

Board Member Training – 2018

for

*Special Service Districts &
Local Districts*



Utah Association of Special Districts

Outline

- Board Governance
 - Legislative Auditor General
 - Board Member Qualifications
 - Board Responsibilities
- Ethics
- Nepotism
- Transparency
- Government Records (GRAMA)
- Personnel



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Best Practices Checklist June 2017-05 Legislative Audit

- www.uasd.org
 - Statutes and Resources
 - Best Practices Checklist

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Board Governance - Local Districts

- **Board Member Qualifications** (17B-1-302)
 - Must be a registered voter at the location of the members residence
 - A resident within the boundaries of the district
- **Exceptions - if over 50% of the residences are seasonally occupied homes...**
 - Owner (or agent) of land within the district
 - Receives service from the district



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Board Governance- Special Service Districts

- **Administrative Control Board Member Qualifications** (17D-1-304)
 - Must be a registered voter within the special service district, or
 - An officer or employee of the creating entity
- **Exceptions** (17D-1-303 & 304)
 - At least 90% of real property owners are not registered voters within the SSD
 - Elected or appointed as provided in 17B-1 Part 3, Board of Trustees
 - Exception for Improvement Districts



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Board Member Qualifications

- **Utah Code 17B-1-311** prohibits a member of a board from being employed by the district, whether as an employee or under contract



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Board Governance

- An appointing authority not subject to certain notice requirements "if" they appoint one of its own members.
(2013 SB 200) 17B-1-304(6)



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Board Governance

- *Appointed Boards*
 - An appointing authority may divide the district into divisions to provide geographic representation (SB51 2014)
- *Elected Boards*
 - Elected boards may divide the district into divisions to provide geographic representation

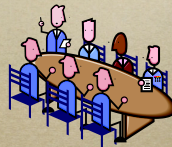


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Oath of Office

Utah State Constitution Article IV, Section 10. [Oath of office.]

All officers made elective or appointive by this Constitution or by the laws made in pursuance thereof, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation:



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Oath of Office

"I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this State, and that I will discharge the duties of my office with fidelity."



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Oath of Office

"Fidelity" means...

"Faithfulness to a person, cause or belief, demonstrated by continuing loyalty, and support."



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Board Member Compensation

(Utah Code 17B-1-307)

- Annual compensation limited to \$5,000
- Plus per diem
 - Rate established by Division of Finance
- Plus expense reimbursement



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Board Member Compensation

- Clarifies that if a district pays employer-matching taxes for a board member under board-member compensation, matching taxes do not constitute compensation under the statute. (2013 SB 200) 17B-1-311(3)



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Board Member Compensation

- Reporting of compensation paid to board member:
 - 1099
 - Who controls what the worker does and how he/she does the job?
 - Tools, supplies, financial aspects
 - Type of relationship, ie. contracts, benefits, key business function?



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Board Member Compensation

- Reporting of compensation paid to board member:
 - Continued -
 - W-2
 - employee
 - subject to statutory limitations



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Board Governance

- **Board Member Terms - To mainly address Cemetery Districts**
 - A local district board member continues to serve until a successor is duly elected or appointed.
(2013 SB 200) 17B-1-304(5)(b)

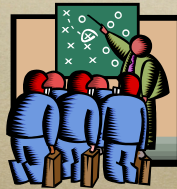


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Public Official Contact Information

(Utah Code 11-47-103)

- Requires that an elected official and community council member have:
 - Telephone number, if available, where they may be reached directly.
 - Email address, if available, where they may be reached directly.
- This information is a public record



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Public Official Contact Information

(Utah Code 17B-1-303(9))

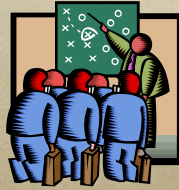
- All local and special service districts must post on the Utah Public Notice Website as of May 12, 2016:
 - Name of each member of the board of trustees, along with:
 - Telephone number
 - Email address
- Must update changes within 30 days
- Includes city and county appointees and elected officials (SB99, 2016 Legislative Session)



