

State of Utah  
Administrative Rule Analysis  
Revised December 2019

DAR File No. 52708  
DARC Filed: 4-27-2020  
DARC Filed w/ Comments: 4-28-2020

NOTICE OF PROPOSED RULE

TYPE OF RULE: New ; Amendment XXX; Repeal ; Repeal and Reenact

Title No. - Rule No. - Section No.

Utah Admin. Code Ref (R no.):

R156-15A-231

Filing No. (Office Use Only)

Changed to Admin. Code Ref. (R no.):

R

Agency Information

1. Department: Department of Commerce  
Agency: Division of Occupational and Professional Licensing  
Room no.:  
Building: Heber M. Wells Building  
Street address: 160 East 300 South  
City, state: Salt Lake City UT 84111-2316  
Mailing address: PO Box 146741  
City, state, zip: Salt Lake City UT 84114-6741  
Contact person(s):  
Name: Byrn Barkdull  
Phone: 801-530-6727  
Email: rbarkdull@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

Administration of Building Code Inspector Training Fund, Building Code Construction-Related Training Fund, and Factory Built Housing Fees Account.

3. Purpose of the new rule or reason for the change (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):

The Uniform Building Code Commission (UBCC) Education Advisory Committee recommends this amendment to restore the \$15 per student hour reimbursement cap back to a \$10 cap for users of the code training funds. The cap was \$10 before the most recent rule change, and the UBCC Education Advisory Committee members unanimously agree that with the reduced amount of available funds, the per student hour cap should remain at \$10 as it has been for several years. This will not have any effect on the Land Use Fund which will retain the cap of \$15 per student hour.

4. Summary of the new rule or change:

This proposed amendment decreases the reimbursement rate from the current \$15 per student hour back to the previously established \$10 per student hour. This will enable code training to be available to a larger base of students who can utilize the funds.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

Grants provided under this rule are paid for out of a statutory 1% surcharge on all building permits that are kept in a fund for that purpose. Nothing in this proposed rule will change the amount of fees collected or the cost of administering the program. Therefore, the state budget will not be affected, beyond a minimal cost to the Division of approximately \$75 to print and distribute the rule once the proposed amendments are made effective.

B) Local governments:

Local governments have not historically applied for grants under the funds and therefore would not be affected by this rule change.

C) Small businesses ("small business" means a business employing 1-49 persons):

This proposed amendment will apply to any small business providers who will seek grant money from the Building

Code Inspector Training Fund or the Building Code Construction-Related Training Fund as described in the amendment. This may include providers in this industry (NAICS 813910) who will offer code training for licensed inspectors or construction-related licensees. The Division estimates that there are approximately 38 small businesses that may offer code trainings. The benefit or cost to these organizations is inestimable. The decrease of the per student hour cap from \$15 to \$10 could result in a loss to the approximately 38 small businesses that offer code training. However, the preexisting \$15 per student hour cap was subject to exception and this amendment is also expected to enable code training to be available to a larger base of students who can utilize the funds. It is unknown whether this amendment will result in organizations receiving less funds than they may have qualified for previously, as funding will depend on individual submission criteria. If there are decreased funding awards it may increase costs to providers for events, but the providers may choose to pass these costs along to attendees.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

This proposed amendment is not expected to impact non-small business as there are no non-small businesses in the industry in question.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

This proposed amendment will apply to any individual providers who will seek grant money from the Building Code Inspector Training Fund or the Building Code Construction-Related Training Fund as described in the amendment. As described above for small business, the benefit or cost to providers is inestimable because the decrease of the per student hour cap from \$15 to \$10 could result in a loss, but the preexisting \$15 per student hour cap was subject to exception and this amendment is also expected to enable code training to be available to a larger base of students who can utilize the funds. It is unknown whether this amendment will result in a provider receiving less funds than they may have qualified for previously, as funding will depend on individual submission criteria. If there are decreased funding awards, it may increase costs to providers for events, but the providers may choose to pass these costs along to attendees. If the decrease in the per student hour cap will result in lower grant awards, this may in turn have an inestimable indirect effect on Utah's approximately 670 licensed building inspectors and Utah's approximately 53,000 construction-related licensees seeking code training, either through an increase in the amount of training events available, or an increase in the amount they may have to pay to attend code training events.

