

R277-920 received final approval by the Utah State Board of Education on June 3, 2021. R277-920 will be published in the July 1, 2021, Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of August 8, 2021.

**R277. Education, Administration.**

**R277-920. School Improvement - Implementation of the School Turnaround and Leadership Development Act.**

**R277-920-1. Authority and Purpose.**

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over 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) Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development Act, which requires the Board to make rules to establish:

(i) an appeal process for the denial of a school turnaround plan;

(ii) provisions regarding funding distributed to a low performing school;

(iii) criteria for granting an extension to a low performing school;

(iv) criteria for exiting a school that has demonstrated sufficient improvement;

(v) criteria for approving a teacher recruitment and retention plan;

(vi) implications for a low performing school; and

(vii) eligibility criteria, application procedures, selection criteria, and procedures for awarding incentive pay for the School Leadership Development Program.

(2) The purpose of this rule is to:

(a) enact provisions governing school improvement efforts; and

(b) implement and administer the School Turnaround and Leadership Development Act.

**R277-920-2. Definitions.**

(1) "Appeal committee" means the committee established by Section R277-920-5.

(2) "Baseline performance" means the percentage of possible points earned by a school through the school accountability system in the year the school was identified as a low performing school.

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(3) "Committee" means a school turnaround committee established in accordance with Subsections 53E-5-303(1) or 53E-5-304(4).

(4) "Eligible school" means a low performing school that:

(a) was designated as a low performing school based on 2014-2015 school year performance; and

(b)(i) improves the school's grade by at least one letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the final remedial year; or

(ii)(A) has been granted an extension under Subsection 53E-5-306(3) and this Rule R277-920; and

(B) improves the school's grade by at least one letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the last school year of the extension period.

(5) "Low performing school" means a school that:

(a) is for two consecutive school years in the lowest performing:

(i) 3% of the high schools statewide according to the percentage of possible points earned under the school accountability system; or

(ii) 3% of the elementary, middle, and junior high schools statewide according to the percentage of possible points earned under the school accountability system; and

(b) participates in the school turnaround and leadership development program described in Title 53E, Chapter 5, Part 3.

(6) "High performing charter school" means the same as that term is defined in Section 53E-5-306.

(7) "School improvement grant" means a Title I grant under the Elementary and Secondary Education Act, 20 U.S.C. Sec. 6303(g).

(8) "Schools in critical needs status" means a school that has been identified under Subsection R277-920-3(1).

(9) "School leader" means the same as that term is defined in Section 53E-5-309.

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(10) "School turnaround program" or "~~[school-]~~turnaround program" means the school turnaround and leadership development program described in Title 53G, Chapter 5, Part 3.

(11) "State review panel" means a state review panel appointed by the Superintendent that includes at least three members who each have demonstrated expertise in two or more of the following fields:

- (a) leadership at the school district or school level;
- (b) standards-based elementary or secondary curriculum instruction and assessment;
- (c) instructional data management and analysis;
- (d) educational program evaluation;
- (e) educational program management;
- (f) teacher leadership;
- (g) change management;
- (h) organizational management; or
- (i) school budgeting and finance.

(12) "Title I school" means a school that receives funds under the Elementary and Secondary Education Act of 1965, Title I, 20 U.S.C. Sec. 6301 et seq.

### **R277-920-3. Superintendent's Identification of Schools for Critical Needs Status -- Readiness Review.**

(1) Subject to Subsection (2), on or before September 30, the Superintendent shall identify schools for critical needs status if the school is a:

- (a) low performing school;
- (b) high school with a four-year adjusted cohort graduation rate of less than or equal to 67% for three school years on average;
- (c) Title I school with chronically underperforming student groups as described in Section R277-920-11; or
- (d) Title I school that:
  - (i) has not been identified under Subsection (1)(a), (b), or (c); and

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(ii) performed in the lowest 5% of Title I schools over the past three years on average according to the percentage of points earned under the school accountability system.

(2) The Superintendent shall make the identification under:

(a) Subsection (1)(b) beginning with the 2018-2019 school accountability results and every two years thereafter;

(b) Subsection (1)(c) beginning with the 2022-2023 school accountability results and every three years thereafter; and

(c) Subsection (1)(d) beginning with the 2021-2022 school accountability results and every three years thereafter.

(3)(a) Except as provided in Subsection (3)(b), schools in critical needs status are required to comply with the provisions of Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development Act.

(b) Schools that are identified under Subsections (1)(b), (1)(c), and (1)(d) are exempt from the requirement to contract with an independent school turnaround expert described in Section 53E-5-305.

