

# Administrative Rules Review and General Oversight Committee

Office of Legislative Research and  
General Counsel

August 28, 2023





## Background

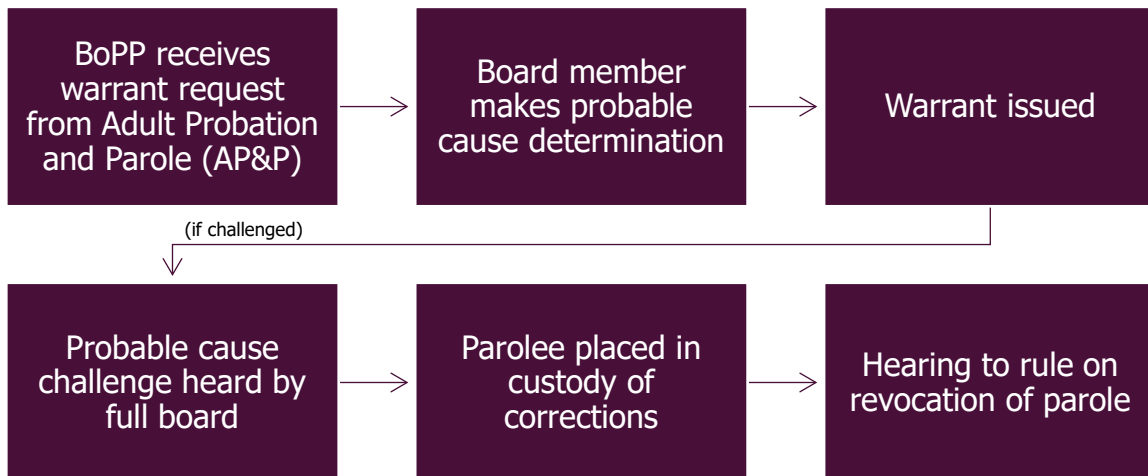
In a report from 2022<sup>1</sup>, legislative auditors identified a potential conflict between statute and administrative rule on when a warrant may be issued for violations of parole.

**Figure 4.1 Comparison of Utah Code and Administrative Rule.** Currently, there are discrepancies between statute and Administrative Rule for what time probable cause is required.

Utah Code 77-27-11	Admin. Rule R671-510-1
A warrant may be issued prior to finding probable cause to believe that the parolee has violated the conditions of parole.	Board warrants are to be issued only after probable cause has shown that a parole violation has occurred.

Source: Auditor generated from state statute and administrative code.

### Parole Revocation Process at the Board of Pardons and Parole (BoPP)



- BoPP receives 45-55 warrant requests per week from AP&P
- Of these, 1-2% are denied
- Probable cause challenges filed 2-3 times per week
- Full reversals issued less than 5 times per year

- The Supreme Court has held that parolees have a right to an informal hearing to review probable cause<sup>2</sup>
- Some other states have chosen to utilize preliminary hearings, where the agency reviews probable cause evidence after issuing the warrant

<sup>1</sup> Audit Report #2022-14, ["A Performance Audit of the Board of Pardons and Parole"](#)

<sup>2</sup> *Morrissey v. Brewer*, 408 U.S. 471 (1972)



# Ogden City Police Department Ticketing Practices

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## Background

As part of their officer evaluation process, Ogden City Police Department utilizes “weighted performance criteria”, scoring officers based on citations and warnings issued as well as DUI arrests, for its traffic and patrol officers.



## Legislation

Passed in 2018, [S.B. 154](#), “[Prohibition of Law Enforcement Quotas](#)” prohibited any political subdivision or law enforcement agency from imposing an arrest or citation quota.

## Statutory Prohibition

•**UCA Section 77-7-27(2)**: A political subdivision or law enforcement agency employing a peace officer may not require or direct that a peace officer meet a law enforcement quota<sup>3</sup>.

## Evaluation Exception

•**UCA Section 77-7-27(3)**: Subsection (2) does not prohibit a political subdivision or law enforcement agency from including a peace officer's engagement with the community or enforcement activity as part of an overall determination of the peace officer's performance.

