

UTAH STATE BOARD OF EDUCATION POLICY
Policy Number: 1002
Policy Name: Rulemaking Procedures
Date Approved: August 31, 2021

By this policy, the Utah State Board of Education, “the Board,” establishes the following internal rules and procedures for consideration of proposed rules:

I. Definitions:

1. “Board member-sponsored rule” means a rule concept that is presented to a Committee or full Board for review and potential approval by the committee or full Board.
2. “Committee” means one of the following Board standing committees:
 - a) the Finance Committee;
 - b) the Law and Licensing Committee; or
 - c) the Standards and Assessment Committee;
3. “Committee or Task Force rule” means a rule that is:
 - a) requested by a Committee or Task Force; or
 - b) initiated by Committee or Task Force action.
4. “Continuation rule” means a rule that is required to be reviewed by the Board within five years after the initial filing of the rule or within five years of the last five- year review as described in Subsection 63G-3-305 to determine whether the rule should be continued, repealed, or amended.
5. “Legislatively required rule” means a rule the Board is required to enact, amend, or repeal as a result of legislation or Utah Code.
6. “Proposed report”:
 - a) means the same as that term is defined in Section 53E-1-205; and
 - b) includes an assurance or survey.
7. “Task force” means a time-limited task force created by a quorum of the Board to work on a specific project.

II. General Provisions:

1. Board staff shall follow the rulewriting style guidelines established by the Office of Administrative Rules (OAR) and described in the “Rulewriting Manual for Utah Rulewriters” published by the OAR.
2. Upon receiving notice of a proposed rule, the Board Executive Committee shall assign the proposed rule to:
 - a) a standing committee; or
 - b) to the Board.
3.
 - a) If a rule is assigned to a standing committee as described in Subsection 2. (a), the standing committee shall read the proposed rule initially on first reading.
 - b) The Board shall read the proposed rule a second time before the entire Board and the second reading shall include discussion of the standing committee report.
4. If a proposed rule is assigned to the Board as described in Subsection (2)(b) the Board shall read the proposed rule on first and second reading.
5. After the Board reads a proposed rule on second reading, the Board may:
 - a) i) direct the Superintendent to change the proposed rule; and
ii) consider the proposed rule again at a future meeting with revisions incorporating the Board’s direction;
 - b) direct the Superintendent to put the proposed rule, as amended by the Board, in its final form with its anticipated effective date on the consent calendar at the Board’s next meeting as a third reading;
 - c) direct the Superintendent to file the rule with the Division of Administrative Rules (DAR) as described in Subsection (6); or
 - d) direct the Superintendent to take no further action on the rule.
6.
 - a) Following the Board’s approval of a proposed rule, the Superintendent shall prepare a rule analysis form and file the form and a copy of the proposed rule with DAR.

- b) Simultaneously with filing a proposed rule amendment, the Superintendent shall file a rule continuation unless the Board directs otherwise.
7. The Board may accept public comment and may make additional changes to proposed rules in accordance with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and DAR's implementing regulations in R15-4-1, et seq.
 8. The Superintendent shall wait for future Board action to file a notification with the Office of Administrative Rules of a date a rule is to become effective and enforceable as described in R15-4-5a if:
 - a) the Board receives a request for a public hearing as described in Section 63G-3-302; or
 - b) the Board chair or Board leadership notify the Superintendent that the Board is likely to discuss the rule in an upcoming Board meeting for potential action on the rule.

III. Process for a Board Member-sponsored Rule:

1. A Board member may sponsor a new or amended rule to be presented for the first time to a Committee if:
 - a. the Board member has at least two co-sponsors willing to support the new or amended rule;
 - b. the Board member and co-sponsors submit a short description of the rule concept or policy idea to Board Executive Committee to request leadership place the rule concept or policy idea on a Committee agenda for discussion; and
 - c. the request meets the requirements described in Board Bylaws Article VII. Section 5.
2. If the Board Executive Committee assigns the rule concept or policy idea to a Committee for discussion, the Board member may present the rule concept or policy idea to the Committee.

