

A Systemic Performance Audit of the

Park City

School

District

Office of the Legislative  
Auditor General

Report to the UTAH LEGISLATURE





**LEGISLATIVE  
AUDITOR GENERAL**



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Senator Evan J. Vickers | Representative Mike Schultz

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September 18, 2023

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report:

“A Systemic Performance Audit of the Park City School District” [Report #2023-11].

An audit summary is found at the front of the report. The scope and objectives of the audit are included in the audit summary. In addition, each chapter has a corresponding chapter summary found at its beginning.

This audit was requested by the Legislative Audit Subcommittee, pursuant to *Utah Code* 36-12-15.1.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

Kade R. Minchey, CIA, CFE

Auditor General

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## SYSTEMIC PERFORMANCE AUDIT

### AUDIT REQUEST

The Legislative Audit Subcommittee requested a systemic performance audit of the Park City School District (PCSD, or district). This is the third audit of local education agencies that were previously referred to as in-depth budget reviews. This type of audit has an initially large scope that looks at all areas of an entity. As the audit progresses, auditors focus on identified risk areas that need to be addressed. Park City School District generally performs well academically. The audit identified a number of areas to help the district further improve.

### BACKGROUND

The Utah State Board of Education reports that PCSD had a fall enrollment of 4,350 students for the 2023 school year. The students are divided among seven schools that each offer a number of opportunities for their students, such as dual language immersion or dropout prevention programs.

Click or Scan for School District Dashboard



## PARK CITY SCHOOL DISTRICT



### KEY FINDINGS

- ✓ 1.1 Internal controls need to be bolstered to ensure environmental regulations are followed and financial liabilities are avoided.
- ✓ 2.1 Additional internal controls and oversight would encourage future compliance.
- ✓ 3.1 The district has opportunities to further bolster underperforming student groups through additional oversight.
- ✓ 4.1 A more complete and accessible strategic plan could help target district improvement.



### RECOMMENDATIONS

- ✓ The Park City School District should develop internal controls for the effective planning and budgeting of capital projects on land impacted by environmental regulations.
- ✓ The Park City School District should undergo a thorough review of compliance risks and related internal controls. This review should be tied to the goals and priorities in the district's strategic plan to ensure that the most important risks are addressed and sufficiently mitigated.
- ✓ The Park City School District should provide better planning and oversight for underperforming student groups in the district.
- ✓ The Park City Board of Education should annually assess district progress towards strategic plan goals and objectives. This should include a review of district performance measures.

*Summary continues on back >>*



### REPORT SUMMARY

#### *Park City School District Needs to Improve Its Compliance with Environmental Regulations*

The district moved soil and other excavated materials from various capital projects while unaware of environmental regulations. By moving these materials, PCSD did not comply with local, state, and federal requirements for handling contaminated soil. The district should implement internal controls for proper soil management to prevent potential regulatory consequences in the future.

#### *Park City School District Needs to Improve Its Compliance with Construction Regulations*

PCSD's insufficient internal controls also negatively impacted the timeline and cost of its school remodels and additions. District staff report that some of their actions, which were inconsistent with requirements, are common statewide. There is an opportunity for the Legislature to clarify ambiguous language in school construction statute.

#### *The District Can Increase Accountability for Underperforming Student Groups*

PCSD has twelve student groups among six of their seven schools that have been designated as some of the lowest performing in the state. The district could do more to meet federal requirements for oversight of these groups.

#### *Improved Strategic Planning Can Help PCSD Make Informed Decisions and Set Meaningful Goals*

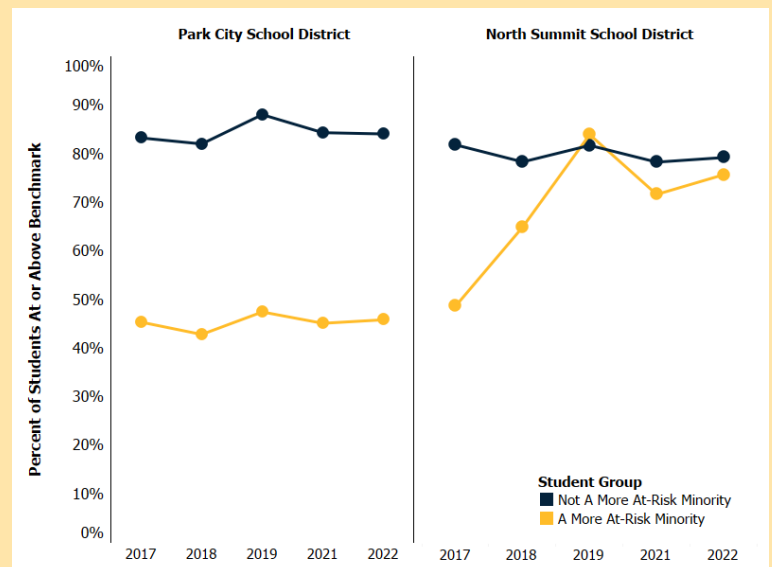
The district's strategic plan includes some best practices but could incorporate more. The Park City School Board should implement a strategic plan with best practices that is publicly accessible.

#### *The District's Use of a Student Analytic Tool is Encouraging, but More Can Be Done*

PCSD currently utilizes a student analytic tool that provides valuable information in identifying and targeting low-performing students. The district should use it to better target school improvement.

#### *North Summit School District Has Had Higher Performance on the Literacy Assessment for All Racial/Ethnic Groups than Park City School District.*

This figure summarizes literacy performance of North Summit School District and Park City School District. Each district's graph includes a line for students who are not a more at-risk racial minority and a separate line for students who are a more at-risk racial minority. Students in North Summit School District are just as likely to be at grade level for literacy no matter their race or ethnicity as of 2022 testing.



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### BACKGROUND

Federal, state, and local environmental regulations have been imposed on Park City School District properties along Kearns Boulevard due to an accumulation of hazardous materials from past mining activity. The school district entered into an environmental covenant that included activity and use limitations on the district's Treasure Mountain Junior High property. The covenant was created after the EPA removed hazardous materials and capped the soil in 2016. In the last five years, the district has moved contaminated dirt and other materials to the junior high property.

#### FINDING 1.1

Internal controls need to be bolstered to ensure environmental regulations are followed and financial liabilities are avoided.

#### RECOMMENDATION 1.1

The Park City School District should develop internal controls for the effective planning and budgeting of capital projects on land impacted by environmental regulations.

#### RECOMMENDATION 1.2

The Park City School District should develop internal controls for the effective management of capital projects as they are executed.

#### RECOMMENDATION 1.3

The Park City Board of Education should provide adequate oversight of district environmental internal controls. Among others, this should include establishing clear reporting lines, implementing a control framework, and creating a monitoring and enforcement mechanism that includes internal auditing.



### CONCLUSION

The school district's internal controls are insufficient to reasonably assure compliance with environmental regulations. This is concerning given the increased risk of financial liability and negative impacts to health and safety due to contaminants in the soil on certain district properties. The district created unauthorized waste piles of contaminated soil that may cost millions of dollars to be removed. The district exposed itself to possible regulatory actions under state law, federal rules, and municipal code. PCSD should implement sufficient internal controls to help improve compliance with environmental regulations.





# Chapter 1

## Park City School District Needs to Improve Its Compliance with Environmental Regulations

### Finding 1.1 Internal Controls Need to Be Bolstered to Ensure Environmental Regulations Are Followed and Financial Liabilities Are Avoided

The Park City School District (PCSD, or district) and the Park City Board of Education (school board) need to monitor activities and create checks to help district personnel effectively navigate environmental regulations during the planning and execution of capital projects. A breakdown in governance resulted in the district excavating contaminated soil and other materials and creating unauthorized solid waste piles on the Treasure Mountain Junior High (junior high) property.<sup>1</sup> These actions exposed the district to significant disposal costs and possible regulatory action under state law, federal rules, and municipal soils ordinance provisions.<sup>2</sup> PCSD administration report they were unaware of certain environmental regulations at the time the soil and other materials were relocated. PCSD and the school board should implement and



**The Park City School District and the Park City Board of Education can improve their response to environmental regulations by creating policies that address these regulations and promote compliance within capital project planning.**



**District policies should include internal controls, which are the plans, methods, and procedures that will reasonably assure environmental compliance.**

monitor environmental internal controls over capital projects from their prioritization and budgeting to their completion. These internal controls are plans, methods, and procedures that reasonably assure environmental compliance as personnel pursue capital project planning and execution. With the Utah Department of Environmental Quality's (DEQ) formal decision that the soil piles must be removed, the district should develop a plan and a budget for the

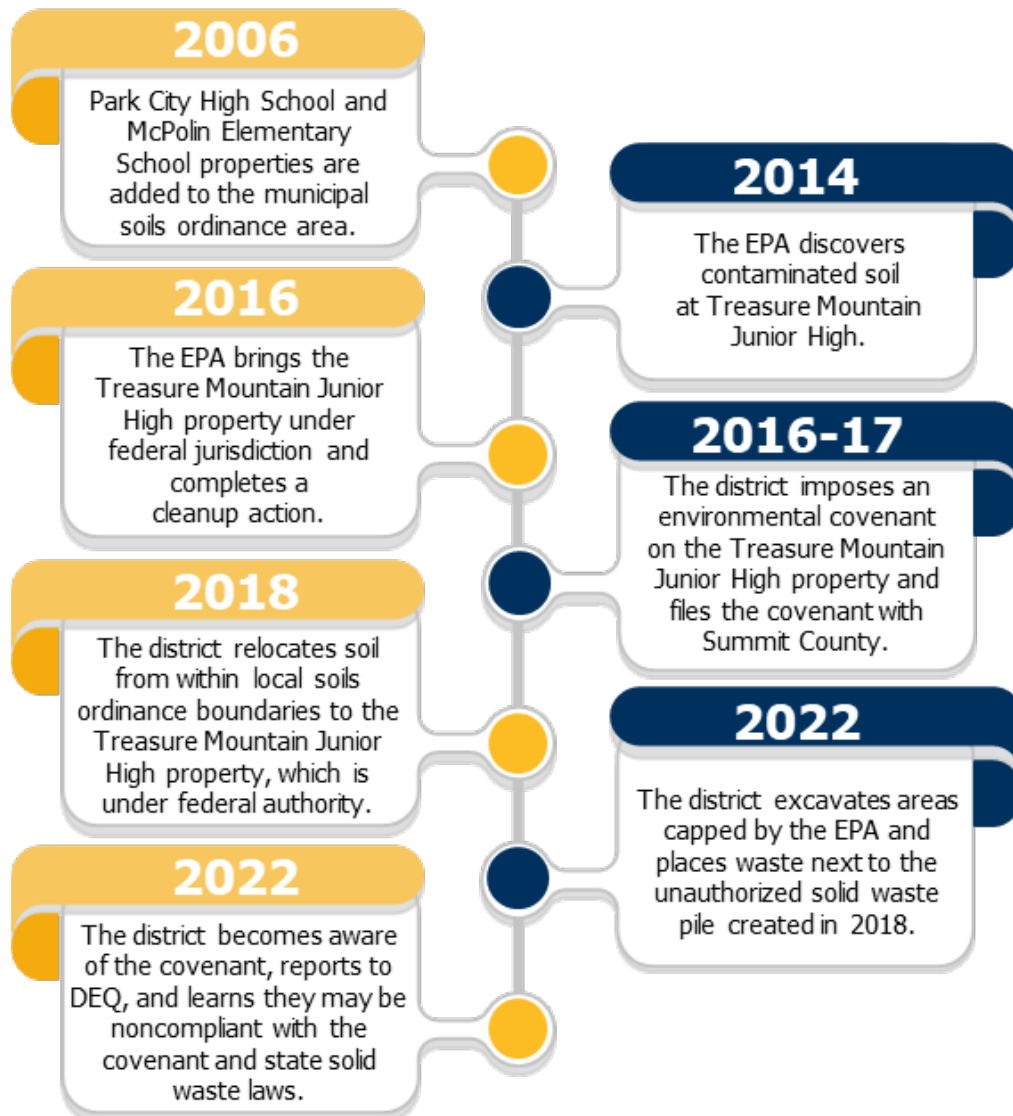
<sup>1</sup> For the purposes of this chapter, "solid waste" means solid material resulting from commercial, mining, or agricultural operations and from community activities. See *Utah Code* 19-6-102(19)(a). Piles of soil in certain parts of Park City are designated as waste piles due to contaminants such as arsenic and lead from past mining activities.

<sup>2</sup> The Utah Department of Environmental Quality is the leading regulatory agency working to bring the district into compliance, but the U.S. Environmental Protection Agency can exercise authority if they decide it is necessary.



proper disposal of the waste piles. The district reports that it is in the process of forming a plan for approval by DEQ.

The following timeline shows important decisions and events from the time district properties were brought into local soils ordinance boundaries in 2006 to 2022 when PCSD staff discovered potential problems and notified DEQ.



Based on test results showing dangerous levels of lead in 2014, the EPA designated the junior high property a federal superfund cleanup site in 2016.<sup>3</sup>

<sup>3</sup> The junior high property is part of the larger Uintah Mining District superfund site. The federal Comprehensive Environmental Response, Compensation, and Liability Act was adopted in 1980 and is commonly known as Superfund. This federal law allows the EPA to enforce cleanup of contaminated sites.

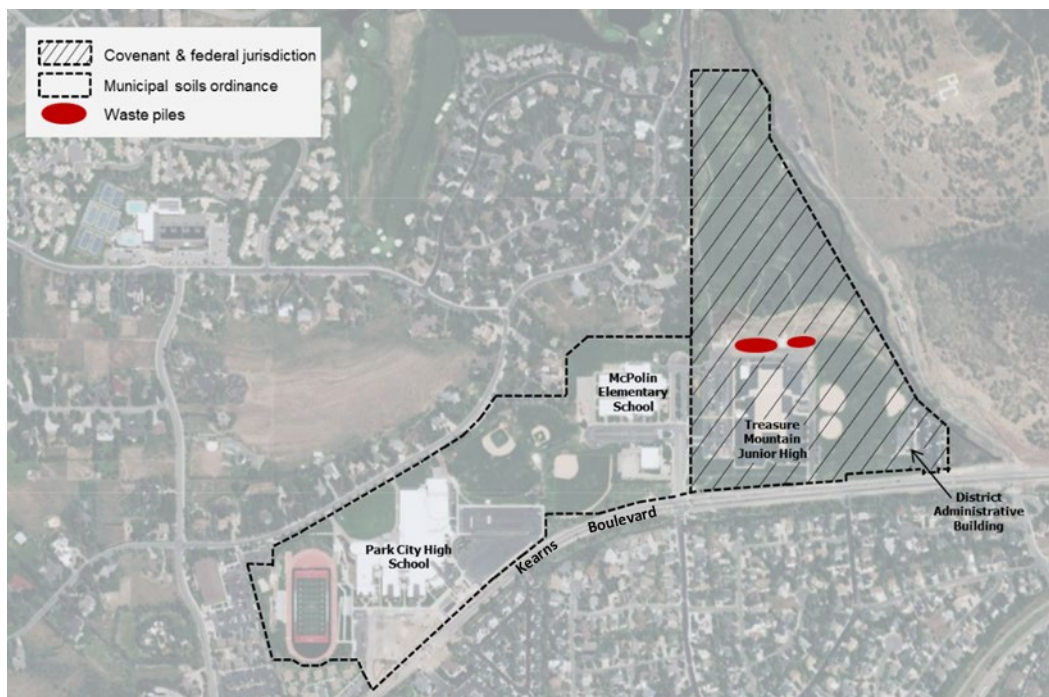
That same year, the EPA financed and completed the cleanup, removing contaminated soil and introducing a six-inch cap of clean soil. As a condition for the EPA financing the project, the district voluntarily entered into an environmental covenant on the property with specific land use requirements.<sup>4</sup>

Figure 1.1 shows district properties that either fall under federal jurisdiction and the environmental covenant or the local soils ordinance. The locations of the waste piles are also marked on the map.

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**Figure 1.1: Part of District Property Along Kearns Boulevard in Park City Falls Within Federal Regulations and the Environmental Covenant.** McPolin Elementary School and Park City High School fall under municipal soils ordinance while Treasure Mountain Junior High falls under federal regulations and the environmental covenant (indicated by the cross-hatched shading). The two waste piles are indicated in red.

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*Source: Auditor generated.*

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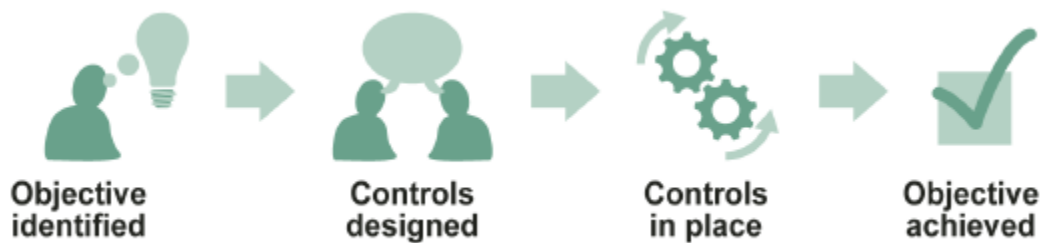
<sup>4</sup> The Park City Board of Education became a party to the environmental covenant under the Utah Uniform Environmental Covenants Act (*Utah Code* 57-25-101). The Environmental Institutional Control Act (*Utah Code* 19-10-103) allows property owners, with the approval of DEQ, to voluntarily impose enforceable environmental controls on parcels of land to mitigate risk posed to health, safety, welfare, and the environment. The covenant on the junior high property can be enforced by the board, DEQ, or the EPA.



## The District Could Have Been More Proactive When Dealing with Environmental Compliance

PCSD properties along Kearns Boulevard operate under a variety of environmental regulations administered at the local, state, and federal levels. Despite this complicated regulatory landscape dating back to 2006, PCSD has not taken defined, systematic steps aimed at compliance. The lack of internal controls has led to the regulatory exposure detailed in this chapter and could lead to future regulatory action. PCSD needs to institute adequate internal controls for all stages of capital projects on regulated properties.

