

R277-407 received final approval by the Utah State Board of Education on May 4, 2023. R277-407 will be published in the June 1, 2023, Utah State Bulletin, subject to a 30-day comment period, with a planned effective date of July 10, 2023.

R277. Education, Administration.

R277-407. School Fees.

R277-407-1. Authority and Purpose.

(1) This rule is authorized under:

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

(b) Article X, Section 2 of the Utah Constitution, which provides that:

(i) public elementary schools shall be free; and

(ii) secondary schools shall be free, unless the Legislature authorizes the imposition of fees;

(c) 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;

(d) Subsection 53G-7-503(2), which requires the Board to adopt rules regarding student fees; and

(e) S[ub]section 53G-7-504 which authorizes waiver of fees for eligible students with appropriate documentation.

~~[(2) This rule also serves to comply with the order arising from the Permanent Injunction issued in Doe v. Utah State Board of Education, Civil No. 920903376 (3rd District 1994).]~~

~~[(3)]~~(2) The purpose of this rule is to:

(a) permit the orderly establishment of a system of reasonable fees;

(b) provide adequate notice to students and families of fees and fee waiver requirements; and

(c) prohibit practices that would:

(i) exclude those unable to pay from participation in school-sponsored activities;

or

(ii) create a burden on a student or family as to have a detrimental impact on participation.

R277-407-2. Definitions.

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(1) "Co-curricular activity" means the same as that term is defined in Section 53G-7-501.

(2) "Curricular activity" means the same as that term is defined in Section 53G-7-501.

(3) "Extracurricular activity" means the same as that term is defined in Section 53G-7-501.

(4)(a) "Fee" means something of monetary value requested or required by an LEA as a condition to a student's participation in an activity, class, or program provided, sponsored, or supported by a school.

(b) "Fee" includes money or something of monetary value raised by a student or the student's family through fundraising.

(5)(a) "Fundraiser," "fundraising," or "fundraising activity" means an activity or event provided, sponsored, or supported by a school that uses students to generate funds to raise money to:

(i) provide financial support to a school or any of the school's classes, groups, teams, or programs; or

(ii) benefit a particular charity or for other charitable purposes.

(b) "Fundraiser," "fundraising," or "fundraising activity" may include:

(i) the sale of goods or services;

(ii) the solicitation of monetary contributions from individuals or businesses; or

(iii) other lawful means or methods that use students to generate funds.

(c) "Fundraiser," "fundraising," or "fundraising activity" does not include an alternative method of raising revenue without students.

(6) "Group fundraiser" or "group fundraising" means a fundraising activity where the money raised is used for the benefit of the group, team, or organization.

(7) "Individual fundraiser" or "individual fundraising" means a fundraising activity where money is raised by each individual student to pay the individual student's fees.

(8)(a) "Instructional equipment" means an activity, course, or program-related tool or instrument that:

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(i) is required for a student to use as part of an activity, course, or program in a secondary school;

(ii) typically becomes the property of the student upon exiting the activity, course, or program; and

(iii) is subject to fee waiver.

(b) "Instructional equipment" includes:

(i) shears or styling tools;

(ii) a band instrument;

(iii) a camera;

(iv) a stethoscope; and

(v) sports equipment, including a bat, mitt, or tennis ~~racquet~~ racket.

(c) "Instructional equipment" does not include school equipment.

(9)(a) "Instructional supply" means a consumable or non-reusable supply that is necessary for a student to use as part of an activity, course, or program in a secondary school.

(b) "Instructional supply" includes:

(i) prescriptive footwear;

(ii) brushes or other art supplies, including clay, paint, or art canvas;

(iii) wood for wood shop;

(iv) Legos for Lego robotics;

(v) film; and

(vi) filament used for 3D printing.

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

(11)(a) "Maintenance of school equipment" means a cost, payment, or expenditure related to storing, repairing or keeping school equipment in good working condition.

(b) "Maintenance of school equipment" does not include the cost related to end-of-life replacement.

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(~~14~~12) "Noncurricular club" has the same meaning as that term is defined in Section 53G-7-701.

(~~12~~13) "Non-waivable charge" means a cost, payment, or expenditure that:

(a) is a personal discretionary charge or purchase, including:

(i) a charge for insurance, unless the insurance is required for a student to participate in an activity, class, or program;

(ii) a charge for college credit related to the successful completion of:

(A) a concurrent enrollment class; or

(B) an advanced placement examination; or

(iii) except when requested or required by an LEA, a charge for a personal consumable item such as a yearbook, class ring, letterman jacket or sweater, or other similar item;

(b) is subject to sales tax as described in Utah State Tax Commission Publication 35, Sales Tax Information for Public and Private Elementary and Secondary Schools; or

(c) by Utah Code, federal law, or Board rule is designated not to be a fee, including:

(i) a school uniform as provided in Section 53G-7-801;

(ii) a school lunch; or

(iii) a charge for a replacement for damaged or lost school equipment or supplies.

