

1 **R277. Education, Administration.**

2 **R277-417. Prohibiting LEAs and Third Party Providers from Offering Incentives or**
3 **Disbursement for Enrollment or Participation – LEA Requirements to Supervise and**
4 **Monitor Third Party Providers.**

5 **R277-417-1. Authority and Purpose.**

6 (1) This rule is authorized by:

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

9 (b) Section [~~53A-1-401~~] 53E-3-401, which allows the Board to make rules to execute
10 the Board's duties and responsibilities under the Utah Constitution and state law.

11 (2) The purpose of this rule is:

12 (a) to provide standards and procedures for prohibiting LEAs and third party
13 providers from offering incentives for student enrollment; and

14 (b) to provide standards for an LEA working with a third party provider to ensure the
15 third party provider complies with state law and this R277-417.

16 **R277-417-2. Definitions.**

17 (1)(a) "Disbursement" means the payment of money or provision of other item of
18 value greater than \$10, per school year, offered as payment or compensation to a student
19 or to a parent or guardian for:

20 (i) a student's enrollment in an LEA; or

21 (ii) a student's participation in an LEA's program.

22 (b) "Disbursement" does not include a reimbursement paid by an LEA to a student,
23 parent or guardian, for an expenditure incurred by the student, parent or guardian on behalf
24 of the LEA if:

25 (i) the expenditure is for an item that will be the property of the LEA; and

26 (ii) the expenditure was preauthorized by the LEA, as evidenced by preauthorization
27 documentation.

28 (2) "Incentive" means one of the following given to a student or to the student's
29 parent or guardian by an LEA or by a third party provider as a condition of the student's

30 enrollment in an LEA or specific program for any length of time, during any school year:

31 (a) money greater than \$10; or

32 (b) an item of value greater than \$10.

33 (3) "Program" means a program within a school that is designed to accomplish a
34 predetermined curricular objective or set of objectives.

35 (4) "Section 504 accommodation plan" required by Section 504 of the Rehabilitation
36 Act of 1973, means a plan designed to accommodate an individual who has been
37 determined, as a result of an evaluation, to have a physical or mental impairment that
38 substantially limits one or more major life activities.

39 (5) "Third party provider" means a third party that [~~who~~] provides [~~educational~~]
40 services on behalf of an LEA.

41 **R277-417-3. LEA and Third Party Provider Use of Public Funds for Incentives and**
42 **Disbursement.**

43 (1) An LEA or a third party provider may not use public funds, as defined under
44 Subsection 51-7-3(26), to provide the following to a student, parent or guardian, individual,
45 or group of individuals:

46 (a) an incentive for a student's:

47 (i) enrollment in an LEA; or

48 (ii) participation in an LEA's program; or

49 (b) a referral bonus for a student's:

50 (i) enrollment in an LEA; or

51 (ii) participation in an LEA's program.

52 (2) An LEA or third party provider may not use public funds to provide a
53 disbursement to a student or the student's parent or guardian for:

54 (a) curriculum [~~exclusively~~] selected by [~~a~~]the parent;

55 (b) instruction not directly provided by the LEA;

56 (c) private lessons or classes not provided by:

57 (i) an employee of the LEA; or

58 (ii) a third party provider who meets all of the requirements of R277-417-4;

- 59 (d) technology devices exclusively selected by a parent; or
60 (e) other educational expense exclusively selected by a parent.
- 61 (3) An LEA may use public funds to provide:
- 62 (a) uniforms, technology devices, curriculum, or materials and supplies to a student
63 if the uniforms, technology devices, curriculum, or materials and supplies are:
- 64 (i) available to all students enrolled in the LEA or program within the LEA; or
65 (ii) authorized by the student's college and career readiness plan, IEP, or 504
66 accommodation plan; or
- 67 (b) internet access for instructional purposes to a student:
- 68 (i) in kindergarten through grade 6; or
69 (ii) in grade 7 through grade 12 if:
- 70 (A) the internet access is provided in accordance with the fee waiver policy
71 requirements of Section R277-407-6; or
- 72 (B) failure to provide the internet access will cause economic hardship on the
73 student or parent.
- 74 (4) An LEA ~~[or third party provider]~~ shall ensure that equipment purchased or leased
75 by the LEA or third party provider remains the property of the LEA and is subject to the
76 LEA's asset policies if:
- 77 (a) the LEA or third party provider purchases equipment; and
78 (b) provides the equipment to a student or to the student's parent or guardian.