An internal control is a process put in place by an entity's oversight body and management that reasonably assures that the entity can achieve its objectives. District administration should establish controls through policies and procedures to achieve identified objectives. The following infographic outlines how internal controls fit into district activities.



The district's unique situation and the risks inherent to its complicated regulatory environment make clear the need for robust internal controls.<sup>5</sup>

The timeline at the beginning of this chapter demonstrates two key events that impacted the district's risk of noncompliance. In 2006, Park City extended the boundary of the local soils ordinance to include the district's McPolin Elementary School (elementary school) and Park City High School (high school) properties. The federal government placed the junior high property under federal jurisdiction in 2016, the same year that the district voluntarily imposed an environmental covenant on the junior high property. The act of entering into the environmental covenant obligated the district to follow landscaping and soil management rules contained in the covenant. These events created regulations that the district is required to follow in the interest of health and safety.

Despite being governed by city regulations starting in 2006 and federal regulations and the covenant starting in 2016, PCSD has not created any defined processes to identify, report, and correct issues to provide reasonable assurance

<sup>5</sup>This is also seen in Chapter 2 of this report that looks at recent construction delays in the district.



**The district's unique situation and the risks inherent to its complicated regulatory environment make clear the need for robust internal controls.**

of compliance. District personnel said the district was aware of the local soils ordinance at the time of the capital projects in 2018 and 2022. The environmental covenant was approved in an open school board meeting in December 2016 and was signed by the board president and the district's business administrator. We believe this demonstrates a deficiency in governance. The board should have ensured the district adopted sufficient internal

controls. The district should have designed and implemented internal controls sufficient to address the risks the district faces. Although the district discovered the issue and reported it appropriately, we believe internal control processes could have prevented the improper storage of the soil from ever happening.

Every time the district disturbs soil for any activity at school buildings along Kearns Boulevard, ranging widely from basic landscaping to construction and renovation, the district's personnel could trigger requirements or liability under different regulations. To avoid costly problems in the future, PCSD should adopt internal controls over capital projects that occur on district property with environmental regulations. District controls should ensure effective planning and budgeting of projects impacted by environmental regulations. As seen in this chapter, projects involving contaminated soil can lead to significant additional costs.

#### **RECOMMENDATION 1.1**

The Park City School District should develop internal controls for the effective planning and budgeting of capital projects on land impacted by environmental regulations.

The district should also implement internal controls to ensure effective management of projects as they are undertaken.

#### **RECOMMENDATION 1.2**

The Park City School District should develop internal controls for the effective management of capital projects as they are executed.



An important piece of effective internal controls is proper oversight to ensure they are functioning properly. According to the U.S. Government Accountability Office:

**Standards for Internal Control in the Federal Government:**

*“The oversight body is responsible for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing management’s design, implementation, and operation of an internal control system.”*

Furthermore, *Utah Code* rests ultimate control and responsibility of school districts in elected school boards. The school board should provide adequate oversight of district environmental internal controls to ensure their effective implementation. A school board could do this by overseeing its district administrators’ efforts to design, implement, and operate an internal control system with the following:

- Clear reporting lines
- Formalized plans, methods, policies, and procedures, to fulfill environmental compliance objectives, and
- A reliable monitoring and enforcement mechanism that includes internal auditing.

**RECOMMENDATION 1.3**

The Park City Board of Education should provide adequate oversight of district environmental internal controls. Among others, this should include establishing clear reporting lines, implementing a control framework, and creating a monitoring and enforcement mechanism that includes internal auditing.

Proper controls will help the district navigate environmental regulations when working on capital projects or any project that disturbs soil on regulated district property.

The following section of this report details the actions taken by the district, relevant environmental regulations, and the consequences that resulted from the district’s actions.

## District Projects Relocated Soil Onto Federally Regulated District Property

The waste piles at the junior high stem from two capital projects undertaken by the district. The first project occurred in summer 2018 and involved the leveling of a hill behind the elementary school. The district moved the excavated dirt to its current location just north of the junior high with a cap of clean soil. The district added soil and other waste to the existing piles in 2022 when construction began on an expansion of the elementary school. As part of the elementary school construction project, contractors excavated areas that had been cleaned up by the EPA in 2016 and were governed by the environmental covenant. This soil, as well as construction and demolition waste found during the elementary school project, was added to the piles at the junior high.



**The total amount of materials moved as part of two past capital projects is significant.**

The total amount of materials moved as part of these two projects is significant. The solid waste is divided into two solid waste piles north of the junior high, one consisting of soil and the other consisting primarily of construction and demolition materials. Figure 1.2 shows a picture taken from northeast of the junior high of the solid waste piles on the north side of the building.

**Figure 1.2: Waste Piles on the Junior High Property.** The soil and the construction and demolition piles are situated just north of the junior high. We have overlaid red outlines to help differentiate the two piles.



*Source: Office of the Legislative Auditor General.*



The soil pile measures 9 feet high, and about the length of a football field and a little over half as wide as a football field. The pile of construction and demolition material is 6 feet high but only about half as wide as the soil pile.<sup>6</sup> The total material of the two piles is roughly equivalent to the capacity of 1,100 large dump trucks. According to district administration, the district relocated the soil in 2018 instead of disposing of it because the district did not have adequate funding for proper disposal. The district also reported they left the pile where it was for five years because they hoped to eventually use the soil as fill if the junior high is torn down in the future.

### **The District Demonstrated a Lack of Oversight of Capital Projects and Environmental Regulations**

By creating the waste piles at the junior high from soil and other excavated materials, the district has incurred significant removal and disposal costs due to possible noncompliance with federal regulations and the environmental covenant. The actions also exposed the district to possible enforcement by Park City under the local soils ordinance and DEQ under the state's solid waste laws.

**The District Was Likely Noncompliant with Local Soils Ordinance.** The district moved excavated soil from the elementary school, which lies within soils ordinance boundaries, onto the junior high property, which lies outside the boundaries, in 2018. The district reports that they were operating with the assumption that the junior high was within the soils ordinance boundary. Even if this were true, the district still did not comply with all ordinance requirements. The district's actions appear to be noncompliant with multiple parts of the soils ordinance, potentially leading to legal consequences.

The district was likely noncompliant with two specific provisions of the soils ordinance.

- Before moving the soil at the elementary school, the district tested the soil and was aware of lead contamination. The lead concentrations exceeded a specific threshold in soils ordinance. Despite the district's awareness of the soils ordinance, the district moved the contaminated soil to the junior high. Ordinance requires soil with contaminants exceeding the threshold to be disposed of at a DEQ permitted facility.

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<sup>6</sup> The soil pile is 380 feet long, 105 feet wide, and 9 feet high with a total volume of approximately 359,000 cubic feet. The construction and demolition material pile measures 380 feet long, 66 feet wide, and 6 feet high with a total volume of approximately 42,000 cubic feet.



- The district moved soil from within ordinance boundaries to outside of ordinance boundaries without proper disposal at a permitted facility. Ordinance requires all soil removed from ordinance boundaries be disposed of properly. Key district administrators and staff appear to have been ignorant of the environmental covenant on the junior high property and incorrectly believed soils ordinance governed the property.



**The district's actions likely infringed on multiple parts of the local soils ordinance.**

Provisions in the soils ordinance also require soil relocated within ordinance boundaries be covered with six inches of clean dirt, a requirement also found in the environmental covenant. Believing that they were relocating the soil within ordinance boundaries, the district attempted to follow the soils ordinance by

placing a cap of clean dirt on top of the relocated soil in 2018. However, sampling in July 2023 showed a cap of four inches instead of the six inches specified in the ordinance and in the environmental covenant. This reduction may have been due to erosion and time. The insufficient soil cap had the potential to negatively impact the health and safety of PCSD students and employees. Upon discovery of the deficient soil cap, the district promptly restored the cap, fencing, and erosion control measures. A properly installed cap of clean soil is intended to reduce the release of dangerous contaminants through wind and water runoff.

While Park City has not taken any action against the district, the municipal soils ordinance states that violations can result in a misdemeanor and legal action. Regardless of possible legal action, the district did not demonstrate proper oversight and understanding of environmental requirements on the elementary school soil project in 2018.

### **According to DEQ, the District Did Not Comply with Solid Waste Laws.**

Relocating contaminated soil from the elementary school to the junior high triggered state environmental laws governing the storage and management of waste piles.

In addition to federal and local regulations, state regulation of solid waste piles applies to PCSD's piles of soil and other materials. *Administrative Rule* defines a waste pile as "any noncontainerized accumulation of solid waste that is used for...storage."<sup>7</sup> Operators of solid waste piles are required to meet specific requirements listed in *Administrative Rule* that are aimed at protecting the public

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<sup>7</sup> *Administrative Rule* R315-301-2(56).



and the environment. The district's piles of soil and other materials are considered waste piles because they are contaminated and not stored within a container. Because the piles have been in place for longer than a year and the district did not submit a plan of operation, rules dictate that the piles must be removed to a permitted facility. The district is not a solid waste facility, and thus appears to have been unaware of these regulations when they created the piles and has operated solid waste piles without proper approval since they were created in 2018 and 2022. DEQ sent a letter in December 2022 to the district informing them that the piles of soil and other materials are considered solid waste and are noncompliant with the state's solid waste laws. Statutory penalties could be as high as \$13 thousand per violation per day. Enforcement of these penalties is up to the discretion of DEQ, and they have not yet placed any penalties on the district for its solid waste piles. DEQ may impose penalties in the future if PCSD does not comply with federal and state determinations that the waste piles must be removed and disposed of at a permitted facility.



**The district created solid waste piles and did not operate the piles according to state rules, which triggered liability and possible penalties.**

**Federal Enforcement Could Involve Disposal of Waste Piles at the District's Expense.** The district appears to be noncompliant with provisions in the environmental covenant on the junior high property that the district themselves imposed as part of the EPA cleanup agreement in 2016. The district excavated parts of the EPA's clean soil cap that was introduced to the junior high property in 2016. The EPA has authority to complete a cleanup action under federal environmental law that allows them to respond to any threatened releases of hazardous substances such as lead and arsenic found in the waste piles. The EPA has agreed to allow DEQ to handle enforcement according to state rules, but if the state's response is insufficient, the EPA would consider invoking their authority to respond to the stockpiled soils at the district's expense. DEQ recently stated that the waste piles must be removed. The district's most recent estimates for disposing of the waste piles could be as much as \$3 million.



### BACKGROUND

School districts must follow school construction requirements at the state and local level. Some of these requirements include coordinating with local land use authorities, complying with local ordinances, and completing the Utah State Board of Education's school construction permitting process. School districts in Utah appear to be operating in an environment where local and state regulators have not always held school districts accountable for compliance. Still, each school district is responsible for complying with these requirements when planning construction projects. The Park City School District does not appear to have met some of these requirements on recent construction projects.

#### FINDING 2.1

Additional internal controls and oversight would encourage future compliance.

##### RECOMMENDATION 2.1

The Park City School District should undergo a thorough review of compliance risks and related internal controls. This review should be tied to the goals and priorities in the district's strategic plan to ensure that the most important risks are addressed and sufficiently mitigated.

##### RECOMMENDATION 2.2

The Park City School District should ensure that it has internal controls in place to reasonably ensure compliance with all federal, state, and local requirements.

##### RECOMMENDATION 2.3

The Legislature should consider changes to statute to clarify local government authority over land use in relation to school construction by local education agencies.

#### FINDING 2.2

A statewide audit of school construction may be merited.

##### RECOMMENDATION 2.4

The Legislative Audit Subcommittee should consider whether a statewide school construction audit is needed to improve school construction oversight and the efficiency of school construction practices.



### CONCLUSION

The Park City School District did not comply with certain state and local requirements for school building construction. Combined with the findings in Chapter 1 of this report on district actions contrary to environmental regulations, we have concerns about district noncompliance with state and local requirements. State and local regulators either requested or enforced shutdowns of the district's in-progress construction due to noncompliance, introducing delays and increased costs to project budgets. Many factors contributed to the district's noncompliance including insufficient internal controls over school construction and potentially ambiguous statute. The Utah State Board of Education's inadequate resources to oversee statewide school construction may have also created an environment that did not detect noncompliance. These in turn contributed to an increase in construction costs as well as pushing back completion of the first four schools under construction by almost a year. Because of deficiencies identified in the oversight of school construction across the state, a statewide audit of school construction may be warranted.





## Chapter 2

# Park City School District Needs to Improve Its Compliance with School Construction Regulations

### Finding 2.1: Additional Internal Controls and Oversight Would Encourage Future Compliance

During recent construction projects, the Park City School District (PCSD, or district) did not comply with certain state and local requirements for school construction. This led to construction delays and additional costs. The district:

- Did not adequately follow state requirements to coordinate with Summit County,
- Initially, did not meet county requirements for permitting and land use, and
- Did not follow Utah State Board of Education (USBE) requirements as part of the project planning process.

The district's insufficient internal controls and oversight as well as previously unenforced local and state requirements contributed to the district's noncompliance. The findings in this chapter, in conjunction with findings in Chapter 1 of this report, indicate the district should undergo a thorough review of compliance risk and related internal controls. The district should then adopt sufficient internal controls to provide a reasonable assurance of compliance with all government requirements.

The following timeline shows the dates of actions and events relevant to the district's construction planning and interactions with Summit County and USBE, from the time the first contract was signed in January 2021 to the construction pauses due to USBE and county actions in July and August 2022.<sup>8</sup> No new school buildings are being constructed as part of this project—the district is constructing additions on six of its seven existing schools.



**The findings in this chapter, in conjunction with findings in Chapter 1 of this report, indicate the district should undergo a thorough review of compliance risk and related internal controls.**

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<sup>8</sup> One general contractor is building additions to Park City High School and Ecker Hill Middle School while the other is building additions to Jeremy Ranch Elementary School, McPolin Elementary School, Parley's Park Elementary School, and Trailside Elementary School.



### **The District Does Not Appear to Have Met All State and Local School Construction Requirements**

School districts are governed by state and local government regulations when constructing school buildings. PCSD either did not meet certain requirements or did not do so initially, resulting in construction delays and additional costs. State requirements cover required coordination between school districts and other government entities. Local government requirements can cover such things as



zoning, permitting, and elements of school construction related to health and safety.

**PCSD Communicated Early with Summit County but Did Not Coordinate Land Use Compliance Early Enough in the Process.** Statute explicitly requires early coordination with local governments for construction projects and throughout the planning process. A school district must notify its local government, without delay, of its intent to construct a school building.<sup>9</sup> Directly afterward, school districts are required to meet as soon as possible to discuss community impact, safety concerns, and review site plans.<sup>10</sup>

PCSD proactively communicated early with the county regarding some aspects of the planned construction projects after expressing intent to build by contracting with an owner's representative in January 2021.<sup>11</sup> However, relevant zoning issues were not discussed, and we found no evidence that supports that coordination and required meetings occurred until March 2022. At that time, the district's engineering contractors reached out to county engineers to coordinate on infrastructure connections such as stormwater and parking. County engineers do not handle zoning compliance, so they did not inform the district of the requirement to comply with zoning ordinances. However, the county did inform the district that they would need to comply with county engineering requirements.

There are additional requirements for coordination with local governments in rule to ensure compliance with local permitting and zoning ordinances.

*Administrative Rule* requires:

*"Prior to developing plans and specifications for a public-school construction project, an LEA shall coordinate with affected local government land use authorities and utility providers to: ensure that the siting or expansion of a school in the intended location will comply with applicable local general plans and land use laws and will not conflict with entitled land uses."*<sup>12</sup>

The district did not ask the county to confirm the district's compliance with land use requirements until just before construction began. This occurred despite the state requirement that coordination on land use and zoning take place much

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<sup>9</sup> *Utah Code* 53E-3-710(1)(a).

<sup>10</sup> *Utah Code* 53E-3-710(1)(b).

<sup>11</sup> The district's owner's representative is a consultant hired to represent the district's interests in the selection of construction contractors and in providing direction to contractors and facilitating resolution of issues that may arise, among other responsibilities.

<sup>12</sup> *Administrative Rule* R277-471-7.



**PCSD did not coordinate on compliance with zoning and general plan requirements as early as they should have, which led to a shorter timeline to work out differences with Summit County on permitting requirements.**

earlier in the construction planning process—prior to developing plans. PCSD did not coordinate on compliance with zoning and general plan requirements as early as it should have, which led to a shorter timeline to work through potential miscommunications and differences in understanding of permitting requirements. The district should follow all state and local requirements for school construction.

**PCSD Continued Construction Without Necessary Local Permits.** The district proceeded with planned construction at Jeremy Ranch Elementary School

before it had complied with the county’s engineering and land use requirements. When weighing in on disagreements between Summit County and PCSD, the Office of the Property Rights Ombudsman confirmed that Summit County can require the district to follow county regulations generally, though there are some restrictions on that authority.<sup>13</sup> Summit County reports that the district did not comply with county engineering and zoning ordinances and did not obtain the following before beginning construction:

- A master planned development and conditional use permit
- A stormwater pollution prevention plan permit
- A construction permit for excavation, grading, and placement of fill
- An approved construction mitigation plan

In May 2022, before the district began construction, county engineering told the district to fulfill engineering requirements prior to construction. After learning of the district’s excavation work at Jeremy Ranch on July 7<sup>th</sup>, 2022, the county reportedly communicated to the district that engineering and land use permits would be required before construction could continue.<sup>14</sup> PCSD eventually submitted the



**Because the district continued building without the proper permits, county engineers ordered the district to shut down construction at Jeremy Ranch Elementary School.**

<sup>13</sup> The Office of the Property Rights Ombudsman and its involvement in PCSD’s projects are discussed later in this chapter. Statute does place limitations on a county’s ability to regulate school construction. The full ombudsman opinion is found in Appendix A of this report.