(~~13~~14)(a) "Provided, sponsored, or supported by a school" means an activity, class, program, fundraiser, club, camp, clinic, or other event that:

(i) is authorized by an LEA or school, according to local education board policy;

or

(ii) satisfies at least one of the following conditions:

(A) the activity, class, program, fundraiser, club, camp, clinic, or other event is managed or supervised by an LEA or school, or an LEA or school employee in the employee's school employment capacity;

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(B) the activity, class, program, fundraiser, club, camp, clinic, or other event uses, more than inconsequentially, the LEA or school's facilities, equipment, or other school resources; or

(C) the activity, class, program, fundraising event, club, camp, clinic, or other event is supported or subsidized, more than inconsequentially, by public funds, including the school's activity funds or minimum school program dollars.

(b) "Provided, sponsored, or supported by a school" does not include an activity, class, or program that meets the criteria of a noncurricular club as described in Title 53G, Chapter 7, Part 7, Student Clubs.

([14]15)(a) "Provision in lieu of fee waiver" means an alternative to fee payment or waiver of fee payment.

(b) "Provision in lieu of fee waiver" does not include a plan under which fees are paid in installments or under some other delayed payment arrangement.

([15]16) "Regular school day" has the same meaning as the term "school day" described in Section R277-419-2.

([16]17) "Requested or required by an LEA as a condition to a student's participation" means something of monetary value that is impliedly or explicitly mandated or necessary for a student, parent, or family to provide so that a student may:

- (a) fully participate in school or in a school activity, class, or program;
- (b) successfully complete a school class for the highest grade; or
- (c) avoid a direct or indirect limitation on full participation in a school activity, class, or program, including limitations created by:
 - (i) peer pressure, shaming, stigmatizing, bullying, or the like; or
 - (ii) withholding or curtailing any privilege that is otherwise provided to any other student.

([17]18) "School day" has the same meaning as defined in Section R277-419-2.

([18]19)(a) "School equipment" means a durable school-owned machine, equipment, or tool used by a student as part of an activity, course, or program in a secondary school.

(b) "School equipment" includes a saw or 3D printer.

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([19]20)(a) "Something of monetary value" means a charge, expense, deposit, rental, fine, or payment, regardless of how the payment is termed, described, requested or required directly or indirectly, in the form of money, goods or services.

(b) "Something of monetary value" includes:

(i) charges or expenditures for a school field trip or activity trip, including related transportation, food, lodging, and admission charges;

(ii) payments made to a third party that provide a part of a school activity, class, or program;

(iii) classroom supplies or materials; and

(iv) a fine, except for a student fine specifically approved by an LEA for:

(A) failing to return school property;

(B) losing, wasting, or damaging private or school property through intentional, careless, or irresponsible behavior; or

(C) improper use of school property, including a parking violation.

(c) "Something of monetary value" does not include a payment or charge for damages, which may reasonably be attributed to normal wear and tear.

([20]21)(a) "Student supplies" means items which are the personal property of a student which, although used in the instructional process, are also commonly purchased and used by persons not enrolled in the class or activity in question and have a high probability of regular use in other than school-sponsored activities.

(b) "Student supplies" include:

(i) pencils;

(ii) paper;

(iii) notebooks;

(iv) crayons;

(v) scissors;

(vi) basic clothing for healthy lifestyle classes; and

(vii) similar personal or consumable items over which a student retains ownership.

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(c) "Student supplies" does not include items listed in Subsection (20)(b) if the requirement from the school for the student supply includes specific requirements such as brand, color, or a special imprint [~~in order~~] to create a uniform appearance not related to basic function.

~~[(21) "Supplemental kindergarten" means an LEA program for students in kindergarten who voluntarily elect to receive additional hours of instruction beyond the LEA's regular school day for kindergarten students for an additional fee.]~~

[(22) "Supplemental Nutrition Assistance Program" or "SNAP" means a program, formerly known as food stamps, which provides nutrition benefits to supplement the food budget of low income families through the Utah Department of Workforce Services.]

~~[(22)23] (23) "Supplemental Security Income for children with disabilities" or "SSI" means a benefit administered through the Social Security Administration that provides payments for qualified children with disabilities in low income families.~~

~~[(23)24] (24) "Temporary Assistance for Needy Families" or "TANF," means a program, formerly known as AFDC, which provides monthly cash assistance and food stamps to low[-] income families with children under age 18 through the Utah Department of Workforce Services.~~

~~[(24)25] (25)(a) "Textbook" means instructional material necessary for participation in an activity, course or program, regardless of the format of the material.~~

(b) "Textbook" includes:

(i) hard_copy book or printed pages of instructional material, including a consumable workbook;

(ii) computer hardware, software, or digital content; and

(iii) the maintenance costs of school equipment.