### Summary of Ogden City’s Weighted Performance Criteria<sup>4</sup>

Officer category	Score threshold for “fully meets expectations”	Score awarded per outcome	
Uniform Division Traffic Officers	Average cumulative score of <b>130</b> per work week	Moving Citation	7
		Non-moving Citation	5
		Warnings	1
		Other Citations	5
		DUI	10
Uniform Division Patrol Officers	Average cumulative score of <b>6.5</b> per work week	Moving Citation	4
		Non-Moving Citation	4
		Warning Citation	2
		Parking Citation	1
		DUI	10

<sup>3</sup> By statute, “law enforcement quota” refers to any requirement or minimum standard regarding the number or percentage of citations or arrests made by a law enforcement officer

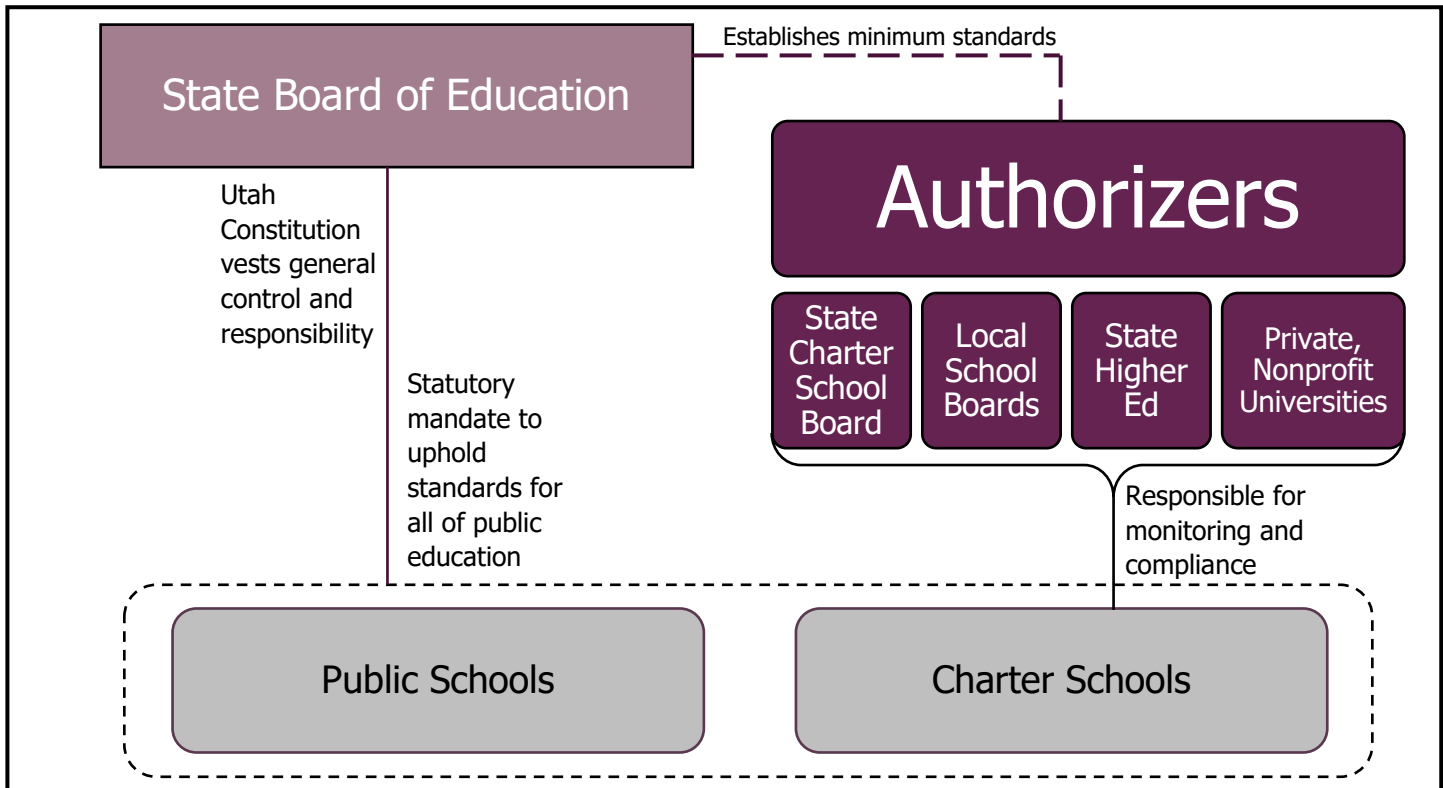
<sup>4</sup> Information provided by Ogden City Police Department



## Background

While the State Board of Education has a statutory and constitutional responsibility to oversee all of public education, charter school authorizers are responsible for direct compliance efforts over their subordinate schools.

### Public Education Governance Structure



### Charter School Authorizers

Approved by the Legislature to approve/deny charter school applications and monitor performance, viability, and compliance

Per rule, new authorizers must submit their charter review process to the State Board for approval

### State Board Responsibilities

Until 2018, was required to approve/deny all charter school applications throughout the state

May require authorizers to reconsider approvals or correct deficiencies in an application if an authorizer or charter applicant fails to follow statute or State Board rule

### State Charter School Board

Created in 2004 to address the needs of growing demand for Utah charter schools

Consists of 7 members appointed by the governor

Authorizes more than 90% of charter schools in Utah