

1 **R277. Education, Administration.**

2 **R277-716. Alternative Language Services for Utah Students.**

3 **R277-716-1. 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;

7 (b) Title III; and

8 (c) Subsection [53E-3-401\(4\)](#), which allows the Board to adopt rules in accordance  
9 with its responsibilities.

10 (2) The purpose of this rule is:

11 (a) to address the requirements of Title III and implementing regulations and case  
12 law;

13 (b) to clearly define the respective responsibilities of the Superintendent and  
14 LEAs:

15 (i) in identifying students learning English who are currently enrolled in Utah  
16 schools; and

17 (ii) in providing evidence-based language instruction educational programs to  
18 identified students; and

19 (c) in order to:

20 (i) meet Title III requirements;

21 (ii) meet funding eligibility requirements; and

22 (iii) appropriately distribute Title III funds for students learning English to LEAs with  
23 approved plans in the Utah Grants Management System.

24

25 **R277-716-2. Definitions.**

26 (1) "Alternative language services program" or "ALS program" means an  
27 evidence-based language instruction educational program used to achieve English  
28 proficiency and academic progress of identified students.

29           (2) "Alternative language services" or "ALS" means language services designed to  
30 meet the education needs of all students learning English so that students are able to  
31 participate effectively in the regular instruction program.

32           (3) "Consolidated State Plan" means the application for federal funds authorized  
33 under the Elementary and Secondary Education Act, or ESEA, 20 U.S.C. Sec. 1001, et  
34 seq., as amended, and other federal sources submitted annually to the Superintendent.

35           (4) "Evidence-based language instruction education program" means  
36 evidence-based methods, recommended by the Superintendent, that meet the  
37 "Non-Regulatory Guidance: Using Evidence to Strengthen Education Investments"  
38 developed by the U.S. Department of Education.

39           (5) "Immigrant children and youth" for purposes of this rule means individuals who:

40           (a) are ages 3 through 21;

41           (b) were born outside of the United States; and

42           (c) have not been attending one or more schools in any one or more states of the  
43 United States for more than three full academic years.

44           (6) "Instructional Materials Commission" means a Commission appointed by the  
45 Board to evaluate instructional materials for recommendation by the Board consistent with  
46 Title 53E, Chapter 4, State Instructional Materials Commission.

47           (7) "Language instruction educational program" means an instructional course:

48           (a) in which a student learning English is placed for the purpose of developing and  
49 attaining English proficiency, while meeting challenging state academic standards;

50           (b) that may make instructional use of both English and a child's native language to  
51 enable the child to attain and develop English proficiency; and

52           (c) that may include the participation of English proficient children if the course is  
53 designed to enable all participating children to become proficient in English and a second  
54 language.

55           (8) "State Approved Endorsement Program" or "SAEP" means a professional  
56 development plan on which a licensed Utah educator is working to obtain an endorsement.

57           (9) "Student learning English" means an individual who:

58 (a) who has sufficient difficulty speaking, reading, writing, or understanding the  
59 English language, and whose difficulties may deny the individual the opportunity to:

60 (i) learn successfully in classrooms where the language of instruction is English; or  
61 (ii) participate fully in society;

62 (b) who was not born in the United States or whose native language is a language  
63 other than English and who comes from an environment where a language other than  
64 English is dominant; or

65 (c) who is an American Indian or Alaskan native or who is a native resident of the  
66 outlying areas and comes from an environment where a language other than English has  
67 had a significant impact on such individual's level of English language proficiency.

68 (10) "TESOL" means Teachers of English to Speakers of Other Languages.

69 (11) "TESOL Standards" mean the Pre-K-12 English Language Proficiency  
70 Standards established by TESOL International.

71 (12) "Title III" means federal provisions for providing language instruction to  
72 students learning English and immigrant children and youth under [20 U.S.C. 6801](#), et seq.

73

74 **R277-716-3. Superintendent Responsibilities.**

75 (1) The Superintendent shall make available in Utah's approved Title III plan  
76 identification and placement procedures to support evidence-based language instruction  
77 education programs for students learning English.