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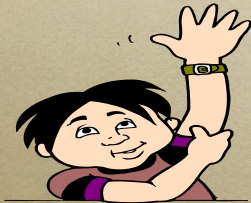
Public Official Contact Information

- New Public Entity Registry
 - Lt. Governor's Office
 - Register yearly
 - All contact information
 - Creating documents
 - Map, or metes and bounds, etc.
 - July 1, 2019



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Questions



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Ethics

*We have committed the
Golden Rule to memory;
let us now commit it to life.*

Edwin Markham

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Ethics (Utah Code 67-16)

- State Officers and Employees Ethics Act applies to:
 - public officers
 - public employees, and
 - legislators

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Ethics (Utah Code 67-16)

- Cannot accept or solicit:
(Utah Code 67-16-5)

- Gifts
 - Occasional non-cash gift of less than \$50 - okay
 - Award publicly presented for public service - okay
- Compensation
- Loans



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Ethics (Utah Code 67-16-12, 14)

- Title 67 Utah Public Officers' and Employees Ethics Act
- Procurement Code - ethics provisions
 - Procurement Participants
 - Limited to \$50 value, once during procurement process - versus -
 - Procurement Professionals
 - Limited to \$10

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Ethics (Utah Code 67-16)

Conflicts of Interest

- **Require full disclosure**
(Utah Code 67-16-7)
- **May not have personal investment in any business entity which will create a substantial conflict between private interests and public duties.** (Utah Code 67-16-9)



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Ethics (Utah Code 67-16)

Ethics Violations

- **Private Business**
-versus-
- **Government Service**



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Ethics (Utah Code 67-16-12, 14)

- **Penalties:**
 - Termination of employment
 - Removal from office
 - 2nd degree felony, if total value of compensation, etc., exceeds \$1,000



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Questions



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Nepotism

*We promote family values here
almost as often as we promote
family members.*

Larry Kersten

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Nepotism (Utah Code 52-3-1)

- Public officer may not employ, appoint, vote for, or recommend a relative for employment
- Public officer may not directly supervise a relative



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Nepotism (Utah Code 52-3-1 (1) (d))

Relative Defined

- father, mother
- husband, wife
- son, daughter
- sister, brother
- grandfather, grandmother, grandson, granddaughter
- aunt, uncle
- nephew, niece
- first cousin
- mother-in-law, father-in-law
- brother-in-law, sister-in-law
- son-in-law, daughter-in-law



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Nepotism (Utah Code 52-3-4)

■ Exceptions In Towns & Rural Areas

- In a town, this chapter shall not apply to the employment of uncles, aunts, nephews, nieces, or cousins.
- (2) This chapter shall not apply to the employment of a relative if:
 - (a) fewer than 3,000 people live within 40 miles of the primary place of employment
 - (b) the job opening has had reasonable public notice; and
 - (c) the relative is the best qualified candidate for the position.



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Nepotism (Utah Code 52-3-2 & 3)

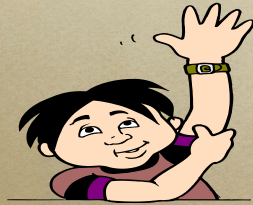
■ Penalties

- Each day a relative is retained in office represents a separate offense.
- Each violation of this section is a misdemeanor offense.



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Questions



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Personnel Policy

Utah Code requires:

- *Districts with full or part-time employees to have a policy.*
- *Small districts (annual revenues less than \$50,000) without full or part-time employees do not need a policy.*



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Personnel Policy

Utah Code requires:

- *Districts to assign HR responsibilities to an employee or other individual*
- *Assigned person to receive HR training*



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Personnel Policy (17B-1-802)

Utah Code requires:

- Districts are to annually review personnel policies to ensure conformance to state and federal law.

