

R277-733 received final approval by the Utah State Board of Education on April 8, 2021. R277-733 will be published in the May 1, 2021 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of June 7, 2021.

R277. Education, Administration.

R277-733. Adult Education Programs.

R277-733-1. 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;

(c) Section 53E-10-202 which vests general control and supervision over adult education in the Board;

(d) Subsection 53E-3-501(1), which allows the Board to adopt minimum standards for programs; and

(e) Section 53F-2-401, which vests the Board with responsibility to provide education to persons in the custody of the Utah Department of Corrections.

(2) The purpose of this rule is to describe curriculum, program standards, allocation formulas, and operation procedures for the adult education program for adult education students both in and out of state custody.

R277-733-2. Incorporation of Utah Adult Education Policies and Procedures Guide by Reference.

(1) The rule incorporates by reference the Utah Adult Education Policies and Procedures Guide, ~~January 2020~~ April 2021 Revision, which provides day-to-day operating standards and technical assistance to eligible providers for operation of adult education programs.

(2) A copy of the guide is located at:

(a) <https://schools.utah.gov/administrativerules/documentsincorporated>; and

(b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

R277-733-3. Definitions.

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- (1) "Adult" means an individual 18 years of age or over.
- (2) "Adult education" means organized educational programs below the postsecondary level, other than regular full-time K-12 secondary education programs:
 - (a) provided by an LEA or an eligible provider;
 - (b) provided for out-of-school youth (16 years of age and older) or adults who have or have not graduated from high school; and
 - (c) provided to improve literacy levels and to further high school level education.
- (3) "Adult Basic Education" or "ABE" means a program of instruction at or below the 8.9 academic grade level, which prepares adults for advanced education and training.
- (4) "Adult Education and Family Literacy Act" or "AEFLA" means Title II of the Workforce Innovation Opportunity Act of 2014, which provides the principle source of federal support for:
 - (a) academic instruction and education services below the post-secondary level to receive a high school diploma or its recognized equivalent; and
 - (b) transition to post-secondary education, training, and employment.
- (5) "Adult Secondary Education" or "ASE" means a program of academic instruction at the 9.0 grade level or above in Board-approved subjects for an eligible adult education student who is seeking an Adult Education Secondary Diploma or its equivalent.
- (6) "College and Career Readiness Plan" or "CCRP" means a plan developed by a student in consultation with an adult education program counselor, teacher, and administrator that:
 - (a) is initiated at the time of entrance into an adult education program;
 - (b) identifies a student's skills and objectives;
 - (c) identifies a career pathway strategy to guide a student's course selection; and
 - (d) links a student to post-secondary education, training, or employment using a program-defined adult education transition process.
- (7) "Custody," for purposes of this rule, means the status of being legally in the control of another adult person or public agency.
- (8)(a) "Eligible adult education student" means an individual who provides documentation that the individual:

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- (i) is a primary and permanent resident of Utah;
- (ii) is one of the following:
 - (A) 17 years of age or older, and whose high school class has graduated;
 - (B) under 18 years of age and is married;
 - (C) has been emancipated or adjudicated as an adult; or
 - (D) an out-of-school youth 16 years of age or older who has not graduated from high school; and
- (iii) meets any of the following:
 - (A) is basic skills deficient;
 - (B) does not have a secondary school diploma, its recognized equivalent, or an equivalent level of education; or
 - (C) is an ELL; or
 - (b) A non-resident eligible adult education student in accordance with an individual agreement between an eligible provider and another state.
- (9) "Eligible Provider" may include:
 - (a) an LEA;
 - (b) a community-based or faith-based organization;
 - (c) a voluntary literacy organization;
 - (d) an institution of higher education;
 - (e) a public or private non-profit agency;
 - (f) a library;
 - (g) a public housing authority;
 - (h) a non-profit institution not described in Subsections (a) through (g) that can provide adult education and literacy activities to eligible adult education students;
 - (i) a consortium or coalition of providers identified in Subsections (a) through (h);or
 - (j) a partnership between an employer and a provider identified in Subsections (a) through (i).
- (10) "English Language Learner" or "ELL" means an individual:

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(a) who has limited ability in reading, writing, speaking, or comprehending the English language and whose native language is a language other than English; or

(b) who lives in a family or community where a language other than English is the dominant language.

(11) "FERPA" means the Family Educational Rights and Privacy Act, 20 USC 1232g, and its implementing regulations.

(12) "Inmate" means an offender who is incarcerated in state or county correctional facilities located throughout the state.

(13) "High School Equivalency Exam" or "HSE" means a Board approved examination whose modules are aligned with current high school core standards and adult education College and Career Readiness standards.

(14) "Out-of-school youth" means a student 16 years of age or older who has not graduated from high school and is no longer enrolled in a K-12 program of instruction.

(15) "Utah High School Completion Diploma" means a diploma issued by the Board and distributed by a Board approved contractor to an individual who has passed all subject modules of an HSE exam at an HSE testing center.

(16) "Utah Online Performance Indicators for Adult Education" or "UTopia" means a statewide database for tracking adult education student progress and outcomes.

(17) "Weighted pupil unit" or "WPU" means the basic per pupil unit used to calculate the amount of state funds for which a school district is eligible.

R277-733-4. Federal Adult Education Funds.

The Superintendent shall follow the standards and procedures contained in AEFLA and the WIOA state plan adopted by the Board pursuant to AEFLA to administer federal funding of adult education programs.

R277-733-5. Compliance with State and Federal Laws.

Adult education programs shall comply with state and federal law and administrative regulations and follow the procedures contained in the Utah Adult Education Policies and Procedures Guide described in Section R277-733-2.

