

EDUCATION AUDIT AND MONITORING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to auditing and monitoring a public school's use of state and federal funds.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ specifies the standards the State Board of Education (state board) shall use when monitoring a state-funded program;
- ▶ provides procedures for the state board to recover state or federal funds that are misused by a charter school; and
- ▶ requires a charter school or education service provider to submit certain financial reports when a charter school enters a new contract with an education service provider.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-401, as last amended by Laws of Utah 2019, Chapter 186



28 **53G-5-406**, as last amended by Laws of Utah 2019, Chapter 293

29 ENACTS:

30 **53G-5-414**, Utah Code Annotated 1953

31

32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **53E-3-401** is amended to read:

34 **53E-3-401. Powers of the state board -- Adoption of rules -- Enforcement --**

35 **Attorney.**

36 (1) As used in this section:

37 (a) "Education entity" means:

38 (i) an entity that receives a distribution of state funds through a grant program managed
39 by the state board under this public education code;

40 (ii) an entity that enters into a contract with the state board to provide an educational
41 good or service;

42 (iii) a school district; or

43 (iv) a charter school.

44 (b) "Educational good or service" means a good or service that is required or regulated
45 under:

46 (i) this public education code; or

47 (ii) a rule authorized under this public education code.

48 (2) (a) The state board has general control and supervision of the state's public
49 education system.

50 (b) "General control and supervision" as used in Utah Constitution, Article X, Section
51 3, means directed to the whole system.

52 (3) The state board may not govern, manage, or operate school districts, institutions,
53 and programs, unless granted that authority by statute.

54 (4) (a) The state board may make rules to execute the state board's duties and
55 responsibilities under the Utah Constitution and state law.

56 (b) The state board may delegate the state board's statutory duties and responsibilities
57 to state board employees.

58 (5) (a) The state board may sell any interest it holds in real property upon a finding by

59 the state board that the property interest is surplus.

60 (b) The state board may use the money it receives from a sale under Subsection (5)(a)
61 for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

62 (c) If the property interest under Subsection (5)(a) was held for the benefit of an agency
63 or institution administered by the state board, the money may only be used for purposes related
64 to the agency or institution.

65 (d) The state board shall advise the Legislature of any sale under Subsection (5)(a) and
66 related matters during the next following session of the Legislature.

67 (6) The state board shall develop policies and procedures related to federal educational
68 programs in accordance with Part 8, Implementing Federal or National Education Programs.

69 (7) On or before December 31, 2010, the state board shall review mandates or
70 requirements provided for in state board rule to determine whether certain mandates or
71 requirements could be waived to remove funding pressures on public schools on a temporary
72 basis.

73 (8) (a) If an education entity violates this public education code or rules authorized
74 under this public education code, the state board may, in accordance with the rules described in
75 Subsection (8)(c):

76 (i) require the education entity to enter into a corrective action agreement with the state
77 board;

78 (ii) temporarily or permanently withhold state funds from the education entity;

79 (iii) require the education entity to pay a penalty; or

80 (iv) require the education entity to reimburse specified state funds to the state board.

81 (b) Except for temporarily withheld funds, if the state board collects state funds under
82 Subsection (8)(a), the state board shall pay the funds into the Uniform School Fund.

83 (c) The state board shall make rules:

84 (i) that require notice and an opportunity to be heard for an education entity affected by
85 a state board action described in Subsection (8)(a); and

86 (ii) to administer this Subsection (8).

87 (d) (i) An individual may bring a violation of statute or state board rule to the attention
88 of the state board in accordance with a process described in rule adopted by the state board.

89 (ii) If the state board identifies a violation of statute or state board rule as a result of the

90 process described in Subsection (8)(d)(i), the state board may take action in accordance with
91 this section.

92 (e) The state board shall report criminal conduct of an education entity to the district
93 attorney of the county where the education entity is located.

94 (9) The state board may audit the use of state funds by an education entity that receives
95 those state funds as a distribution from the state board.

96 (10) The state board may require by rule that if an LEA contracts with a third party
97 contractor for an educational good or service, the LEA shall require in the contract that the
98 third party contractor shall provide, upon request of the LEA, information necessary for the
99 LEA to verify that the educational good or service complies with:

100 (a) this public education code; and

101 (b) state board rule authorized under this public education code.

102 (11) (a) The state board may appoint an attorney to provide legal advice to the state
103 board and coordinate legal affairs for the state board and the state board's employees.

104 (b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the
105 Attorney General.

106 (c) An attorney described in Subsection (11)(a) may not:

107 (i) conduct litigation;

108 (ii) settle claims covered by the Risk Management Fund created in Section [63A-4-201](#);

109 or

110 (iii) issue formal legal opinions.

