

R277. Education, Administration.

R277-709. Education Programs Serving Youth in Custody.

R277-709-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-503(2)(b) which requires the Board to adopt rules for the distribution of funds for the education of youth in custody.

(2) The purpose of this rule is to specify operation standards, procedures, and distribution of funds for youth in custody programs.

R277-709-2. Definitions.

(1) "Accreditation" means the formal process for evaluation and approval from a regional accrediting body.

(2) "Custody" means the status of being legally subject to the control of another person or a public agency.

(3) "Youth in custody" or "YIC" means a person for whom the Board is responsible to provide educational services under Subsections 53E-3-503 and 62A-15-609.

R277-709-3. LEA Programs.

(1) An LEA shall submit an annual application and plan for approval by the Superintendent to receive funds and provide educational services for YIC.

(2) The LEA's plan described in Subsection (1) shall include:

(a) a strategic plan outlining the key goals and strategies the program will achieve for YIC students;

(b) the respective responsibilities of the Board, LEAs, and other local service providers for education; and

(c) any third-party providers of educational services the LEA plans to utilize.

(3) An LEA with an approved YIC program shall:

(a) assign each YIC student in a school-based program a mentor using an evidence-based mentoring program;

(b) admit a YIC student to classes within five school days following arrival at a new residential placement;

(c) flag the student as a YIC student in the LEA's student information system and obtain applicable forms from the Utah Department of Health and Human Services (DHHS) regarding the YIC designation of the student;

(d) maintain a system to record incident data including incident data described by Rule R277-912 and Section 53E-3-516;

(e) offer courses consistent with the Utah Core standards described in Rule R277-700;

(f) ensure staff assigned to a YIC student be qualified and appropriate for the student's assignments in accordance with Board licensing rules;

(g) maintain accreditation as part of the LEA where the programs are located consistent with Rule R277-410;

(h) prioritize course content mastery rather than completion of predetermined seat time in a classroom; and

(i) coordinate educational services with non-custody programs to enable a YIC student to continue the student's education following discharge from custody.

(4) The Superintendent shall make available written course descriptions for GED Test preparation for YIC students who consider pursuing GED Tests as an alternative to traditional Carnegie diploma courses.

(5) An LEA shall provide an education program for a YIC student that:

(a) is in the least restrictive environment appropriate for the student's behavior and educational performance;

(b) conforms to the student's individualized education program (IEP) when the student qualifies for special education;

(c) adheres to the student's 504 plan, if applicable; and

(d) references existing administrative rule and its applicability where appropriate.

(6) An LEA may provide a YIC student a temporary schedule that can be modified to meet the YIC student's needs after an evaluation and planning process is complete.

(7) An LEA may not assign or allow a YIC student to remain in a restrictive environment, including separation from general education students and programs, due to:

- (a) the student's custodial status;
- (b) past behavior that does not put others at risk; or
- (c) the inappropriate behavior of another student.

(8) If an LEA uses a secured facility, including a residential treatment center, to provide educational services to a YIC student, the LEA shall provide an educational and career transition advocate and transition services for the YIC student.

(9) An LEA shall maintain all grades, attendance records, and special education SCRAM records for a YIC student in the LEA's student information system in compliance with Rule R277-484, Data Standards.

(10) An LEA with a YIC program shall participate in regular compliance monitoring visits by the Superintendent.

(11) Following a student's release from custody or transfer to a new LEA's program, the sending LEA shall ensure all available school records are up to date and forward the school records to the receiving LEA consistent with Section 53G-6-604.

R277-709-4. School Counseling.

(1) An LEA shall ensure each YIC student has a written plan for college and career readiness as described in Section R277-462-5 including defining the student's academic achievement and known in-school and extra-school factors which may affect the student's school performance.

(2) An LEA with a YIC program shall develop the plans required under Section R277-462-5 in cooperation with appropriate representatives of other service agencies working with a YIC student, such as Division of Juvenile Justice and Youth Services, Division of Child and Family Services, and Department of Workforce Services.

(3) An LEA shall accept credit earned in a YIC program that is accredited at face value in Utah's public schools consistent with Section R277-410-9.

R277-709-5. Special Education.

(1) An LEA with a YIC program shall adhere to the IDEA and state special education rules for the LEA's YIC program.

(2) The IEP team shall review the postsecondary transition plan in connection with the development of the college and career readiness plan.

(3) An LEA with a student who is both a student with a disability and a YIC student may provide services to that student from the LEA's YIC program and shall provide services from the LEA's special education program if the student qualifies for special education.

(4) An LEA shall provide educational instruction as defined in Rule R277-750 to a YIC student who qualifies for special education services.

(5) An LEA shall ensure that custodial status alone is not used to qualify a YIC student as a student with a disability under laws regulating special education.

(6) The Superintendent shall monitor special education programs provided through YIC in conjunction with Utah Program Improvement Planning Systems (UPIPS) monitoring.