79 **R277-417-4. LEA Requirements to Supervise and Monitor Third Party Providers**
80 **[Provision of Educational Services].**

- 81 (1) An LEA that contracts with a third party provider to provide services on behalf of
82 the LEA shall:
- 83 (a) establish monitoring and compliance procedures to ensure that a third party
84 provider who provides ~~[educational]~~ services ~~[to a student]~~ on behalf of the LEA complies
85 with the provisions of this rule;
- 86 (b) develop a written monitoring plan to supervise the activities and services
87 provided by the third party provider;

- 88 (c) ensure the third party provider is complying with:
- 89 (i) federal law;
- 90 (ii) state law; and
- 91 (iii) Board rules;
- 92 (d) monitor and supervise all activities of the third party provider related to services
- 93 provided by the third party provider to the LEA; and
- 94 (e) maintain documentation of the LEA's supervisory activities consistent with the
- 95 LEA's administrative records retention schedule.
- 96 (2) ~~[An]~~ If an LEA contracts with a third party provider to provide[r] educational
- 97 services, the LEA shall:
- 98 (a) verify the accuracy and validity of a student's enrollment verification data, prior
- 99 to enrolling a student in the LEA; and
- 100 (b) provide a student and the student's parent or guardian with notification of the
- 101 student's enrollment in a school or program within the LEA.
- 102 (3) The Board or the Superintendent may require an LEA to repay public funds to
- 103 the Superintendent if:
- 104 (a) the LEA or the LEA's third party provider fails to comply with the provisions of this
- 105 rule; and
- 106 (b) the repayment is made in accordance with the procedures established in
- 107 R277-114.
- 108 (4) If an LEA's third party provider contracts with another third party provider to
- 109 perform a portions of the original third party provider's services:
- 110 (a) the original third party provider's third party provider is also subject to the
- 111 requirements of this R277-417;
- 112 (b) the LEA shall require the original third party provider to notify the LEA that the
- 113 original third party provider is outsourcing duties to an additional third party provider,
- 114 including providing contact information and a description of what services the additional
- 115 third party provider will provide; and
- 116 (c) the LEA shall supervise and monitor the additional third party provider as
- 117 required in this R277-417.

- 118 (5) An LEA may:
119 (a) prohibit the LEA's third party provider from subcontracting with another third party
120 provider; or
121 (b) require the LEA's third party provider to obtain approval from the LEA before
122 subcontracting the third party provider's obligations to another entity.

123 **R277-417-5. LEA Reporting on Services Provided by a Third Party Provider to the**
124 **Public and the Board.**

125 (1) An LEA that contracts with a third party provider to provide educational,
126 business, or data submission services shall annually publish the information described in
127 Subsection (2) on the LEA's website.

128 (2) The information described in Subsection (1) shall include the following for each
129 of the LEA's third party providers:

130 (a) the name of each third party provider;

131 (b) the start and end date of the contract with the third party provider;

132 (c) the amount of public funds, including state, local, and federal funds, provided to
133 the third party provider during the current fiscal year;

134 (d) the total amount of public funds provided to the third party provider during the
135 prior three fiscal years;

136 (e) the total amount committed to the third party provider for the upcoming three
137 fiscal years, if any;

138 (f) a short description of the project or services being provided by the third party
139 provider;

140 (g) contact information for the third party provider, including an official who can
141 answer questions on behalf of the third party provider; and

142 (h) a copy of the LEA's contract with the third party provider.

143 **KEY: student, enrollment, incentives**

144 **Date of Enactment or Last Substantive Amendment: March 14, 2017**

145 **Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; [53A-1-401]**

146 **53E-3-401**