78 (2) The Superintendent shall develop and require all LEAs to administer a Board  
79 approved annual English language proficiency assessment to measure fluency level and  
80 progress in:

81 (a) listening;

82 (b) speaking;

83 (c) reading; and

84 (d) writing.

85 (3) The Superintendent shall apply a formula and distribute funds to LEAs for  
86 identification and services to students learning English and their families.

87           (a) The formula shall provide an amount based upon eligible students and  
88 available funds, to be distributed to all eligible LEAs and consortia consistent with Title III  
89 requirements.

90           (b) The formula shall provide for an additional amount to qualifying LEAs based on  
91 numbers of immigrant children and youth.

92           (4) An LEA that receives Title III funds under this rule shall provide the following to  
93 the Superintendent:

94           (a) assurances and documentation maintained of services or a program used to  
95 serve students; and

96           (b) assurances and documentation maintained of required parent notification.

97           (7) The Superintendent shall provide timelines to LEAs for meeting Title III  
98 requirements.

99           (8) The Superintendent shall assist and provide training to LEAs in development  
100 of ALS and Title III services to students learning English who do not meet the state  
101 designated annual growth goals in both increased English proficiency and academic  
102 standards.

103           (9) An LEA shall maintain:

104           (a) an ALS budget plan;

105           (b) a plan for delivering student instruction as a requirement in the monitoring  
106 section of the Utah Grants Management System;

107           (c) ALS assessments to date;

108           (d) a sample of parent notification required under Subsection R277-716-4(7); and

109           (e) documentation or evidence of progress in the state accountability system.

110           (10) The Superintendent shall conduct on-site monitoring of all funded ALS  
111 programs at least once every five years.

112           (11) The Superintendent shall provide technical assistance during on-site  
113 monitoring and as the Superintendent deems necessary.

114

115   **R277-716-4. LEA Responsibilities.**

116 (1) An LEA that receives funds under Title III shall assure that the LEA has a  
117 written plan that:

118 (a) includes an identification process for students learning English, including a  
119 home language survey and a language proficiency for program placement, that is  
120 implemented with student registration;

121 (b) uses a valid and reliable assessment of a student's English proficiency in:

122 (i) listening;

123 (ii) speaking;

124 (iii) reading; and

125 (iv) writing;

126 (c) provides an evidence-based language instruction educational program based  
127 on Board-approved Utah English Language Proficiency Standards;

128 (d) establishes student exit criteria from ALS programs or services; and

129 (e) includes the count of students learning English, by classification, prior to July 1  
130 of each year.

131 (2) Following receipt of Title III funds, an LEA shall:

132 (a) determine what type of Title III ALS services are available and appropriate for  
133 each student identified in need of ALS services, including:

134 (i) dual immersion;

135 (ii) ESL content-based; and

136 (iii) sheltered instruction;

137 (b) implement an approved language instruction educational program designed to  
138 achieve English proficiency and academic progress of an identified student;

139 (c) ensure that all identified students learning English receive English language  
140 instructional services, consistent with Subsection (1)(c);

141 (d) provide adequate staff development to assist a teacher and staff in supporting  
142 students learning English; and

143 (e) provide necessary staff with:

144 (i) curricular materials approved by the Instructional Materials Commission  
145 consistent with Rule [R277-469](#); and