**F) Compliance costs for affected persons:**

This proposed amended rule provides specifics to the existing rule relating to fund administration that would not result in an increase in compliance costs beyond what is already in statute and the previous rule.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$75	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$75</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$(75)</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The head of the Department of Commerce, Chris Parker, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

The Division of Occupational and Professional Licensing proposes an amendment to Section R156-15A-231 to decrease the reimbursement rate from the current \$15 per student hour back to the previously established \$10 per student hour. The purpose of the amendment is to allow building code training to be available to a larger base of students. Small Businesses (less than 50

employees): Utah has approximately 670 licensed building inspectors, approximately 53,000 construction-related licensees seeking code training, and there are approximately 38 small businesses that may offer code trainings for licensed inspectors or construction-related licensees for the industry (NAICS 813910). The decrease of the per student hour cap from \$15 to \$10 could result in a loss to small businesses that offer code training. However, it is expected to enable code training availability to a larger base of students. It is unknown whether this amendment will result in organizations receiving less funds, and if there are decreased funding awards, the providers may choose to pass these costs along. Accordingly, no fiscal impact is expected for small businesses over and above any fiscal impact described in the fiscal note for the legislation as these costs are either inestimable or there is no fiscal impact. Non-Small Businesses (50 or more employees): The proposed amendments are not expected to impact non-small businesses because there are no non-small businesses that offer code trainings for licensed inspectors or construction-related licensees (NAICS 813910) in Utah for the same reasons as described above for small business as to the costs being inestimable for the reasons stated, or there is no fiscal impact.

**B) Name and title of department head commenting on the fiscal impacts:**

Chris Parker, Interim Executive Director

**Citation Information**

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 58-1-106(1)(a) Section 15A-1-205	Subsection 58-1-202(1)(a)	Subsection 15A-1-204(6)
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**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

**First Incorporation**

Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

**Second Incorporation**

Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

**Public Notice Information**

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy): 06/15/2020

B) A public hearing (optional) will be held:

On (mm/dd/yyyy): 05/19/2020	At (hh:mm AM/PM): 1:00 PM	At (place): 160 East 300 South – 4th floor – Salt Lake City, Utah via electronic meeting
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10. This rule change MAY become effective on (mm/dd/yyyy): 06/22/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or designee, and title: Mark B. Steinagel, Division Director

Date (mm/dd/yyyy): 04/27/2020

**R156. Commerce, Occupational and Professional Licensing.**

**R156-15A. State Construction Code Administration and Adoption of Approved State Construction Code Rule.**

**R156-15A-231. Administration of Building Code Inspector Training Fund, Building Code Construction-Related Training Fund, and Factory Built Housing Fees Account.**

In accordance with Subsections 15A-1-209(5)(c) and 58-56-17.5(2)(c), and Section R156-15A-230, the following procedures, standards, and policies are established to apply to the administration of the Building Code Inspector Training Fund, the Building Code Construction-Related Training Fund, and the Factory Built Housing Fees Account:

(1) The Division shall not approve or deny education grant requests from any separate fund or account until the Uniform Building Code Commission (UBCC) Education Advisory Committee ("the Committee"), created in accordance with Subsections 58-1-203(1)(f) and R156-15A-201(1)(a), has considered and made its recommendations on the requests.

(2) Appropriate funding expenditure categories include:

(a) for the Building Code Inspector Training Fund or the Factory Built Housing Fees Account, grants in the form of reimbursement funding to the following organizations that administer code-related training or factory built housing educational events, seminars, or classes:

(i) schools, colleges, universities, departments of universities, or other institutions of learning;

(ii) construction trade associations;

(iii) professional associations or organizations; and

(iv) governmental agencies;

(b) for the Building Code Construction-Related Training Fund, grants in the form of reimbursement funding to the following organizations that administer code-related training events, seminars, or classes:

(i) construction trade associations; or

(ii) professional associations;

(c) costs or expenses incurred as a result of code events, seminars, or classes directly administered by the Division;

(d) expenses incurred for the salary, benefits, or other compensation and related expenses resulting from the employment of a Board Secretary;

(e) office equipment and associated administrative expenses required for the performance of the duties of the Board Secretary, including [~~but not limited to~~] computer equipment, telecommunication equipment and costs and general office supplies; and

(f) other related expenses as determined by the Division.

(g) Gift cards, door prizes, and the cost of food and food services provided to training participants are not appropriate funding expenditure categories, and may not be paid or reimbursed from any fund.

(3) The following procedure shall be used for submission, review, and payment of funding grants:

(a) A funding grant applicant shall submit a completed application on forms provided for that purpose by the Division, at least 15 days prior to the meeting at which the request is to be considered, and prior to the training event. Applications received less than 15 days prior to a meeting may be denied.

(b) Payment of approved funding grants shall be made as reimbursement after:

(i) the approved event, class, or seminar has been held; and

(ii) the required receipts, invoices, and supporting documentation, including proof of payment if requested by the Division or Committee, have been submitted to the Division.

(c) Approved funding grants shall be reimbursed only for eligible expenditures which have been executed in good faith with the intent to ensure the best reasonable value.

(d)(i) A Request for Reimbursement of an approved funding grant shall be submitted to the Division within 60 days following the approved event, class, or seminar, unless an extenuating circumstance occurs. Written notice shall be given to the Division of such an extenuating circumstance.

