

**R277. Education, Administration.**

**R277-107. Educational Services Outside of an Educator's Regular Employment.**

**R277-107-1. 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 permits the Board to adopt rules to carry out its duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-3-512, which directs the Board to make rules that establish basic ethical conduct standards for employees who provide public education-related services or activities outside of their regular employment.

(1) The purpose of this rule is to provide direction and parameters for employees who provide or participate in public education-related services or activities outside of their regular public education employment.

(2) The Board recognizes that public school educators have expertise and training in various subjects and skills and should have the opportunity to enrich the community with their skills and expertise while still respecting the unique public trust that public educators have.

**R277-107-2. Definitions.**

(1) "Activity sponsor" means a private or public individual or entity that employs an employee in any program in which public school students participate.

(2) "Extracurricular activity" means an activity for students recognized or sanctioned by an LEA, which may supplement or complement, but is not part of, the LEA's required program or regular curriculum.

(3) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(4) "Public education employee" or "employee" means a person who is employed on a full-time, part-time, or contract basis by an LEA.

(5)(a) "Private, but public education-related activity" means any type of activity for which:

- (i) a public education employee receives compensation; and
- (ii) the principle clients are students at the school where the employee works.
- (b) "Private, but public education-related activity" may include:
  - (i) tutoring;
  - (ii) lessons;
  - (iii) clinics;
  - (iv) camps; or
  - (v) travel opportunities.

**R277-107-3. LEA Relationship to Activities Involving Educators.**

- (1) An LEA may sponsor extracurricular activities or opportunities for students.
- (2) Extracurricular activities are subject to:
  - (a) school fee laws and rules, including the provisions of R277-407;
  - (b) fee waivers;
  - (c) procurement laws; and
  - (d) all other applicable laws and rules.
- (3) An employee that participates in a private, but public education-related activity, is subject to the following requirements:
  - (a) An employee's participation in the activity shall be separate and distinguishable from the employee's public employment;
  - (b) An employee may not, in promoting private, but public education-related activity:
    - (a) contact students at a public school, except as permitted by this rule; or
    - (b) use education records, resources, or information obtained through the employee's public employment unless the records, resources, or information are readily available to the general public.
- (4) An employee may not use school time to discuss, promote, or prepare for:
  - (a) a private activity; or
  - (b) a private, but public education-related activity.
- (5) An employee may:

(a) offer private, but public education-related services, programs or activities to students provided that they are not advertised or promoted by the employee during school time;

(b) discuss a private, but public education-related activity with students or parents outside of the classroom and the regular school day;

(c) use student directories or online resources which are available to the general public; and

(d) use student or school publications in which commercial advertising is allowed, to advertise and promote the activity.

(6) An employee may not condition credit and participation in a public school program or activity on a student's participation in such activities as clinics, camps, private programs, or travel activities, which are not equally and freely available to all students.

(7) No employee may state or imply to any person that participation in a regular school activity or program is conditioned on participation in a private activity.

(8) No provision of this rule shall preclude a student from requesting or petitioning an LEA for approval of credit based on an extracurricular educational experience consistent with LEA policy.

#### **R277-107-4. Advertising.**

(1) An employee may purchase advertising space to advertise an activity or service in a publication, whether or not sponsored by the public schools, that accepts paid or community advertising.

(2) A paid advertisement in a school publication may identify the activity, participants, and leaders or service providers by name, provide non-school contact information, and provide details of the employee's employment experience and qualification.

(3) An employee may post or distribute posters or brochures in the same manner as could be done by a member of the general public, advertising private services, consistent with LEA policy.

(4) Unless an activity is sponsored by the LEA, a paid advertisement in a school publication shall state clearly and distinctly that the activity is NOT sponsored by the LEA.

(5) The name of an LEA may not be used in an advertisement unless the LEA's name relates to the employee's employment history or if school facilities have been rented for the activity.

(6) If the name of an employee offering a service or participating in an activity is stated in any advertisement sent to the employee's students, or is posted, distributed, or otherwise made available in the employee's school, the advertisement shall state that the activity is not school sponsored.

#### **R277-107-5. Public Education Employees.**

(1) A public education employee shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) A public education employee shall comply with Title 67, Chapter 16, Public Officers' and Employees' Ethics Act.

(3) Except as provided in Subsection (4), consistent with Section 63G-6a-2404 and Title 67, Chapter 16, Public Officers' and Employees' Ethics Act, a public education employee may not solicit or accept gifts, incentives, honoraria, or stipends from private sources:

- (a) for the employee's personal or family use;
- (b) in exchange for payment for advertising placed by the employee; or
- (c) in exchange for payment for securing agreements, contracts or purchases between private company and public education employer, programs or teams.

(4) A public education employee may accept a gift, incentive, honoraria, or stipend from a private source if the gift, incentive, honoraria, or stipend is:

- (a) of nominal value and is for birthdays, holidays, or teacher appreciation occasions; or
- (b) a public award in recognition of public service; and
- (c) consistent with school or LEA policies and the Utah Public Employees' Ethics Act.

(5) A public education employee who holds a Utah educator license may be subject to license discipline for violation of this Rule R277-107 and related provisions of Utah law.

**R277-107-6. Public Education Employee/Sponsor Agreements or Contracts.**

(1) An agreement between an employee and a sponsor of a private, but public education-related activity shall be signed by the employee and include the following acknowledgments:

- (a) the parties understand that the activity is not sponsored by an LEA;
- (b) the employee's responsibilities to the activity sponsor are outside the scope of and unrelated to any public duties or responsibilities the employee may have as a public education employee; and
- (c) the employee agrees to comply with laws and rules of the state and policies regarding advertising and employee participation.

(2) An employee shall provide the LEA business administrator, superintendent, or charter school director with a signed copy of all contracts between the employee and a sponsor of a private, but public-education related activity.

(3) An LEA shall maintain a copy of a contract described in Subsection (2) in the employee's personnel file.

**KEY: school personnel**

**Date of Last Change: March 14, 2023**

**Notice of Continuation: March 14, 2023**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-512; 53E-3-401(4)**