<sup>14</sup> Based on evidence provided by the district, county departments may have communicated a mixed message after they learned construction was proceeding without permits.



required application on July 18, 2022,<sup>15</sup> but because the district continued building without the proper permits, county engineers ordered the district to shut down construction at Jeremy Ranch Elementary School.

The county reportedly did not learn that the district had started building until after work had begun, perhaps due to the district’s delayed coordination and delayed submission of project schedules to the county.<sup>16</sup> Submission of project schedules to the county would have likely helped coordination efforts, and earlier coordination would have afforded the district and county more time to resolve differences before construction was scheduled to begin. For current and future construction projects, the district should follow applicable local permitting and land use requirements.



**The district began construction before they had completed USBE’s pre-construction checklist and before receiving a permit from USBE.**

**PCSD Did Not Complete USBE’s Preconstruction Checklist Prior to Construction.**

The express purpose of the *Administrative Rule* that requires coordination is to avoid land use conflict. Consistent with this purpose, USBE includes an item that addresses a district’s coordination with its local government on USBE’s pre-construction checklist.<sup>17</sup> The list includes a

requirement to submit evidence that the district has communicated to the county its intent to build and has complied with any applicable land use ordinances.<sup>18</sup> This requirement—and the district’s attempt to complete the preconstruction checklist just before construction began in June 2022—led to the initial discussions with the Summit County Planning Department on land use compliance. However, the district began construction before it had



**USBE asked the district to stop construction at two schools because the district had not acquired necessary state permits, further delaying construction projects.**

<sup>15</sup> The Jeremy Ranch project received the required master-planned development conditional use permit (MPD-CUP) on August 23, 2022, more than a month after the application was submitted and about two months after construction began.

<sup>16</sup> *Utah Code* 17-27a-305(8) requires school districts to submit development plans and schedules to their local governments as early as practicable, but no later than the start of construction, so that the county can assess compliance with applicable local land use ordinances.

<sup>17</sup> Completion of the pre-construction checklist results in USBE issuing a state project number for a school construction project. This checklist is the state permitting process for school construction and must be completed before beginning construction. Failure to comply with the pre-construction checklist can result in a loss of district funding.

<sup>18</sup> Item I on the pre-construction checklist mentions that an LEA must provide evidence that it has complied with local ordinances, including obtaining a conditional use permit, if applicable.



completed USBE's pre-construction checklist and before receiving a permit from USBE.

When USBE learned that PCSD had begun school construction without first completing the pre-construction checklist and obtaining a state permit, USBE asked the district to stop any construction that was out of compliance. As a result, the district stopped construction at McPolin Elementary School and Park City High School, adding to the construction delays already experienced at Jeremy Ranch Elementary School.<sup>19</sup> To avoid such delays, the district should complete the pre-construction checklist before beginning construction on future projects. The planning and development of future project schedules should account for the time required to comply with both local and state requirements according to prescribed timelines.

### **Delays and Other Factors Have Increased Construction Costs for the District**

Construction shutdowns stemming from noncompliance created delays to project schedules. The district experienced costs due to delays at the same time they were dealing with the rising price of materials and services due to inflation, the loss of subcontractors to other construction projects, and winter conditions. The district demonstrated some cost increases, although estimating the total cost increases was not possible due to incomplete information. Some of the increased costs would likely have occurred regardless of delays; however, it is impossible to make a distinction between routinely expected costs and costs strictly due to delays. Thus far, the total budgeted cost of the projects has not exceeded the total bonded amount of \$129 million. Delays will push back project completion dates. For example, construction is expected to be completed at Jeremy Ranch Elementary School and McPolin Elementary School almost a year later than originally planned.

### **Insufficient Internal Controls and Lack of Enforcement of Construction Requirements in the Past Contributed to District Noncompliance**

State and local regulators either requested or enforced shutdowns of the district's in-progress construction due to district noncompliance. This noncompliance with state and local coordination and permitting requirements can be attributed to insufficient internal controls and incorrect expectations that the county would not enforce local rules and USBE would not require compliance with preconstruction rules. The experience of other school districts and construction

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<sup>19</sup>The district completed pre-construction requirements and received a project number at Jeremy Ranch Elementary on September 1, 2022, over 2 months after construction had first begun.



contractors indicates that cities, counties, and USBE have not previously enforced relevant regulations. USBE’s previous ineffective enforcement is one reason we recommend a statewide school construction audit later in this chapter. However, the district and its local board are responsible for oversight and ensuring compliance with regulations. The district’s problems with school construction compliance are concerning when coupled with issues brought up in Chapter 1 of this report regarding the district’s handling of contaminated soils.

**The District Did Not Adequately Oversee Compliance with Construction**

**Requirements.** PCSD’s inexperience in school construction increases the risk for



**District inexperience in school construction increases the risk of noncompliance.**

noncompliance. It is the responsibility of the district and its school board to implement adequate controls and oversight to provide a reasonable assurance of compliance. Noncompliance, construction delays, and a lack of sufficient policies and procedures indicate existing internal controls are insufficient.

Because of its inexperience with school construction and the difficulty of navigating construction of six schools in two land use jurisdictions, the district hired an owner’s representative to help execute its construction projects and comply with regulations. According to their contract, the owner’s representative is required to “comply with laws, codes, rules, regulations, ordinances, and quality requirements applicable to the Project...” using their best efforts according to a standard of care. The district confirmed that it envisioned that the owner’s representative would oversee construction compliance. However, *Administrative Rule* places the responsibility for compliance with construction requirements on the school board and the district’s building official.<sup>20</sup>



**Administrative Rule places the responsibility for compliance with construction requirements on a school board and a district’s building official.**

We discussed internal controls in Chapter 1 of this report, which are meant to reduce risk to an organization. Combined with PCSD’s absence of sufficient compliance policies and procedures, the district appears to have placed compliance responsibility on its contracted owner’s representative. It is unclear what oversight the district provided for the contractor’s compliance

<sup>20</sup> *Administrative Rule* R277-471-4(1): “An LEA board shall be accountable to ensure that all school district...construction, renovation, and inspections are conducted in accordance with the law.”  
*Administrative Rule* R277-471-2(11): “School District Building Official [is] the individual or authority designated by a school district who has direct administrative and operational control of school district construction or renovation and is responsible for the school district’s compliance with Utah law.”



with state and local regulations. In particular, the Park City Board of Education should have fulfilled its governance role to provide oversight and ensure that proper controls were in place, regardless of whether the district used a contractor or oversaw compliance itself.

The issues brought up in this chapter and in Chapter 1 will eventually be resolved after the district expends significant resources to address the consequences of noncompliance. However, school districts face extensive compliance requirements beyond school construction and contaminated soil, across all school district operations and services provided. PCSD needs to assess compliance risks to the district. The district then needs to use the results of this assessment to adopt sufficient internal controls that address proper training, accountability, and culture in order to provide a reasonable assurance of compliance across all district areas.

#### RECOMMENDATION 2.1

The Park City School District should undergo a thorough review of compliance risks and related internal controls. This review should be tied to the goals and priorities in the district's strategic plan to ensure that the most important risks are addressed and sufficiently mitigated.

#### RECOMMENDATION 2.2

The Park City School District should ensure that it has internal controls in place to reasonably ensure compliance with all federal, state, and local requirements.

**The District and Its Contractors Did Not Expect the County to Enforce Permitting and Land Use Requirements.** The district's contractors reported that they had never been subjected to a local government's enforcement of land use authority on previous school construction projects across the state. Due to PCSD's lack of experience in school construction, it appears that the district followed the lead of its contractors in assuming that county regulations would be unenforced. This assumption may have influenced the planning phase because the district appears to have not accounted for proper coordination on county requirements nor the time to fulfill county requirements before construction began.



After complying with county permitting requirements, the district requested an



**The Office of the Property Rights Ombudsman determined that PCSD must generally conform to Summit County’s land use code, except where expressly prohibited by statute.**

advisory opinion from the Office of the Property Rights Ombudsman to clarify whether Summit County can impose land use and permitting requirements on the school district and to what extent. The ombudsman determined that the district must generally conform to Summit County’s land use code, except where expressly prohibited by statute.<sup>21</sup> This determination is inconsistent with the experiences of the district’s contractors who have worked on school construction in other parts of Utah and the experiences of other school districts we spoke

to. Summit County’s decision to enforce certain land use and permitting requirements, which they are legally able to do according to the ombudsman, went against the district’s expectations.

The difference between the ombudsman’s opinion and the experiences of the district’s construction contractors and other school districts may be due to ambiguous language in statute. The ombudsman’s opinion notes several areas of statute where key terms are not defined and acknowledges the potential for multiple interpretations.<sup>22</sup> Legislative attorneys agree that certain parts of statute could be clarified to reduce ambiguity and increase shared understanding of county authority to regulate land use related to local education agencies (LEAs).<sup>23</sup> The Legislature should consider changing statute to clarify the authority and responsibilities of local governments and LEAs as schools are planned and constructed.



**The difference between the ombudsman’s opinion and the experiences of construction contractors and other school districts may be due to ambiguous language in statute.**

<sup>21</sup> The ombudsman determined that Summit County lawfully required the district to obtain conditional use permits and to go through the master planned development process. This audit does not assess the appropriateness of all requirements enforced by Summit County.

<sup>22</sup> The opinion notes that “unreasonable risks to health and safety,” “county building codes,” and “building use for educational purposes” are not clearly defined in statute.

<sup>23</sup> See Appendix B for a list of sections of statute the Legislature could consider clarifying.



**RECOMMENDATION 2.3**

The Legislature should consider changes to statute to clarify local government authority over land use in relation to school construction by local education agencies.

**According to Contractors and School Districts, USBE Has Not Effectively Enforced Construction Regulations.** The district began building before it had completed USBE’s school construction permitting process, which includes the pre-construction checklist. When USBE learned that the district had begun construction before completing the checklist, it reportedly asked PCSD to stop building. The district complied, adding to the delays caused by the county’s enforcement of land use authority.

*Administrative Rule* requires school districts to complete USBE’s school construction permitting process before construction begins. However, according to reports by general contractors and other school districts, USBE has not generally enforced this pre-construction deadline. In the past, USBE was reliant on school districts volunteering information about future construction projects and did not effectively monitor new construction. USBE reports that it provides semi-annual training to district building officials that covers compliance requirements. *Administrative Rule* prescribes penalties for noncompliance. However, USBE has reportedly never used this penalty for construction issues. A prior lack of enforcement and ineffectual penalties may have contributed to the district and its contractors developing project schedules that did not account for the time needed to complete the checklist before beginning to build. USBE reports that it is starting to proactively monitor potential construction projects and educate districts.<sup>24</sup> USBE should continue these efforts and require compliance from school districts.

PCSD’s noncompliance with state and local requirements resulted in additional costs and significant delays to project completion. Insufficient internal controls, insufficient oversight by USBE in the past, and potentially ambiguous statute all contributed to the district’s noncompliance. The



**The district’s inexperience in school construction increased risks to the district, and the district should have responded with appropriate resources and controls.**

<sup>24</sup> The steps USBE is taking include (1) monitoring bond elections and sending compliance information to districts, (2) monitoring changes to board levies and sending compliance information, and (3) asking officials at voluntary district building official trainings what projects they will be undertaking.



district's inexperience in school construction increased risks to the district, and PCSD should have responded with appropriate resources and controls. The district is ultimately responsible for ensuring its own compliance with state and local requirements.

## **Finding 2.2 A Statewide Audit of School Construction May Be Merited**

During the course of this audit, we identified potential opportunities for improvement in USBE's oversight of school construction. In addition, the Utah Division of Facilities Construction and Management (DFCM) recently finished a review of school construction practices statewide that identified many areas that can be improved or standardized. We believe an audit of statewide school construction may be merited.

### **A DFCM Review of K–12 School Facilities and Construction Identified Opportunities for Improvement**

The governor's office and DFCM collaborated on a review of school construction practices. This review highlights areas within school construction across the state that could be improved. In April 2022, the governor's office recommended that DFCM collaborate with USBE to implement recommendations from the review. Four of DFCM's findings include:

- No standardized cost-reporting system exists to ensure transparency and comparability of capital costs between facilities and between school districts.
- Districts are reportedly building to code minimum to save up-front costs when higher standards could lead to savings over the life of the building.
- None of the sampled districts had written facilities maintenance standards, or formal standardized facilities maintenance auditing programs.
- School districts' choice of construction delivery methods could be creating cost inefficiencies and project management difficulties.

DFCM's findings indicate there may be a need for additional review of school construction oversight and the efficiency of school construction practices across the state.



## USBE Oversight of School Construction May Be Insufficient

We became aware of potential deficiencies in USBE’s oversight of statewide school construction as we investigated PCSD’s construction practices and noncompliance. Statute requires USBE to provide guidance to LEAs and ensure compliance with certain state requirements.

**Oversight of School Construction Guidelines Is Lacking.** Guidelines in USBE’s School Construction Resource Manual have not been updated since 2013. This is contrary to statute, which requires an update every three years.<sup>25</sup> Additionally, statute requires that USBE create the guidelines in consultation with DFCM. However, the director of DFCM reports that this did not occur when USBE created the manual in 2013.

**State School Construction Permitting Requirements Have Reportedly Not Been Enforced.** *Administrative Rule* requires that USBE’s school construction permitting process, which includes the pre-construction checklist, be completed before construction begins. However, according to general contractors and other school districts, USBE has not generally enforced this deadline. A general contractor working in the state reports that none of their construction projects had received project numbers, which are USBE’s school construction permits, prior to construction. USBE’s lack of monitoring and its difficulties with enforcement have created an environment where school districts obtain a project number from USBE after construction begins. USBE has only one designated employee who works on school construction issues, likely making it difficult to effectively monitor and enforce LEAs’ compliance with construction requirements. USBE’s insufficient enforcement—and the expectations that were created—played a role in delaying PCSD’s school construction projects.

We believe that DFCM’s statewide review of school construction and the deficiencies we identified during this audit indicate that an audit of school construction may be merited.

### RECOMMENDATION 2.4

The Legislative Audit Subcommittee should consider whether a statewide school construction audit is needed to improve school construction oversight and the efficiency of school construction practices.

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<sup>25</sup> USBE reports that the manual is currently being updated.



## BACKGROUND

Schools with low-performing student groups are required to provide additional oversight and assistance to target improvement. The Utah State Board of Education identified multiple student groups in Park City School District (PCSD, or district) that are struggling, and require supplementary action.

### FINDING 3.1

The district has opportunities to further bolster underperforming student groups through additional oversight.

### RECOMMENDATION 3.1

The Park City School District should provide better planning and oversight of underperforming student groups in the district.

### RECOMMENDATION 3.2

The Park City School District should take advantage of state programs for schools that have been unable to make sufficient improvement with underperforming student groups.

### FINDING 3.2

The Park City School District could benefit from aligning instructional strategies.

### RECOMMENDATION 3.3

The Park City School District should consider providing professional development and collaboration opportunities for schools to align instructional practices within and across grade levels.



## CONCLUSION

The district, despite having overall high proficiency rates, can do more to intentionally identify and provide oversight for student groups designated as needing additional, targeted support. The district's school plans for the 2023 school year do not fulfill federal requirements. Additionally, PCSD could implement best practices to further help these student groups with low performance. Best practices for schools include consistency in the instructional strategies and practices they use across grades. This concept could be implemented in PCSD elementary schools. In addition, the district could opt into state programs, such as Elevate, designed to help schools improve the performance of struggling student populations.





# Chapter 3

## The District Can Increase Accountability for Underperforming Student Populations

### 3.1 The District Has Opportunities to Further Bolster Underperforming Student Groups Through Additional Oversight

Park City School District (PCSD, or district) had the third highest average proficiency rate<sup>26</sup> among Utah school districts in 2022. This performance overshadows the lower performance of more disadvantaged students in the district. Utah’s accountability system for public schools has established rules under federal guidance for determining when low-performing student groups<sup>27</sup> need further support from their local education agency (LEA) and potentially the Utah State Board of Education (USBE). Federal requirements call this Additional Targeted Support and Improvement (ATSI).<sup>28</sup> A state-defined student group exists at a school if there are ten or more students who fit into a given



**As of 2022, PCSD had twelve student groups, across six schools, that qualify as ATSI and are subject to additional requirements. Evidence indicates that the district can better target these students for improvement.**

demographic category.<sup>29</sup> As of 2022, PCSD had twelve of these student groups, across six schools<sup>30</sup>, that qualify as ATSI and are subject to additional requirements. The district reports providing interventions for underperforming students. However, it can provide better oversight of these groups for improvement. We recommend that PCSD do more to oversee and hold schools accountable for performance of these underperforming student groups and consider opting into state programs that grant access to additional state resources, such as the Elevate program.<sup>31</sup>

<sup>26</sup> PCSD has the third highest proficiency rate when looking at the RISE and Utah Aspire Plus results for the 2022 school year.

<sup>27</sup> ATSI status is assigned to schools that have at least one student group that performs as low as the lowest five percent of schools in the state.

<sup>28</sup> This student group designation was previously termed Targeted Support and Improvement (TSI). Updated federal guidance informed state leaders that these groups should have instead been classified as ATSI.

<sup>29</sup> See Appendix C for details on how these groups are determined.

<sup>30</sup> There are seven schools in PCSD. Park City High School is the one school with no designations.

<sup>31</sup> *Utah Code* 53E-5-302.1.



## Local Education Agencies Are Required to Take Specific Steps to Help Underperforming Student Groups

The 2015 federal Every Student Succeeds Act (ESSA)<sup>32</sup> requires each state to develop a system that identifies the lowest-performing student groups in the state.<sup>33</sup> Underperforming student groups in Utah are given the ATSI designation.