111 (12) The state board shall ensure that any training or certification that an employee of
112 the public education system is required to complete under this title or by rule complies with
113 Title 63G, Chapter 22, State Training and Certification Requirements.

114 (13) Unless otherwise provided in this public education code or state board rule, the
115 state board shall use federal monitoring standards when monitoring state-funded programs and
116 the expenditure of state funds.

117 Section 2. Section **53G-5-406** is amended to read:

118 **53G-5-406. Accountability -- Rules.**

119 (1) The state board shall, after consultation with chartering entities, make rules in
120 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

121 ~~[(1)]~~ (a) require a charter school to develop an accountability plan, approved by its
122 charter school authorizer, during its first year of operation;
123 ~~[(2)]~~ (b) require an authorizer to:
124 ~~[(a)]~~ (i) visit a charter school at least once during:
125 ~~[(i)]~~ (A) its first year of operation; and
126 ~~[(ii)]~~ (B) the review period described under Subsection ~~[(3)]~~ (1)(c); and
127 ~~[(b)]~~ (ii) provide written reports to its charter schools after the visits; and
128 ~~[(3)]~~ (c) establish a review process that is required of a charter school once every five
129 years by ~~[its]~~ the charter school's authorizer.

130 (2) An authorizer has a fiduciary responsibility for a charter school the authorizer
131 authorizes.

132 (3) (a) An authorizer shall ensure that a charter school uses funds appropriated by the
133 Legislature or the federal government for the purpose intended by the Legislature or the federal
134 government.

135 (b) If an internal audit, audit by the state board, or audit by an external auditor finds
136 that a charter school has misused an appropriation described in Subsection (3)(a):

137 (i) the state board shall collect the misused funds owed to the state or federal
138 government described in Subsection (3)(b) from the charter school; or

139 (ii) notwithstanding Subsection 53G-5-303(3)(g)(iii), if the charter school does not
140 return misused funds under Subsection (3)(b)(i), the state board may collect the amount of the
141 misused funds described in Subsection (3)(b) from the authorizer.

142 (c) If the amount of misused funds owed to the state or federal government described
143 in Subsection (3)(b) exceeds the budget of the charter school or the authorizer:

144 (i) for misuse of federal funds, the state board may seek an appropriation from the
145 Legislature to pay the federal government; or

146 (ii) for misuse of state funds, the authorizer shall provide a verbal report, accompanied
147 by a written report, to the state board and the Public Education Appropriations Subcommittee,
148 that includes:

149 (A) the amount of misused funds not returned under Subsection (3)(c);

150 (B) corrective action the authorizer imposed, or plans to impose, on the charter school;

151 and

152 (C) preventive measures the authorizer will implement to avoid future misuse of state
153 funds.

154 Section 3. Section **53G-5-414** is enacted to read:

155 **53G-5-414. Requirements for transition of education service providers.**

156 (1) As used in this section, "education service provider" means the recipient of a
157 contract with an LEA to provide education-related services, including:

158 (a) instructional services;

159 (b) the duties performed in a school district by a business administrator as described in

160 Section [53G-4-303](#);

161 (c) information technology services; or

162 (d) data and statistics management services.

163 (2) (a) When a charter school that does not have a contract with an education service
164 provider enters into a contract with an education service provider, the charter school shall
165 submit a written report on the financial condition of the charter school to:

166 (i) the education service provider;

167 (ii) the charter school's authorizer; and

168 (iii) if requested by the state board, the state board.

169 (b) If a charter school does not renew or terminates a contract with an education service
170 provider, the education service provider shall submit a written report on the financial condition
171 of the charter school at the end or termination of the contract to:

172 (i) the charter school's governing board;

173 (ii) the charter school's authorizer;

174 (iii) if requested by the state board, the state board; and

175 (iv) the new education service provider, if the charter school enters into a contract with
176 a new education service provider.

177 (c) The report described in Subsections (2)(a) and (b) shall:

178 (i) identify risks related to the financial viability of the charter school; and

179 (ii) attest that funds managed by the charter school, or an education service provider
180 under a contract with the charter school, were used for intended and permitted purposes.

181 (3) An education service provider that enters into a contract with a charter school shall
182 submit to the charter school's authorizer and the state board a written attestation that the

183 education service provider received the report described in Subsection (2).

184 (4) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah

185 Administrative Rulemaking Act, for:

186 (a) procedures for submitting the report described in Subsection (2);

187 (b) specific documentation to meet the requirements of the report described in

188 Subsection (2)(c);

189 (c) procedures for submitting the attestation described in Subsection (3); and

190 (d) the contents of the attestation described in Subsection (3).