(c) "Textbook" does not include:

(i) instructional equipment; or

(ii) instructional supplies.

~~[(25)26] (26) "Waiver" means a full release from the requirement of payment of a fee and from any provision in lieu of fee payment.~~

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R277-407-3. Classes and Activities During the Regular School Day.

(1) No fee may be charged in kindergarten through grade six for:

- (a) materials;
- (b) textbooks;
- (c) supplies, except for student supplies described in Subsection (6); or
- (d) any class or regular school day activity, including assemblies and field trips.

(2)(a) An LEA may charge a fee in connection with an activity, class, or program provided, sponsored, or supported by a school for a student in a secondary school that takes place during the regular school day if the fee is approved as provided in this ~~[R277-407]~~rule.

(b) All fees are subject to the fee waiver ~~[provisions]~~requirements of Section R277-407-8.

(3)(a) Notwithstanding, Subsection (1) and except as provided in Subsection (3)(b), a school may charge a fee to a student in grade six if the student attends a school that includes any of grades seven through twelve.

(b) A school that provides instruction to students in grades other than grades six through twelve may not charge fees for grade six unless the school follows a secondary model of delivering instruction to the school's grade six students.

(c) If a school charges fees in accordance with Subsection (3)(a), the school shall annually provide notice to parents that the school will collect fees from grade six students and that the fees are subject to waiver.

(4) If a class is established or approved, which requires payment of fees or purchase of items in order for students to participate fully and to have the opportunity to acquire all skills and knowledge required for full credit and highest grades, the fees or costs for the class shall be subject to the fee waiver ~~[provisions]~~requirements of ~~[Rule]~~Section R277-407-8.

(5)(a) In project related courses, projects required for course completion shall be included in the course fee.

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(b) A school may require a student at any grade level to provide materials or pay for an additional discretionary project if the student chooses a project in lieu of, or in addition to a required classroom project.

(c) A school shall avoid allowing high cost additional projects, particularly if authorization of an additional discretionary project results in pressure on a student by teachers or peers to also complete a similar high cost project.

(d) A school may not require a student to select an additional project as a condition to enrolling, completing, or receiving the highest possible grade for a course.

(6) An elementary school or elementary school teacher may provide to a student's parent or guardian, a suggested list of student supplies for use during the regular school day so that a parent or guardian may furnish, on a voluntary basis, student supplies for student use, provided that, in accordance with Section 53G-7-503, the following notice is provided with the list:

"NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

(7) A school may require a secondary student to provide student supplies, subject to the ~~[provisions]~~requirements of Section R277-407-8.

(8) Except as provided in Subsection (9), if a school requires special shoes or items of clothing that meet specific requirements, including requesting a specific brand, fabric, or imprints, the cost of the special shoes or items of clothing are:

- (a) considered a fee; and
- (b) subject to fee waiver.

(9) As provided in Subsection 53G-7-802(4), an LEA's school uniform policy, including a requirement for a student to wear a school uniform, is not considered a fee for either an elementary or a secondary school if the LEA's school uniform policy is consistent with the requirements of Title 53G, Chapter 7, Part 8, School Uniforms.

R277-407-4. School Activities Outside of the Regular School Day.

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(1) A school may charge a fee, subject to the ~~[provisions]~~requirements of Section R277-407-8, in connection with any school-sponsored activity, that does not take place during the regular school day, regardless of the age or grade level of the student, if participation in the activity is voluntary and does not affect a student's grade or ability to participate fully in any course taught during the regular school day.

(2) A fee related to a co-curricular or extracurricular activity may not exceed the maximum fee amounts for the co-curricular or extracurricular activity adopted by the LEA governing board as described in Subsection R277-407-6(~~[3]~~2).

(3) A school may only collect a fee for an activity, class, or program provided, sponsored, or supported by a school consistent with LEA policies and state law.

(4) An LEA that provides, sponsors, or supports an activity, class, or program outside of the regular school day or school calendar is subject to the ~~[provisions]~~requirements of this rule regardless of the time or season of the activity, class, or program.

~~— (5)(a) An LEA may charge a fee related to a student's enrollment in supplemental kindergarten.~~

~~— (b) An LEA's fee for supplemental kindergarten described in Subsection (5)(a) is subject to fee waiver.]~~

R277-407-5. Fee-Waivable Activities, Classes, or Programs Provided, Sponsored, or Supported by a School.

