July 5, 2022

To the Members of the Utah State Board of Education and Audit Committee and
Sydnee Dickson, State Superintendent of Public Instruction
Utah State Board of Education

We have performed a limited review of 1) the application of Minimum School Program (MSP) statutory distribution formulas and allocations to local education agencies (LEA), and 2) selected LEA MSP programs. The procedures performed are detailed below:

1. We reviewed the MSP Fiscal Year 2021 Final Report for 10 programs to ensure the allocations to LEAs were made in compliance with related statute. These programs were as follows:
   - Grades K-12
   - Professional Staff
   - Voted Local Levy
   - Educator Salary Adjustments
   - Teacher and Student Success Program
   - School LAND Trust Program
   - Dual Immersion
   - Youth-in-Custody
   - Adult Education
   - Teacher Salary Supplement

2. We reviewed various MSP programs at 10 LEAs for compliance with applicable State statutes and Administrative Rule. The selected LEAs included charter schools and school districts of various sizes from a broad geographical range. We also reviewed expenditures for several programs. The expenditures were selected from the first six months of the current fiscal year (July 1, 2021 through December 31, 2021). These programs reviewed were as follows:
   - Dual Language Immersion*
   - Teacher and Student Success Program*
   - Teacher Salary Supplement Program
   - Professional Staff
   - Adult Education*
   - Youth-in-Custody*
   - School LAND Trust Program*
   - Educator Salary Adjustment

*Reviewed for expenditures.
Our procedures resulted in three findings, details for which are included in the body of the report.

Our procedures were more limited than would be necessary to express an audit opinion on compliance. Accordingly, we do not express an opinion. Alternatively, we have identified the procedures we performed. Had we performed additional procedures, additional matters might have come to our attention that would have been reported to you.

This report is a matter of public record and its distribution is not limited. We appreciate the courtesy and assistance extended to us by Utah State Board of Education personnel during the course of the review. We look forward to a continuing professional relationship. If you have any questions, please contact me.

Sincerely,

Hollie Andrus
Deputy State Auditor
801-808-0467
handrus@utah.gov

cc: Scott Jones, Deputy Superintendent of Operations, Utah State Board of Education
    Patty Norman, Deputy Superintendent of Student Achievement, Utah State Board of Education
    Debbie Davis, Chief Audit Executive, Utah State Board of Education
    Sophia DiCario, Executive Director, Department of Government Operations
    Jonathan Ball, Director, Office of Legislative Fiscal Analyst
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Findings and Recommendations

Finding 1. One LEA TSSA Program Not Compliant with Utah Code and Administrative Rule

Background

The Teacher and Student Success Act (TSSA) was established in 2019\(^1\) and is designed to “improve school performance and student academic achievement,”\(^2\) by providing funding to address school specific needs. The Utah State Board of Education (USBE) is responsible for distributing appropriated funds to local education agencies (school districts and charter schools, aka LEAs). LEAs are allowed to use a small portion of the funding for certain expenditures (i.e. salary increases),\(^3\) and are then responsible for distributing the remaining funds to schools within the LEA.

In order for an LEA to receive a TSSA distribution from USBE, it must “adopt ... [a] success framework to provide guidelines and processes for a school within the LEA ... to follow in developing a teacher and student success plan.”\(^4\) These frameworks must be approved by the LEA governing board and submitted to USBE.\(^5\) Once the framework is established and approved, “the principal [of each school within the LEA] ... shall develop the school’s [TSSA] plan in accordance with the ... framework” and “integrat[e] school-specific goals and criteria for improving the school’s performance.”\(^6\) When developing these plans, principals are to solicit input from various stakeholders including the school community council (or charter trust land council), educators, parents, administrators, etc.\(^7\) These plans must be submitted to, and approved by,\(^8\) the LEA governing board, and posted on the school’s website.\(^9\) School’s “shall use [the received TSSA] allocation to implement the school’s success plan”\(^10\) (see Figure 1).