3. If a majority of the members of a Committee or Task Force approve the rule concept or policy idea, staff will prepare a draft of the rule(s) as directed by the Committee or Task Force for a subsequent Committee or Task Force meeting.
4. Board member-sponsored, Committee or Task Force rule requests shall be placed on the USBE website with a short title and sponsor listed.
5. A Board member may sponsor an amendment to a rule already on a Committee or full Board agenda.
6. If a Board member's amendment described in Subsection (5) is 10 words or less, the Board member may make a verbal amendment.
7. If a Board member's amendment described in Subsection (5) is 11 words or more, the Board member should work with staff to prepare the amendment or draft rule prior to presenting the amendment or rule draft to the Committee or full Board.
8. If a Board member's amendment or draft described in Subsection (5) is reviewed and adopted for the first time by the full Board, the Board should determine whether it is appropriate for the rule to be adopted on second reading only or second and final reading.
9. If a Board member requests an amendment to a rule already on a Committee or full Board agenda, the amendment or rule draft shall include the Board member's last name next to the draft number.

IV. Drafting Priority for Board Rules:

The Superintendent shall draft Board rules in the following order of descending priority:

- 1) Legislatively required rules;
- 2) Continuation rules;
- 3) Committee or Task Force rules; and
- 4) Board member-sponsored rules.

V. Reporting Burden and Fiscal Impact Estimate:

1. The Superintendent shall include a statement indicating the following as part of the background information provided in the Board's agenda setting system related to the enactment of, or amendments to, a rule being considered by a Committee or the Board:
 - a. the estimated impact a proposed reporting requirement included in the rule may have on reporting requirements for an LEA; and
 - b. the estimated fiscal impact on an LEA.
2. The reporting impact described in Subsection (1)(a) shall include the following, if available:
 - a. the estimated cost to an LEA associated with the proposed report;
 - b. the estimated time an LEA administrator will spend preparing the proposed report; and
 - c. any disproportionate impact the proposed report may have on an LEA because of the LEA's size, location, or other factors.
3. The reporting and fiscal impact statement described in Subsection (1):
 - a. shall be included in the background information at least 3 days before the Board or Committee meeting where the rule is scheduled to be considered; and
 - b. will not include reporting or fiscal impacts related to the enactment of, or amendments to, impacts included in a rule that are a direct result of requirements of federal law, Utah Code, or another state entity.
4. This policy incorporates by reference the form found in Appendix A titled Reporting Burden and Fiscal Impact Estimate, which is the form staff will use to provide the reporting impact statement described in Subsection V.(1).

Appendix A:

Utah State Board of Education

Reporting Burden and Fiscal Impact Estimate

R277-_____, Rule Title (Action)
Month, Day, Year

1. Reporting Burden for LEAs

- Does the rule include a proposed report?
 - Proposed report – Additional data or information an LEA must provide to USBE, including surveys and assurances, that are not required by federal law, Utah Code, or another state entity.
- If so, what is:
 - The report's purpose?
 - The entity required to submit the report?
 - The frequency of the report?
 - The estimated cost to an LEA?
 - The estimated time an LEA administrator will spend preparing the report?
 - Any disproportionate impact on an LEA because of the LEA's size, location, or other factors?
- What are the upfront or initial costs for a report, such as staff training or updating processes?
- Is the information in the report otherwise available or could be obtained another way?
- Can accountability or transparency be achieved through a means other than the report?

2. Estimated Fiscal Impact on USBE

- What direct, independent costs or savings is this rule expected to produce for USBE?
- Link to bill and fiscal note if rule is associated with a legislative change

3. Estimated Fiscal Impact on LEAs

- What direct, independent costs or savings is this rule expected to produce for LEAs?
- Will any of these impacts affect LEAs disproportionately because of an LEA's size, location, or other factors?
- Link to bill and fiscal note if rule is associated with a legislative change