Fees for the following are waivable:

(1) an activity, class, or program that is:

(a) primarily intended to serve school-age children; and

(b) taught or administered, more than inconsequentially, by a school employee as part of the employee's assignment;

(2) an activity, class, or program that is explicitly or implicitly required:

(a) as a condition to receive a higher grade, or for successful completion of a school class or to receive credit, including a requirement for a student to attend a concert or museum as part of a music or art class for extra credit; or

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(b) as a condition to participate in a school activity, class, program, or team, including, a requirement for a student to participate in a summer camp or clinic for students who seek to participate on a school team, such as cheerleading, football, soccer, dance, or another team;

(3) an activity or program that is promoted by a school employee, such as a coach, advisor, teacher, school-recognized volunteer, or similar person, during school hours where it could be reasonably understood that the school employee is acting in the employee's official capacity;

(4) an activity or program where full participation in the activity or program includes:

(a) travel for state or national educational experiences or competitions;

(b) debate camps or competitions; or

(c) music camps or competitions;

(5) a concurrent enrollment, CTE, or AP course; and

(6) the cost to access software, digital content, or other instructional materials required as part of an activity, course or program.

R277-407-6. LEA Requirements to Establish a Fee Schedule -- Maximum Fee Amounts -- Notice to Parents.

(1) An LEA, school, school official, or employee may not charge or assess a fee or request or require something of monetary value in connection with an activity, class, or program provided, sponsored, or supported by, and including for a co-curricular or extracurricular activity, unless the fee:

(a) has been set and approved by the LEA's governing board;

(b) is equal to or less than the maximum fee amount established by the LEA governing board as described in Subsection (4); and

(c) is included in an approved fee schedule~~[or notice in accordance with this rule]~~.

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(2)(a) If an LEA charges a fee, on or before April 1 and in consultation with stakeholders, the LEA governing board shall annually adopt a fee schedule and fee policies for the LEA in a regularly scheduled public meeting.

(b) Before approving the LEA's fee schedule described in this [S]section, an LEA shall provide an opportunity for the public to comment on the proposed fee schedule during a minimum of two public LEA governing board meetings.

(c) An LEA shall:

(i) provide public notice of the meetings described in Subsections (2)(a) and (b) in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) encourage public participation in the development of fee schedules and waiver policies.

(d) In addition to the notice requirements of Subsection_(2)(c), an LEA shall provide notice to parents and students of the meetings described in Subsections (2)(a) and (b) using the same form of communication regularly used by the LEA to communicate with parents, including notice by e[-]mail, text, flyer, or phone call.

(e) An LEA shall keep minutes of meetings during which fee and waiver policies are developed or adopted, together with copies of approved policies, in accordance with Section 52-4-203.

(3) After the fee schedule described in Subsection (2)(a) is adopted, an LEA may amend the LEA's fee schedule if the LEA follows the process described in Subsection (2) before approving the amended fee schedule.

(4)(a) As part of an LEA's fee setting process, ~~[the]an~~ LEA shall establish:~~[a per student annual maximum fee amount that the LEA's schools may charge a student for the student's participation in all courses, programs, and activities provided, sponsored, or supported by a school for the year.~~

~~————(b) An LEA shall establish:]~~

~~(i) a maximum fee amount per student for each activity; and~~

~~(ii) a maximum total aggregate fee amount per student per school year.~~

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([e]b) The amount of revenue raised by a student through an individual fundraiser shall be included as part of the maximum fee amount per student for the activity and maximum total aggregate fee amount per student.

([e]c) An LEA shall include the total per student amount expected to be received through required group fundraising as part of the maximum fee amount for an activity described in Subsection (4)(b)(i).

([e]d) An LEA may establish a reasonable number of activities, courses, or programs that will be covered by the annual maximum fee amount described in Subsection (4)(a).

(5) As part of an LEA's fee setting process described in this [S]section, the LEA may review and consider the following per school:

- (a) the school's cost to provide the activity, class, or program;
- (b) the school's student enrollment;
- (c) the median income of families:
 - (i) within the school's boundary; or
 - (ii) enrolled in the school;
- (d) the number and monetary amount of fee waivers, designated by individual fee, annually granted within the prior three years;
- (e) the historical participation and school interest in certain activities;
- (f) the prior year fee schedule;
- (g) the amount of revenue collected from each fee in the prior year;
- (h) fund[-]raising capacity;
- (i) prior year community donors; and
- (j) other resources available, including through donations and fundraising.

~~[(6)(a) An LEA shall annually provide written notice to a parent or guardian of each student who attends a school within the LEA of all current and applicable fee schedules and fee waiver policies.]~~

([7]6)(a) If an LEA charges a fee, the LEA shall:

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(i) annually publish the ~~[LEA's fee waiver policies and fee schedule, including the fee maximums described in Subsection(4), on each of the LEA's schools' publicly available websites;]~~following on each of the LEA's schools' publicly available websites:

(A) the LEA's fee waiver policies and fee schedule, including the fee maximums described in Subsection (4);

(B) the LEA's fee waiver application;

(C) the LEA's fee waiver decision and appeals form; and

(D) the LEA's school fee notice for families;

(ii) annually include a copy of the LEA's fee schedule and fee waiver policies with the LEA's registration materials; and

(iii) provide a copy of the LEA's fee schedule and fee waiver policies to a student's parent who enrolls a student after the initial enrollment period.