The state of Utah began designating these student groups by using assessment results from the 2017 and 2018 school years. A brief break was taken for the 2020 and 2021 school years due to disruptions from COVID-19. This timeline has produced three years of underperforming student group designations.<sup>34</sup>

LEAs that have an identified group are responsible for ensuring that its school is meeting the requirements to target and assist the lowest-performing student groups. Schools with at least one identified group are required to set a goal that:

- Identifies the ATSI group.
- Identifies the interventions being used specifically to improve the academic performance of the ATSI group.
- Identifies the student outcome or outcomes the school is trying to improve



**Granite reports that it identifies specific goals and action steps that will be used for ATSI student groups within their schools' plans.**

through interventions. Depending on whether the school is elementary or high school, this can include statewide assessments and postsecondary readiness indicators.

USBE identified Granite School District as an LEA that is meeting these requirements and implementing best practices. Granite reports that each school's plan

is checked to confirm that the needs identified by the principal in the planning stage are reflected in its goals.

<sup>32</sup> ESSA replaced earlier versions of public-school accountability such as the Elementary and Secondary Education Act (ESEA) and No Child Left Behind (NCLB).

<sup>33</sup> ESSA also requires that the state-developed system identify the lowest performing Title I schools and schools with an average graduation rate of less than 67 percent over three years. For the purposes of this report, we will discuss only the identification of underperforming student groups. See Appendix C for more details on student group identification.

<sup>34</sup> Tests were administered during the 2021 school year. However, the state was not required to identify ATSI groups because the federal government did not hold the state accountable for the growth scores associated with that year's assessments.



## District Should Bolster Plans to Ensure Compliance with All Requirements for Extra Student Growth and Accountability

Plans for PCSD schools with underperforming student groups could include additional elements outlined by federal regulations. While the plans include interventions and outcomes they hope to meet for their entire school, the plans could be more complete. Some of the plans from the 2023 school year do not identify the school's designated group(s) in a goal focused on improving performance for statewide accountability metrics. These school plans within PCSD also do not identify specific interventions that will be implemented to facilitate improvement for a particular group. Our review of 2024 school year plans also found the following:

- Three of the six PCSD schools with an ATSI designation do not have a school goal in their School Improvement Plans (SIP) for any of the identified student groups.
- Two of the six PCSD schools with an ATSI designation have a school goal in their SIPs for an identified student group, but it is paired with a goal for the entire school. In both schools' plans, there is no differentiation between actions for meeting the school goal and what will be done for the designated low-performing student group.
- All three of the six PCSD schools that have a school goal in their SIP for an identified student group do not include specific evidenced-based interventions for the group. Actions listed include staffing positions or broad actions that will be taken by the school.

Our role is not to rule on compliance with federal requirements, accordingly we make no opinion on federal compliance. However, based on our review, we believe the district needs to bolster their plans and oversight of certain student groups. District administration indicates they intend to incorporate the required plan elements in the future. We recommend that the district provide better support for their underperforming student groups, with more oversight and accountability of schools and their planning for designated student groups.

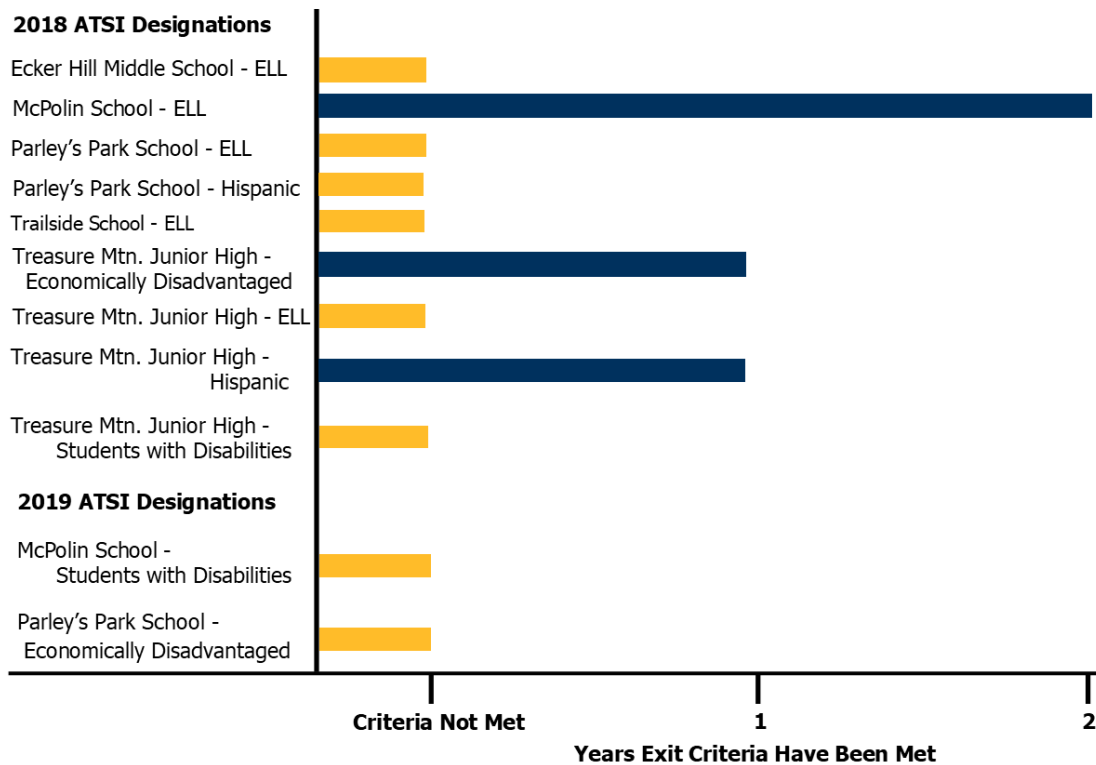
### RECOMMENDATION 3.1

The Park City School District should provide better planning and oversight of underperforming student groups in the district.



PCSD’s underperforming groups have not been reported as making sufficient progress towards having their federal designation removed and the district no longer being required to provide additional support. As of the end of the 2022 school year, only one previously identified group in the district had made sufficient progress towards USBE’s requirements.<sup>35</sup> The LEA and the school are no longer required to provide additional, targeted support to a group once it has performed better than the lowest five percent of schools for two consecutive years. Figure 3.1 shows the status of PCSD’s groups identified in the 2018 and 2019 school year designations.

**Figure 3.1: The PCSD Groups Identified for Additional, Targeted Support from 2018 and 2019 Have Not Made Sufficient Progress to Exit.** USBE designated nine Park City School District student groups in 2018 and two additional student groups in 2019\*. Only the McPolin English language learner (ELL) group has met the exit requirement†; eight of the eleven groups have not made progress towards exit.



Source: Auditor analysis of Utah State Board of Education data.

\* The ATSI groups designated in 2019 have only one year possible for meeting the exit criteria (2022).

† An ATSI group exits once it has two consecutive years where their performance is better than the lowest 5 percent of schools in the state.

<sup>35</sup> The requirements for a group to exit from federal designation have changed as of August 2023. Going forward the exit criteria will differ from what was required through the 2022 school year.

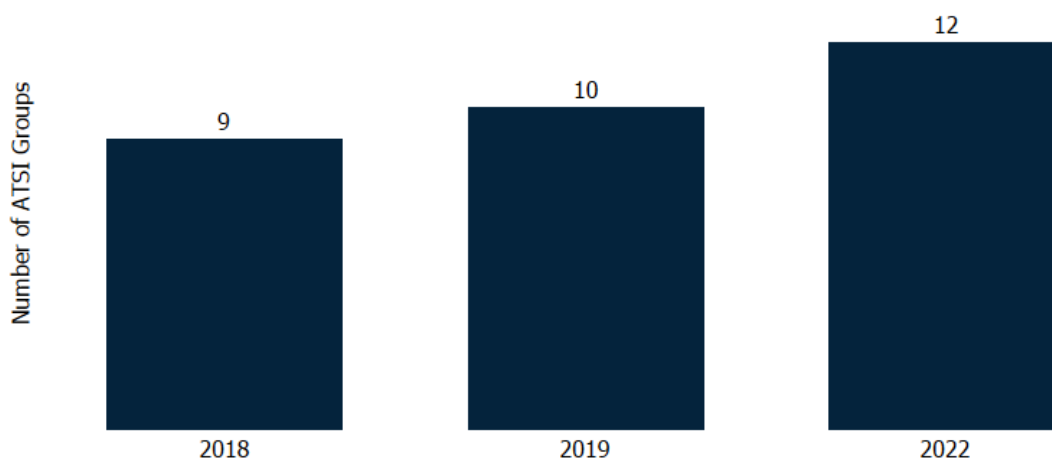


Figure 3.1 shows that many of their designated groups from 2018 and 2019 have not met the exit criteria. In addition, USBE identified two more low-performing groups in PCSD in 2022. Understandably, it is difficult for schools and LEAs to have high performance for all their student groups, but PCSD could take additional steps towards fulfilling requirements to help these populations. The district should incorporate additional elements into their plans to better target underperforming student groups and to increase accountability.

### The Number of Groups in PCSD Requiring Additional Support Is Increasing

We recognize that PCSD has overall strong academic performance and could be providing targeted interventions without it being stated in school plans. However, the district documentation of additional interventions specifically for designated groups in its plans appears to be incomplete. Efforts by the district to meet requirements and best practices may help address the district’s growing number of student groups being designated. Figure 3.2 shows the number of ATSI groups in PCSD over time.

**Figure 3.2: The Number of Underperforming Groups Identified in PCSD Has Increased Over Time.** The number of groups in the district performing as low as the bottom five percent of schools increased from nine to twelve between school years 2018 and 2022.



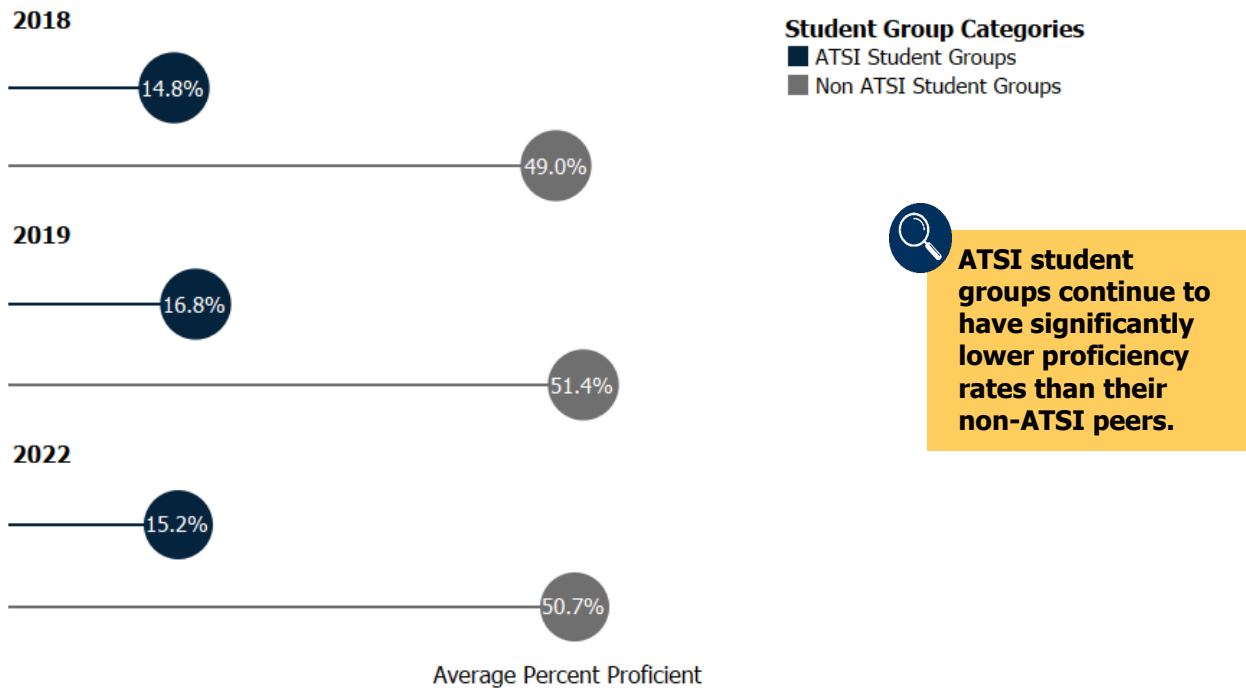
*Source: Auditor analysis of Utah State Board of Education data.*

Despite the district’s overall high performance on assessments, there is a significant achievement gap between student groups that need additional support and those that do not. Although a similar gap may exist in other districts around the state, it is highlighted in PCSD due to the increasing number of



student groups performing as low as the bottom five percent of schools. Figure 3.3 illustrates the achievement gap in English Language Arts (ELA) for each of the years where PCSD had student groups designated for additional support.

**Figure 3.3: Average Proficiency Rates Show a Difference of At Least 30 Percent Between ATSI and Non-ATSI Student Groups\* Each Year.** The gap in English Language Arts† proficiency rates persists despite additional requirements to support those students.



Source: Auditor analysis of Utah State Board of Education data.

\* The student groups in each category vary from year to year because ATSI designations have included more student groups over time.

† English Language Arts proficiency is one example of achievement gaps in the district, but it is not the only area considered when determining ATSI designations.

**PCSD is among fourteen districts that have triggered a resource allocation review by USBE due to their percentage of underperforming student groups.**

USBE is beginning to conduct resource allocation reviews on LEAs where more than twenty percent of their eligible student groups are designated as ATSI. PCSD is one of fourteen districts that crossed this threshold set by USBE, triggering a review for the 2024 school year.

Discussions with individuals at the district and state levels point to the following factors that potentially contributed to PCSD’s challenges in not providing

additional oversight per federal regulations for student groups that need additional targeted support.



- These designations are relatively new and were disrupted by COVID-19 for two years. This could create uncertainties about district requirements.
- Monitoring these groups was previously the responsibility of PCSD’s chief academic officer, but when that role became vacant, the job duties were divided among multiple individuals. This may have resulted in tasks being assigned to new individuals without them having sufficient knowledge on the topic. This role has been filled for the 2024 school year.

To provide additional accountability, the district should consider taking advantage of state programs, such as Elevate. This program is voluntary, but once in the program, the district is expected to establish a school improvement committee, contract with a continuous improvement expert, and identify and address the root causes of low performance.<sup>36</sup> Elevate also helps the district establish accountability for school needs by requiring an annual report on goals, benchmarks, and their timeline for improvement be sent to USBE. Program participation could assist PCSD schools in targeting interventions for their students with the highest needs.

### RECOMMENDATION 3.2

The Park City School District should take advantage of state programs for schools that have been unable to make sufficient improvement with underperforming student groups.

## 3.2 PCSD Could Benefit from Aligning Instructional Strategies

To help low-performing student groups, the district also should consider aligning instructional strategies in its elementary schools. Ensuring that teaching methods are used consistently from one grade level to the next has been successful in improving outcomes in other elementary schools in Utah. For example, Parkview School (Salt Lake City School District), North Summit School (North Summit School District, or NSSD), and Cache County School District have seen strong performance on student assessments. In observations or meetings with each school or district,



**In meeting with representatives from high-performing schools or districts, consistency in practices was cited as essential to their success.**

<sup>36</sup> *Utah Code* 53E-5-303.



consistency in practices was cited as being essential to their success. Our office has observed this concept firsthand.

**An In-Depth Budget Review of the Salt Lake City School District:**

*“LEAs wanting to improve instruction and achievement in schools should focus on student learning, instructional improvement, and systemwide curriculum that connects from one grade to the next. This is consistent with the state’s Effective Teaching Standards which include aligning learning experiences ‘within and across grade levels.’”*

Additionally, the work of Utah Leading through Effective, Actionable, and Dynamic (ULEAD) Education supports this same idea, encouraging schools and districts to “identify and adopt core literacy programs that . . . create consistency across classrooms, grade levels, schools, and districts.”<sup>37</sup>

Examples from PCSD elementary schools indicate the district is already moving in the direction of aligning practices among grade levels. However, there are further opportunities for them in this area. Beginning with the 2023 school year, some of the elementary schools provided opportunities for grade level teams to meet with each other to communicate strengths and weaknesses in meeting Utah Core standards. The schools also have Innovative Education teams that are composed of one teacher from each grade level. At least one elementary school’s team has met together and agreed on an instructional strategy to incorporate in their classrooms at each grade level.



