

Effective 1/24/2018

Superseded 5/8/2018

53E-3-401 Powers of State Board of Education -- Adoption of rules -- Enforcement -- Attorney.

- (1) As used in this section:
 - (a) "Board" means the State Board of Education.
 - (b) "Education entity" means:
 - (i) an entity that receives a distribution of state funds through a grant program managed by the board under this public education code;
 - (ii) an entity that enters into a contract with the board to provide an educational good or service;
 - (iii) a school district; or
 - (iv) a charter school.
 - (c) "Educational good or service" means a good or service that is required or regulated under:
 - (i) this public education code; or
 - (ii) a rule authorized under this public education code.
 - (d) "Local education agency" or "LEA" means:
 - (i) a school district;
 - (ii) a charter school; or
 - (iii) the Utah Schools for the Deaf and the Blind.
- (2)
 - (a) The State Board of Education has general control and supervision of the state's public education system.
 - (b) "General control and supervision" as used in Utah Constitution, Article X, Section 3, means directed to the whole system.
- (3) The board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.
- (4)
 - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules to execute the board's duties and responsibilities under the Utah Constitution and state law.
 - (b) The board may delegate the board's statutory duties and responsibilities to board employees.
- (5)
 - (a) The board may sell any interest it holds in real property upon a finding by the board that the property interest is surplus.
 - (b) The board may use the money it receives from a sale under Subsection (5)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.
 - (c) If the property interest under Subsection (5)(a) was held for the benefit of an agency or institution administered by the board, the money may only be used for purposes related to the agency or institution.
 - (d) The board shall advise the Legislature of any sale under Subsection (5)(a) and related matters during the next following session of the Legislature.
- (6) The board shall develop policies and procedures related to federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs.
- (7) On or before December 31, 2010, the State Board of Education shall review mandates or requirements provided for in board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.
- (8)

- (a) If an education entity violates this public education code or rules authorized under this public education code, the board may, in accordance with the rules described in Subsection (8)(c):
 - (i) require the education entity to enter into a corrective action agreement with the board;
 - (ii) temporarily or permanently withhold state funds from the education entity;
 - (iii) require the education entity to pay a penalty; or
 - (iv) require the education entity to reimburse specified state funds to the board.
- (b) Except for temporarily withheld funds, if the board collects state funds under Subsection (8)(a), the board shall pay the funds into the Uniform School Fund.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:
 - (i) that require notice and an opportunity to be heard for an education entity affected by a board action described in Subsection (8)(a); and
 - (ii) to administer this Subsection (8).
- (d) The board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.
- (9) The board may audit the use of state funds by an education entity that receives those state funds as a distribution from the board.
- (10) The board may require, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:
 - (a) this public education code; and
 - (b) board rule authorized under this public education code.
- (11)
 - (a) The board may appoint an attorney to provide legal advice to the board and coordinate legal affairs for the board and the board's employees.
 - (b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the Attorney General.
 - (c) An attorney described in Subsection (11)(a) may not:
 - (i) conduct litigation;
 - (ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201; or
 - (iii) issue formal legal opinions.