

1 **R277. Education, Administration.**

2 **R277-733. Adult Education Programs.**

3 **R277-733-1. 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) Subsection 53E-3-401(4), which allows the Board to make rules to execute  
8 the Board's duties and responsibilities under the Utah Constitution and state law;

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

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

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

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

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

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

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

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

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

28 **R277-733-3. Definitions.**

29 (1) "Adult" means an individual 18 years of age or over.

30 (2) "Adult education" means organized educational programs below the  
31 postsecondary level, other than regular full-time K-12 secondary education programs:

32 (a) provided by an LEA or an eligible provider;

33 (b) provided for out-of-school youth (16 years of age and older) or adults who  
34 have or have not graduated from high school; and

35 (c) provided to improve literacy levels and to further high school level education.

36 (3) "Adult Basic Education" or "ABE" means a program of instruction at or below  
37 the 8.9 academic grade level, which prepares adults for advanced education and  
38 training.

39 (4) "Adult Education and Family Literacy Act" or "AEFLA" means Title II of the  
40 Workforce Innovation Opportunity Act of 2014, which provides the principle source of  
41 federal support for:

42 (a) academic instruction and education services below the post-secondary level  
43 to receive a high school diploma or its recognized equivalent; and

44 (b) transition to post-secondary education, training, and employment.

45 (5) "Adult Secondary Education" or "ASE" means a program of academic  
46 instruction at the 9.0 grade level or above in Board-approved subjects for an eligible  
47 adult education student who is seeking an Adult Education Secondary Diploma or its  
48 equivalent.

49 (6) "College and Career Readiness Plan" or "CCRP" means a plan developed  
50 by a student in consultation with an adult education program counselor, teacher, and  
51 administrator that:

52 (a) is initiated at the time of entrance into an adult education program;

53 (b) identifies a student's skills and objectives;

54 (c) identifies a career pathway strategy to guide a student's course selection;

55 and

56 (d) links a student to post-secondary education, training, or employment using a

57 program-defined adult education transition process.

58 (7) "Custody," for purposes of this rule, means the status of being legally in the  
59 control of another adult person or public agency.

60 (8)(a) "Eligible adult education student" means an individual who provides  
61 documentation that the individual:

62 (i) is a primary and permanent resident of Utah;

63 (ii) is one of the following:

64 (A) 17 years of age or older, and whose high school class has graduated;

65 (B) under 18 years of age and is married;

66 (C) has been emancipated or adjudicated as an adult; or

67 (D) an out-of-school youth 16 years of age or older who has not graduated from  
68 high school; and

69 (iii) meets any of the following:

70 (A) is basic skills deficient;

71 (B) does not have a secondary school diploma, its recognized equivalent, or an  
72 equivalent level of education; or

73 (C) is an ELL; or

74 (b) A non-resident eligible adult education student in accordance with an  
75 individual agreement between an eligible provider and another state.

76 (9) "Eligible Provider" may include:

77 (a) an LEA;

78 (b) a community-based or faith-based organization;

79 (c) a voluntary literacy organization;

80 (d) an institution of higher education;

81 (e) a public or private non-profit agency;

82 (f) a library;

83 (g) a public housing authority;

84 (h) a non-profit institution not described in Subsections (a) through (g) that can  
85 provide adult education and literacy activities to eligible adult education students;

86 (i) a consortium or coalition of providers identified in Subsections (a) through (h);  
87 or

88 (j) a partnership between an employer and a provider identified in Subsections  
89 (a) through (i).

90 (10) "English Language Learner" or "ELL" means an individual:

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

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

95 (11) "FERPA" means the Family Educational Rights and Privacy Act, 20 USC  
96 1232g, and its implementing regulations.

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

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

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

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

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

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

113 **R277-733-4. Federal Adult Education Funds.**

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

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

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

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

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

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

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

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

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

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

135   **R277-733-7. Adult Education Pupil Accounting.**

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

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

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

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

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

145 (b) ABE competency AEFLA levels one through four.

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

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

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

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

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

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

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

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

164 (1) An eligible provider may charge a tuition or fee consistent with Section  
165 53E-10-205 and the Utah Adult Education Policies and Procedures Guide described in  
166 Section R277-733-2.

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

169           (3) An eligible provider may not:

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

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

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

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

180           (i) returned or delegated, except for indirect costs, to the local adult education  
181 program;

182           (ii) used solely and specifically for adult education programming; and

183           (iii) not withheld and maintained in a general maintenance and operation fund.

184 **R277-733-10. Providing Corrections Education.**

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

186           (a) local school boards;

187           (b) state post-secondary educational institutions;

188           (c) other state agencies; or

189           (d) private providers recommended by a local school board.

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

192           (a) services to students in an appropriate environment for student behavior and  
193 educational performance;

194           (b) compliance with relevant Board standards;

195 (c) program monitoring by the Superintendent in accordance with R277-733:  
196 and

197 (d) coordination of services with non-custodial programs to enable an inmate in  
198 custody to continue the inmate's public-school education with minimal disruption  
199 following discharge.

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

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

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

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

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

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

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

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

215 **R277-733-11. Supplemental Awards.**

216 An LEA may receive a supplemental award if the LEA:

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

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

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

221 **R277-733-12. State Workforce Development Board.**



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

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

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

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

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

232           (a) Board rule;

233           (b) adult education state policy and procedures;

234           (c) associated reporting timelines; and

235           (d) program monitoring outcomes, as defined by the Board, including:

236           (i) lack of program improvement; and

237           (ii) unsuccessful student outcomes.

238 **KEY: adult education**

239 **Date of Enactment or Last Substantive Amendment: April 9, 2020**

240 **Notice of Continuation: June 6, 2017**

241 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-10-202;**

242 **53E-3-501(1); 53E-3-401(4); 53F-2-401; 53F-2-401; 53E-10-205**