(b) If an LEA's student or parent population in a single written language other than English exceeds 20%, the LEA shall also publish the LEA's fee schedule and fee waiver policies in the language of those families.

(c) An LEA representative shall meet personally with each student's parent or family and make available an interpreter for the parent to understand the LEA's fee waiver schedules and policies if:

(i) the student or parent's first language is a language other than English; and

(ii) the LEA ~~[hasn't]~~has not published the LEA's fee schedule and fee waiver policies in the parent's first language.

~~[(8) A notice described in Subsection (6)(a) shall:~~

~~— (a) be in a form approved by the Board; and~~

~~— (b) include the following:~~

~~— (i) for a school serving elementary students:~~

~~— (A) School Fees Notice for Families of Students in an Elementary School;~~

~~— (B) Fee Waiver application (Elementary School);~~

~~— (C) Fee Waiver Decision and Appeals Form; and~~

~~— (D) the Board's elementary school poster; and~~

~~— (ii) for a school serving secondary students:~~

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- ~~_____ (A) School Fees Notice For Families of Students in a Secondary School;~~
- ~~_____ (B) Fee Waiver Application (Secondary School);~~
- ~~_____ (C) Fee Waiver Decision and Appeals Form; and~~
- ~~_____ (D) the Board's secondary school poster.]~~

~~([9]7)(a)~~ An LEA policy shall include easily understandable procedures for obtaining a fee waiver and for appealing an LEA's denial of a fee waiver, as soon as possible before the fee becomes due.

(b) If an LEA denies a student or parent request for a fee waiver, the LEA shall provide the student or parent:

- (i) the LEA's decision to deny a waiver; and
- (ii) the procedure for the appeal in the form approved by the Board.

~~([10]8)(a)~~ A school may not deny a present or former student receipt of transcripts or a diploma, nor may a school refuse to issue a grade for a course for failure to pay school fees.

(b) A school may impose a reasonable charge to cover the cost of duplicating, mailing, or transmitting transcripts and other school records.

(c) A school may not charge for duplicating, mailing, or transmitting copies of school records to an elementary or secondary school in which a former student is enrolled or intends to enroll.

~~([14]9)~~ To preserve equal opportunity for all students and to limit diversion of money and school and staff resources from the basic school program, each LEA's fee policies shall be designed to limit student expenditures for school-sponsored activities, including expenditures for activities, uniforms, clubs, clinics, travel, and subject area and vocational leadership organizations, whether local, state, or national.

R277-407-7. Donations in Lieu of Fees.

(1)(a) A school may not request or accept a donation in lieu of a fee from a student or parent unless the activity, class, or program for which the donation is solicited will otherwise be fully funded by the LEA and receipt of the donation will not affect participation by an individual student.

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(b) A donation is a fee if a student or parent is required to make the donation as a condition to the student's participation in an activity, class, or program.

(c) An LEA may solicit and accept a donation or contribution in accordance with the LEA's policies, but all such requests must clearly state that donations and contributions by a student or parent are voluntary.

(2) If an LEA solicits donations, the LEA:

(a) shall solicit and handle donations in accordance with policies established by the LEA; and

(b) may not place any undue burden on a student or family in relation to a donation.

(3) An LEA may raise money to offset the cost to the LEA attributed to fee waivers granted to students through the LEA's foundation.

(4) An LEA shall direct donations provided to the LEA through the LEA's foundation in accordance with the LEA's policies governing the foundation.

(5) If an LEA accepts a donation, the LEA shall prevent potential inequities in schools within the LEA when distributing the donation.

R277-407-8. Fee Waivers.

(1)(a) All fees are subject to waiver.

(b) Fees charged for an activity, class, or program held outside of the regular school day, during the summer, or outside of an LEA's regular school year are subject to waiver.

(c) Non-waivable charges are not subject to waiver.

(2)(a) Except as provided in Subsection (2)(b), ~~[beginning with the 2020-21 school year,]~~an LEA may not use revenue collected through fees to offset the cost of fee waivers by requiring students and families who do not qualify for fee waivers to pay an increased fee amount to cover the costs of students and families who qualify for fee waivers.

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(b) An LEA may notify students and families that the students and families may voluntarily pay an increased fee amount or provide a donation to cover the costs of other students and families.

~~[(c) For an LEA with multiple schools, the LEA shall distribute the impact of fee waivers across the LEA so that no school carries a disproportionate share of the LEA's total fee waiver burden.]~~

(3) An LEA shall provide, as part of any fee policy or schedule, for adequate waivers or other provisions in lieu of fee waivers to ensure that no student is denied the opportunity to participate in a class or school-sponsored or supported activity because of an inability to pay a fee.