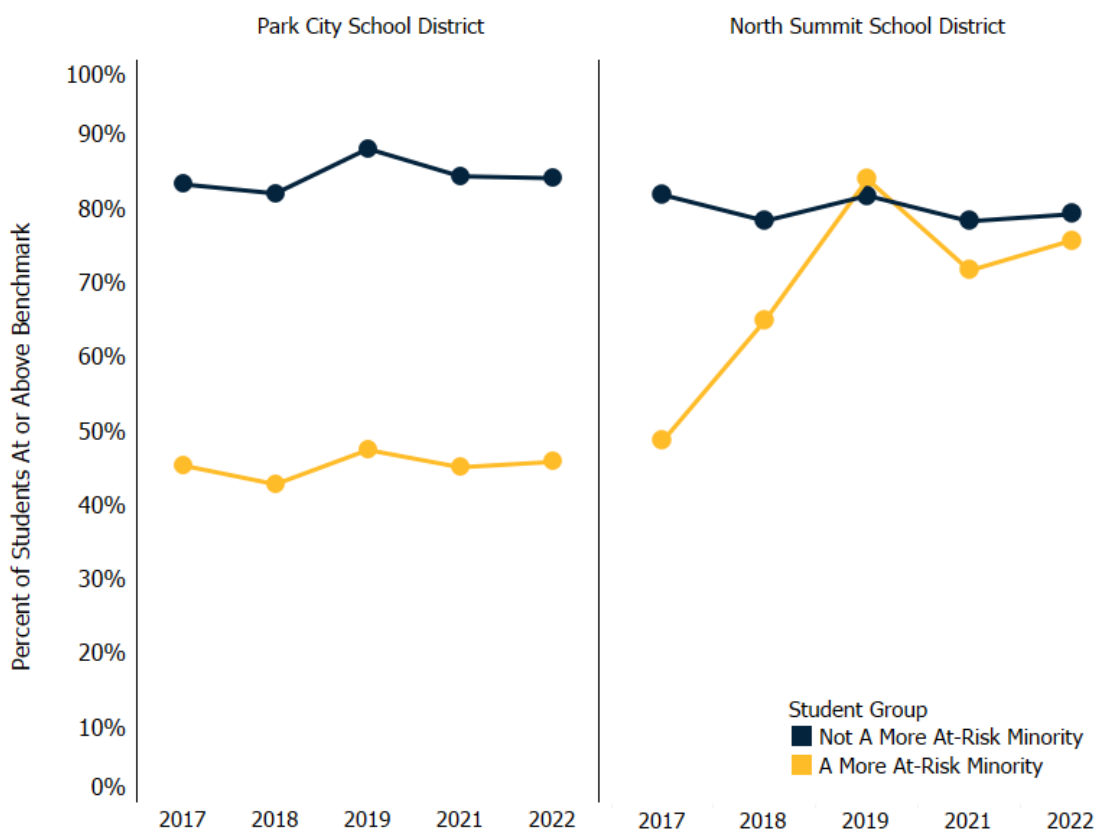
**Examples indicate that PCSD is already moving in the direction of aligning practices among grade levels.**

Figure 3.4 shows the success of one of the district’s demographic peers, NSSD, compared with results from PCSD. Both North Summit and PCSD have high overall performance in statewide assessments, but NSSD is closing literacy achievement gaps between their disadvantaged and non-disadvantaged students. This is seen on kindergarten through third grade assessment scores in their elementary school as it has developed a more consistent approach to instruction.

<sup>37</sup> Hanover Research. (2019). Literacy Instruction in Primary Grades, A Best Practices Report: Prepared for Utah Leading through Effective, Actionable, and Dynamic Education. <https://www.schools.utah.gov/ulead/practicereports>.



**Figure 3.4: North Summit School District Recently Had High Performance on the Acadience Literacy Assessment for All Racial/Ethnic Groups.** This figure summarizes literacy performance of North Summit School District and Park City School District. Each district’s graph includes a line for students who are not a more at-risk racial minority and a separate line for students who are a more at-risk racial minority.<sup>38</sup> Students in North Summit School District are just as likely to be at grade level for literacy no matter their race or ethnicity as of 2022 testing.



*Source: Auditor analysis of Utah State Board of Education data.*

NSSD’s single elementary school has increased the percentage of at-risk racial minority students who are on grade level in literacy—a result that is not matched in PCSD. While both PCSD and NSSD are seeing improvement in the growth measure for literacy, the latter has been able to capitalize on that growth resulting in a greater percentage of its students reading on grade level. We recommend that PCSD consider aligning its instructional strategies across grade levels to help increase the percentage of students meeting literacy benchmarks. Along with other students, this could benefit identified, underperforming student groups in the district.

<sup>38</sup> Utah State Board of Education data includes African American/Black, Hispanic, American Indian, and Pacific Islander students as being a more at-risk racial minority. They classify Asian, Multiple Race, and White students as not being a more at-risk racial minority.



### **RECOMMENDATION 3.3**

The Park City School District should consider aligning their instructional practices within and across grade levels.



## BACKGROUND

Local education agencies (LEA) have the critical responsibility of educating future generations of citizens. One thing LEA governing boards can do to increase the probability of achieving their goals is adopting an effective strategic plan that follows best practices. A strategic plan can empower LEAs to make informed decisions, align resources, and navigate the complexities of educating students with a long-term vision in mind. Effective strategic plans tend to have specific elements that nest within each other and build upon the foundation of an LEA's mission and vision.

### FINDING 4.1

Strategic plans can bring significant benefits to public schools.

No Recommendation

### FINDING 4.2

A more complete and accessible strategic plan could help target district improvement.

#### RECOMMENDATION 4.1

The Park City School District should incorporate objectives into its strategic plan that connect long term goals to concrete actions and strategies.

#### RECOMMENDATION 4.2

The Park City School District should incorporate strategies or actionable steps into its strategic plan that seek to fulfill district objectives.

#### RECOMMENDATION 4.3

The Park City School District should ensure that existing performance measures are directly tied to the district's goals and vision.

#### RECOMMENDATION 4.4

The Park City School District should ensure that all district areas have quality performance measures that directly tie into the district's goals and vision.

#### RECOMMENDATION 4.5

The Park City Board of Education should annually assess district progress towards strategic plan goals and objectives. This should include a review of district performance measures.

#### RECOMMENDATION 4.6

The Park City School District should make its comprehensive strategic plan available in a readily accessible location.

#### RECOMMENDATION 4.7

The Legislative Audit Subcommittee should consider whether a statewide audit is needed to determine if the boards of local education agencies have adopted strategic plans that sufficiently empower their organizations to make informed decisions, align resources, set targeted goals, and navigate the complexities of educating students through a long-term vision that is goal oriented.



## CONCLUSION

The Park City School District can improve its strategic plan by adopting best practices. An improved strategic plan that includes objectives, strategies, and performance measures tied to district goals and vision can help the district better target their underperforming student groups. Making the strategic plan more accessible can increase awareness of the plan among district employees and increase the plan's impact on employees' day-to-day activities.





## Chapter 4

# Improved Strategic Planning Can Help PCSD Make Informed Decisions and Set Meaningful Goals

### 4.1 Strategic Plans Can Bring Significant Benefits to Public Schools

Strategic plans provide a structured and forward-looking approach to accomplishing a school district's purpose and mission to educate students and prepare them for postsecondary opportunities. These plans include elements that translate day-to-day actions into progress towards long-term goals and importantly, they contain performance metrics or accountability standards to measure success. Our *Best Practice Handbook* states, "Effective strategic plans shape the vision of the organization and direct actions to provide reasonable assurance that objectives and goals are being met."

Our office and the Governor's Office of Planning and Budget (GOPB) both emphasize the need for effective strategic plans. They serve as a crucial roadmap that guides an organization's actions, decisions, and resource allocation. A strategic plan encourages a long-term perspective and can serve as a reference point for leaders when making decisions. When leaders are faced with choices and opportunities, a strategic plan can orient the leaders to the values of the organization and to the organization's long-term goals and objectives.

### 4.2 A More Complete and Accessible Strategic Plan Could Help Target District Improvement

While the Park City School District (PCSD, or district) appears to be a high performing local education agency (LEA), it could do more to target improvement through a more complete and accessible strategic plan. Implementing a strategic plan that targets specific outcomes that are aligned with an organization's mission and purpose is key to long-term organizational improvement. Effective strategic plans help optimize resources, manage risk, align goals with stakeholder priorities, and provide a framework for continual growth, improvement, and goal accomplishment. We believe there is an opportunity for PCSD to boost student academic



**Effective strategic plans help optimize resource allocation, manage risk, align goals with stakeholder priorities, and provide a framework for continual growth, improvement, and accomplishing goals.**



achievement, especially among specific, underperforming student groups<sup>39</sup> by focusing its efforts through an updated strategic plan. We recommend that PCSD review and update its current strategic plan to focus district priorities on



**We believe that a thoughtful, accessible strategic plan that maps out district priorities down to measurable objectives can be a driver for organizational improvement and is an important component of good board governance.**

strategies, objectives, oversight, and measurable outcomes. The Park City Board of Education should exercise its governance role to ensure this takes place. The district also should ensure that the strategic plan is effectively communicated and accessible. We believe that a thoughtful, accessible strategic plan that maps out district priorities down to measurable objectives can drive organizational improvement and is an important component of good board governance.

We have reported on deficiencies in an LEA strategic plan in a previous audit.<sup>40</sup> The findings in this chapter, combined with observations of other LEA

strategic plans we have reviewed, suggest that LEA strategic plans statewide may not be reaching their full potential to impact change and improvement. We recommend that the Legislative Audit Subcommittee consider whether a statewide audit of LEA strategic plans is needed.

### **PCSD's Strategic Plan Includes Important Elements but Could Incorporate Additional Best Practices**

While PCSD's strategic plan includes some best practices, it is missing crucial elements, potentially decreasing its effectiveness. Strategic plan best practices focus on improving performance and accountability. Multiple entities that publish best practices for managing organizations agree on key steps to improve organizational outcomes.<sup>41</sup> PCSD should adopt these best practices into its strategic plan to increase its effectiveness and to help target the district's underperforming student groups.

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<sup>39</sup> These groups are discussed in depth in Chapter 3 of this report.

<sup>40</sup> *An In-Depth Budget Review of the Weber School District (2022-02)*. [https://lag.utleg.gov/olag-doc/2022-02\\_RPT.pdf](https://lag.utleg.gov/olag-doc/2022-02_RPT.pdf)

<sup>41</sup> These entities include the *GOPB Guide to Strategic Planning* by the Governor's Office of Planning and Budget, the federal Government Performance Results Act (GPRA), the Sharpening the Pencil program of Florida's Office of Program Policy Analysis and Government Accountability (OPPAGA), and our own office's *Best Practices to Improve Government Operations*.



GOPB created a guide to help executive branch agencies more effectively develop and use strategic plans. The following infographic shows the elements of a strategic plan as outlined by the *GOPB Guide to Strategic Planning*.



Source: *GOPB Guide to Strategic Planning by the Governor's Office of Planning and Budget*

GOPB emphasizes the important relationships between these elements.

#### **GOPB Guide to Strategic Planning:**

*"Each of these key elements should nest within one another, beginning with long-term desired outcomes, breaking down into actionable implementation steps, and then evaluation of agency progress to determine effectiveness."*

The next image shows the management cycle, which is a continuous improvement framework that can be used to advance the district's goals and mission. The different elements of a strategic plan are similar to different phases of the management cycle. The words outside the circle, which are key elements of a strategic plan, are placed next to the management phase they most closely relate to.



Source: GOPB Guide to Strategic Planning by the Governor's Office of Planning and Budget and The Best Practice Handbook by the Office of the Legislative Auditor General.

The district's website lists its vision, mission, values, and high-level goals stemming from those values, thus accounting for most of the planning phase of the management cycle. However, the district is missing other crucial elements in its strategic plan. For example, the absence of objectives, strategies, and



**The absence of objectives, strategies, and performance metrics that tie directly into district goals means the district does not have a defined, short-term direction or the ability to assess progress toward goals.**

performance metrics that tie directly into district goals means the district does not have a defined, short-term direction for PCSD as a whole or the ability to assess progress toward goals. It also indicates the district is primarily in the planning part of the management cycle and may be neglecting the parts that require action.

Individual schools in the district appear to have objectives, strategies, and performance measures in school level plans, but the school plans are not explicitly tied to the district's strategic plan and are not found in the same place as the district strategic

plan. In the following sections, each missing element of PCSD's strategic plan is discussed in turn, including why its absence is significant.

**PCSD Needs Objectives That Connect Long-Term Goals to Specific Actions Taken.** The district lists long term goals on its website and presents annual, high-



level goals at the September/October board meeting each year. However, PCSD does not appear to have objectives that serve as effective intermediate goals. GOPB's guide defines an objective as a "Mid-range target that creates a bridge between high-level goals and tactical strategies." Our office concurs that objectives should be in school district strategic plans because the district's goals tend to be general, not specific, without direction on how they will be accomplished. For example, PCSD's first strategic goal relates to academic success and lays out broad ambitions for the district.

### PCSD Strategic Goal 1:

*"Develop the potential of every student through data-driven and best learning practices to be academically successful and prepared for life beyond graduation. Provide safe, optimal and equitable learning environments for all students and staff."*

We believe this is a sound goal that, if accomplished, would help student performance and well-being. However, this goal cannot be easily measured. The district's current work plan also contains annual goals, some of which are vague and not easily measured. Each year, PCSD reports on a limited number of school-level objectives at the June board meeting, but it is unclear how these connect to larger district level goals. Objectives are needed for the district as a whole to implement different aspects of a given goal and facilitate ultimate goal achievement. Objectives also allow the district to measure progress toward the target goal. The district's strategic plan should include objectives that feed into high-level goals. Having intermediate goals in the form of objectives will provide direction to district actions and programs, increase the likelihood of reaching the district's high-level goals and vision, and help align resources. These outcomes are vital to navigating the complexities of educating children in an ever-changing environment.



**Strategic plans need objectives to implement smaller steps of a goal and facilitate ultimate goal achievement.**

### RECOMMENDATION 4.1

The Park City School District should incorporate objectives into its strategic plan that connect long-term goals to concrete actions and strategies.



**PCSD Needs Strategies to Turn Objectives into Concrete Actions.** These strategies help connect aspirations to day-to-day activities. Best practices



**Strategies should be short term and follow the SMART framework: specific, measurable, attainable, relevant, and timebound.**

outlined by GOPB, our office, and other resources agree on the importance of strategies in strategic plans. The GOPB guide defines strategies as “methods that will be used to accomplish agency goals and objectives [that] should be connected to a specific objective and guide agency work in the short term,” and advises that strategies should follow elements of the SMART framework: specific, measurable, attainable, relevant, and timebound.

PCSD does not appear to have clearly stated strategies in its strategic plan for the district as a whole. PCSD produces a report that includes a comprehensive list of programs and initiatives underway in the district; however, these are not tied to clear, measurable objectives. In addition, annual school plans include strategies connected to various school-level goals, but these are generally only found on individual school websites or specific board meetings and do not all clearly connect to district objectives and goals. The connection between strategies and objectives is important because it ensures that actions taken work toward accomplishing short term objectives and, ultimately, long-term goals. The district should adopt strategies for accomplishing objectives.

#### RECOMMENDATION 4.2

The Park City School District should incorporate strategies and actionable steps into its strategic plan that seek to fulfill district objectives.

**PCSD Can Improve Their Use of Performance Measures and Annual Accountability.** Performance measures are important because they indicate the level of progress in accomplishing goals and objectives. According to GOPB, performance targets must have a clear relationship to long-term goals and objectives. GOPB also states, “A good performance measure evaluates the desired outcomes of the agency, how effectively the agency produces those outcomes, and how well each individual contributes to those outcomes.” As the district creates goal-driven performance measures and connects existing measures to district goals, PCSD’s board should annually review their strategic plan and monitor performance measures to ensure continual improvement. GOPB requires state agencies to report performance measures annually to GOPB and to the Office of the Legislative Fiscal Analyst.



The district's existing performance measures could be more clearly tied to goals that are used to assess progress towards goal accomplishment. While the district has academic performance measures, such as the percentage of students reading at grade level in third grade, we believe these measures could be more directly tied to district goals or districtwide short-term objectives and strategies. At the school board meeting in June 2023, the superintendent provided information on district accomplishments such as the number of seniors graduating from high school and the increase in the AP exam participation rate. However, the presentation did not connect these accomplishments explicitly to PCSD's progress in achieving specific district goals. The district appears to have school-level performance measures, but these were limited and were presented only at a specified board meeting and could be more clearly connected to the strategic plan and district goals.

In October 2021, our office released *A Performance Audit of Social Service Agencies' Performance Measures*, which stated, "[Q]uality performance measures generate improvements that accomplish goals and objectives" and stressed the need for meaningful targets and specific plans of improvement. PCSD should ensure existing performance measures tie into the strategic plan and should adopt performance measures tied to goals for all district areas.

#### **RECOMMENDATION 4.3**

The Park City School District should ensure that existing performance measures are directly tied to the district's goals and vision.

#### **RECOMMENDATION 4.4**

The Park City School District should ensure that all district areas have quality performance measures that directly tie into the district's goals and vision.

In addition, the PCSD school board should exercise principles of good governance and annually assess district progress towards goals and objectives. This annual check-in should include an evaluation of performance measures and whether the district is making sufficient progress.



#### RECOMMENDATION 4.5

The Park City Board of Education should annually assess district progress towards strategic plan goals and objectives. This should include a review of district performance measures.

We believe a comprehensive strategic plan can help PCSD more intentionally target district priorities and areas for improvement. In the *Best Practice Handbook* published by the Office of the Legislative Auditor General, we state:

#### The Best Practice Handbook:

*“Effective strategic plans shape the vision of the organization and direct actions to provide reasonable assurance that objectives and goals are being met. Developing a strategic plan can clarify organizational priorities and define what the agency seeks to accomplish.”*

As described in Chapter 3 of this report, PCSD can do more to target improved academic outcomes for underperforming student groups. According to the Utah State Board of Education, thirty percent of the district’s student groups<sup>42</sup> perform as poorly as the bottom 5 percent of Utah schools. For example, Hispanic students, as a group at PCSD’s Parley’s Park School, perform as low as the lowest 5 percent of Utah’s schools and have been identified for needed improvement. To increase accountability and increase the probability of successfully accomplishing goals—including helping underperforming student groups—PCSD should incorporate best practices listed in this section into their strategic plan.

### **PCSD’s Strategic Plan Should Be More Accessible and Transparent**

Besides including additional elements in its strategic plan, PCSD should take steps to increase the accessibility and transparency of the plan. PCSD noted that the district’s annual goals and performance measures are presented at three board meetings throughout the year (September/October, January, and June). The annual goals are also included in the September/October superintendent

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<sup>42</sup> A school can have a student group if it has at least ten students that fit into a given demographic or academic category. The different groups include: economically disadvantaged students, student with disabilities, English learners, Asian, African American/Black, American Indian, Hispanic, Multiple Race, Pacific Islander, White.



newsletter. We believe PCSD’s plan for sharing this information may be insufficient.

Accessibility and awareness of strategic plans are important. The GOPB guide states:

*While the direct audience for a strategic plan is internal, transparency with other state agencies, external stakeholders, members of the public, and the legislature is key to building trust. Making the plan easily accessible to the public allows the agency to promote its mission and communicate to taxpayers how the agency is working to fulfill its mission. The completed plan should be shared widely within the agency so that all employees understand the strategic direction and goals of the agency, and see how their individual work fits within a larger mission.*



**Clear communication and accessibility, both internal and external to the school district, are key to successful implementation of a strategic plan.**

Clear communication and accessibility, both internal and external to the school district, are key to successful implementation of a strategic plan. The limited availability of PCSD’s strategic plan runs counter to these best practices.