#### **R277-920-4. Superintendent's Identification of Schools for Targeted Needs Status.**

(1) As used in this section, "student groups" means a group of 10 or more students:

(a) who are economically disadvantaged;

(b) with disabilities;

(c) who are English learners;

(d) who are African American;

(e) who are American Indian;

(f) who are Asian;

(g) who are Hispanic;

(h) who are Multiple races;

(i) who are Pacific Islander; or

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(j) who are White.

(2)(a) Subject to Subsection (2)(b), the Superintendent shall identify for targeted needs status any school with one or more student groups who:

(i) for two consecutive years, is assigned a percentage of possible points in the state's accountability system that is equal to or below the percentage of possible points associated with the lowest rating in the state's accountability system; and

(ii) is not currently identified for critical needs status under Section R277-920-3.

(b) The Superintendent shall make the identification under Subsection (2)(a) beginning with the 2018-2019 school accountability results and every year thereafter.

(3) A school identified under Subsection (2) shall develop and implement a plan to improve performance of the student group that was the subject of the identification under

Subsection (2), in accordance with the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(4) To exit targeted needs status, a school shall demonstrate that the school no longer meets the criteria for which the school was identified for two consecutive years within four school years after the month in which the school was identified.

(5) The Superintendent shall identify a school that does not meet the exit criteria described in Subsection (4) as a school with chronically underperforming student groups as described in Section R277-920-3.

#### **R277-920-5. Identification of New Schools due to Statewide Assessment System Irregularities During the 2020 COVID-19 Pandemic.**

The Superintendent may not identify a new school for critical needs status based on school accountability results from the 2019-20 school year due to the waiver to administer assessments described in Section 53E-4-315.

#### **R277-920-6. School Turnaround Plan Submission and Approval Process.**

(1) In addition to the requirements described in Subsection 53E-5-303(5), a plan shall include at least the following:

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(a) if the school in critical needs status is a district school, a request to the local school board and district superintendent for:

(i) additional resources;

(ii) personnel; or

(iii) exemptions from district policy that may be contributing to the low performance of the district school; and

(b) a plan for management of school personnel, including:

(i) recruitment of an educator or school leader; and

(ii) professional development for an educator or school leader.

(2) A local education board shall include in the plan a strategy for sustaining school improvement efforts after a school exits critical needs status.

(3)(a) A local education board may approve or deny a plan in whole or in part, if the part of the plan the board denies is severable from the part of the plan the board approves.

(b) A local education board shall give a reason for a denial of each part of a plan.

(4) On or before January 15, a local education board of a low performing school shall submit a proposal described in Subsection 53E-5-303(1) or Subsection 53E-5-304(4) to the Superintendent for approval.

(5) A local education board shall submit a plan in accordance with Subsection 53E-5-303(7) or Subsection 53E-5-304(9) to the Board.

(6) In accordance with Subsection 53E-5-305(3), the Board may review and approve or deny a plan in whole or in part, if the part of the plan the Board denies is severable from the part of the plan the Board approves.

#### **R277-920-7. Appeal Process for Denial of a School Turnaround Plan.**

(1) As used in this section "plan" means a school turnaround plan described in Subsection 53E-5-303(5).

(2) A committee or local education board may appeal the denial of a plan, in whole or in part, by following the procedures and requirements of this section.

(3) An appeal authorized by this rule:

(a) is an informal adjudicative proceeding under Section 63G-4-203; and

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(b) shall be resolved by the date specified in Subsection 53E-5-305(6)(b).

(4)(a) A principal, on behalf of a committee, may request that the local education board reconsider the denial of a plan:

(i) by electronically filing the request:

(A) with the chair of the local education board; and

(B) on a form provided on the Board website; and

(ii) within 5 calendar days of the denial.

(b) The reconsideration request may include a modification to the plan if the committee approves the modification.

(c) The local education board shall respond to the request within 10 calendar days by:

(i) refusing to reconsider its action;

(ii) approving a plan, in whole or in part; or

(iii) denying a plan modification.

(d) The principal may appeal the denial of a plan under this Subsection (3):

(i) by electronically filing an appeal with the Superintendent on a form provided on the Board website; and

(ii) within 5 calendar days of the denial.

(e) An appeal filed under this subsection shall be resolved in accordance with Subsections (5) and (6).

(5) A district superintendent, on behalf of a local school board, or a charter school governing board chair, on behalf of a charter school governing board, may appeal the Board's denial of a plan:

(a) by electronically filing an appeal with the Superintendent on a form provided on the Board website; and

(b) within 5 calendar days of the denial.