R277-709-6. Program Fiscal and Accountability Procedures.

(1) An LEA with an approved application and plan, and the Utah State Hospital, shall receive an allocation of state funds appropriated for YIC programs in accordance with Section 53E-3-503 and Section 62A-15-609.

(2) An LEA shall receive funding determined by a set of criteria including:

- (a) the number of YIC students served by the LEA;
- (b) the type of program required for a student;
- (c) the setting for providing educational services; and
- (d) the length of the YIC program.

(3) An LEA with an approved YIC program shall expend funds approved solely for the purposes described in the LEA's approved plan.

(4) An LEA with an approved program may use funds that provide incidental benefits for non YIC students if:

(a) the educational provider is performing a task related to specific needs of at least one YIC student outlined in the YIC student's education plan; and

(b) the task does not require additional time beyond what is required to address the specific needs of at least one YIC student outlined in the YIC student's education plan.

(5) The Superintendent may retain no more than 5% of the total YIC annual legislative appropriation for administration, oversight, monitoring, and evaluation of YIC programs and their compliance with law and this rule.

(6) Up to 3% of the 5% of administrative funds allowed under Subsection (5) may be withheld by the Superintendent and directed to students attending YIC programs for short periods of time or to new or beginning YIC programs or initiatives benefiting YIC students.

(7) The Superintendent may only contract through an RFP process with an appropriate entity if the Superintendent determines that the LEA where the facility is located is unable or unwilling to provide adequate education services.

(8) YIC students receiving education services by or through an LEA shall be considered students of that LEA.

(9) Notwithstanding the procedures for determining an alternative district of residency in Rule R277-621, an LEA may not create an alternative district of residency for a student who has been placed in custody primarily in an attempt to receive services in a state funded YIC program.

(10) An LEA may carry forward 10% of state YIC funds or educational contract funds for use in the next fiscal year with written approval of the Superintendent.

(11) An LEA shall submit to the Superintendent a request to carry forward funds for approval by the deadline specified by the Superintendent.

(12) If approved, an LEA shall detail carry forward amounts in a revised budget submitted to the Superintendent by the deadline specified by the Superintendent in the year requested.

(13) The Superintendent shall consider carry forward funds in determining the LEA's allocation for the next fiscal year.

(14) The Superintendent shall:

(a) annually assess carry forward fund balances more than 10%; and

(b) reallocate excess funds to YIC programs based on the criteria and procedures provided by this rule.

(15) An LEA may make budget adjustments to the LEA's approved plan without approval from the Superintendent if the adjustments are below 10% of the LEA's approved plan.

(16) An LEA shall seek approval by the Superintendent to make budget adjustments that are larger than 10% of the LEA's approved plan.

R277-709-8. Confidentiality.

(1) An LEA shall issue transcripts and diplomas prepared for a YIC student in the name of an existing accredited school and shall not bear references to custodial status.

(2) An LEA shall use reasonable methods to ensure that school officials obtain access to only those education records in which they have a legitimate educational interest.

(3) An LEA that does not use physical or technological access controls shall:

(a) ensure that the LEA's administrative policy for controlling access to education records is effective; and

(b) that the LEA remains in compliance with the legitimate educational interest requirement as described in Family Educational and Privacy Rights Act and 34 CFR Section 99.31.

(4) An interagency team, including an LEA, that oversees student education plans shall:

(a) have access to relevant records of the various agencies through each team member representatives of the participating agencies; and

(b) ensure the records and information obtained from the records remain the property of the supplying agency and shall not be transferred or shared with other

persons or agencies without the permission of the supplying agency, the student's parent, or the eligible student, as defined under the Family Educational and Privacy Rights Act 20 U.S.C. 1232g(d).

R277-709-9. Coordinating Council.

The Board shall coordinate with DHHS to appoint a coordinating council in accordance with Subsection 53E-3-503(6)(a) to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice and Youth Services and the Division of Child and Family Services.

R277-709-10. Local Interagency Councils.

(1) An LEA serving YIC students shall establish a local interagency council which shall be responsible for advising member agencies concerning coordination of YIC programs; and

(2) Members of council required under Subsection (1) shall include, if applicable to the LEA, the following:

- (a) a representative of the Division of Child and Family Services;
- (b) a representative of the Division of Juvenile Justice and Youth Services;
- (c) directors of agencies located in an LEA such as detention centers, secure lockup facilities, observation and assessment units, and the Utah State Hospital;
- (d) a representative from contracted residential providers serving YIC in their LEA; and

(e) a representative of the LEA.

(3) A local interagency advisory council required under Subsection (1)(a) shall:

- (a) adopt by-laws for its operation; and
- (b) meet at least quarterly

R277-709-11. Corrective Action.

An LEA that does not comply with the requirements of this rule may be subject to a corrective action plan and potential reduction of funds or penalty in accordance with Rule R277-114.

KEY: students, education, juvenile courts

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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-503(2)(b)