

1 **R277. Education, Administration.**

2 **R277-926. Certification of Residential Treatment Center Special Education Program.**

3 **R277-926-1. Authority and Purpose.**

4 (1) This rule is authorized by:

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

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

9 (2) The purpose of this rule is to provide a certification process and procedure for
10 residential treatment centers where IEP teams place an in-state or out-of-state special
11 education students for purposes of receiving a free and appropriate public education.

12

13 **R277-926-2. Definitions.**

14 (1) "Nonsectarian" means a nonpublic school or agency that is not owned,
15 operated, controlled by, or formally affiliated with a religious group or sect, whatever might
16 be the actual character of the education program or the primary purpose of the facility.

17 (2)(a) "Residential Treatment Center" or "RTC" means a private, or nonsectarian
18 establishment that provides related services necessary for a student with special needs to
19 benefit educationally from the student's IEP.

20 (b) "Residential Treatment Center" or "RTC" does not include an organization or
21 agency that operates as a public agency or offers public service, including:

22 (i) a state or local agency;

23 (ii) an affiliate of a state or local agency including:

24 (A) a private, nonprofit corporation established or operated by a state or local
25 agency;

26 (B) a public university or college; or

27 (C) a public hospital.

28 (3) "Qualified personnel" means an in-classroom staff member who:

29 (a) provides assistance with a student's education;

30 (b) has met requirements for federal and state certification, licensing, registration,

31 or other comparable requirements that apply to the area in which the staff member is
32 providing related services, including board approved or recognized requirements; and

33 (c) actively adheres to the standards of professional practice established in federal
34 and State of Utah law or regulation.

35

36 **R277-926-3. Certification of a Residential Treatment Center.**

37 (1) An RTC shall have the RTC's special needs program certified by the
38 Superintendent before providing services for a free and appropriate public education to in-
39 state or out-of-state students with special education needs from an LEA.

40 (2) An RTC seeking certification shall apply for an initial or renewal certification in a
41 form prescribed by the Superintendent.

42 (3) An RTC's application shall include:

43 (a) a detailed description of the RTC's special education program provided,
44 including:

45 (i) minimum instructional minutes for each grade level served;

46 (ii) specially designed instruction for:

47 (A) social skills;

48 (B) counseling; and

49 (C) parent training;

50 (iii) evidence of age appropriate core curriculum that aligns with the Utah core
51 standards or aligns with the core standards of the student's state of origin;

52 (iv) for grades K-8, evidence showing the use of at least one resource, including a
53 textbook or curricular program, adopted by the student's state of origin or Utah for each
54 core standard subject including:

55 (A) English language arts;

56 (B) Math; and

57 (C) Science;

58 (v) for grades 9-12, evidence showing alignment of curriculum for core standard
59 subjects with an LEA's curriculum in Utah or the student's state of origin;

60 (b) evidence of qualified personnel for each subject area including:

- 61 (i) English language arts;
62 (ii) Math; and
63 (iii) Science;
64 (c) evidence that each aide assisting in a student's education has received training
65 in appropriate behavior as regulated by the Utah Department of Health and Human
66 Services and academic content areas specific to an aide's classroom assignment,
67 including training required by state of Utah and federal law;
68 (d) an assurance that each student, aged 14 years and above, has a transition plan
69 as described in Subsection R277-926-4(3)(a);
70 (e) evidence that an RTC is collaborating with a student's LEA of origin's fully
71 constituted IEP team to:
72 (i) carry out the specific requirements of the student's IEP, including the general
73 requirements described in Subsection R277-926-4(3)(b);
74 (ii) facilitate an annual IEP review; and
75 (iii) when necessary, participate in the student's triennial evaluation, including:
76 (A) an outlined process for the evaluation;
77 (B) the ability to allow on-site accessibility to third parties required for evaluation
78 participation; and
79 (C) collaborate with the LEA of origin for the administration of the assessment.
80 (f) a description of the RTC's behavior intervention plan, including the incident
81 management procedures and reporting requirements described in Subsection R277-926-
82 4(3)(c);
83 (g) evidence of how meaningful parental involvement is facilitated;
84 (h) documentation showing all staff at the RTC have been fingerprinted and have
85 passed, or are in the process of passing, a state and federal criminal background checks
86 before being allowed to have contact with any student;
87 (i) an assurance showing participation in the LEA of origin with federal Child Find
88 mandates as outlined in 20 U.S.C. 1412(a)(3);
89 (j) an assurance that the RTC is a nonsectarian RTC; and

90 _____ (k) if applicable, a copy of the Private School Affidavit filed with a student's state of
91 origin.

92 _____ (4) An RTC may apply for an initial certification and receive notification of
93 certification approval or denial within 45 days.

94 _____ (5) An RTC shall apply for certification renewal no later than June 1st for the
95 upcoming school year.