(ii) Failure to submit a Request for Reimbursement within 60 days shall result in non-payment of approved funds, unless an extenuating circumstance has been reviewed and accepted by the Division.

(4) The Committee shall consider the following in determining whether to recommend approval of a proposed funding request to the Division:

(a) the fund balance available and whether the proposed request meets the overall training objectives of the fund, including:

- (i) the need for training on the subject matter;
- (ii) the need for training in the geographical area where the training is offered; and
- (iii) the need for training on new codes being considered for adoption;

(b) whether the grant applicant agrees to charge a cost for the training event, class, or seminar [~~which~~that is uniform across [~~a~~]categories of attendees;

(c) the prior record of the program sponsor in providing codes training, including:

- (i) whether the subject matter taught was appropriate;
- (ii) whether the instructor was appropriately qualified and prepared; and
- (iii) whether the program sponsor followed appropriate and adequate procedures and requirements in providing the training and submitting requests for funding;

(d) costs of the facility, including:

- (i) the location of a facility or venue, or the type of event, seminar, or class;
- (ii) the suitability of said facility or venue with regard to the anticipated attendance at or in connection with additional non-funded portions of an event or conference;
- (iii) the duration of the proposed event, seminar, or class; and
- (iv) whether the proposed cost of the facility is reasonable compared to the cost of alternative available facilities;

(e) the estimated cost for instructor fees, including:

(i) a reimbursement rate not to exceed \$150 per instruction hour without further review and approval by the Committee. This reimbursement rate represents the total amount reimbursable for instruction activities. Preparation time, event coordination, course development costs, staff time, and travel time are not separately reimbursable;

(ii) the experience or expertise of the instructor in the proposed training area;

(iii) the quality of training based upon events, seminars or classes that have been previously taught by the instructor;

(iv) the drawing power of the instructor, meaning the ability to increase the attendance at the proposed educational event, seminar, or class;

(v) travel expenses; and

(vi) whether the proposed cost for the instructor or instructors is reasonable compared to the costs of similar events, seminars, or classes;

(f) the estimated cost of advertising materials, brochures, registration, and agenda materials, including:

(i) printing costs that may include creative or design expenses;

(ii) whether printed materials comply with Subsection (4)(b); and

(iii) delivery or mailing costs;

(g) other reasonable and comparable cost alternatives for each proposed expense item;

(h) other information the Committee reasonably believes may assist in evaluating a proposed expenditure; and

(i) a total reimbursement rate of the lesser of \$[~~15~~]10 per student hour or the cost of [~~a~~]the approved actual expenditures.

(5) The Division, after consideration and recommendation of the Committee, based upon the criteria in Subsection (4), may reimburse the following items in addition to the lesser of \$[~~15~~]10 per student hour or the cost of [~~a~~]the approved actual expenditures:

(a) text books, code books, or code update books;

(b) cost of one Division licensee mailing list per provider per two-year renewal period;

(c) cost incurred to upload continuing education hours into the Division's online registry for contractors, plumbers, electricians, or elevator mechanics; and

(d) reasonable cost of advertising materials, brochures, registration and agency materials, including:

(i) printing costs that may include creative or design expenses; and

(ii) delivery or mailing costs.

(6) Joint function.

(a) "Joint function" means a proposed event, class, seminar, or program that provides code or code-related training or factory built housing education, and education or activities in other areas.

(b) Only the prorated portions of a joint function that apply to the purposes of a separate fund are eligible for a funding grant from that fund.

(c) In considering a proposed funding request that involves a joint function, the Committee shall consider whether:

(i) the expenses subject to funding are reasonably prorated for the costs directly related to the purposes of the separate fund; and

(ii) the education being proposed will be reasonable and successful in the training objective in the context of the entire program or event.

(7) Advertising materials, brochures, and agenda or training materials for a Building Code Training funded event, seminar, or class shall include a statement that acknowledges that partial funding of the program has been provided by the Utah Division of Occupational and Professional Licensing from the 1% surcharge funds on ~~[all]~~ building permits.

(8) Advertising materials, brochures, and agenda or training materials for a Factory Built Housing Fees Account funded educational event, seminar, or class shall include a statement that acknowledges that partial funding of the training program has been provided by the Utah Division of Occupational and Professional Licensing from surcharge fees on factory built housing sales.

(9) If an approved event or joint event is not held, no amount is reimbursable except for the costs described in Subsection (5)(d).

**KEY: contractors, building codes, building inspection, licensing**

**Date of Enactment or Last Substantive Amendment: [~~October 22, 2019~~]2020**

**Notice of Continuation: June 20, 2016**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 15A-1-204(6); 15A-1-205**