

**Effective 7/1/2014**

**Part 1  
General Provisions**

**53D-1-101 Title.**

- (1) This title is known as "School and Institutional Trust Fund."
- (2) This chapter is known as the "School and Institutional Trust Fund Management Act."

Enacted by Chapter 426, 2014 General Session

**53D-1-102 Definitions.**

- (1) "Account" means the School and Institutional Trust Fund Management Account, created in Section 53D-1-203.
- (2) "Beneficiaries":
  - (a) means those for whose benefit the trust fund is managed and preserved, consistent with the enabling act, the Utah Constitution, and state law; and
  - (b) does not include other government institutions or agencies, the public at large, or the general welfare of the state.
- (3) "Board" means the board of trustees established in Section 53D-1-301.
- (4) "Director" means the director of the office.
- (5) "Enabling act" means the act of Congress, dated July 16, 1894, enabling the people of Utah to form a constitution and state government and to be admitted into the Union.
- (6) "Nominating committee" means the committee established under Section 53D-1-501.
- (7) "Office" means the School and Institutional Trust Fund Office, created in Section 53D-1-201.
- (8) "School children's trust section" means the School Children's Trust Section under the State Board of Education, established in Section 53A-16-101.6.
- (9) "Trust fund" means money derived from:
  - (a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the enabling act;
  - (b) proceeds referred to in Section 9 of the enabling act from the sale of public land; and
  - (c) revenue and assets referred to in Utah Constitution, Article X, Section 5, Subsections (1)(c), (e), and (f).

Amended by Chapter 144, 2016 General Session

**53D-1-103 Application of other law.**

- (1) The office, board, and nominating committee are subject to Title 52, Chapter 4, Open and Public Meetings Act.
- (2) Subject to Subsection 63E-1-304(2), the office may participate in coverage under the Risk Management Fund, created in Section 63A-4-201.
- (3) The office and board are subject to Title 63G, Chapter 2, Government Records Access and Management Act.
- (4)
  - (a) In making rules under this chapter, the director is subject to and shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as provided in Subsection (4)(b).
  - (b) Subsections 63G-3-301(6) and (7) and Section 63G-3-601 do not apply to the director's making of rules under this chapter.

- (5) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to a board member to the same extent as it applies to an employee, as defined in Section 63G-7-102.
- (6)
- (a) A board member, the director, and an office employee or agent are subject to:
    - (i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and
    - (ii) other requirements that the board establishes.
  - (b) In addition to any restrictions or requirements imposed under Subsection (6)(a), a board member, the director, and an office employee or agent may not directly or indirectly acquire an interest in the trust fund or receive any direct benefit from any transaction dealing with trust fund money.
- (7)
- (a) Except as provided in Subsection (7)(b), the office shall comply with Title 67, Chapter 19, Utah State Personnel Management Act.
  - (b)
    - (i) Upon a recommendation from the director after the director's consultation with the executive director of the Department of Human Resource Management, the board may provide that specified positions in the office are exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1), if the board determines that exemption is required for the office to fulfill efficiently its responsibilities under this chapter.
    - (ii) The director position is exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1).
    - (iii)
      - (A) After consultation with the executive director of the Department of Human Resource Management, the director shall set salaries for positions that are exempted under Subsection (7)(b)(i), within ranges that the board approves.
      - (B) In approving salary ranges for positions that are exempted under Subsection (7)(b)(i), the board shall consider salaries for similar positions in private enterprise and other public employment.
- (8) The office is subject to legislative appropriation, to executive branch budgetary review and recommendation, and to legislative and executive branch review.

Enacted by Chapter 426, 2014 General Session

**53D-1-104 Attorney general representation.**

- (1) The attorney general shall:
- (a) represent the board, director, and office in any legal action relating to the trust fund;
  - (b) undertake suits for damages and any other necessary or appropriate relief in the name of the trust fund and the state; and
  - (c) ensure that legal counsel assigned to provide legal counsel to the board, director, and office is present at all board meetings.
- (2) The attorney general may institute an action to enforce this chapter or to protect the interests of beneficiaries.

Enacted by Chapter 426, 2014 General Session

**53D-1-105 Annual audit by state auditor.**

- (1) The state auditor shall conduct an annual audit of the trust fund money and assets on a fund by fund basis, including:
  - (a) an evaluation of the independent custodial arrangements made for the management and investment of trust fund money and assets; and
  - (b) a verification of the accuracy of the office's report of returns generated on the office's investments.
- (2) The state auditor shall:
  - (a) report the results of an audit under this section in writing; and
  - (b) make the written audit report available to the public.
- (3) The state auditor shall consult with the board at least annually as to whether additional matters should be included within the scope of the annual audit.

Enacted by Chapter 426, 2014 General Session