

**R277. Education, Administration.**

**R277-115. LEA Supervision and Monitoring Requirements of Third Party Providers and Contracts.**

**R277-115-1. Authority, Purpose, and Oversight Category.**

- (1) This rule is authorized by:
  - (a) 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
  - (b) Subsection 53E-3-401(10), which allows the Board to direct an LEA to require in a contract with a third party provider that the third party provider shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:
    - (i) Titles 53E, 53F, and 53G; and
    - (ii) Board rule.
- (2) The purpose of this rule is to provide standards for an LEA working with a third party provider to ensure the third party provider complies with applicable law.
- (3) This Rule R277-115 is categorized as Category 2 as described in Rule R277-111.

**R277-115-2. Definitions.**

- (1) "Educational good or service" means the same as that term is defined in Section 53E-3-401.
- (2) "Education service provider" means a third party provider that provides academic instruction to students that yields grades or credit.
- (3) "Section 504" means Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.
- (4) "Third party provider" means a third party who provides an educational good or service on behalf of an LEA.

**R277-115-3. LEA Requirements of Education Service Providers.**

- (1) An LEA shall ensure that each staff member of an education service provider:

(a) receives a background check and has ongoing monitoring in accordance with Title 53G, Chapter 11, Part 4 Background Checks; and

(b) holds appropriate license, license areas of concentration, and endorsements as set forth in Rule R277-309.

(2) An LEA shall ensure that a student identified as having a disability under the IDEA or Section 504 receiving instruction from an education service provider receives a free and appropriate public education.

(3) An LEA shall require each education service provider provide the LEA with information about any student receiving services that the education service provider suspects of having a disability, so that the LEA can conduct child find responsibilities under the IDEA.

(4)(a) An LEA shall register all students receiving services from an education service provider.

(b) An education service provider may not enroll or register a student at an LEA.

(5) An LEA shall pay an education service provider on a reimbursement basis.

(6) An LEA shall:

(a) ensure appropriate coding of expenditures to an education service provider for IDEA services; and

(b) ensure that expenditures classified under Subsection (a) are reportable to the LEA and the Superintendent.

(7) An LEA may not record education service provider staff as teachers with an assignment in CACTUS or USIMS.

(8) An LEA may not utilize or encumber WPU funds for students receiving services from education service providers for expenses or projects that span longer than the length of the LEA's contract with the provider, including termination clauses.

#### **R277-115-4. Third Party Provider Provision of Services.**

(1) An LEA that contracts with a third party provider to provide an educational good or service on behalf of the LEA shall:

(a) require in the LEA's contract with a third party provider that the third party provider shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:

(i) Titles 53E, 53F, and 53G; and

(ii) Board rule;

(b) establish monitoring and compliance procedures to ensure that a third party provider who provides educational services to a student on behalf of the LEA complies with this rule;

(c) develop a written monitoring plan to supervise the educational good or service provided by the third party provider;

(d) ensure the third party provider is complying with:

(i) federal law;

(ii) state law; and

(iii) Board rules;

(e) monitor and supervise all activities of the third party provider related to the educational good or service provided by the third party provider to the LEA;

(f) maintain documentation of the LEA's supervisory activities consistent with the LEA's administrative records retention schedule; and

(g) review the plan described in Subsection (c) and any documentation of supervisory activities with the LEA's audit committee no less than annually.

(2) An LEA shall:

(a) verify the accuracy and validity of a student's enrollment verification data, before enrolling a student in the LEA; and

(b) provide a student and the student's parent or guardian with notification of the student's enrollment in a school or program within the LEA.

(3) In accordance with Section 63A-12-103, an LEA shall maintain records documenting:

(a) services provided by third party providers; and

(b) payments made to third party providers.

(4) In the event an LEA cancels a contract with an educational service provider, the LEA shall:

(a) continue to provide educational goods or services to enrolled students for the rest of the school year; and

(b) notify parents of the following information:

(i) the planned elimination of the specific educational good or service provided by the educational service provider;

(ii) the status of the student's enrollment; and

(iii) any steps required of a student to transfer or unenroll.

(5) When an LEA terminates a contract with an educational service provider, the LEA may incur a loss of hold harmless funds for the loss in student count the next fiscal year.

(6) An LEA has direct and full responsibility for all actions of its third party providers and the third party provider's employees for actions performed in the scope of services provided on behalf of the LEA.

**R277-115-5. Corrective Action.**

The Board or the Superintendent may withhold funds or require an LEA to repay public funds to the Superintendent if:

(1) the LEA fails to comply with this rule or the law; and

(2) the repayment is made in accordance with the procedures established in

Rule R277-114.

**KEY: third party providers, contracts, monitoring**

**Date of Last Change: July 9, 2024**

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**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4) and (10)**