(6)(a) At least three members of a Board committee, appointed by the Board as the appeal committee, shall review the written appeal.

(b) The appeal committee may ask the principal, district superintendent, local school board chair, or charter school governing board chair to:

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- (i) provide additional written information; or
- (ii) appear personally and provide information.

(c) The appeal committee shall make a written recommendation within 5 business days of receipt of the appeal request to the Board to accept, modify, or reject the plan and give a reason for the recommendation.

(7) The Board may accept or reject the appeal committee's recommendation and the Board's decision is the final administrative action.

### **R277-920-8. School Turnaround Program Funding.**

(1) The Superintendent shall annually designate an amount of funds available for distribution to low performing schools under this section, taking into consideration:

- (a) variability in the number of schools that are identified on an annual basis;
- (b) encumbered funds; and
- (c) other program obligations.

(2) The Superintendent shall distribute any funds available for distribution under Subsection (1) after the allocation of funds described in Subsections (3) and (4) to local education boards of low performing schools on a prioritized basis taking need for the funds, as demonstrated by the needs assessment conducted in accordance with Section 53E-5-302, into account.

(3) Subject to availability of funds, on or before January 30 of the school year in which a low performing school is identified, the Superintendent shall distribute at least \$240,000 per low performing school to each local education board of a low performing school.

(4) Subject to availability of funds, in addition to the amount distributed under Subsection (3), the Superintendent shall distribute an amount equal to \$30,000 for each of the following criteria that a school meets:

- (a) the school is located in a county with a county seat that is over 100 miles away from Salt Lake City;
- (b) the school is located within San Juan County; or
- (c) the school:



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(i)(A) has over 75 full time equivalent educators; and

(B) includes grade 12; or

(ii)(A) has over 37 full time equivalent educators; and

(B) does not include grade 12.

(5)(a) The local education board shall use the funding distributed under Subsections (3) and (4) to contract with an independent school turnaround expert, including travel costs, in accordance with Sections 53E-5-303 and 53E-5-304.

(b) A local education board shall use funding available after the allocation of funds under Subsection (5)(a) only for interventions identified in a school turnaround plan.

(6) The Superintendent may review uses of funds and contracts with independent school turnaround experts.

(7) The Superintendent may provide funding to a school that remains in the turnaround program beyond the school's identified exit year.

#### **R277-920-9. Teacher Recruitment and Retention.**

(1) As used in this section, "matching funds" means funds that are not allocated to a school under Section R277-920-8.

(2) In accordance with Section 53E-5-308, a local education board of a low performing school may seek and receive matching funds from the state to implement strategies for teacher recruitment and retention identified in a plan described in Subsection (3).

(3) To qualify for matching funds under this section, on or before January 15, a local education board of a low performing school shall submit a plan to the Superintendent that:

(a) includes a strategy for teacher recruitment and retention for the school in critical needs status;

(b)(i) except as provided in Subsection (3)(b)(ii), is responsive to the needs assessment conducted in accordance with Section 53E-5-302; or

(ii) if the school was identified as a low performing school based on 2014-2015 school accountability results, includes a root cause analysis of the school's teacher recruitment and retention challenges, including:

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- (A) a clear definition of the problem to be solved;
  - (B) hypotheses for the causes of the problem;
  - (C) strategies to address the root causes of the problem;
  - (D) current data on teacher retention rates; and
  - (E) current recruitment and retention strategies;
- (c) includes the amount of matching funds the local education board is requesting from the state;
- (d) includes assurances that the local education board will allocate matching funds; and
- (e) may include a stipend for educators who work non-contract hours to develop or implement strategies identified in a school improvement plan.
- (4) The Superintendent shall:
- (a) approve a plan that meets the criteria described in Subsection (3); and
  - (b) on or before March 1, distribute matching funds to a local education agency that has submitted an approved plan in an amount not to exceed:
    - (i) \$1000 per teacher for schools identified based on 2014-2015 school accountability results; or
    - (ii) \$1500 per teacher for schools identified based on 2016-17 school accountability results and each year thereafter.

**R277-920-10. School Leadership Development Program.**

- (1) A school leader may apply to participate in the School Leadership Development Program if the school leader:
- (a) is assigned to a school in critical needs status; or
  - (b) is nominated by the school leader's district superintendent or charter school governing board to participate.
- (2) A school leader who meets the requirements of Subsection (1) may apply to participate in the School Leadership Development Program by electronically submitting an application to the Superintendent on a form provided on the Board website by the date specified on the Board website.