(4) An LEA shall designate at least one person at an appropriate administrative level in each school to review and grant fee waiver requests.

(5) An LEA shall administer the process for obtaining a fee waiver or pursuing an alternative fairly, objectively, without delay, and in a manner that avoids stigma, embarrassment, undue attention, and unreasonable burdens on students and parents.

(6) An LEA may not treat a student receiving a fee waiver or provision in lieu of a fee waiver differently from other students.

(7) A school may not identify a student on fee waiver to students, staff members, or other persons who do not need to know.

(8)(a) An LEA shall ensure that a fee waiver or other provision in lieu of fee waiver is available to any student whose parent ~~[is unable to]~~cannot pay a fee.

(b) A school or LEA administrator shall verify fee waivers consistent with this rule.

~~[(9) An LEA shall submit school fee compliance forms to the Superintendent for each school that affirm compliance with the permanent injunction, consistent with Doe v. Utah State Board of Education, Civil No. 920903376 (3rd District 1994).]~~

~~[(10)]~~⁹ An LEA shall adopt a fee waiver policy for review and appeal of fee waiver requests which:

(a) provides parents the opportunity to review proposed alternatives to fee waivers;

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(b) establishes a timely appeal process, which shall include the opportunity to appeal to the LEA or its designee; and

(c) suspends any requirement that a given student pay a fee during any period for which the student's eligibility for waiver is under consideration or during which an appeal of denial of a fee waiver is in process.

([44]10) An LEA may pursue reasonable methods for collecting student fees, but may not, as a result of unpaid fees:

(a) exclude a student from a school, an activity, class, or program that is provided, sponsored, or supported by a school during the regular school day;

(b) refuse to issue a course grade; or

(c) withhold official student records, including written or electronic grade reports, class schedules, diplomas or transcripts.

([42]11)(a) A school may withhold student records in accordance with Subsection 53G-8-212(2)(a).

(b) Notwithstanding Subsection (12)(a), a school may not withhold any records required for student enrollment or placement in a subsequent school.

([43]12) A school is not required to waive a non-waivable charge.

R277-407-9. Service In Lieu of Fees -- Voluntary Requests for Installment Plans.

(1) Subject to the [~~provisions~~]requirements of Subsection (2), an LEA may allow a student to perform service in lieu of a fee, but service in lieu of a fee may not be required.

(2) An LEA may allow a student to perform service in lieu of a fee if:

(a) the LEA establishes a service policy that ensures that a service assignment is appropriate to the:

(i) age of the student;

(ii) physical condition of the student; and

(iii) maturity of the student;

(b) the LEA's service policy is consistent with state and federal laws, including:

(i) Section 53G-7-504; and

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- (ii) the Federal Fair Labor Standards Act, 29 U.S.C. 201;
- (c) the service can be performed within a reasonable period~~[-of time]~~; and
- (d) the service is at least equal to the minimum wage for each hour of service.

(3)(a) A student who performs service may not be treated differently than other students who pay a fee.

(b) The service may not create an unreasonable burden for a student or parent and may not be of such a nature as to demean or stigmatize the student.

(4) An LEA shall transfer a student's service credit to:

- (a) another school within the LEA; or
- (b) another LEA upon request of the student.

(5)(a) An LEA may make an installment payment plan available to a parent or student to pay for a fee.

(b) An installment payment plan described in Subsection (5)(a) may not be required in lieu of a fee waiver.

(6) An LEA that charges fees shall adopt policies that include at least the following:

(a) a process for obtaining waivers or pursuing alternatives that is administered fairly, objectively, and without delay, and avoids stigma and unreasonable burdens on students and families;

(b) a process with no visible indicators that could lead to identification of fee waiver applicants;

(c) a process that complies with the privacy requirements of The Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA);

(d) a student may not collect fees or assist in the fee waiver approval process;

(e) a standard written decision and appeal form is provided to every applicant;

and

(f) during an appeal the requirement that the fee be paid is suspended.

R277-407-10. Individual and Group Fundraising Requirements.

R277-407 received final approval by the Utah State Board of Education on May 4, 2023. R277-407 will be published in the June 1, 2023, Utah State Bulletin, subject to a 30-day comment period, with a planned effective date of July 10, 2023.

(1) An LEA governing board shall establish a fundraising policy that includes a fundraising activity approval process.