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R277-733-6. State Fund Distribution, Carryover, and Recapture.

(1) The Superintendent shall allocate state funds for adult education in accordance with Section 53F-2-401.

(2) An LEA may carryover ten percent of the state adult education funds allocated to the LEA's adult education programs with written approval from the Superintendent.

(3) An LEA shall submit a request to carryover funds for approval.

(4) The Superintendent shall consider excess funds in determining an LEA's allocation for the next fiscal year.

(5) The Superintendent shall recapture an LEA's fund balances in excess of ten percent annually.

(6) The Superintendent shall allocate recaptured funds to an LEA's adult education program through the supplemental award process described in Section R277-733-10.

R277-733-7. Adult Education Pupil Accounting.

(1) An LEA administered adult education program shall receive WPU funding for a student consistent with the criteria and rate outlined in the Utah Adult Education Policies and Procedures Guide described in Section R277-733-2.

R277-733-8. Program, Curriculum, Outcomes and Student Mastery.

(1) The Utah Adult Education Program shall offer courses consistent with the Elementary and Secondary General Core under R277-700.

(2) An LEA shall ensure adult secondary education includes the following prerequisite courses:

(a) ELL competency AEFLA levels one through six; or

(b) ABE competency AEFLA levels one through four.

(3) An LEA shall establish policies allowing or disallowing adult education student participation in graduation activities or ceremonies.

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(4) An LEA may establish reasonable timelines and may require adequate and timely documentation of authenticity for credits and grades submitted from other eligible providers.

(5) An LEA adult education program is the final decision-making authority for the awarding of credit and grades from non-accredited sources.

(6) An eligible provider shall offer an adult education student seeking a Utah High School Completion Diploma a course of academic instruction designed to prepare the student to take an HSE exam.

(7) Following completion of requirements for a Utah Adult Education Secondary Diploma or a Utah High School Completion Diploma, an eligible provider shall only allow a student to continue in an adult education program if:

(a) the student's academic skills are less than 9.0 grade level in an academic area of reading, math or English; and

(b) the student lacks sufficient mastery of basic educational skills to enable the student to function effectively in society.

R277-733-9. Adult Education Programs--Tuition and Fees.

(1) An eligible provider may charge a tuition or fee consistent with Section 53E-10-205 and the Utah Adult Education Policies and Procedures Guide described in Section R277-733-2.

(2) An eligible provider shall report annually to the Superintendent the amount of tuition and fees collected.

(3) An eligible provider may not:

(a) comingle or report fees and tuition collected from adult education students with community education funds or any other public education fund;

(b) count collected fees and tuition toward meeting federal matching, cost sharing, or maintenance of effort requirements related to the adult education program's award; and

(c) calculate carryover balance amounts using funds collected from fees and tuition.

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(4) An eligible provider receiving state or federal adult education funds shall provide annual written assurances to the Superintendent that all fees and tuition collected are:

- (i) returned or delegated, except for indirect costs, to the local adult education program;
- (ii) used solely and specifically for adult education programming; and
- (iii) not withheld and maintained in a general maintenance and operation fund.

R277-733-10. Providing Corrections Education.

(1) The Board may contract to provide educational services inmates with:

- (a) local school boards;
- (b) state post-secondary educational institutions;
- (c) other state agencies; or
- (d) private providers recommended by a local school board.

(2) A contract made in accordance with Subsection (1) shall be in writing and shall provide for:

- (a) services to students in an appropriate environment for student behavior and educational performance;
- (b) compliance with relevant Board standards;
- (c) program monitoring by the Superintendent in accordance with R277-733; and
- (d) coordination of services with non-custodial programs to enable an inmate in custody to continue the inmate's public-school education with minimal disruption following discharge.

(3) A school district may sub-contract with local educational service providers for the provision of educational services to students in custody.

(4) Custodial status does not qualify an individual for services under the IDEA.

(5) When a student inmate is transferred to a new program, the sending program shall update and finalize all school records in UTopia releasing the student's records as soon as possible after receiving notice of the transfer.

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(6) An educational service provider shall only disclose educational records of a student inmate, before or after release from custody, consistent with FERPA.

(7) A transcript or diploma prepared for an inmate in custody shall:

(a) include the name of the contracted educational agency which also provides service to non-custodial offenders; and

(b) not reference the inmate's custodial status.

(8) A corrections education provider shall keep an inmate's education records which refer to custodial status, inmate court records, and related matters separate from permanent school records.

R277-733-11. Supplemental Awards.

An LEA may receive a supplemental award if the LEA:

(1) has an adult education program with no carryover funds;

(2) demonstrates that the award funds will only be used for special program needs or professional development; and

(3) provides in writing the level of need for the award.

R277-733-12. State Workforce Development Board.

(1) The Superintendent shall represent adult education programs on the State Workforce Development Board as a voting member, in accordance with WIOA.

(2) The Superintendent may assign Board staff to State Workforce Development Board WIOA committees for the purpose of implementation of the State's WIOA Unified Plan.

R277-733-13. Oversight, Monitoring, Evaluation, and Reports.

(1) The Board may designate up to two percent of the total legislative appropriation for oversight, monitoring, and evaluation of adult education programs.

(2) The Superintendent may recommend that the Board withhold state or federal funds in accordance with R277-114 for noncompliance with:

(a) Board rule;

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- (b) adult education state policy and procedures;
- (c) associated reporting timelines; and
- (d) program monitoring outcomes, as defined by the Board, including:
 - (i) lack of program improvement; and
 - (ii) unsuccessful student outcomes.

KEY: adult education

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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-10-202; 53E-3-501(1); 53E-3-401(4); 53F-2-401; 53F-2-401; 53E-10-205