In our review, the only way we were able to identify the district’s high-level annual goals was to find a presentation file attached to the October 2022 board meeting agenda. Individuals and community stakeholders who do not receive the superintendent’s newsletter may be at a loss to find the district’s annual goals. To do so, they would need to (a) know the board meeting where the goals were presented and know where to find the file or (b) be



**To get a full picture of the district’s strategic plan, one would need to attend specific school board meetings throughout the year or receive the monthly superintendent newsletter.**

subscribed or know where to find the superintendent’s newsletter on the district’s website. Similarly, we were able find the district’s long-term academic goals and school-level objectives and performance measures through a link on a presentation given at the June 2023 board meeting or in the presentation. It was only by reviewing the PCSD school board’s handbook that the audit team learned that elements of the district’s strategic plan could be found in the board meeting documentation.

To get a full picture of the district’s strategic plan, therefore, one would need to attend specific school board meetings throughout



the year or receive the monthly superintendent newsletter and find school level plans on individual school websites.<sup>43</sup>

We believe the limited availability of the district’s full strategic plan, along with the missing plan elements, may explain results from a survey we administered to district employees that asked about the district’s culture, strategic plan, and other areas. Two questions in particular highlight the need for better communication around the strategic plan. Figure 4.1 shows that 34 percent of respondents are not aware of the district’s strategic plan, while Figure 4.2 shows that 42 percent of respondents either strongly disagree or disagree that the strategic plan affects their day-to-day work.

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**Figure 4.1: Are You Aware of Your LEA’s Strategic Plan?** Of the 189 district employees who answered this question, 64 individuals (or 34 percent) answered that they were not aware of the district’s strategic plan.

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*Source: PCSD survey results, Office of the Legislative Auditor General.*

*Note: The survey had an error rate of +/- 6 percent.*

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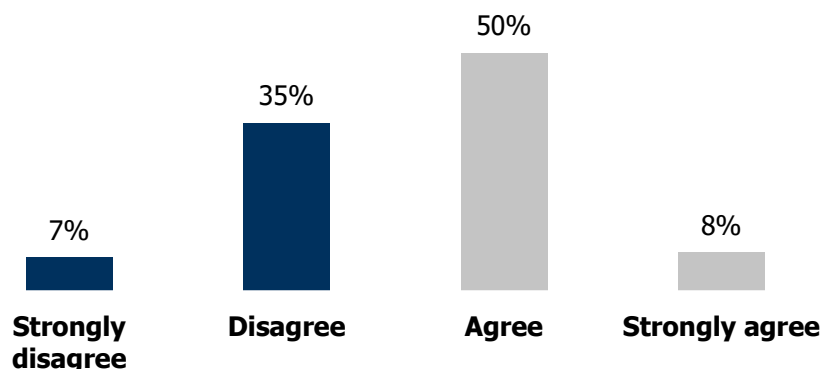
It is encouraging that a majority of survey respondents are aware of the district’s strategic plan. However, Figure 4.1 illustrates opportunities for improvement.

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<sup>43</sup> The district has taken a positive step by compiling many strategic plan elements into a single document. However, this document was briefly referenced at the August 15, 2023, board meeting when it was released, and it appears the document can only be found among other documents on a separate website that houses board meeting documents.



**Figure 4.2: The LEA Strategic Plan Affects My Day-to-Day Work.** Of the 185 district employees who answered this question, 78 individuals (or 42 percent) either disagreed or strongly disagreed with this statement.



*Source: PCSD survey results, Office of the Legislative Auditor General.  
Note: The survey had an error rate of +/- 6 percent.*

Having 58 percent of survey respondents indicate that the strategic plan affects their day-to-day work is encouraging. However, Figure 4.2 indicates that PCSD can make better connections between the district's goals and the daily work of employees.

Taken together, while most respondents are aware of and impacted daily by the strategic plan, the survey responses also indicate that PCSD can do more to increase awareness of the strategic plan. We recommend that the district display a comprehensive strategic plan that includes the best practices mentioned in this chapter, in an easily accessible location. The district should reference the location of the strategic plan any time the plan is discussed, updated, or reported on. This is consistent with best practices described by GOPB.

#### **RECOMMENDATION 4.6**

The Park City School District should make its comprehensive strategic plan available in a readily accessible location.

### **Weak Strategic Plans Statewide Suggest the Need for a Full Audit**

Beginning with our office's audit of the Weber School District (WSD), we have found that LEA strategic plans we have reviewed over multiple audits do not follow best practices. We reported the following deficiencies of WSD's strategic plan:



- The strategic plan had not been updated in more than ten years. This means the strategic plan had not formally adapted to changes in the field of public education. It also means current district priorities, which have perhaps changed over time, may not be included in the strategic plan. The static nature of the strategic plan, we believe, would make it difficult to make long-term, sustained progress.
- The strategic plan did not include actionable goals. The lack of objectives would make it difficult for district employees to know what they should be trying to accomplish in the short term. It also inhibits the school board's ability to hold the district accountable because progress toward goals cannot be assessed.
- The strategic plan did not include performance metrics for WSD to measure progress toward achieving short- and long-term goals. The absence of performance indicators could make it difficult to assess whether WSD's efforts to improve district outcomes were successful. Performance metrics help focus district efforts and funding toward outcomes that align with board priorities.

In addition, we could not find evidence that WSD reported to its board annually on progress toward completing goals. We looked at WSD's enrollment peers as part of the WSD audit and found WSD's peers only followed some strategic plan best practices. Similarly, while conducting work for this audit, we found that the strategic plans for some of PCSD's demographic peers appear to be missing key best practices.



**We have found that LEA strategic plans generally do not follow best practices.**

LEAs' work to educate future generations of Utah citizens is of critical importance. Well implemented strategic plans that follow best practices increase the likelihood of an organization accomplishing its mission and goals. Strategic plans hold the potential to lead LEAs to greater performance, greater efficiency, and increased student learning. Considering the importance of effective strategic plans in relation to organizational success, we recommend an audit of LEA strategic plans statewide.



#### RECOMMENDATION 4.7

The Legislative Audit Subcommittee should consider whether a statewide audit is needed to determine if the boards of local education agencies have adopted strategic plans that sufficiently empower their organizations to make informed decisions, align resources, set targeted goals, and navigate the complexities of educating students through a long-term vision that is goal oriented.





### BACKGROUND

Student performance tracking systems are a common tool for schools to identify students in need of extra help and interventions. These systems use data indicators to recognize patterns and red flags to help students as early as possible in areas such as behavior, attendance, and academics. The Utah Legislature provides ongoing funding for public schools in the state to have access to an early warning system that would identify students for intervention. The Park City School District uses a student analytics tool, with some similarities to early warning systems, that innovatively uses student data to predict student growth.

#### FINDING 5.1

Additional use of the district's student analytics tool can assist the Park City School District in targeting student improvement.

#### RECOMMENDATION 5.1

The Park City School District should continue to lead out on their use of analytical tools to target student improvement and effective programs and use additional features to increase the district's opportunities for growth.



### CONCLUSION

The Park City School District uses a student analytics tool that projects student performance and facilitates analyses of return on investment for different interventions and programs. The district should continue to identify ways to utilize its existing resources to target underperforming student groups, specifically those identified by the Utah State Board of Education. The district also should seek opportunities to more fully utilize the system's capabilities to analyze student data and make informed, effective decisions about district resources. The opportunities available with the district's tool may contribute to an audit currently in process on "early warning systems and analytic tools to target and improve student growth".





## Chapter 5

# The District's Use of a Student Analytic Tool Is Encouraging, but More Can Be Done

### 5.1 Additional Use of the District's Student Analytics Tool Can Assist the Park City School District in Targeting Student Improvement

Park City School District (PCSD, or district) employs an innovative student analytics system that can evaluate program impact and teacher effectiveness as well as tracking student growth.<sup>44</sup> These tools may have facilitated a more efficient use of resources and more effective implementation of programs in the district. The district's current analytics system<sup>45</sup> forecasts individual student performance, which can be used to evaluate program impact, return on investment (ROI), and teacher effectiveness. The district reports to be using the system for many of these purposes. We are encouraged by PCSD's use of this tool and anticipate additional opportunities for the district to do more with its system to improve targeted student performance and planning. We recommend that the district look for additional opportunities to use its student analytics tool to help underperforming student groups and to adopt innovative education practices.

Early warning systems have become a popular tool for schools to identify students who need extra educational resources. Typically, they identify students who, without intervention, could face negative academic outcomes such as failing to graduate. Interventions can include meetings of teachers and administrators, meetings with parents, and referral of a student to a student support team.<sup>46</sup> PCSD, however, is utilizing a system that not only has the potential to identify students for intervention but also provides opportunities for analysis of student growth. As discussed in Chapter 3 of this report, the district has twelve student groups designated for extra support. The district's student growth and analytics system could help effectively track progress and address the



**The district's student growth and analytics system could help effectively track progress and address the needs of these students, while helping the district meet federal requirements for monitoring and reporting.**

<sup>44</sup> Student analytic systems are traditionally called early warning systems. In this audit we will refer to these systems as student analytic tools or student growth systems.

<sup>45</sup> The district's early warning system is called ECRIS and was created by the ECRA Group.

<sup>46</sup> Other examples of interventions include assignment recovery course, assignment to mandatory tutoring, referral to social services, and assignment to academic support courses.



needs of these students, while helping the district meet federal requirements for monitoring and reporting. This system, and potentially others, can serve as reporting tools for student growth and effective instruction while also allowing a local education agency (LEA) to develop a clear strategy and progress toward goals.

In Utah, the Legislature prioritized funding for early warning systems. The Legislature set aside \$375,000 for a pilot program in the 2017 General Session. The popularity of the program grew, resulting in the allocation of \$775,000 in ongoing funding that currently helps to fund the program's use in 331 schools, with funding for an additional nineteen schools. The state-funded early warning system allows schools and school districts to track multiple student characteristics (attendance, behavior, grades, etc.) to identify students who may require interventions to meet an end goal. The Utah Legislature's Audit Subcommittee has continued to prioritize such systems to help schools and students by requesting an audit of state "early warning systems and analytic tools to target and improve student growth."<sup>47</sup>

### **The District Has Taken Positive Steps with Its Approach to Predicting and Measuring Student Growth**

PCSD uses a system that appears to be innovative in its approach to identifying students in need of additional help. The system provides the district with predicted performance on future assessments in addition to identifying students who are falling below expectations. The system generates growth charts, which the district uses to hold schools accountable for their overall performance. At the end of the school year, the district reports final actual student growth and how that compares against expected growth.

Importantly, PCSD also has been able to measure return on investment for district programs. LEAs, like other government agencies, face funding constraints. The ROI capability within PCSD's student



**Unlike most systems, PCSD's system provides the district with predicted performance on future assessments and identifies students whose performance could fall below expectations.**

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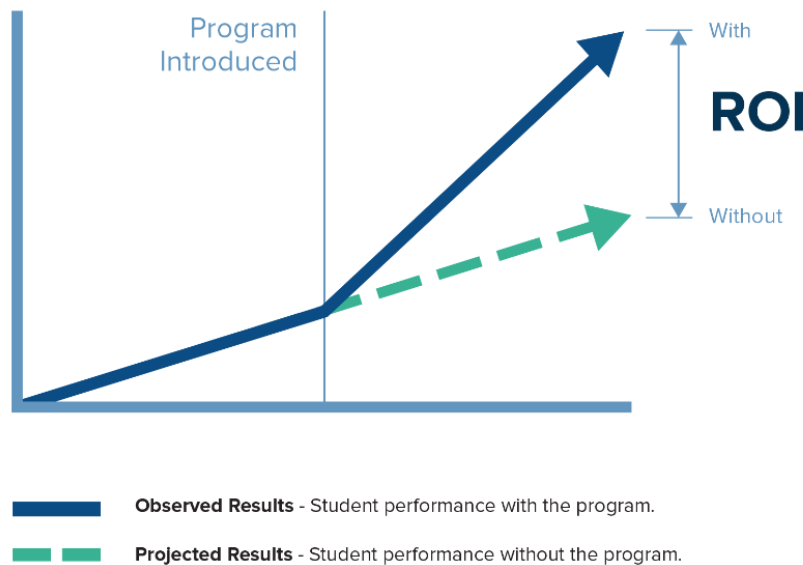
<sup>47</sup> Legislative Audit Subcommittee, audio recording (June 13, 2023). <https://le.utah.gov/committee/committee.jsp?com=SPEAUD>.



**The system's ROI functionality compares actual performance for students who received an intervention against their expected outcome if they had not participated.**

analytics tool enables the district to identify successful programs or strategies and compare them based on cost and effectiveness. This compares the actual performance of students who received an intervention against their expected performance of the same students if they had not participated in the program. Figure 5.1 demonstrates how this calculation is made for a given student.

**Figure 5.1: ROI for a Program Is Calculated by Comparing Expected Student Performance Against Actual Student Performance.** The gap between projected and actual results shows the estimated impact for a program. Combined with program cost data, this information can inform the district whether a program is cost effective.



*Source: ECRA Group*

After calculating the difference between observed and projected results, the district can incorporate program cost information to determine whether to continue or expand the program. This capability is important in an educational environment that frequently creates different and new programs. The ROI functionality can help the district identify successful programs that should be continued by providing statistical evidence that demonstrates effectiveness. The district reports that it has used this feature in analyzing the effectiveness of an extended school day program by comparing participants' actual results to what would be expected if they had not participated.



## The District Could Do More to Evaluate Teacher Performance, District Goals, and Student Growth Using Its Analytics Tool

PCSD's existing student analytics tool has capabilities beyond those currently utilized by the district. PCSD should expand its use of the system to potentially increase its effectiveness and impact on student improvement.

**The District's System Can Help Identify High-Performing Teachers by Comparing the Predicted Growth Against Actual Growth for a Teacher's Students.** The district can identify effective teachers by using the provided information of students' actual growth and comparing it to their predicted



**PCSD could use functionality within its current system to both identify effective teachers and help others become more effective.**

growth. Our previous audit on teacher and principal performance determined that Utah's teacher evaluation systems tend to focus on identifying poor-performing teachers and failing to also find those who are highly effective.<sup>48</sup> Statute recognizes the value in evaluation systems that identify both.<sup>49</sup> PCSD could use functionality within its existing analytical system to meet both purposes—identify effective teachers and to help others become more effective.

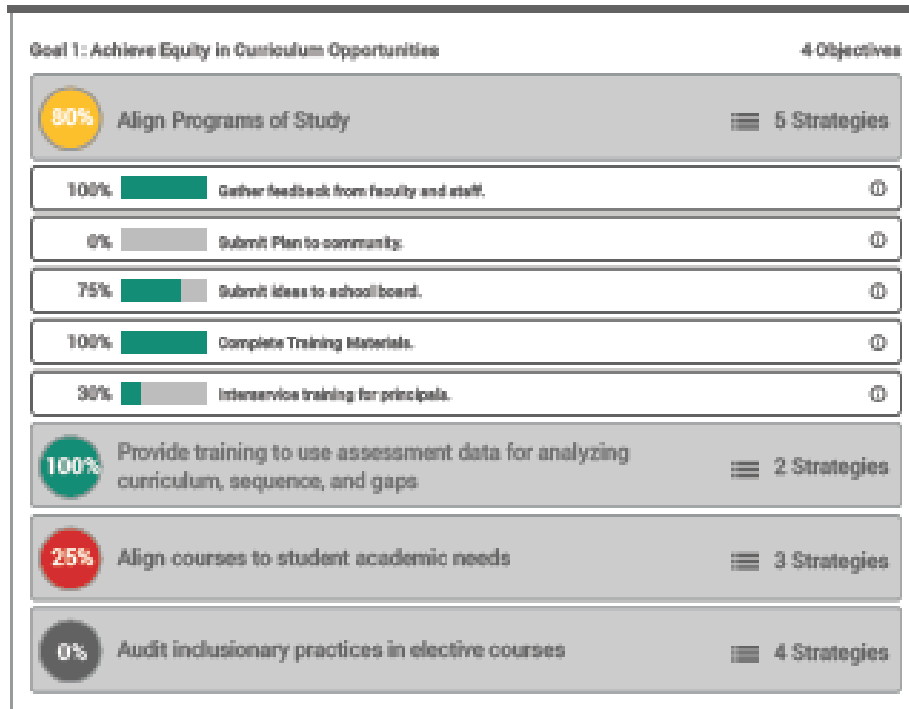
**PCSD's Tool Also Allows an LEA to Input Goals, and Track Progress Towards Meeting Them.** Figure 5.2 shows an example of this part of the system. It depicts specific goals and includes the indicators supporting the goal, along with the progress made for each one.

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<sup>48</sup> Office of the Legislative Auditor General, *A Performance Audit of Teacher and Principal Performance Within Utah's Public Education System*, (April 2022). [https://lag.utleg.gov/olag-doc/2022-03\\_RPT.pdf](https://lag.utleg.gov/olag-doc/2022-03_RPT.pdf).

<sup>49</sup> *Utah Code* 53G-11-501.5.

**Figure 5.2: The District's Student Analytics Tool Can Be Part of the District's Overall Accountability Framework and Can Track Goal Progress.** This part of the system is a tool for holding the district accountable, and a means to maintain transparency with the public.



Source: ECRA Group

Chapter 4 of this report recommends actions for the district to improve their strategic plan. These recommendations include the creation and publication of specific, trackable goals. After creating these important elements of a strategic plan, the district then could use this tool to not only track progress but to update the community.