- 146 (ii) facilities for adequate and effective training.
- 147 (3) Following evaluation of student achievement and services, an LEA shall:
- 148 (a) analyze results and determine the program's success or failure; and
- 149 (b) modify a program or services that are not effective.
- 150 (4) An LEA shall have a policy to identify and serve students who qualify for
- 151 services under IDEA, including:
- 152 (a) implementing procedures and training, consistent with federal regulations and
- 153 state special education rules, that ensure students learning English are not misidentified
- 154 as students with disabilities due to their inability to speak and understand English;
- 155 (b) reviewing the assessment results of a student's language proficiency in
- 156 English and other language prior to initiating evaluation activities, including selecting
- 157 additional assessment tools;
- 158 (c) conducting assessments for IDEA eligibility determination and educational
- 159 programming in a student's native language when appropriate;
- 160 (d) using nonverbal assessment tools when appropriate;
- 161 (e) ensuring that accurate information regarding a student's language proficiency
- 162 in English and another language is considered in evaluating assessment results;
- 163 (f) considering results from assessments administered both in English and in a
- 164 student's native language;
- 165 (g) ensuring that all required written notices and communications with a parent
- 166 who is not proficient in English are provided in the parent's preferred language, including
- 167 utilizing interpretation services; and
- 168 (h) coordinating the language instruction educational program and special
- 169 education and related services to ensure that the IEP is implemented as written.
- 170 (5) An LEA shall provide information and training to staff that:
- 171 (a) limited English proficiency is not a disability; and
- 172 (b) if there is evidence that a student with limited English proficiency has a
- 173 disability, the staff shall refer the student for possible evaluation for eligibility under IDEA.
- 174 (6)(a) An LEA shall notify a parent who is not proficient in English of the LEA's
- 175 required activities.

176 (b) A school shall provide information about required and optional school activities  
177 in a parent's preferred language.

178 (c) An LEA shall provide interpretation and translation services for a parent at:

179 (i) registration;

180 (ii) an IEP meeting;

181 (iii) an SEOP meeting;

182 (iv) a parent-teacher conference; and

183 (v) a student disciplinary meeting.

184 (d) An LEA shall provide annual notice to a parent of a student placed in a  
185 language instruction educational program at the beginning of the school year or no later  
186 than 30 days after identification.

187 (e) If a student has been identified as requiring ALS services after the school year  
188 has started, the LEA shall notify the student's parent within 14 days of the student's  
189 identification and placement.

190 (7) A required notice described in Subsection (6) shall include:

191 (a) the student's English proficiency level;

192 (b) how the student's English proficiency level was assessed;

193 (c) the status of the student's academic achievement;

194 (d) the methods of instruction proposed to increase language acquisition,  
195 including using both the student's native language and English if necessary;

196 (e) specifics regarding how the methods of instruction will help the child learn  
197 English and meet age-appropriate academic achievement standards for grade promotion  
198 and graduation; and

199 (f) the specific exit requirements for the program including:

200 (i) the student's expected rate of transition from the program into a classroom that  
201 is not tailored for a student learning English; and

202 (ii) the student's expected high school graduation date if funds appropriated  
203 consistent with this rule are used for a secondary school student.

204

205 **R277-716-5. Teacher Qualifications.**

206 (1) A Utah educator who is assigned to provide instruction in a language  
207 acquisition instructional program shall comply with state ESL endorsement requirements.

208 (2) A Utah educator whose primary assignment is to provide English language  
209 instruction to a student learning English shall have:

210 (a) an ESL endorsement, through an approved program based on the TESOL  
211 Standards;

212 (b) an advanced degree or certification in teaching English as a Second Language,  
213 including an approved competency program consistent with Board rule; or

214 (c) a bilingual endorsement consistent with the educator's assignment.

215 **R277-716-6. Miscellaneous Provisions.**

216 (1)(a) An LEA that generates less than \$10,000 from the LEA's count of students  
217 learning English, may form a consortium with other similar LEAs.

218 (b) A consortium described in Subsection (1)(a) shall designate a fiscal agent and  
219 shall submit all budget and reporting information from all of the member LEAs of the  
220 consortium.

221 (c) Each member of a consortium shall submit plans and materials to the fiscal  
222 agent of the consortium for final reporting submission to the Superintendent.

223 (d) A fiscal agent of a consortium described in Subsection (1)(a) shall assume all  
224 responsibility of an LEA under Section R277-716-4.

225 (2) No LEA or consortium may withhold more than two percent of Title III funding  
226 for administrative costs in serving students learning English .

227

228 **KEY: alternative language services**

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

230 **Notice of Continuation: February 16, 2016**

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