(2) An LEA's fundraising policy described in Subsection (1):

(a) may not authorize, establish, or allow for required individual fundraising;

(b) may provide optional individual fundraising opportunities for students to raise money to offset the cost of the student's fees;

(c) may allow for required group fundraisers;

(d) may not deny a student membership on a team or group, based on the student's non-participation in a fundraiser;

(e) shall require compliance with the requirements of Rule R277-113 when using alternative methods of raising revenue that do not include students; and

(f) shall include a requirement that a school notify parents of required group fundraising, letting parents and students know how and when specific details, as described in Subsection (3), will be provided.

(3) The specific details described in Subsection (2)(f) shall include a description of the nature of the required group fundraiser and the estimated participation time required of the student or parent for the required group fundraiser.

R277-407-11. Fee Waiver Eligibility.

(1) A student is eligible for fee waiver if an LEA receives verification that:

(a) in accordance with Subsection 53G-7-504(4), based on the family income levels established by the Superintendent as described in Subsection (2);

(b) the student to whom the fee applies receives SSI;

(c) the family receives TANF or SNAP funding;

(d) the student is in foster care through the Division of Child and Family Services; or

(e) the student is in state custody.

(2) The Superintendent shall annually establish income levels for fee waiver eligibility and publish the income levels on the Board's website.

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(3) In lieu of income verification, an LEA may require alternative verification under the following circumstances:

(a) If a student's family receives TANF or SNAP, an LEA may require the student's family to provide to the LEA an electronic copy or screen[-]shot of the student's family's eligibility determination or eligibility status covering the period for which a fee waiver is sought from the Utah Department of Workforce Services;

(b) If a student receives SSI, an LEA may require a benefit verification letter from the Social Security Administration;

(c) If a student is in state custody or foster care, an LEA may rely on the youth in care required intake form and school enrollment letter or both provided by a case worker from the Utah Division of Child and Family Services or the Utah Juvenile Justice Department.

(d) An LEA may not subject a family to unreasonable demands for re-qualification.

(4) A school may grant a fee waiver to a student, on a case by case basis, who does not qualify for a fee waiver under Subsection (1), but who, because of extenuating circumstances is not reasonably capable of paying the fee.

(5) An LEA may charge a proportional share of a fee or reduced fee if circumstances change for a student or family so that fee waiver eligibility no longer exists.

(6) An LEA may retroactively waive fees if eligibility can be determined to exist before the date of the fee waiver application.

R277-407-12. Fees for Textbooks[~~and Remediation~~].

(1) [~~Beginning with the 2022-23 school year, a~~]An LEA may not charge a fee for a textbook as provided in Section 53G-7-603, except for a textbook used for a concurrent enrollment or advanced placement course as described in Subsection (2).

(2)(a) An LEA may charge a fee for a textbook used for a concurrent enrollment or advanced placement.

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(b) A fee for a textbook used for a concurrent enrollment or advanced placement course is fee waivable as described in Section R277-407-8.

R277-407-13. Budgeting and Spending Revenue Collected Through Fees -- Fee Revenue Sharing Requirements.

(1) An LEA shall follow the general accounting standards described in Rule R277-113 for treatment of fee revenue.

(2) An LEA shall[
~~—(a)—~~ establish a spend plan for the revenue collected from each fee charged.];
and

~~—(b) if the LEA has two or more schools within the LEA, share revenue lost due to fee waivers across the LEA.]~~

(3)(a) A spend plan described in Subsection (2)(a) provides students, parents, and employees transparency by identifying a fee's funding uses.

(b) An LEA or school's spend plan shall identify the needs of the activity, course, or program for the fee being charged and shall include a list or description of anticipated types of expenditures, for the current fiscal year or as carryover for use in a future fiscal year, funded by the fee charged.

(4)(a) ~~[Financial inequities or disproportional impact of fee waivers may not fall inequitably on any one school within an LEA.~~

~~—(b)—~~ An LEA that has multiple schools shall establish a procedure to identify and address potential inequities due to the impact of the number of students who receive fee waivers within each of the LEA's schools.

(b) For an LEA with multiple schools, the LEA shall distribute the impact of fee waivers across the LEA so that no school carries a disproportionate share of the LEA's total fee waiver burden.

R277-407-14. Fee Waiver Reporting Requirements.

-An LEA shall collect the following information, which may be requested by the Superintendent as part of the Superintendent's monitoring of the LEA's school fees

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~~practices:[attach the following to the LEA's annual year end report for inclusion in the Superintendent's annual report:]~~

- (1) a summary of:
 - (a) the number of students in the LEA given fee waivers;
 - (b) the number of students who worked in lieu of a waiver;
 - (c) the number of students denied fee waivers; and
 - (d) the total dollar value of student fees waived by the LEA; and
- ~~[(2) a copy of the LEA's fee and fee waiver policies;~~
- ~~— (3) a copy of the LEA's fee schedule for students;~~
- ~~— (4) the notice of fee waiver criteria provided by the LEA to a student's parent or guardian;~~
- ~~— (5) a fee waiver compliance form approved by the Superintendent for each school and LEA;~~
- ~~— (6) the total count of fees approved on the LEA schedule; and]~~
- ([7]2) the total dollar amount of all fees charged to students within all schools within the LEA.

