

Sunset Review – Subsection 53E-8-204(4)

Prepared for the Education Interim Committee | October 14, 2020

Introduction

The Utah Schools for the Deaf and the Blind (USDB) Advisory Council (council) described in Subsection 53E-8-204(4) is scheduled to “sunset” on July 1, 2021.¹ Therefore, unless the Legislature takes action to extend the council before then, the subsection describing the council will be repealed from the code. The Legislative Management Committee assigned this sunset review to the Education Interim Committee.

Background

Subsection [53E-8-204](#)(4) provides that

(4)(a) The state board shall:

- (i) establish an advisory council for the Utah Schools for the Deaf and the Blind and appoint no more than 11 members to the advisory council;
 - (ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operation of the advisory council; and
 - (iii) receive and consider the advice and recommendations of the advisory council but is not obligated to follow the recommendations of the advisory council.
- (b) The advisory council described in Subsection (4)(a) shall include at least:
- (i) two members who are blind;
 - (ii) two members who are deaf; and
 - (iii) two members who are deafblind or parents of a deafblind child.

This subsection was created in [2012 H.B. 230](#), Utah Schools for the Deaf and the Blind Amendments, but is a continuation of an institutional council that existed prior to enactment of that bill. The advisory council advises the USDB superintendent and associate superintendents regarding the needs of Utah children who are deaf, blind, and deaf-blind. Additional information about the council, including the meeting schedule and membership can be found on the [Utah Schools for the Deaf and the Blind website](#) and the [Utah Public Notice Website](#).

The sunset was placed on this subsection in [2020 H.B. 10](#), Boards and Commissions Amendments, which placed sunset provisions on many different boards and commissions.

If the subsection repeals, the State Board of Education could create the advisory council without statutory direction; however, the State Board of Education would have discretion regarding whether to create the advisory council and the membership.

Sunset Review Process

Section [63I-1-103](#) provides guidelines for the conduct of a sunset review for both the agency responsible for the statute being reviewed and the interim committee. Specifically, the code provides that “it is the responsibility of any agency which has oversight responsibilities for a statute scheduled for termination to seek its reauthorization with the Legislature” and that the agency “shall clearly identify for the interim committee the public purpose and interest for which each statute or agency was originally created and clearly identify whether that public purpose and interest is still relevant.”

The interim committee shall then consider:

¹ See Subsection [63I-1-253](#)(18).

- the extent to which the statute or agency has operated in the public interest and any areas in which the statute or agency needs to improve its ability to operate in the public interest;
- the extent to which existing statutes interfere with or assist the legitimate functions of the statute or agency, and any other circumstances including budgetary, resource, and personnel matters that have a bearing on the capacity of the statute or agency to serve the public interest;
- the extent to which the public has been encouraged to participate in the adoption of the rules established in connection with the statute or agency;
- the extent to which the statute's provisions or agency's programs and services are duplicative of those offered by other statutes or state agencies;
- the extent to which the objectives of the statute or agency have been accomplished and their public benefit;
- the adverse effect on the public of termination of the statute or agency; and
- any other matter relevant to the review.

Options

The committee has several options related to this sunset review:

- Do nothing, which would allow the requirement that the State Board of Education create the council to sunset; or
- Recommend a committee bill related to this sunset review that does one of the following:
 - amends the sunset date to require another sunset review at a future date;
 - repeals the sunset date so that the requirement for the State Board of Education to create the council exists in code unless the Legislature takes action to repeal it; or
 - repeals the requirement that the State Board of Education create the council and repeals other code references to the advisory council.²

Regardless of the committee's action or inaction, any legislator may introduce legislation in the 2021 general session to amend or extend a sunset provision.

² There are several references in the code to the advisory council and the council's duty. The sunset provision applies only to the subsection that creates the advisory council, so if the advisory council repeals, without legislative action the other references in code will remain. For example, Section 53E-8-407 provides that "the advisory council shall make recommendations to the state board regarding the design and implementation of the" Educational Enrichment Program for Deaf, Hard of Hearing, Blind, and Visually Impaired Students.