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(3)(a) The Superintendent shall select a school leader to participate in the School Leadership Development Program based on the following selection criteria:

(i) First priority shall be given to a school leader who is assigned to a low performing school;

(ii) second priority is given to a school leader who is assigned to a school in critical needs status that is not a low performing school; and

(iii) third priority is given to a school leader who is nominated by the school leader's district superintendent or charter school governing board.

(b) Notwithstanding Subsection (3)(a), the Superintendent may give priority to a school leader who has not received prior leadership training before selecting a school leader who has received prior leadership training.

(4)(a) In accordance with Subsection 53E-5-309(4), the Superintendent shall award incentive pay to a school leader within 30 days after:

(i) the school leader completes the School Leadership Development Program; and

(ii) the school leader's LEA verifies that the school leader entered into a written agreement as described in Subsection 53E-5-309(4).

(b) The Superintendent shall distribute \$400 per session to a school leader who completes at least 75% of the School Leadership Development Program sessions.

(5) The Superintendent may award incentive pay to a school leader described in Subsection (5) for up to five years.

### **R277-920-11. Exit Criteria for a Low Performing School -- Extensions -- More Rigorous Interventions.**

(1)(a) Except as provided in Subsection (1)(b), to exit the school turnaround program, a low performing school shall demonstrate, in the third or fourth year after which the school was identified as a low performing school, that the school:

(i) meets individualized exit criteria that is calculated by reducing the gap in performance between the school's baseline performance and the threshold score for a 'B' letter grade, as described in R277-497-2, by one-third; and

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(ii) exceeds the lowest 5% of all schools in the ranking of schools from the year the school was identified.

(b) A low performing school that was identified based on 2014-15 school accountability results is required to improve performance by at least one letter grade, as determined by comparing the school's letter grade for the 2014-15 school year to the school's letter grade for the 2017-18 school year.

(2) In determining whether a school has met the criteria described in Subsection (1), the Superintendent shall apply the indicators, weightings, and threshold scores described in the version of Title 53E, Chapter 5, Part 2, School Accountability System that was in place at the time the school was identified.

(3) If a school does not meet the exit criteria described in Subsection (1)(a) in the fourth year after which the school was identified as a low performing school, the school may qualify for an extension to continue current school improvement efforts for up to two years if the school:

(a)(i)(A) reduced the gap in performance between the school's baseline performance and the threshold for a 'B' letter grade, as described in R277-497-2, by at least one-fourth; and

(B) exceeds at least the lowest 3% of all schools in the ranking of schools from the year the school was scheduled to exit; or

(ii) has met only one of the exit criteria described in Subsection (1)(a); and

(b) electronically files an extension request with the Superintendent within 15 days of the release of school accountability results, that provides rationale justifying an extension.

(4)(a) The Superintendent shall conduct an in-depth analysis of the alignment of the school's curriculum to the Utah core standards:

(i) in each school that qualifies for an extension under Subsection (3); and

(ii) that is individualized to each teacher.

(b) The Superintendent may require a local education board or school to:

(i) take actions to remedy issues identified in the analysis described in Subsection (4)(a); or

(ii) revise the school turnaround plan.

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(5) If a school identified as a low performing school does not meet the exit criteria described in Subsection (1) or qualify for an extension as described in Subsection (3) the following groups shall make a recommendation to the Board on what action the Board should take:

(a) a state review panel, described in Subsection (7);

(b) if the school is a district school, the local school board, with input from the community as described in Subsection (8); and

(c) if the school is a charter school, the charter school authorizer with input from the community as described in Subsection (8).

(6) The groups described in Subsection (5) shall make a recommendation within 90 days of the release of school accountability results on whether the Board should:

(a) require personnel changes, including replacement of school leaders or teachers;

(b) if the school is a district school:

(i) require involuntary transfers of school leaders or teachers;

(ii) require the local school board to change school boundaries;

(iii) temporarily appoint a public or non-profit entity other than the local school board to manage and operate the school; or

(iv) permanently transfer control of a school to a public or non-profit entity other than the local education board;

(c) if the school is a charter school:

(i) require that the charter school governing board be replaced; or

(ii) require that the charter school authorizer close the school; or

(c) if the school is a charter school, require that the charter school authorizer:

(i) replace some or all members of the charter school governing board;

(ii) transfer operation and control of the charter school to:

(A) a high performing charter school; or

(B) the school district in which the charter school is located; or

(iii) close the school; or

(d) take other action.

(7)(a) The Superintendent shall appoint members of a state review panel.