R277-407-15. Superintendent and LEA Policy and Training Requirements.

(1) The Superintendent shall provide ongoing training, informational materials, and model policies, as available, for use by LEAs.

(2) The Superintendent shall provide online training and resources for LEAs regarding:

- (a) an LEA's fee approval process;
- (b) LEA notification requirements;
- (c) LEA requirements to establish maximum fees;
- (d) fundraising practices;
- (e) fee waiver eligibility requirements, including requirements to maintain student and family confidentiality; and
- (f) community service or fundraising alternatives for students and families who qualify for fee waivers.

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(3) An LEA governing board shall annually review the LEA's policies on school fees, fee waivers, fundraising, and donations.

(4) An LEA shall develop a plan for, at a minimum, annual training of LEA and school employees on fee related policies enacted by the LEA specific to each employee's job function.

R277-407-16. Enforcement.

(1) The Superintendent shall monitor LEA compliance with this rule.[:
~~—(a) through the compliance reports provided in Section R277-407-14; and~~
~~—(b) by such other means as the Superintendent may reasonably request at any time.]~~

(2) If an LEA fails to comply with the terms of this rule or request of the Superintendent, the Superintendent shall send the LEA a first written notice of non-compliance, which shall include a proposed corrective action plan.

(3) Within 45 days of the LEA's receipt of a notice of non-compliance, the LEA shall:

(a) respond to the allegations of noncompliance described in Subsection (2); and
(b) work with the Superintendent on the Superintendent's proposed corrective action plan to remedy the LEA's noncompliance.

(4)(a) Within ~~[fifteen]~~15 days after receipt of a proposed corrective action plan described in Subsection (3)(b), an LEA may request an informal hearing with the Superintendent to respond to allegations of noncompliance or to address the appropriateness of the proposed corrective action plan.

(b) The form of an informal hearing described in Subsection (4)(a) shall be as directed by the Superintendent.

(5) The Superintendent shall send an LEA a second written notice of non-compliance and request for the LEA to appear before a Board standing committee if:

(a) the LEA fails to respond to the first notice of non-compliance within 60 days;
or

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(b) the LEA fails to comply with a corrective action plan described in Subsection (3)(b) within the time period established in the LEA's corrective action plan.

(6) If an LEA~~[that failed to respond to a first notice of non-compliance]~~ receives a second written notice of non-compliance, the LEA may:

(a)(i) respond to the notice of non-compliance described in Subsection (5); and
(ii) work with the Superintendent on a corrective action plan within 30 days of receiving the second written notice of non-compliance; or

(b) within 15 days after receipt of the second notice seek an appeal~~[-as described in Subsection (8)(b).]~~ before a Board standing committee.

(7) If an LEA that ~~[failed]~~ fails to respond to a first notice of non-compliance, and fails to [comply with either of the options described in Subsection (6)] respond to a second notice of non-compliance, nor seeks an appeal as described in Subsection (6)(b), the Superintendent shall impose one of the financial consequences described in Subsection (10).

(8)(a) ~~[Prior to]~~ Before imposing a financial consequence described in Subsection (10), the Superintendent shall provide an LEA ~~[thirty]~~ 30 days' notice of any proposed action.

(b) The LEA may, within ~~[fifteen]~~ 15 days after receipt of a notice described in Subsection (8)(a), request an appeal before ~~[the]~~ a Board standing committee.

(9) If the LEA does not request an appeal described in Subsection (8)(b), or if after the appeal the Board finds that the allegations of noncompliance are substantially true, the Superintendent may continue with the suggested corrective action, formulate a new form of corrective action or additional terms and conditions which must be met and may proceed with the appropriate remedy which may include an order to return funds improperly collected.

(10) A financial consequence may include:

(a) requiring an LEA to repay an improperly charged fee, commensurate with the level of non-compliance;

(b) withholding all or part of an LEA's monthly Minimum School Program funds until the LEA comes into full compliance with the corrective action plan; and

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(c) suspending the LEA's authority to charge fees for an amount of time specified by the Superintendent or Board in the determination.

(11) The Board's decision described in Subsection (9) is final and no further appeals are provided.

~~[R277-407-17. Enforceable Date.~~

~~——(1) This rule will be enforceable beginning January 1, 2020.]~~

KEY: education, school fees

Date of Last Change: 2023~~[November 10, 2020]~~

Notice of Continuation: August 19, 2021

Authorizing, and Implemented or Interpreted Law: Art X Sec 2; Art X Sec 3; 53E-3-401(4); 53G-7-503[; ~~Doe v. Utah State Board of Education, Civil No. 920903376]~~