\(^1\) Utah 2019 General Session S.B. 149
\(^2\) UCA 53G-7-1302
\(^3\) UCA 53G-7-1304(2)
\(^4\) UCA 53G-7-1304(1)(a)(i)
\(^5\) UCA 53G-7-1304(1)(a)(ii)
\(^6\) UCA 53G-7-1305(1)(a)(i-ii)
\(^7\) UCA 53G-7-1305(1)(b-c)
\(^8\) UCA 53G-7-1305(2)
\(^9\) UCA 53G-7-1304(5)(b)(i)
\(^10\) UCA 53G-7-1304(4)(a)
Procedures

We reviewed this process for 10 LEAs, nine of which followed this process. Most frameworks focused on several specific areas of improvement and provided additional guidelines for schools to follow. For example, one LEA’s framework focused on these four main areas:

- Providing learning opportunities for students to excel personally, professionally and academically.
- Fostering a culture of mutual respect, leadership development, transparency and collaboration.
- Integrating technology to impact student achievement.
- Ensuring responsible stewardship over financial resources.

In addition to these four main areas, the framework further detailed some additional guidelines. For example, within the integrate technology area, the framework also included improving students’ skills in reading and writing through the use of digital tools. Such frameworks provide clear enough guidance to schools to develop their own plans in accordance with the LEA framework, while still providing enough flexibility to accommodate school-specific goals and criteria. Below is an example of a generic TSSA framework that was created using examples from various different LEAs (see Figure 2).
Issues Identified

One of the LEAs reviewed (District) did not adhere to Utah Code. Several issues were identified in the District’s TSSA Program process: the framework, the District plan, school funding allocation, and school plans.

The District created a basic framework and solicited input from principals for a District-wide plan. Principals also received input from stakeholders. Once the input had been gathered, the District finalized its plan and principals were given the choice whether to participate in the plan, and to what extent. The remainder of the funds were then distributed to the schools and principals, who were then required to develop a school plan (see Figure 3).

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11 Only one of the District’s 95 schools decided not to fully participate in the plan.
Aside from being an outlier when compared to other school district LEAs we reviewed, the District TSSA program made several departures from Utah Code and Administrative Rule.

**Framework Issues**

The District’s framework was as follows:

- 25% to Teacher Salary
- 5% to Teacher Retention
- 70% to School Support

This framework is a recitation of Utah Code. The only additional guidance was a reference to emotional and social well-being of students. LEAs are allowed to use TSSA funds for “increases to base salary and ... benefits for school personnel that ... total 25% or less of the LEA distribution.” “Up to 5%” may also be used “to fund school personnel retention.” (See also School Funding Allocation Issues section below). The 70% for school support is the remaining amount. The framework does not “provide guidelines and processes for a school ... to follow in developing a ... success plan” as required by Utah Code.

**District Plan Issues**

The District created a District plan for the majority of its TSSA funds. A portion of the schools’ allocation was used to fund this plan. The plan included salaries for various employees dedicated to the emotional and social well-being of students, such as:

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12 UCA 53G-7-1304(2)(a)(i) and UCA 53G-1304(4)(b)
13 UCA 53G-7-1304(2)(a)(i)
14 UCA 53G-7-1304(4)(b)
15 UCA 53G-7-1304(1)(a)(i)
• Psychologists
• Social Workers
• Elementary Counselors
• Board Certified Behavior Analysts
• PLC/Instructional Coaches
• Dual Language Immersion (to accommodate and reduce class sizes for students that decided to stop participating in the dual language immersion program)

Per Utah Code, a “principal of a school shall develop the school’s teacher and student success plan” and “integrat[e] school-specific goals.”\textsuperscript{16} Although the District solicited principals' input, the plan was ultimately developed by District personnel, not school principals. Furthermore, while there may be some overlap of needs across schools, this plan does not directly address school-specific needs.

\textit{School Funding Allocation Issues}

The District-level spending of TSSA funds exceeded the thresholds allowed by Utah Code. As mentioned above, the District was allowed to use 25\% of its allocation for salary increases. The remaining amount is to be allocated to the schools based on Average Daily Membership (ADM).\textsuperscript{17} The District also used an additional 5\% of its allocation to fund a District teacher retention plan. Utah Code allows “5\% of the school’s school allocation to fund school personnel retention.”\textsuperscript{18} These expenses are to be made at the school level and “at the principal’s discretion,” not the District level.