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- (b) The state review panel shall critically evaluate at least:
  - (i) whether the local education agency has the capacity to implement the changes necessary to improve school performance;
  - (ii) whether the school leadership is adequate to implement change to improve school performance;
  - (iii) whether the school has sufficient authority to implement change;
  - (iv) whether the plan is being implemented with fidelity;
  - (v) whether the state and local education board provided sufficient resources to the school to support school improvement efforts, including whether the local school board prioritized school district funding and resources to the school in accordance with Section 53E-5-303;
  - (vi) the likelihood that performance can be improved within the current management structure and staffing; and
  - (vii) the necessity that the school remain in operation to serve students.
- (8) A local school board and charter school authorizer shall develop recommendations under this section in collaboration with:
  - (a) parents of students currently attending the school;
  - (b) teachers, principals, and other school leaders at the school;
  - (c) stakeholders representing the interests of students with disabilities, English learners, and other vulnerable student populations; and
  - (d) other community members and community partners.

**R277-920-12. Exit Criteria for Schools in a year with Statewide Assessment System Irregularities.**

- (1) For a school year where there are statewide assessment system irregularities or a suspension of the administration of statewide assessments:
  - (a) the Superintendent shall appoint a state review panel; and
  - (b) the state review panel shall review the data of a school eligible to be considered for exit at the conclusion of the applicable year and make a recommendation to the Board on whether the school demonstrated adequate progress to exit the turnaround program.

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(2) A state review panel described in Subsection (1) shall review the following questions to inform the state review panel's recommendation:

(a)(i) for a school identified based on school accountability results from the 2014-15 or 2015-16 school year, whether the school achieved above the lowest 3% threshold based on the school accountability data and measures from the 2018-19 school year; or

(ii) for a school identified based on school accountability results from the 2017-18 school year or later, whether the school achieved above the lowest 3% threshold based on the school accountability data and measures from a combination of two consecutive years;

(b) whether the school provides evidence of substantial progress and growth in addition to the data described in Subsection (2)(a); and (c) whether the school has qualitative or quantitative data from the implementation of the school's turnaround plan that also demonstrate substantial improvement.

(3) For a school whose data are impacted by statewide assessment system irregularities or a suspension of the administration of statewide assessments during one or more of the school's designated years in the turnaround program:

(a) the Superintendent shall appoint a state review panel;

(b) the state review panel shall review the data of the school whose data are impacted by the statewide assessment system irregularities or suspension of statewide assessment; and

(c) the state review panel shall make a recommendation to the Board whether the school demonstrated substantial improvement.

(4) A state review panel described in Subsection (3) shall review qualitative and quantitative data from the Implementation of the school's turnaround plan.

(5) The qualitative and quantitative data described in Subsection (4) may include:

(a) local student performance data;

(b) for a school that is a high school:

(i) credit earned;

(ii) graduation rate; and

(iii) other types of successful completion, such as earning a GED;

(c) increased attendance;

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- (d) student engagement or school climate;
- (e) parent engagement;
- (f) criteria presented by the school being reviewed;
- (g) whether the charter school is meeting all minimum standards described in

Section

53G-5-303 in the school's charter agreement with the authorizer, including:

- (i) minimum financial standards for operating the charter school;
- (ii) minimum standards for student achievement;
- (iii) the mission statement and purpose of the charter school;
- (iv) the grade levels served;
- (v) the maximum number of students; and
- (vi) the charter school governing board and structure; and
- (h) additional criteria established by the Superintendent.

(6)(a) Notwithstanding other provisions in this Section R277-920-12, for a school year where there are statewide assessment system irregularities or a suspension of the administration of statewide assessments, a school eligible to be considered for exit at the conclusion of the applicable year may elect to remain in the turnaround program an additional year.

(b) For a school that elects to remain in the program an additional year as described in Subsection (6)(a), the Superintendent may provide a different standard of review of the school's data by the state review panel.

### **R277-920-13. School Recognition and Reward Program.**

(1) The Superintendent shall distribute school recognition and reward program money to an LEA with an eligible school within 30 days of the Board's official release of school grades for the year the eligible school is eligible for an award of money.

(2) The Superintendent shall notify the LEA and principal of an eligible school within 15 days of the Board's official release of school grades:

- (a) that the eligible school is eligible for an award of money; and
- (b) of the amount of the award that the eligible school will receive.



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(3) The LEA, in consultation with the principal of the eligible school shall distribute the money received under Subsection (1):

(a) to each educator assigned to the school for all of the years the school was identified as a low performing school; and

(b) in a pro-rated manner to each educator assigned to the school for less time than the school was identified as a low performing school.

**KEY: principals, school improvements, school leaders**

**Date of Enactment or Last Substantive Amendment: January 8, 2021**

**Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-401(4); Title 53E, Chapter 5, Part 3**