96 _____ (6) The Superintendent shall provide the RTC notice of the Superintendent's
97 approval or denial of the RTC's application for certification within 45 days of receipt of
98 the RTC's application.

99 _____ (7) An RTC with a pending application shall be subject to an on-site review by the
100 Superintendent within 45 days of the RTC submitting the RTC's application.

101 _____ (8) An RTC's application for certification and on-site review shall be reviewed
102 collectively by the Superintendent in considering approval or denial of certification.

103 _____ (9) If approved, an RTC's certification lasts for two years from the date of
104 approval and is subject to monitoring protocols as described in Subsection R277-926-4.

105 _____ (10) If the Superintendent denies an RTC's application for certification, the
106 Superintendent shall provide the reason for the denial in writing to the RTC.

107 _____ (11) If an RTC operates a special needs program at more than one site, the RTC
108 shall submit a separate certification application for each site.

109

110 **R277-926-4. Certification Maintenance and General Monitoring.**

111 _____ (1) An RTC that has been certified is subject to periodic monitoring and review.

112 _____ (2) The Superintendent may request documentation or an on-site visit at anytime
113 to ensure general compliance with the requirements of this rule, State of Utah law, and
114 federal law.

115 _____ (3) An RTC that has been certified shall comply with all requirements of this rule,
116 State of Utah law and federal law, including the following requirements:

117 _____ (a) collaborating with an LEA of origin to maintain and facilitate a transition plan
118 for each student served by the RTC that includes:

119 _____ (i) a list of a relevant course of study related to needs and ability of the student;

- 120 (ii) a list of all required transition assessments needed;
121 (iii) a plan for transitions to and from restrictive placement; and
122 (iv) age of majority documentation in a form approve by the Superintendent;
123 (b) collaborating with the LEA of origin on a student's IEP through:
124 (i) timely and appropriate IEP progress monitoring;
125 (ii) documentation of a student's specially designed instruction and related
126 services including:
127 (A) service provisions;
128 (B) treatment notes; and
129 (C) service logs;
130 (iii) sign-in or attendance sheets for each IEP meeting held for a student; and
131 (iv) adhering to all other applicable state and federal laws;
132 (c) when appropriate, establishing a discipline guide consistent with IDEA that
133 includes a behavior intervention plan with the following minimum components:
134 (i) general behavior goals;
135 (ii) crisis de-escalation and restraint training and training frequency;
136 (iii) restraint and seclusion policies and procedures consistent with state and
137 federal law; and
138 (iv) parental notification policies requiring notice within at least 24-hours.

139 (4) An RTC shall notify the Superintendent within 30 days if the RTC makes any
140 material change to the RTC's special education program.

141 (5) If a certified RTC is found to be noncompliant with a provision of R277-926,
142 State of Utah law, or federal law, the Superintendent may suspend or revoke the RTC's
143 certification as outlined in Subsection R277-926-5.

144

145 **R277-926-5. Revocation of Certification.**

146 (1) The Superintendent may revoke an RTC's certification at any time if the RTC
147 fails to comply with the requirements of R277-926, State of Utah law, or federal law.

148 (2) The Superintendent shall provide the reason for revocation of the RTC's
149 certification in writing to the RTC and provide a 30-day cure period before suspension or
150 revocation may occur.

151 (3) If an RTC does not cure identified non-compliance described in Subsection (2)
152 within the 30-day cure period, the Superintendent shall revoke the RTC's certification.

153 (4) If an RTC's certification is revoked, the RTC:

154 (a) may not receive new students into the RTC's special education program; and

155 (b) may maintain the students currently attending the RTC's special education
156 program.

157 (5) An RTC may reapply for certification 12 months following the RTC's completed
158 corrective action in response to the Superintendent's reasons for suspension or
159 revocation described in Subsection (2).

160

161 **R277-926-6. Request for Review.**

162 (1) A public education agency that contracts with a certified RTC may request the
163 Superintendent to review the status of the RTC's certification.

164 (2) The Superintendent shall establish a mechanism for referrals, complaints,
165 and information related to the status of an RTC's certification.

166 (3) The Superintendent shall conduct a review pursuant to this in accordance
167 with all requirements in Sections R277-926-4 and R277-926-5.

168

169 **R277-926-7. RTC Appeal of Certification Application Denial or Certification**
170 **Suspension or Revocation.**

171 (1) An RTC may file an appeal to the Board of an adverse decision of the
172 Superintendent resulting in the denial of application or revocation of a certification.

173 (2) An appeal pursuant to this rule shall be an informal adjudication.

174 (3) An appeal described in Subsection (1) shall be made in writing and within 30
175 days of the date of the Superintendent's action.

176 (4) The Board may:

177 (a) review the appeal as a full board; or

178 (b) refer the appeal to the Board's audit committee to make a recommendation to
179 the Board for action.

180

181 **KEY: residential treatment center, Special Education, certification**

182 **Date of Enactment or Last Substantive Amendment:**

183 **Date of Continuation:**

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