The District further used TSSA money to fund its plan. Schools could determine to what extent they would participate in the plan. A school’s level of participation determined how much funding it would receive. Only if a school declined to participate in the District plan entirely would it receive a full allocation based on ADM. Because all of the schools participated in the plan to some degree, none received a full allocation.\textsuperscript{19} USBE Administrative Rule\textsuperscript{20} does allow for “adjustments to individual ... school level allocations,” however, these adjustments are limited to “changes in current year student enrollment,” not a school’s decision whether or not to participate in a District plan.

The following table summarizes UCA requirements and how the District funded TSSA.

\textsuperscript{16} UCA 53G-7-1305(1)(a)
\textsuperscript{17} UCA 53G-7-1304(2)(a)(ii)
\textsuperscript{18} UCA 53G-7-1304(4)(b)
\textsuperscript{19} The District had 95 schools. 94 elected to fully participate in the District plan. One elected to participate partially.
\textsuperscript{20} R277-927-5
Table 1. UCA Requirement Breakdown

<table>
<thead>
<tr>
<th>UCA Reference</th>
<th>UCA Requirement</th>
<th>District Use of Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>UCA 53G-7-1304(2)(a)(i)</td>
<td>Up to 25% of LEA TSSA allocation may be used for salary increases</td>
<td>District properly used 25% for salary increases</td>
</tr>
<tr>
<td>UCA 53G-7-1304(2)(a)(ii)</td>
<td>Distribute the majority (75%) of TSSA funds (after salary increases) to schools within the LEA based on ADM</td>
<td>District retained TSSA funds to cover its personnel retention program and its District TSSA plan. The small remainder (&lt;20%) was distributed to the schools.</td>
</tr>
<tr>
<td>UCA 53G-7-1304(4)(b)</td>
<td>A school may use up to 5% of its allocation for personnel retention at the school level</td>
<td>The District used 5% of the total allocation for a district retention program</td>
</tr>
</tbody>
</table>

The District’s use of TSSA funds for teacher retention and the District plan were not compliant with Utah Code. These amounts totaled $9,080,138 (or 58.75% of TSSA funds received) in fiscal year 2022. Over the life of the TSSA program, the amounts total $23,780,562 (or 59.64% of TSSA funds received).

Table 2. District Fund Usage Breakdown

<table>
<thead>
<tr>
<th>Fund Usage</th>
<th>2019-2020</th>
<th>2020-2021</th>
<th>2021-2022</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Plan</td>
<td>6,627,325</td>
<td>6,852,297</td>
<td>8,306,516</td>
<td>21,786,138</td>
</tr>
<tr>
<td>Teacher retention</td>
<td>578,354</td>
<td>642,448</td>
<td>773,622</td>
<td>1,994,424</td>
</tr>
<tr>
<td>Salary Benefits</td>
<td>2,891,770</td>
<td>3,212,242</td>
<td>3,863,697</td>
<td>9,967,709</td>
</tr>
<tr>
<td>Total Spent at District Level</td>
<td>10,097,449</td>
<td>10,706,987</td>
<td>12,943,835</td>
<td>33,748,271</td>
</tr>
<tr>
<td>School Allocations</td>
<td>1,469,630</td>
<td>2,141,982</td>
<td>2,510,953</td>
<td>6,122,565</td>
</tr>
<tr>
<td>District's Total TSSA Allotment</td>
<td>11,567,079</td>
<td>12,848,969</td>
<td>15,454,788</td>
<td>39,870,836</td>
</tr>
<tr>
<td>Amounts Noncompliant with Utah Code</td>
<td>7,205,679</td>
<td>7,494,745</td>
<td>9,080,138</td>
<td>23,780,562</td>
</tr>
<tr>
<td>% Noncompliant with Utah Code</td>
<td>62.29%</td>
<td>58.33%</td>
<td>58.75%</td>
<td>59.64%</td>
</tr>
</tbody>
</table>
School Plan Issues

We reviewed school plans for three schools within the District. The school plans contained elements that did not adhere to the District framework. Utah Code states that “a school may not use a school allocation for a purpose that is not supported by the LEA ... student success framework.”

