

Administrative Rules Review and General Oversight Committee

Office of Legislative Research and
General Counsel

November 13, 2023





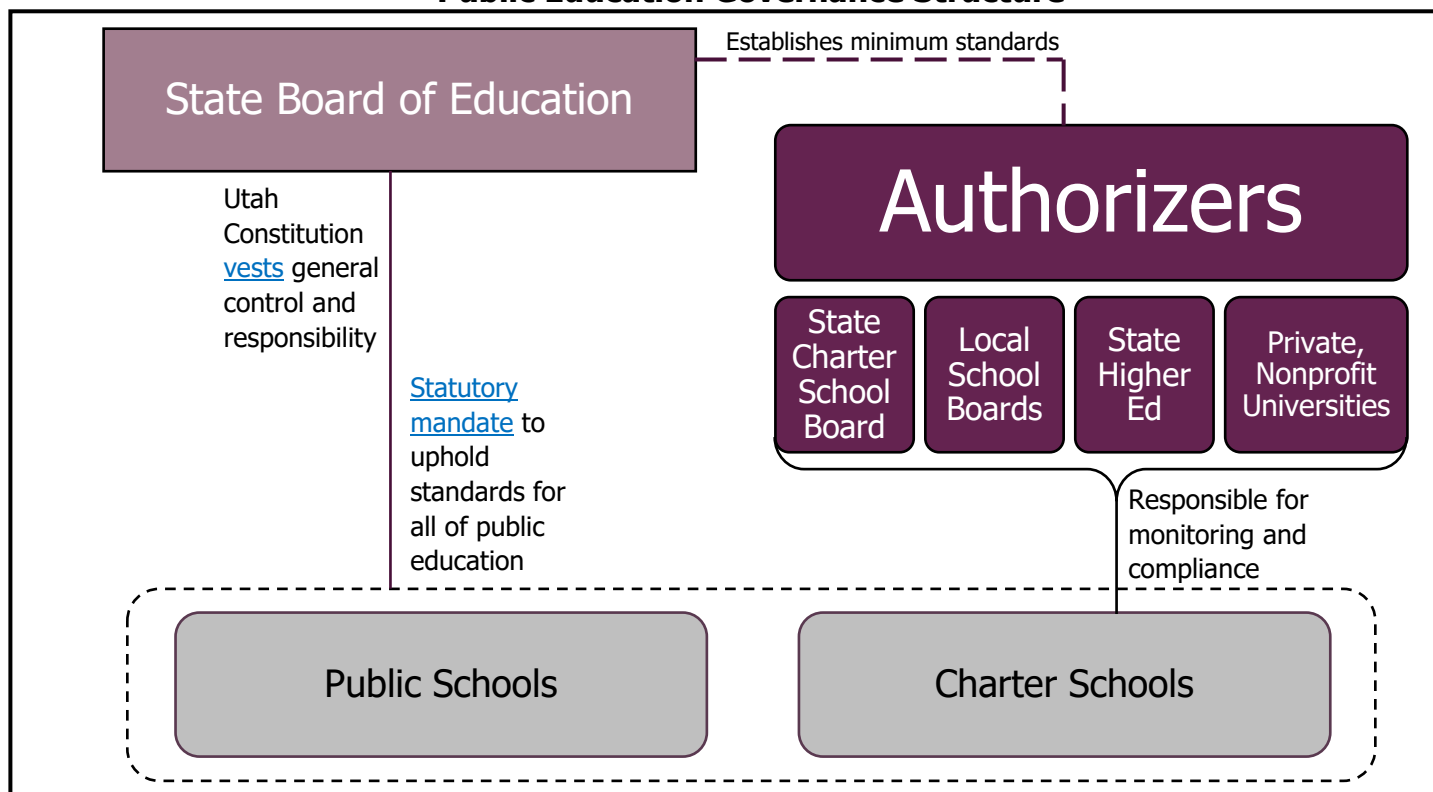
Charter School Authorization & Governance

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Background

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

Public Education Governance Structure



Charter School Authorizers

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

Per [rule](#), new authorizers must submit their charter review process to the State Board for approval

State Board Responsibilities

Until [2018](#), was required to approve/deny all charter school applications throughout the state

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

State Charter School Board

Created in [2004](#) to address the needs of growing demand for Utah charter schools

Consists of 7 members appointed by the governor

Authorizes more than 90% of charter schools in Utah



Davis School District Racial Harassment Settlement

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Background

In October 2021, Davis School District (DSD) and the U.S. Department of Justice (USDOJ) announced a [settlement agreement](#) resulting from an [investigation](#) into claims of racial harassment from 2015 to 2020. The settlement contains several provisions, including requirements for ongoing cooperation and reporting to the USDOJ to ensure that DSD maintains compliance with the agreement.

Complaints of Harassment (2015-2020)

- USDOJ reviewed more than 200 complaints of racial harassment and discrimination received by the District over a 5-year period.
- Black Students frequently reported instances of being bullied by their peers because of their race.
- Incidents frequently occurred in the presence of district staff, leading some students to comment that the behavior felt condoned.
- Black students also reported feeling targeted by district officials, receiving more severe discipline for similar offenses committed by their white peers.

