless the Board or its designee authorizes additional submissions or a limited hearing for good cause.

(8) The Committee may select a hearing officer to facilitate the appeal.

(9) All Committee discussions shall be conducted consistent with Title 52, Chapter 4, Open and Public Meetings Act.

(10) The Committee shall submit a recommendation to the Board regarding an appeal no more than 30 days following the referral to the Committee.

(11) The Board shall take final action on the Committee's recommendation as soon as possible but no later than 60 days following receipt of the Committee's recommendation.

(a) The Board's review of the Committee's recommendation shall be based solely on the Committee's record of the appeal.

(b) The Board's action on the Committee's recommendation is the final administrative action for a corrective action plan appeal.

R277-114-7. Relationship to State Security Chief.

(1) Pursuant to Section 53-22-102, the State Security Chief holds statutory responsibilities for statewide coordination of school safety.

(2) Nothing in this rule shall be construed to limit, expand, or otherwise alter the statutory powers and duties of the State Security Chief.

(3) The Board affirms its constitutional delegation of authority in the area of public education and school safety, including oversight, compliance, and rulemaking, and shall exercise that authority in coordination with the State Security Chief as provided by law.

(4) Local education agencies shall comply with both:

(a) directives and requirements of the State Security Chief made pursuant to state law; and

(b) rules and policies adopted by the Board under its constitutional and statutory authority.

KEY: monitoring, corrective action, oversight

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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-401(8); 53E-3-301; 53F-1-104; 63G-7-301