

1 **R277. Education, Administration.**

2 **R277-625. Mental Health Screeners.**

3 **R277-625-1. 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 over public education in the Board;

7 (b) Section [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 law;

9 (c) Section [53F-2-522](#) which directs the board to make rules regarding the
10 selection of a mental health screener and financial aid for qualifying parents.

11 (2) The purpose of this rule is to:

12 (a) provide the approval process for a mental health screener chosen by an LEA;
13 and

14 (b) establish the approval and distribution of funds for a qualifying parent to receive
15 financial assistance for related mental health services.

16

17 **R277-625-2. Definitions.**

18 (1) "Division of Substance Abuse and Mental Health" or "DSAMH" means the
19 same as the term is defined in Subsection [62A-15-103](#).

20 (2) "Mental health" means a person's emotional, psychological, and social well-
21 being which can affect how a person thinks, feels, and acts including how a person
22 handles stress, relates to others, and makes healthy choices.

23 (3) "Mental health screener" or "screener" means the use of a systematic tool or
24 process :

25 (a) to identify if a student is experiencing, or is at risk of experiencing, issues
26 related to the student's mental health;

27 (b) for an early identification strategy to detect the onset of mental health
28 conditions, enabling the mental health conditions to be potentially addressed; and

29 (c) that is not:

30 (i) a diagnostic tool or process; or
31 (ii) a system or process used by a student's teacher to observe behavior for the
32 purpose of targeted learning interventions.

33 (4) "Mental health services" means the same as the term is defined in Subsection
34 [R523-1-3\(3\)](#).

35 (5) "Qualifies for financial assistance" means a qualifying parent that has a student
36 receiving educational services through an LEA who:

37 (a) receives free or reduced lunch; or

38 (b) as recommended by the local mental health authority, demonstrates need
39 including being:

40 (i) uninsured;

41 (ii) underinsured;

42 (iii) ineligible for Medicaid to cover part or all of any recommended mental health
43 treatments; or

44 (iv) demonstrates a high need for interventions based upon results of the LEA's
45 mental health screener.

46 (6) "Qualifying parent" means the same as the term is defined in Subsection [53F-](#)
47 [2-522\(1\)\(d\)](#).

48 (7) "Relevant services" means mental health services provided to a student that
49 are directly related to mental health needs identified by a student's mental health
50 screening.

51

52 **R277-625-3. Approval of Mental Health Screeners.**

53 (1)(a) The Superintendent, in consultation with DSAMH, shall publish annually a
54 list of pre-approved mental health screeners to the Board's website.

55 (b) the published pre-approved list shall include:

56 (i) the name or brand of the mental health screener including a link to the
57 screener's website;

58 (ii) the recommended ages for the mental health screener;

59 (ii) any limitations of the mental health screener including the typical level of false
60 positives;

61 (iii) the mental health conditions the mental health screener can detect; and

62 (iv) the scientific data or research used to verify a screener is evidence-based.

63 (2) The Board shall approve:

64 (a) the pre-approved mental health screener list; and

65 (b) the mental health conditions for which a screener can be used.

66 (3) All pre-approved mental health screeners shall comply with the requirements
67 as described in [Title 53E, Chapter 9](#), Student Privacy and Data Protection, and the [Family
68 Educational Rights and Privacy Act, 20 U.S.C. 1232g](#).

69 (4) ~~[Except as provided for in Subsection (4)(c) and (d), a]~~An LEA that plans to
70 administer a mental health screener shall notify the Superintendent by a deadline
71 established by the Superintendent ~~[May 1]~~:

72 (a) if the LEA plans to:

73 (i) use a mental health screener from the Board's pre-approved list; or

74 (ii) apply to the Superintendent for approval of a mental health screener that is not
75 on the pre-approved list as described in Subsection (5); and

76 (b) whether an LEA elects to participate in providing a qualifying parent with
77 financial assistance[;

78 ~~(c) In accordance with Subsections (4)(a) and (b) and for the 2020-2021 school~~
79 ~~year, an LEA shall notify the Superintendent by August 15; and~~

80 ~~——(d) An LEA is not required to comply with Subsection (4) if the LEA chooses not~~
81 ~~to offer a mental health screener].~~

82 (5) If the LEA chooses to apply for use of a mental health screener that is not on
83 the pre-approved list, the LEA shall submit an application in a form prescribed by the
84 Superintendent specifying:

85 (a) the mental health screener proposed for use by the LEA;

86 (b) the reason for choosing the mental health screener over a screener from the
87 pre-approved list;

88 (c) the approved mental health conditions the mental health screener measures;

89 (d) how the mental health screener complies with all state and federal data privacy
90 laws; and

91 (e) the scientific data or research demonstrating the mental health screener is
92 evidence based and meets industry standards;

93 (f) why the mental health screener is age appropriate for each grade the screener
94 is administered; and

95 (g) why the mental health screener is an effective tool for identifying whether a
96 student has a mental health condition that requires intervention.

