

1 **R277. Education, Administration.**

2 **R277-752. Special Education Intensive Services Fund.**

3 **R277-752-1. 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; and

9 (c) Section 53F-2-309, which requires the Board to make rules establishing a
10 distribution formula to allocate money appropriated to the board for the special
11 education intensive services fund.

12 (2) The purpose of this rule is to establish:

13 (a) an application process for the special education intensive services fund; and

14 (b) a formula to distribute the funds.

15 **R277-752-2. Definitions.**

16 (1) "Budget" means the total expenditures reported on an LEA's Annual Program
17 Report, "APR."

18 (2) "Cost of setting" means the cost of a student's educational environment,
19 including:

20 (a) for a preschool student, the cost of services provided in an early childhood
21 setting;

22 (b) for a general education student, the cost of services provided in a general
23 education classroom by special education personnel;

24 (c) for resource students, the cost of services provided in a special education
25 classroom by pull-out from the general education classroom;

26 (d) for a student in a special class, the cost of services provided in a special
27 education classroom for all or most of the day; and

28 (e) for a student in a special school, the cost of services provided in a separate
29 school where all students have disabilities.

30 ([1]3) "Highest impacted LEA cost ratio" means the quotient of, for a fiscal year:

31 (a) an LEA's unreimbursed expenses remaining after allocations are made from
32 the high cost student fund described in R277-752-3; and

33 (b) an LEA's total state special education revenues from the prior fiscal year.

34 ([2]4) "Local education agency" or "LEA" includes, for purposes of this rule, the
35 Utah Schools for the Deaf and the Blind.

36 ([3]5) "Special education intensive services fund" means funding available to
37 offset the costs of students whose educational program exceeds three times the state
38 average per pupil expenditures.

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40 **R277-752-3. Application Process - Distribution Formula.**

41 (1) To receive an annual allocation from the special education intensive services
42 fund, an LEA shall annually submit to the Superintendent an application claiming:

43 (a) expenses that:

44 (i) are associated with providing direct special education and related services
45 identified in a student's IEP; and

46 (ii) exceed three times the state average per pupil expenditures using data from
47 the most recently published State Superintendent's Annual Report; and

48 (b) any reimbursements received for the expenses described in Subsection
49 (1)(a)(i) from private insurance or Medicaid.

50 (2) If an LEA's carry forward funds exceed 20% of the LEA's special education
51 budget, the LEA may not submit an application for an annual allocation or
52 reimbursement under the intensive services fund.

53 ([2]3) From the special education intensive services fund, the Superintendent
54 shall allocate:

55 (a) 50% of the appropriation to the high cost student fund to be distributed to

- 56 LEAs based on the highest cost students with disabilities:
- 57 (i) as described in Section [53F-2-309](#); and
- 58 (ii) in accordance with Subsection (~~[3]4~~); and
- 59 (b) 50% of the appropriation to the highly impacted LEA fund to be distributed to
- 60 LEAs based on the highest impact to an LEA due to high cost students with disabilities:
- 61 (i) as described in Section [53F-2-309](#); and
- 62 (ii) in accordance with Subsection (~~[4]5~~).
- 63 (~~[3]4~~) (a) The Superintendent shall distribute funds to LEAs from the high cost
- 64 student fund using a step down reimbursement process as described in this Subsection
- 65 (~~[3]4~~).
- 66 (b) The first step is to reimburse for the highest cost student equal to the
- 67 difference between the highest cost student and the second highest cost student.
- 68 (c) The second step is to reimburse for the highest cost student and second
- 69 highest cost student equal to the difference between the second highest cost student
- 70 and the third highest cost student.
- 71 (d) Except as provided in Subsection (~~[3]4~~)(e), the Superintendent shall continue
- 72 the step down reimbursement process described in this subsection until funds are
- 73 exhausted.
- 74 (e) If funding is insufficient to fully reimburse the cost for all students in a step,
- 75 the Superintendent shall reallocate the remaining funds to the highly impacted LEA
- 76 fund.
- 77 (f) In determining student cost under this Subsection (~~[3]4~~), the Superintendent
- 78 shall sum expenses described in Subsection (1)(a)(i) less:
- 79 (i) the state average per pupil expenditures using data from the most recently
- 80 published State Superintendent's Annual Report; and
- 81 (ii) reimbursements from private insurance or Medicaid.
- 82 (~~[4]5~~)(a) The Superintendent shall distribute funds to LEAs from the highly
- 83 impacted LEA fund by providing a reimbursement equal to the difference between:

84 (i) an LEA's unreimbursed expenses remaining after allocations are made from
85 the high cost student fund; and

86 (ii) the product of:

87 (A) an LEA's total federal and state special education funding from the prior
88 fiscal year; and

89 (B) the median of the highest impacted LEA cost ratios.

90 (b) The Superintendent shall provide a reimbursement described in Subsection
91 ~~([4]5)~~(a) starting with the LEA with the highest impacted LEA cost ratio until funds are
92 exhausted.

93 (6)(a) The Superintendent shall maintain and publish a list of costs eligible for
94 reimbursement under this rule along with the rate of reimbursement.

95 (b) The Superintendent shall exclude cost of setting from reimbursement
96 calculations.

97 (7) If an LEA's carry forward exceeds the LEA's special education budget by an
98 amount greater than 20% of the special education budget, the Superintendent may
99 recoup funds in excess of the 20% carry forward and add the funds to the next year's
100 intensive services fund budget.

101 **KEY: special education, intensive services fund**

102 **Date of Enactment of Last Substantive Amendment:**

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

104 [53F-2-309](#)