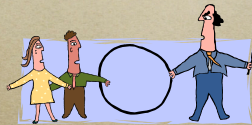


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Personnel

A personnel policy should consider:

- Comprehensive leave policy
 - Vacation
 - Sick
 - Holiday
 - Family Medical Leave
 - Approval process
- Reimbursement of expenses:
 - Mileage
 - Meals and Lodging
 - Uniforms



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Personnel

- Grievance and appeals procedures
- Work hours, and overtime pay
- Reporting of and procedures for addressing accidents
- Sexual Harassment
- Drug Policy



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Personnel Issues

Note: Job Listings (SB22 2014)

- All government entities must post all public job postings on the website maintained by the Department of Workforce Services
- Does not apply to positions filled internally



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Personnel Policy

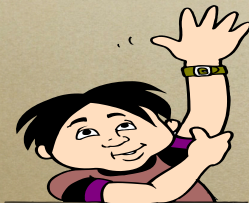
UASD has made available personnel-manual templates for districts

- At-will employee manual template
- Merit employee manual template



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Questions



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GRAMA (Title 63G-2)

The Act recognizes two constitutional rights:

1. The public's right to access information concerning the conduct of the public's business.
2. The right of privacy in relation to personal data gathered by governmental entities.



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Four Categories of Records

- *Public*
- *Private*
- *Controlled*
- *Protected*



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Public Records

Records which are open to everyone include:

- minutes from open meetings
- compensation paid to a contractor
- names, gender and gross compensation paid to public employees.



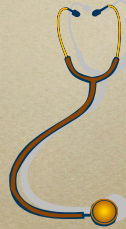
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Private Records

- Information about individuals that may only be accessed by those individuals and others specified in UCA 63-2-202.

- Unemployment insurance, social services and welfare benefits.
- Medical history, diagnosis, condition, treatment, evaluation (medical records).
- Public employees home address, home telephone number, social security number, marital status.

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Controlled Records

- Records that may only be released to certain individuals such as social workers and health care providers and may not be disclosed to the individual to whom they pertain.

- Medical, psychiatric, or psychological data
- Information detrimental to the subject's mental health or to the safety of any individual.

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Protected

- Non-personal data that may only be released to the person who submitted the information.

- Trade secrets
- Test questions and answers
- Records that would jeopardize the life or safety of an individual
- Records that would jeopardize the security of a correctional facility

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Access

- Do not allow individuals to thumb through records
- Requests should be specific
- Recommended that records



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Fees

- Adopt a uniform fee structure which could include charges for:
 - making copies or
 - an hourly research fee
- Fees should cover costs and be reasonable



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Record Retention

Record	Classification	Retention
Meeting Minutes	Public	Permanent
Meeting Agenda	Public	2 Years
Annual Financial Reports	Public	Permanent
Budgets	Public	Permanent
Bank Statements	Public	4 Years
General Ledger	Public	10 Years

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Record Retention continued ...

Record	Classification	Retention
<i>Timesheets</i>	<i>Public</i>	<i>3 Years</i>
<i>A/R & A/P</i>	<i>Public</i>	<i>4 Years</i>
<i>Deposit Slips</i>	<i>Public</i>	<i>4 Years</i>
<i>Check Register</i>	<i>Public</i>	<i>7 Years</i>
<i>Receipt Books</i>	<i>Public</i>	<i>3 Years</i>
<i>Fixed Asset Lists</i>	<i>Public</i>	<i>10 Years</i>

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Training

- Chief Administrative Officer shall: (UCA 63A-12-103(3))
 - Ensure that all officers and employees of the governmental entity that receive or process records requests receive required training on the procedures and requirements of GRAMA



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GRAMA Questions?

- What storage services are available?
- What training is available?
- Where can I obtain useful forms?
- How to handle record requests?
- How long to keep records?
- How can I obtain assistance?



www.archives.state.ut.us
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GRAMA Questions?