One of the schools used TSSA funds to make purchases that were outside the scope of the school plan and were not consistent with the District framework. These purchases totaled $12,516, or 84% of the school’s TSSA expenditures during the time period reviewed. In addition to complying with LEA frameworks, TSSA expenditures must be used to “implement the school success plan.” Because these expenses were not used in accordance with restrictions placed on these funds, we consider the expenses to be unallowable and question the entire $12,516 spent outside the school plan’s scope.

Plans were also not posted on school websites. School websites did have a link to the District’s plan, but not individual school plans.

Conclusion

The District’s TSSA program is substantially not compliant with Utah Code and Administrative Rule. This noncompliance is not isolated to a singular issue and is present at both the District and the school level. Concerns related to the District’s handing of TSSA funds had been communicated to both the District and USBE as early as the 2019-2020 school year, with minimal corrective action taken then or in subsequent years. The issues were not and have not been addressed by USBE due to limited oversight of the program.

While the District spent $33,748,271 on common educational expenses, $23,780,562 of expenses ($9,080,138 in fiscal year 2022) were not spent in accordance with school-developed plans, as required by Utah Code. Unless specified otherwise by the Legislature, the USBE should continue to be diligent in monitoring compliance regarding the use of restricted funds. In a recent audit report, USBE auditors questioned costs “not used in accordance with restrictions placed on [those] funds” and costs which could not be “easily, obviously, and conveniently identified with specific. . . activities”. Thus, we question the entire $23,780,562 of expenses that were not supported by required school-developed plans.

Pursuant to Utah Code, “[USBE] has general control and supervision of the state’s public education system.” While statute does not allow USBE to directly “govern, manage, or operate school districts, institutions, and programs, unless granted authority,” USBE’s monitoring of compliance with Code and Administrative Rules is an integral part of

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21 UCA 53G-7-1304(4)(c)(ii)
22 7/1/2021-12/31/2021
23 UCA 53G-7-1304(4)(a)
24 UCA 53G-7-1304(5)(b)(i)
25 See “APA’s Use of State Special Education Funds”, Report No. 20-02, Pages 11-12, available at https://www.schools.utah.gov/file
26 UCA 53E-3-401(2)(a)
27 UCA 53E-3-401(3)
providing general control and supervision of the state’s public education system. As such, USBE has a duty to enforce compliance. In other words, while the USBE is not authorized to decide which TSSA activities it prefers, it is fully authorized to oversee that TSSA activities comply with state statute. In addition, the USBE has been given authority to take action when an LEA violates Code or Administrative Rules. “If an [LEA] violates ... [Utah Code] or [Administrative Rule], [USBE] may”\(^{28}\):

- “Require the [LEA] to enter into a corrective action agreement with [USBE]”
- “Temporarily or permanently withhold state funds from the [LEA]”
- “Require the [LEA] to pay a penalty”
- “Require the [LEA] to reimburse specified state funds to [USBE]”

**Recommendation**

We recommend that USBE:

1. Work with the District (and other LEAs as necessary) to ensure that LEA TSSA programs are compliant with Utah Code and USBE Administrative Rule.
2. Take appropriate action to remedy noncompliance, or recover any funds not spent in accordance with Utah Code.

**Finding 2. LEAs Do Not Consistently Apply USBE’s Designated Chart of Accounts**

In order to ensure that allocated State funds are used for their designated purpose, USBE requires that LEAs maintain a “program accounting policy that ... accurately reflects the use of funds for allowable costs and activities [and] utiliz[es] ... the [USBE] approved chart of accounts.”\(^{29}\) At a minimum, the LEAs are required to report fund, function, program, location, and object or revenue code in the manner required by USBE.