**The district could use this tool to not only track their progress but to update their community.**

### PCSD Also Can Improve Their Use of the Following Capabilities Available in the Student Analytics Tool.

- The student growth tools can create custom groups of students to improve student monitoring. PCSD currently uses this feature for ROI analysis. It has also been used by the administration at one school for monitoring underperforming groups identified by the Utah State Board of Education.<sup>50</sup> This could be helpful for other school administrators needing to monitor their identified groups.

<sup>50</sup> See Chapter 3 of this report for additional information on underperforming student groups.



- The system can display summary data for individual students that are accessible to a student’s parents and teachers. The district has not yet rolled out this tool.

Our office has begun an audit to analyze existing programs for identifying student needs and opportunities for growth. Through this audit, we hope to find opportunities for use of this type of system and similar resources statewide. We believe this type of student analytics tool has significant potential to lift public education through better identifying successful programs, instructional strategies, and key performance indicators.

PCSD has demonstrated that they are using an innovative system to help the district and their schools target areas in need of improvement. However, there are additional benefits that could be attained if the system were more fully utilized. We recommend the Park City School District look for opportunities to continue to improve their strategic goals and student achievement by ensuring they are effectively using their student growth and analytic system.



**We believe this type of student analytics tool has significant potential to lift public education through better identifying successful programs, instructional strategies, and key performance indicators.**



# Complete List of Audit Recommendations





## Complete List of Audit Recommendations

This report made the following 18 recommendations. The numbering convention assigned to each recommendation consists of its chapter followed by a period and recommendation number within that chapter.

### **Recommendation 1.1**

We recommend the Park City School District develop internal controls for the effective planning and budgeting of capital projects on land impacted by environmental regulations.

### **Recommendation 1.2**

We recommend the Park City School District develop internal controls for the effective management of capital projects as they are executed.

### **Recommendation 1.3**

We recommend the Park City Board of Education provide adequate oversight of district environmental internal controls. Among others, this should include establishing clear reporting lines, implementing a control framework, and creating a monitoring and enforcement mechanism that includes internal auditing.

### **Recommendation 2.1**

We recommend the Park City School District undergo a thorough review of compliance risks and related internal controls. This review should be tied to the district's goals and priorities in the district's strategic plan to ensure that the most important risks are addressed and sufficiently mitigated.

### **Recommendation 2.2**

We recommend the Park City School District ensure that it has internal controls in place to reasonably ensure compliance with all federal, state, and local requirements.

### **Recommendation 2.3**

We recommend that the Legislature consider changes to statute to clarify local government authority over land use in relation to school construction by local education agencies.

### **Recommendation 2.4**

We recommend that the Legislative Audit Subcommittee consider whether a statewide school construction audit is needed to improve school construction oversight and the efficiency of school construction practices.

### **Recommendation 3.1**

We recommend the Park City School District provide better planning and oversight of underperforming student groups in the district.

### **Recommendation 3.2**

We recommend the Park City School District take advantage of state programs for schools that have been unable to make sufficient improvement with underperforming student groups.

### **Recommendation 3.3**

We recommend the Park City School District consider providing professional development and collaboration opportunities for schools to align instructional practices within and across grade levels.

### **Recommendation 4.1**

We recommend the Park City School District incorporate objectives into its strategic plan that connect long term goals to concrete actions and strategies.

### **Recommendation 4.2**

We recommend the Park City School District incorporate strategies or actionable steps into its strategic plan that seek to fulfill district objectives.

### **Recommendation 4.3**

We recommend the Park City School District ensure that existing performance measures are directly tied to the district's goals and vision.

### **Recommendation 4.4**

We recommend the Park City School District ensure that all district areas have quality performance measures that directly tie into the district's goals and vision.

### **Recommendation 4.5**

We recommend the Park City Board of Education annually assess district progress towards strategic plan goals and objectives. This should include a review of district performance measures.

### **Recommendation 4.6**

We recommend the Park City School District make its comprehensive strategic plan available in a readily accessible location.

### **Recommendation 4.7**

We recommend that the Legislative Audit Subcommittee consider whether a statewide audit is needed to determine if the boards of local education agencies have adopted strategic plans that sufficiently empower their organizations to make informed decisions, align resources, set targeted goals, and navigate the complexities of educating students through a long-term vision that is goal oriented.

### **Recommendation 5.1**

We recommend the Park City School District continue to lead out on their use of analytical tools to target student improvement and effective programs and use additional features to increase the district's opportunities for growth.



# Appendices



## **A. Office of the Property Rights Ombudsman Opinion**





SPENCER J. COX  
*Governor*

DEIDRE M. HENDERSON  
*Lieutenant Governor*

# UTAH DEPARTMENT OF COMMERCE

## Office of the Property Rights Ombudsman



MARGARET W. BUSSE  
*Executive Director*

JORDAN S. CULLIMORE  
*Division Director, Office of the Property Rights Ombudsman*

### ADVISORY OPINION

Advisory Opinion Requested By:	Park City School District
Local Government Entity:	Summit County
Applicant for land Use Approval:	Park City School District
Type of Property:	Schools
Date of this Advisory Opinion:	August 2, 2023
Opinion Authored By:	Marcie M. Jones, Attorney  Office of the Property Rights Ombudsman

### ISSUE

May the County lawfully impose generally applicable land use ordinances on Park City School District school construction projects?

### SUMMARY OF ADVISORY OPINION

This Advisory Opinion answers whether a county may lawfully require a school district to comply with generally applicable land use ordinances. The example development included a requirement to secure a Conditional Use Permit as well as go through a Master Planned Development process.

The core of this dispute revolves around interpreting the state’s broad grants of authority to both school districts and local governments, and whether Utah’s Land Use, Development, and Management Act requires the School District to conform to certain aspects of County land use ordinances. While state code says that each school district shall conform to local land use ordinances, it also provides a list of items for which local governments are prohibited from regulating on school district projects, including county building codes and the location of a school.

The plain language of state statutes regarding local land use authority and school district autonomy over school construction projects, when read together, require the School District to generally



abide by the County’s land use regulations to secure a CUP and MPD approval for the Jeremy Ranch Elementary School.

However, in this and all other land use ordinance applications, state law severely limits the County in what conditions may be imposed, and development at the location may only be denied upon the County finding that it is “necessary to avoid unreasonable risks to health or safety.”

### **REVIEW**

A Request for an Advisory Opinion may be filed at any time prior to the rendering of a final decision by a local land use appeal authority under the provisions of Title 13, Chapter 43, Section 205 of the Utah Code. An advisory opinion is meant to provide an early review, before any duty to exhaust administrative remedies, of significant land use questions so that those involved in a land use application or other specific land use disputes can have an independent review of an issue. It is hoped that this can help the parties avoid litigation, resolve differences in a fair and neutral forum, and understand the relevant law. The decision is not binding, but, as explained at the end of this opinion, may have some effect on the long-term cost of resolving such issues in the courts.

A Request for an Advisory Opinion was received from Park City School District via counsel at Fabian VanCott: Joan Andrews, Matt Anderson, and Mason Kjar dated December 16, 2022. A copy was sent via certified mail to Jenna Young, Interim County Manager, Summit County, 60 North Main, PO Box 128, Coalville, Utah 84017.

### **EVIDENCE**

The Ombudsman’s Office reviewed the following relevant documents and information prior to completing this Advisory Opinion:

1. Request for Advisory Opinion submitted by Park City School District via counsel at Fabian VanCott: Joan Andrews, Matt Anderson, and Mason Kjar dated December 16, 2022.
2. Response from J. Mason Kjar, Fabian VanCott on behalf of Park City School District dated February 10, 2023.
3. Response from Margaret H. Olson on behalf of Summit County dated January 4, 2023.

### **BACKGROUND**

This Advisory Opinion questions whether Summit County (the “County”) may lawfully require the Park City School District (the “School District” or “District”) to comply with generally applicable land use ordinances, including subjecting the District to a conditional use permit and master planned development approval processes.

The School District has several school renovation and construction projects planned and underway in the County. In accordance with its understanding of the law, the School District has worked with the County on plans for the many school projects, but had not gone through planning and zoning or building permit application processes.



Issues were brought to light when excavation on Jeremy Ranch Elementary School renovation began. The County notified the School District that approved land use permits would be required before construction could continue. Specifically, the County required the School District to obtain a Conditional Use Permit (“CUP”) to expand an existing elementary school because schools are a conditional use within the applicable Rural Residential Zone. The County also required the District to apply for the Master Planned Development (“MPD”) process if the expansion was over 15% or over ten thousand (10,000) square feet.

To keep the project moving forward, the District made application to the County for both the CUP and the MPD but did not pause the excavation work. Shortly thereafter, the County issued the District a Stop Work Order and Notice of Violation. The District continued to proceed with excavation and installation of a lateral sewer line while it worked with the County. As a result, the County issued an Administrative Citation. Again, to keep things moving forward, the District paid the Administrative Citation and the CUP and MPD were approved the following month.

Utah Code grants broad authority to local County governments to regulate land use within jurisdictional boundaries. *See generally* Utah Code §17-27a-101 *et seq.* However, this authority is refined and somewhat restricted as it relates to school districts in Utah Code §17-27a-305. The core of the dispute is what portions of the County’s broad land use authority applies to the School District.

School districts have powers which are co-ordinate with that of local land use authorities. Courts, as well as portions of Utah Code, suggest that it was not intended to invest cities with any powers over school buildings. However, Section 17-27a-305 states that school construction projects must comply with local land use ordinances *but also* that the county is restricted from regulating a list of standard, fundamental land use categories.

In the Jeremy Ranch Elementary School construction example, the District acquiesced to the County’s demands to continue work on a delayed project. The District is now looking for clarity on whether the County’s land use authority applies to the School District on on-going and future school renovations.

Accordingly, the School District has requested this Advisory Opinion to determine whether the County may impose generally applicable land use ordinances upon the School District when building or expanding public schools.

### ANALYSIS

As a threshold matter, the County maintains that the Office of the Property Rights Ombudsman does not have authority to issue an Advisory Opinion on this topic, so that issue will be addressed first.

- I. The Office of the Property Rights Ombudsman has authority to issue an Advisory Opinion on whether the County may lawfully require the School District to comply with generally applicable land use ordinances as contained in Utah Code Sections 17-27a-505.5 and 17-27a-506 through 17-27a-510.**



The County maintains that the issue at hand falls outside the scope of authority granted to the Office of the Property Rights Ombudsman. We disagree.

The Office of the Property Rights Ombudsman (the “Ombudsman”) was created by state statute and the authorities of the office are delineated therein, *see* UTAH CODE §13-43-101 *et seq.* Among other things, the statute creates the authority of the Ombudsman to issue Advisory Opinions, which is limited to covering certain defined topics. Specifically, for disputes involving land use law, the Ombudsman may review compliance with (1) certain sections of the Land Use, Development, and Management Act (“LUDMA”) governing cities and towns, (2) certain sections of LUDMA governing counties, and (3) compliance with the Impact Fees Act. (UTAH CODE §13-43-205(1)(a)).

In this instance, we are only concerned with the second topic – those sections of LUDMA that govern counties. Specifically, Utah Code Section 13-43-205(1) provides in relevant part that “A local government, private entity, or potentially aggrieved person, may . . . request a written advisory opinion: from a neutral third party to determine compliance with . . . Section 17-27a-505.5 and Sections 17-27a-506 through 17-27a-510.”

The Ombudsman may issue Advisory Opinions on the following County land use topics:

- 17-27a-505.5 Limit on single family designation
- 17-27a-506 Conditional uses
- 17-27a-507 Exactions
- 17-27a-508 Applicant’s entitlement to a land use application approval
- 17-27a-509 Limit on fees
- 17-27a-509.5 Review for application completeness
- 17-27a-509.7 Transferable development rights
- 17-27a-510 Nonconforming uses and noncomplying structures

It is acknowledged that the issue at hand is addressed in Utah Code Section 17-27a-305, which addresses a school district’s compliance with certain county land use ordinances. The County correctly points out that this section of Utah Code is not included in the list of sections for which an Advisory Opinion may be requested.

However, the core of the dispute involves whether the County may impose its typically plenary land use authority on the School District. In the Jeremy Ranch Elementary School construction example, at issue is the County’s requirement that the District obtain a CUP and MPD. Conditional Use Permits are included in the available topics for an Advisory Opinion. Conditional Uses are regulated within UTAH CODE §17-27a-506. Similarly, whether an applicant is entitled to a land use application approval is also an appropriate topic for an Advisory Opinion, included within UTAH CODE § 17-27a-508. If an Advisory Opinion may opine on whether a CUP or land use application was rightfully withheld, it follows that an Advisory Opinion may opine on whether they may be required at all.

Similarly, the County maintains that the initial dispute over construction work completed at the Jeremy Ranch Elementary School has been resolved and therefore the question is moot. We decline to dismiss the Advisory Opinion on this point. First, our governing state statute does not require a live case or controversy when the opinion issues. It requires only that a *request* for an Advisory Opinion be made before “a final decision on a land use application by a local appeal authority” or



“the deadline for filing an appeal with district court . . . if no local appeal authority is designated to hear the issue that is the subject of the request for an advisory opinion.” UTAH CODE §13-43-205(b). This opinion was timely requested. Also, as the School District has several construction projects planned, this issue is imminent and on-going and has not expired.

As such, the issue falls within our authority and we accordingly provide the following Advisory Opinion.

**II. According to the plain meaning of Utah Code Section 17-27a-305, the County may require the School District to follow local land use ordinances but is restricted from regulating several key issues and if a school location is denied the decision must include a finding of “unreasonable risks to health or safety.”**

The core of this dispute revolves around the interpretation of Utah Code Section 17-27a-305 and whether it requires the School District to conform to the County land use ordinances in question, in light of other statutory references to a School District’s control over its property and the construction of school buildings.

Utah courts first addressed this apparent conflict of authority as early as 1918, and found at that time that “the Legislature had all of these matters in mind, and did not intend to confer unnecessary powers on the city authorities respecting the control of public school buildings, and did not intend to hamper the school boards in the control of such buildings.” *Salt Lake City v. Board of Educ.*, 52 Utah 540, 553, 175 P. 654 (Utah 1918). As such, the court held that “it was not intended to invest cities with any powers over school buildings *except in case such buildings should become a menace and a danger* . . . and that school boards are not required to obtain permits from the cities.” *Id.* (emphasis added).

Similarly, state law today states that “Each school district shall be controlled by its local school board and shall be independent of municipal and county governments” and also, “The local school board shall have direction and control of all school property in the district . . . .” UTAH CODE § 53G-3-202(1)(a) and (b). School construction projects are subject to the requirements and oversight imposed by the Utah State Board of Education. (“Board of Education”). *See generally* UTAH CODE § 53E-3-701 *et seq.*

School districts generally secure building permits through the Board of Education instead of the local land use authority. The Board of Education is similarly authorized to issue certificates of occupancy.<sup>1</sup>

However, current state code also plainly stipulates that “each . . . school district . . . shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within . . . the unincorporated portion of the county.” UTAH CODE §17-27a-305(1)(a). This section plainly allows the County to impose applicable land use ordinances on the planned and on-going school construction and renovations.

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<sup>1</sup> Charter schools have slightly different regulations and need to obtain a building permit from the local land use authority.



The core of the controversy is discerning which local land use ordinances are “applicable” to be imposed on school district projects.

Section 17-27a-305 includes several important prohibitions from local regulation. The code states, in relevant part, “A county may not . . . impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property . . . [and may not] impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety.” UTAH CODE §17-27a-305(3)(a) and (f).

To summarize, the code says that each school district shall conform to local land use ordinances, while expressly narrowing which kinds of local land use requirements are not “applicable” to be imposed on school districts, such as county building codes and the location of a school (unless as necessary to avoid unreasonable risks to health or safety).

The primary goal in statutory interpretation is to evince the true intent and purpose of the legislature. *Marion Energy, Inc. v. KFJ Ranch P'ship*, 2011 UT 50, ¶ 14. This interpretation begins by first looking to the statute’s plain language. *Carrier v. Salt Lake City.*, 2004 UT 98, ¶ 30. Courts read the plain language of the statute as a whole, and interpret its provisions in harmony with other statutes in the same chapter and related chapters. *Bryner v. Cardon Outreach, LLC*, 2018 UT 52, ¶ 10. If the plain language of an ordinance is sufficiently clear, the analysis ends there. *General Construction & Development, Inc. v. Peterson Plumbing Supply*, 2011 UT 1, ¶ 8.

Despite what the parties may deem to be apparent internal inconsistencies, the statutory language is not ambiguous. It is clear from the statute’s plain language *both* that the School District must abide by County land use ordinances *and* that the County may not impose certain regulations regarding a laundry list of items including the “building use for educational purposes” and “location except as necessary to avoid unreasonable risks to health or safety.” UTAH CODE §17-27a-305(3)(a) and (f).

Therefore, the School District must generally conform to the County’s land use code except where expressly prohibited by state law. In the Jeremy Ranch School Example, the County required that the School District secure a Conditional Use Permit and go through the Master Planned Development process. This is lawful, as long as the process and conditions did not regulate items on the restricted list.

For the CUP, for instance, State code provides that “a land use authority shall approve a conditional use permit if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.” UTAH CODE §17-27a-506(2)(a). The scope of these “applicable standards,” when it comes to schools, however, needs to be read in light of the list of items the County is prohibited from regulating on School District projects, including: landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property. UTAH CODE §17-27a-305(3)(a). Similarly, if the local land use ordinances require an MPD process



for development or expansion of a school, the County may require such. However, the process may not result in regulation of restricted items.

Also, there is heightened standard for outright denial. The CUP or MPD may not be denied unless it is found “necessary to avoid unreasonable risks to health or safety” because the County may not “impose regulations upon the location of an educational facility except” as necessary to avoid such risks. UTAH CODE §17-27a-305(3)(f). The denial of a CUP or MPD could amount to “regulat[ing] the location” and therefore violate state law.