Contact Information for Local and
Special Service Districts:

Rosemary Cundiff

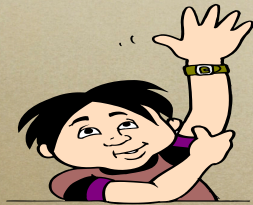
801-531-3866

rcundiff@utah.gov



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Questions



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Checklist of Best Practices

June 2017-05 Legislative Audit

■ Roles of Board and Staff

- 1. The board takes ultimate responsibility for governance of the entity by (1) appointing an executive staff, (2) providing broad policy guidance, (3) authorizing the use of resources, (4) setting goals and expectations, and (5) monitoring results.
- 2. The board members recognize their role is to be more than just a ceremonial body. They have a responsibility to lead and hold staff accountable for results.

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Checklist of Best Practices

June 2017-05 Legislative Audit

■ Roles of Board and Staff

- 3. The board chair reviews and approves the agenda before each meeting, inviting other board members to propose additional agenda items, if desired.
- 4. The executive director (a) helps the board draft a set of internal control policies and (b) guides staff as they carry out the board's policies.
- 5. To protect against fraud, staff duties are segregated such that no one person has control over all parts of a financial transaction.

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Checklist of Best Practices

June 2017-05 Legislative Audit

■ Roles of Board and Staff

- 6. The board appoints a board chair, a treasurer and a clerk.
- 7. For organizations with an insufficient number of staff to achieve a proper separation of duties, board members serve as treasurer, and clerk.
- 8. The board approves a staffing policy that defines the responsibilities of all those who handle different aspects of the entity's finances.
- 9. The board is solely responsible for hiring and directing the audit function.

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Checklist of Best Practices

June 2017-05 Legislative Audit

■ Internal Controls

- 10. The board approves policies that govern the organization and addresses each best practice described in the best practice audit. This would include policies such as a personnel policy, a procurement policy, and records retention policy. A procurement policy is of particular importance with the recent instances of fraud, waste, and abuse that have occurred.
- 11. The board regularly reviews a report of entity disbursements. The report includes the date, vendor and amount of each expense since the last board meeting.

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Checklist of Best Practices

June 2017-05 Legislative Audit

■ Internal Controls

- 12. To control credit purchases, purchase cards (or "p-cards") are issued to a limited number of staff. Limits are placed on the dollar amount, type and number of charges made to each card.
- 13. An independent person with no book keeping responsibilities is assigned to reconcile the bank statement each month with that month's receipts and expenses.

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Checklist of Best Practices

June 2017-05 Legislative Audit

■ Internal Controls

- 14. The board requires its formal approval of any expenditure above a certain dollar amount.
- 15. The board requires that two people sign all local entity checks. Before signing, both signers will review and approve the attached requisition sheet.

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Checklist of Best Practices

June 2017-05 Legislative Audit

■ Recruiting Qualified Personnel

- 16. Staff avoid recruiting individuals to serve as board members
- 17. Local entities publicize the opportunity to apply for any elected board seats that will soon be coming available and any vacant staff positions.
- 18. Local entities follow an open and objective recruiting process when filling staff positions and hiring outside contractors. Hiring relatives or business associates of the board and management is avoided

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Checklist of Best Practices

June 2017-05 Legislative Audit

■ Recruiting Qualified Personnel

- 19. Board and staff regularly receive the required training in open and public meetings, board governance and other matters applicable to the entity's mission.
- 20. When in-house expertise is not available to perform special tasks, the entity hires or appoints qualified outside experts

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Checklist of Best Practices

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■ Tone at the Top

- 21. The board adopts a code of ethics that clearly states the organization's values and standards of behavior.
- 22. The board and management seek opportunities to reinforce the organization's ethical standards during staff meetings, training, and newsletters.

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Checklist of Best Practices June 2017-05 Legislative Audit

■ *Tone at the Top*

- 23. *The board holds everyone accountable, including management, to high standards of performance.*
- 24. *he board and executive director avoid using a compensation system and other incentives that encourage employees to take unnecessary risks.*
- 25. *The board provides an ethics hotline and adopts a whistleblower policy.*

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Checklist of Best Practices June 2017-05 Legislative Audit

■ *A Review of Best Practices for Internal Control of Limited Purpose Entities Number 2017-05*

- *web address:*
- *http://le.utah.gov/audit/17_05rpt.pdf*

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