Application of this chart of accounts varied between the 10 LEAs reviewed. Although it appeared that transactions could be reasonably traced to appropriate program codes, these inconsistencies hindered comparability across LEAs. In addition, inconsistencies may limit USBE’s ability to obtain and analyze accurate data, as well as provide proper LEA oversight.

**Recommendation:**

We recommend that USBE enforce proper and consistent application of its chart of accounts and provide additional guidance as necessary.

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\(^{28}\) UCA 53E-3-401(8)(a)  
\(^{29}\) R277-113-5(9)(a-b)
Finding 3. Criteria Used to Extract Data for the Professional Staff Program Allocations Are Inconsistent with Administrative Rule

The Professional Staff Program awards greater funding (in the form of additional weighted pupil units (WPU)) to LEAs that employ staff with college degrees and professional experience. LEAs input data into the Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS) system and USBE extracts that information to calculate the WPUs allocated to each LEA. The extraction criteria consider school internships as years of experience. Administrative Rule states that “a school internship” is not “considered acceptable for purposes of determining an educator’s experience.” USBE staff were unaware that the criteria were in conflict with Administrative Rule. If the criteria used to extract information to calculate WPUs is incorrect, funding will be improperly allocated to LEAs.

Recommendation:

We recommend that USBE adjust its extraction criteria to be consistent with Administrative Rule.

30 R277-486-4(5)(d)
USBE’s Response
July 1, 2022

Hollie Andrus, CPA
Deputy State Auditor
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East Office Building, Suite E310
Utah State Capitol Complex
Salt Lake City, UT 84114

Dear Ms. Andrus:

Thank you for the opportunity to respond to report 21-37 Minimum School Program Limited Review for the Year Ended June 30, 2021. The Utah State Board of Education (USBE) appreciates the professionalism of your staff and the enhancements made to the audit process this year. USBE’s response follows.

Finding 1: One LEA (Local Education Agency) Teacher and Student Success Act (TSSA) Program Not Compliant with Utah Code and Administrative Rule

The USBE appreciates the recognition by the Office of the State Auditor that nine of the ten LEAs (Local Education Agencies) sampled to review TSSA requirements were within compliance. The USBE will address the non-compliance of one district by applying corrective action(s) in accordance with applicable Utah code and administrative rules and based on direction from the Board.

Finding 2: LEAs (Local Education Agencies) Do Not Consistently Apply USBE’s Designated Chart of Accounts

The USBE is in the process of assembling a working group to address both this finding that LEAs do not consistently apply the USBE’s designated chart of accounts and the finding of insufficient adherence to the USBE chart of accounts by LEAs in A Performance Audit of Financial Reporting in Public Education released by the Office of the Legislative Auditor General (OLAG). The intent of the work group is to provide a USBE approved revised chart of accounts for LEAs to adhere to that allows for precise and consistent coding by all LEAs to the transactional level. USBE staff will present the revised chart of accounts to the USBE members for approval this fiscal year and, subject to their approval, implement the chart of accounts beginning July 1, 2023 (state fiscal year 2024). Our ability to ensure compliance by the LEAs to the revised chart of accounts is dependent upon receiving increased resources.
from the Utah Legislature in the areas of personnel and systems during this next legislative session. Additionally, LEAs must ensure an adequate internal control system is implemented and maintained as recommended by USBE Internal Audit Department.

**Finding 3: Criteria Used to Extract Data for the Professional staff Program Allocations Are Inconsistent with Administrative Rule**

The USBE will adjust its extraction criteria to be consistent with administrative rules.

Again, we appreciate the opportunity to respond to this audit report and for our on-going professional partnership in the interest of the public, our educators, and students.

Sincerely,

Sydnee Dickson
State Superintendent of Public Instruction

cc: Mark Huntsman, Board Chair
Laura Belnap, Vice Chair and Audit Committee Chair
Cindy Davis, Vice Chair and Audit Committee Vice Chair
Scott Jones, Deputy Superintendent of Operations
Patty Norman, Deputy Superintendent of Student Achievement
Debbie Davis, Chief Audit Executive