97 (6) The Superintendent shall review the application in consultation with DSAMH
98 and approve or deny the application within 30 days of receipt.

99 (7) If the application is approved, the Superintendent shall submit the approved
100 application to the Board for final approval.

101 (8) Subject to legislative appropriation, the Superintendent shall provide annually
102 a maximum reimbursement amount an LEA may receive for use of a mental health
103 screener.

104 (9) An LEA may request in writing a reimbursement from the Superintendent in an
105 amount not to exceed the amount described in Subsection (8).

106 (10)(a) An LEA shall require relevant staff, who will be administering a mental
107 health screener, to attend an annual mental health screener training provided by the
108 Superintendent in collaboration with DSAMH;

109 (b) the training described in Subsection (10)(a) shall provide an LEA with
110 information needed for appropriate parental consent including:

111 (i) consent shall be obtained:

112 (A) within eight weeks prior to administration of the mental health screener; and

113 (B) in accordance with Subsection [53E-9-203\(4\)](#);

114 (ii) the consent form shall be provided separately from other consent forms given
115 to a parent pursuant to other state or federal laws;

116 (iii) additional variables that might influence a screener's results; and

- 117 (iv) a statement that:
- 118 (A) the mental health screener is optional;
- 119 (B) a screener is not a diagnostic tool;
- 120 (C) a parent has the right to seek outside resources or opinions; and
- 121 (D) specifies which board approved mental health conditions the mental health
- 122 screener measures.

123 (11) An LEA may not administer a mental health screener if the LEA has not

124 attended the annual mental health screener training described in Subsection (10).

125 (12) An LEA shall report annually to the Superintendent aggregate data regarding

126 the types of LEA provided mental health interventions, referrals, or other actions taken

127 based on screener results.

128

129 **R277-625-4. Data Privacy.**

130 (1)(a) An LEA shall ensure all data collected or stored by a mental health screener

131 complies with all state and federal data privacy laws and requirements, including those

132 described in Subsection R277-625-3(3).

133 (b) notwithstanding Subsection (1)(a), an LEA shall provide a parent with a list of

134 all parties that may receive any data related to a student's mental health screener prior to

135 the parent providing consent.

136 (2) An LEA shall provide a parent with a list of all data potentially collected by the

137 mental health screener prior to consenting to a student's mental health screening.

138 (3) An LEA shall provide the parent of a screened student with:

139 (a) results as described in Subsection [53F-2-522\(4\)\(d\)](#);

140 (b) applicable available resources; and

141 (c) who has access to the screener data

142 (4) If an LEA has received parental consent, an LEA may share data collected

143 from the mental health screener with a school's multi-disciplinary team.

144 (5) An LEA shall retain and dispose of all data related to a student's mental health

145 screener in accordance with an approved retention schedule not to exceed three years.

146

147 **R277-625-5. Financial Assistance for a Qualifying Parent.**

148 (1) An LEA that has elected to participate as described in Subsection R277-625-
149 3(4)(b), may receive reimbursement for relevant services obtained by a qualifying parent
150 who receives financial assistance.

151 (2) An LEA may not receive reimbursement for a qualifying parent if:

152 (a) the qualifying parent's student has begun to receive relevant services outside
153 of the school setting prior to seeking reimbursement;

154 (b) the LEA can provide the relevant services, including relevant services provided
155 by a third party through a contract with the LEA;

156 (c) except for as provided in Subsection (d), the qualifying parent has received
157 reimbursement for the same relevant services within one year from the date the relevant
158 services began for the student; or

159 (d) an LEA may provide reimbursement to a qualifying parent for the same relevant
160 services within one year from the date relevant services began for the student if:

161 (i) the LEA has no other qualifying parents seeking reimbursement by April 1 and;

162 (ii) has reimbursement funds remaining.

163 (3) An LEA may not receive reimbursements that exceed the LEA's award amount
164 as described in Subsection (4).

165 (4) An LEA that has elected to participate as described in Subsection R277-625-
166 3(4)(b), shall receive a total award amount based on need as determined by the
167 Superintendent.

168 (5) The Superintendent shall determine a participating LEA's need by considering
169 the LEA's ability to support and provide mental health services for a student including:

170 (a) the availability of mental health services within the LEA;

171 (b) the availability of mental health services within the LEA's surrounding
172 community;

173 (c) the overall accessibility of mental health services for students within the LEA;

174 (d) the current student demand for mental health services within an LEA; and

175 (e) capacity of the LEA to meet existing and future student demands for mental
176 health services.

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178 **KEY: mental health screener, mental health, prevention**

179 **Date of Enactment or Last Substantive Amendment: February 9, 2021**

180 **Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-3-401\(4\)](#); [53F-](#)
181 [2-522](#)**