USDOJ Investigation (2021)

- At the conclusion of their investigation, the USDOJ found the following:
 - DSD was deliberately indifferent to known student harassment based on race;
 - This included findings of both student-on-student and staff-on-student harassment
 - DSD discipline practices violated students' rights under the Equal Protection Clause of the U.S. Constitution; and
 - DSD violated the Equal Protection Clause when it refused to allow Black students to form student groups while allowing other students to do so.

DSD-USDOJ Settlement (2021-2025)

- The settlement agreement between DSD and USDOJ has more than 50 required provisions.
- Requirements include that DSD will:
 - hire a third-party consultant(s) to review internal policies;
 - establish an Office of Equal Opportunity (OEO) to facilitate compliance;
 - host outreach events, review lesson plans, establish student focus groups, and distribute surveys to solicit feedback on improving culture and community;
 - create annual professional development trainings for all staff members targeted to racial harassment; and
 - provide annual reports to USDOJ on their compliance efforts.



Commercial Use of Inedible Game Products

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Background

In July 2023, Department of Natural Resources administrative rule [R657-5-20](#) became effective, prohibiting the commercialization of all inedible game byproducts except hides, antlers, and horns.

Statutory Authority

- Utah Code Section [23A-5-304](#) grants the Division of Wildlife Resources the authority to promulgate rules defining circumstances under which the commercial use of wildlife is permitted.
- Under this authority, the Division has created rules regulating the use of meat and other game products.

Inedible Byproducts

- Inedible byproducts is a term that commonly refers to those parts of a carcass other than meat harvested by a hunter when game is legally taken.
- This can include antlers, horns, and hides, but also includes organs, bones, sinews, and other products commonly referred to as offal.

Wild Game vs. Farmed Meat

- Per [Title 23A](#) of Utah Code, "game" refers to animals that are taken specifically for sporting use. Prohibitions on the commercialization of game products do not affect the ability of individuals to farm animals for commercial purposes.

Chronic Wasting Disease

From the Division of Wildlife Resources, the primary purpose of regulating the use of game products is preventing the spread of **chronic wasting disease** (CWD).

CWD is a disorder caused by misfolded proteins in animals that is invariably fatal. According to the [Centers for Disease Control](#), CWD is believed to spread through bodily fluids. Unfortunately, CWD proteins (also called prions) are highly resistant to extreme conditions and can survive long after an infected animal has died.

Regulators in Utah and several other states heavily monitor animal products to help prevent the spread of CWD. While it is not possible to eradicate CWD from a given population, the primary focus of regulation is to reduce infection spread.

Summary of changes to DNR Administrative Rule [R657-5-20](#)

		Prior to July 11, 2023	Beginning July 11, 2023
Edible Products		Commercial use prohibited	Commercial use prohibited
Inedible Products	Hides, antlers, and horns	Commercial use permitted with restrictions	Commercial use permitted with restrictions
	Other byproducts	Commercial use permitted	Commercial use prohibited



Poultry Slaughter Exemptions

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Background

While the Legislature has created statutory exemptions for small poultry processing operations, the Department of Agriculture and Food (UDAF) maintains that exempted processors may still be subject to some inspection requirements.



Legislation

In [H.B. 358](#) (2020), the Legislature required UDAF to develop rules for exemption that are no more stringent than those provided by the federal government.

State

What does Utah Code require?

- [Utah Code](#) directs UDAF to create exemptions from poultry inspection regulations for processors that slaughter fewer than 20,000 and 1,000 birds, respectively.
- By law, exemptions are required to be "no more stringent" than exemptions described in [Title 21, U.S. Code](#), and [Title 9, Part 381](#), Code of Federal Regulations.
- UDAF may create a registry of processors that slaughter fewer than 20,000 and 1,000 birds per year.

UDAF

What does UDAF Administrative Rule require?

- In Administrative Rule [R58-11-8\(3\) and \(4\)](#), UDAF requires that the slaughtering and processing operation produce products that are sound and unadulterated.
- To ensure that operations meet these requirements, UDAF retains the right to perform site inspections of exempted processors.
- While placement on the UDAF exempt registry currently requires a simple application process, the Department has previously required processors to undergo an inspection before the start of processing.

Federal

What does the federal government require?

- Federal regulations are composed of three sources:
 - Federal statute ([21 U.S.C.](#))
 - Authorizes the U.S. Department of Agriculture (USDA) to administer through rules
 - USDA Regulations ([Title 9 C.F.R.](#))
 - Bird-by-bird inspections [mandated](#) in Part 381
 - Sanitary conditions requirements [provided](#) by Part 416
 - USDA [interpretations](#) of federal statute
- While Part 381 of USDA regulations contains an exemption from bird-by-bird inspections, Part 416 does **not**.
- Due to this, USDA regulators claim that even exempt operations may be subject to site inspections.
 - These inspections are designed to ensure that the operation is producing product that is unadulterated and safe for consumption.
- However, the exemptions required by Utah Code (see above) reference **only** the Part 381 requirements.