Utah Code and caselaw do not define “unreasonable risks to health or safety.” Based on interpretations in surrounding jurisdictions, however, the language implies a heightened and immediate risk. For instance, when the transportation of certain materials in commerce may pose an “unreasonable risk to health and safety,” the federal government has the authority to designate that material as hazardous, and prescribe regulations governing the safety aspects of its transportation. *People v. Union Pacific Railroad Co.*, 141 Cal. App. 4th 1228, 1245, 47 Cal. Rptr. 3d 92, 102 (2006). As another example, when determining whether a faulty sidewalk constitutes an “unreasonable risk to health and safety” to the public, the Colorado district court notes that “unreasonable” means “exceeding the bounds of reason or moderation” and also, because the term unreasonable modifies the word risk, it requires “more than a foreseeable risk of harm.” *Williss v. City of Littleton*, 2022 Colo. Dist. quoting *Maphis*, 2022 CO 20. This usage indicates that there is some evident, unique fact regarding the situation that compels non-standard action.

We therefore conclude that the County may require the School District to generally abide by the land use code and in the case of Jeremy Ranch Elementary School lawfully required the District to secure a CUP and MPD. However, the County is strictly limited in what conditions may be imposed and if development at the location is denied, the County must find that it was “necessary to avoid unreasonable risks to health or safety.”

**III. The County may impose generally applicable land use regulations upon the school district as long as they do not regulate issues state law prohibits them from regulating.**

The Jeremy Ranch Elementary School example illustrates the on-going dispute involving the County requiring the School District to secure a Conditional Use Permit as well as going through the Master Planned Development process, which we specifically address above.

However, the Advisory Opinion was requested to help the parties guide future issues in planned-for school construction and renovation projects. The School District broadly asked which land use regulations the County is restricted from imposing. As such, we provide this list derived directly from Section 17-27a-305 of regulatory categories the County *may not* impose upon the School District when constructing schools:<sup>2</sup>

- Landscaping, fencing, aesthetic considerations. UTAH CODE §17-27a-305(3)(a).
- Construction methods or materials. UTAH CODE §17-27a-305(3)(a).

<sup>2</sup> This section of code also restricts the County from imposing certain fees and restrictions on charter schools and other school buildings not used for educational purposes which are not at issue here and therefore are not discussed.



- Additional building inspections, or provide for inspection unless the school district is unable to provide for inspection by a qualified inspector. UTAH CODE §17-27a-305(3)(a) and (d).
- County building codes.<sup>3</sup> UTAH CODE §17-27a-305(3)(a).
- Building use for educational purposes.<sup>4</sup> UTAH CODE §17-27a-305(3)(a).
- Placement or use of temporary classroom facilities on school property. UTAH CODE §17-27a-305(3)(a).
- Regulation upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety. UTAH CODE §17-27a-305(3)(f).
- Certificate of Occupancy. UTAH CODE §17-27a-305(7)(e).

The School District does have several obligations to work with the County through the process, however. The School District has an obligation to “coordinate the siting of a new school with the county in which the school is located” to avoid or mitigate traffic hazards and maximize safety. UTAH CODE §17-27a-305(4). The School District must also “submit to the land use authority a development plan and schedule as early as practicable in the development process, but no later than the commencement of construction and with sufficient detail to enable the land use authority to assess compliance with applicable land use ordinances” and to determine demand for public facilities and any applicable fees. The County must respond to the School District with reasonable promptness. UTAH CODE §17-27a-305(8). Also, at the County’s discretion, the County may “provide a walk-through of school construction at no cost and at a time convenient to the school district” and may “provide recommendations based upon the walk-through.” UTAH CODE §17-27a-305(5).

By applying the plain language of the respective statutes, an overarching obligation emerges. The School District is obligated to coordinate siting and submit a development plan, and in turn, the County may require the School District to comply with applicable land use regulations which would often involve coordinating the siting and submitting a development plan.

In summary, the County should not hamper or delay the construction of public schools, but may require the School District to generally abide by applicable land use regulations. However, the County is restricted from regulating landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, or provide for inspection unless the school district is unable to provide for inspection by a qualified inspector, County building codes, building use for educational purposes, placement or use of temporary classroom facilities on school property, regulation upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety, and requiring a County inspector to issue a certificate of occupancy.

<sup>3</sup> “County building codes” is not defined. It is not entirely clear what this language intends to restrict. One reading indicates that the County may not enforce the uniform building code adopted by the state and routinely enforced at the county level. This reading corresponds to the restriction on the County to conduct building inspections or require approval for a Certificate of Occupancy. An alternate reading suggests that the County is restricted from enforcing building codes which are County specific. However, state law prohibits counties to “adopt or enforce a rule, ordinance, ore requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.” (UTAH CODE §15A-1-204).

<sup>4</sup> “Building use for educational purposes” is similarly not defined and open to various interpretations.



## CONCLUSION

The County may require the School District to generally abide by the land use code regulations. In the Jeremy Ranch Elementary School example, the County lawfully required the District to secure a CUP and MPD. However, in this and all other land use ordinance applications, the County is limited in what conditions may be imposed and if development at the location is denied, the County must find that it is “necessary to avoid unreasonable risks to health or safety.”

*Jordan S. Cullimore*

Jordan S. Cullimore, Lead Attorney  
Office of the Property Rights Ombudsman



**NOTE:**

**This is an advisory opinion as defined in § 13-43-205 of the Utah Code. It does not constitute legal advice, and is not to be construed as reflecting the opinions or policy of the State of Utah or the Department of Commerce. The opinions expressed are arrived at based on a summary review of the factual situation involved in this specific matter, and may or may not reflect the opinion that might be expressed in another matter where the facts and circumstances are different or where the relevant law may have changed.**

**While the author is an attorney and has prepared this opinion in light of his understanding of the relevant law, he does not represent anyone involved in this matter. Anyone with an interest in these issues who must protect that interest should seek the advice of his or her own legal counsel and not rely on this document as a definitive statement of how to protect or advance his interest.**

**An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to a dispute involving land use law. If the same issue that is the subject of an advisory opinion is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution. Additionally, a civil penalty may also be available if the court finds that the opposing party—if either a land use applicant or a government entity—knowingly and intentionally violated the law governing that cause of action.**

**Evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action, except in small claims court, a judicial review of arbitration, or in determining costs and legal fees as explained above.**

**The Advisory Opinion process is an alternative dispute resolution process. Advisory Opinions are intended to assist parties to resolve disputes and avoid litigation. All of the statutory procedures in place for Advisory Opinions, as well as the internal policies of the Office of the Property Rights Ombudsman, are designed to maximize the opportunity to resolve disputes in a friendly and mutually beneficial manner. The Advisory Opinion attorney fees and civil penalty provisions, found in § 13-43-206 of the Utah Code, are also designed to encourage dispute resolution. By statute they are awarded in very narrow circumstances, and even if those circumstances are met, the judge maintains discretion regarding whether to award them.**

## **B. Suggestions to Clarify School Construction Statute**



The Office of Legislative Research and General Counsel suggested changes to *Utah Code* that may clarify statutory requirements and expectations for school construction.

*Utah Code* 53E-3-710

- Language in this section of school construction could be changed to clarify the responsibilities and expectations of the government bodies that are mentioned. For example, “school district or charter school” should be changed to “LEA.” Also, “local governmental entity’s design review committee” is not defined.
- This section’s usage of the term “acquisition” may need clarity. It is not immediately clear whether some requirements for coordination with local governments apply to additions and renovations where acquisition of the underlying property occurred when the property was first purchased.

*Utah Code* 17-27a-305

- The organization of this section may lead to a lack of clarity regarding the applicability of some zoning laws. The timeline requirements may benefit from added clarity.

*Utah Code* 53E-3-702

- Consider clarifying the meaning of “guidelines” in section 702 within the context of requirements in the school construction manual in section 707. Clarification could include specifying what is required versus what is suggested.

The Office of the Property Rights Ombudsman mentions that there is some ambiguity in the language of certain sections of state school construction code.

*Utah Code* 17-27a-305

- The opinion notes that “unreasonable risks to health and safety,” “county building codes,” and “building use for educational purposes” are not clearly defined in statute.



## **C. School Accountability Background**



There are 10 student group categories that the Utah State Board of Education considers for federal accountability requirements. Student groups within a school that have at least 10 members are eligible to be identified as needing extra support. The threshold for determining that support is the 5% cut of the lowest performing schools for that year. Any eligible student group that performs as low as the schools below that cut line are identified as needing extra support through what is known as Additional Targeted Support and Improvement or ATSI.

The groups are as follows:

- Students who are economically disadvantaged
- Students who are learning English
- Students with disabilities
- One student group for each of the 7 racial/ethnic categories
  - Asian
  - African American/Black
  - American Indian
  - Hispanic
  - Multiple Race
  - Pacific Islander
  - White





# Agency Responses





September 8, 2023

Response of Park City School District to *A Systemic Performance Report of the Park City School District*, Report Number 2023-11

Thank you for the opportunity to provide a written response to Report #2023-11, *A Systemic Performance Assessment of the Park City School District* (“Report”).

Park City School District (“PCSD” or the “District”) remains dedicated to its vision and mission *“inspiring and supporting all students equitably to achieve their optimal academic and social potential”* through a whole child focus where our students are *“safe, supported, engaged, challenged and healthy”* while ensuring effective and efficient use of its public funds. The District agrees with the importance that the Report places on implementing evidence-based best practices in order to achieve the goals and objectives of the District, especially as they impact student achievement and system outcomes.

We are of course committed to further studying the Report and to making changes where necessary to increase compliance, efficiency, and accountability. The Report has undoubtedly identified some important issues necessitating a strengthening of internal controls, which will be a priority going forward.

Based on the Report’s recommendations, the District is committed to taking the following actions:

1. Reviewing, and where the PCSD Board of Education deems necessary, revising, developing and adopting policies and associated procedures that implement recommendations 1.1, 1.2, and 1.3 to ensure environmental compliance, including through the appropriate filing and storage of relevant historical documentation and transfer of institutional knowledge regarding the unique environmental conditions and externalities caused by Park City’s mining history that have impacted the Kearns Boulevard school campuses and surrounding neighborhoods. In addition, the District will continue to work with the Utah Department of Environmental Quality to properly dispose of waste piles in the future pursuant to the August 22, 2023 determination that disposal, as opposed to fill usage with capping, will likely be required at the conclusion of construction.
2. As it relates to recommendations 2.1 and 2.2, reviewing, and where the PCSD Board of Education deems necessary, revising, developing and adopting policies and associated procedures regarding school construction to ensure compliance with federal, state, and local requirements and for alignment with the District’s strategic plan.

3. Regarding recommendations 3.1 and 3.3, in the future each school with TSI/ATSI groups will delineate specifically in their School Improvement Plan goals in SMART(I) format that can be monitored throughout the academic year, and administrators and District directors will share the accountability monitoring and reporting responsibilities for the ESEA Title I Part A: School Improvement and Turnaround processes, with the express goal of increasing the performance of underperforming student groups and exiting ATSI status as a district.

Regarding recommendation 3.2, the Report recommends participation in the Elevate program. Although PCSD has not previously been invited to participate in this program due to the qualification criteria, if invited in the Spring of 2024, PCSD will consider applying. In the meantime, PCSD currently is engaged in partnership with an outside academic system consultant to strengthen data inquiry processes and overall alignment such as the coherence maps shared with the OLAG team. These processes include planning and execution of PLC cycles, including establishing and using Common Formative Assessments (CFAs), reviewing formative and summative data, planning and executing interventions for underperforming students and reviewing student progress. This process also includes instructional and learning rounds which include teachers and administrators from each school, District specialists and directors, and the consultants who assist us in reflecting on and improving our practice. As we continue to work with our consultants, we will ensure they are informed of the Report's findings in this area and work to integrate the findings into our work.

4. As to recommendations 4.1 through 4.4, PCSD has a comprehensive multi-year strategic plan that has been developed and shared with stakeholders around ambitious objectives for student outcomes, which is in basic compliance with both federal and state guidelines. Parts of the plan are reviewed and approved at USBE level, notably the Early Learning/Literacy Plan for K-3, School Land Trust Plans (centered around underperforming students), and Resource Allocation Reviews (new structure) for ATSI schools and districts. Elements of the PCSD plan are executed in all of our academic and student service work including MTSS, assessment systems, and in the instructional framework, based on our strategic pillars, vision and mission. Progress toward the goals and district performance measures in our strategic plan are assessed and responded to each year with a robust data dashboard with longitudinal data from 2014 to 2023. It is also notable that students in these underperforming groups, which are identified early in the K-12 system, are successfully participating in Advanced Placement coursework and testing later in their educational program, as well as graduating at very high rates, and we are very proud of this achievement.

In the future, we will refine the action steps and work plan sections tied to the objectives in our strategic plan to incorporate critical elements relating to the specific performance measures of identified underperforming groups with links to the data dashboard for ease of use, and we will align the school improvement plans with these strategic areas. PCSD's Chief Teaching and Learning Officer, Multi-Tiered System of Supports Coordinator and school principals along with Interventionists will continue to monitor the progress of these groups with the goal of exiting

TSI/ATSI status while maintaining the excellent outcomes achieved overall by the entirety of the students in PCSD and increasing the performance of these groups.

For recommendation 4.5, we will make the Board's strategic plan more accessible by placing it on the District's website as a stand-alone document with links to specific data elements and by ensuring that its location and importance is better emphasized and communicated to key stakeholders at times it is discussed, updated, or reported. Currently, PCSD reports on overarching goals in September/October, provides a mid-year progress report in January, and provides an end of year overview report in May/June. These presentations are at a public board meeting. It is understood by the Board that these highlight presentations do not represent the totality of the work within a school but rather, are an overview, and that the District's data dashboard provides a deeper look into outcomes.

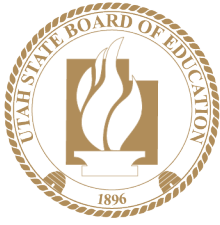
5. Regarding recommendation 5.1, we appreciate the Report's recognition of our leadership in the use of progress monitoring data tools. District educators use a variety of assessment software and analytic tools to both monitor student learning progress and success as well as identify specific areas in need of growth or additional support, including for reading, math, attendance, and progress monitoring of multilingual learners. ECRISS, an advanced analytics platform which consolidates current and historical student assessment data into actionable insights for educators, is used District-wide to quickly identify specific students in need of additional support or intervention and to observe local and district trends.

PCSD will continue to work on the intentional implementation of these tools and will provide ongoing professional learning opportunities required for this platform to be used most effectively by all educators. ECRISS has both internal and external data reporting features. District leadership is currently working to make sure the strategic plan and goals align with the district data dashboard to increase transparency with the public as well as ensure that the educational strategies we use directly align to specific areas of need.

### Conclusion

While the District may not fully agree with some of the Report's conclusions, we certainly recognize that there is always work to be done and improvements that can be made in furtherance of our mission in providing the best possible educational opportunities and outcomes for ALL students. As we work to implement recommendations moving forward, we look forward to positive results for our schools and community.





# Utah State Board of Education

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*State Superintendent of Public Instruction*

Cybil Child,

*Executive Secretary*

September 7, 2023

Kade Minchey, CIA, CFE  
Auditor General  
Office of the Legislative Auditor General  
W315 State Capitol Complex  
Salt Lake City, UT 84114

Dear Mr. Minchey:

Thank you for the opportunity to respond to Chapter 2 of the Park City School District Audit Report. The Utah State Board of Education (USBE) appreciates the Legislature's focus on the design, implementation, and operating effectiveness of internal control system components within the public education system. We recognize effective internal control systems help ensure prudent use of taxpayer funds that provide opportunities for students throughout the state to be successful and contribute positively to our communities and state. We continue a genuine effort to ensure adequate internal controls across our entire agency.

We appreciate the recognition in the report that the district is responsible for its internal controls, its contractors, construction projects, and compliance with state and local laws and regulations (pp. 23 and 27-28). We also appreciate that the report recognizes current efforts of USBE to 1) monitor compliance with Board Rule R277-471 *School Construction Oversight, Inspections, Training, and Reporting*, and 2) update the School Construction manual (see pp. 26 and 28). We are working closely with the Division of Facilities and Construction Management (DFCM), at the direction of the Utah State Board of Education, to get to what right is with school construction oversight and resources for our local education agencies (LEAs).

The report rightly identifies that the USBE has inadequate resources to implement a level of monitoring sufficient to verify that every construction project at every LEA in the state meets the requirements to be issued a project number. Therefore, we request consideration of appropriate revisions to statute, contractor licensing standards, and, if the USBE is to continue to monitor public education school construction, the USBE

Mr. Kade Minchey  
September 7, 2023  
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requires a sufficient level of administrative and funding resources to exceed current DFCEM capabilities for higher education construction oversight to ensure public school construction complies with the law.

Similarly, to recommendation 2.4 of the report, the Board has recognized risk with school construction and on November 3, 2022, prioritized an audit of School Construction. The internal audit will start based on priority order and availability of internal audit resources. We anticipate findings that demonstrate improvements in our oversight and supervision of school construction. However, we also anticipate similar findings to those in this report given the insufficient resources to ensure compliance with the law.

The USBE recognizes quality constructed schools as crucial to the effective education of the children of the state of Utah, and that schools are also a gathering place for members of our communities. In the interest of students, educators, and taxpayers, we are continuously committed to improvement.

With respect,



Scott Jones  
Deputy Superintendent of Operations

cc: James Moss, Chair  
Molly Hart, Vice Chair and Audit Committee Chair  
Jennie Earl, Vice Chair  
Sarah Reale, Audit Committee Vice Chair  
Sydnee Dickson, State Superintendent of Public Instruction  
Deborah Jacobson, Assistant Superintendent of Operations  
Sam Urie, Director of School Finance  
Debbie Davis, Chief Audit Executive  
Dean Dykstra, School Construction Specialist





**Office of the Legislative Auditor General**

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