

1 **R277. Education, Administration.**

2 **R277-800. Utah Schools for the Deaf and the Blind.**

3 **R277-800-1. 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-8-204](#) which authorizes the Board to make rules regarding the
8 administration of the Utah Schools for the Deaf and the Blind;

9 (c) Subsection [53E-8-204](#)(3), which directs the Board to appoint Advisory Council
10 members;

11 (d) Section [53E-8-402](#), which directs the Board to establish entrance policies and
12 procedures to be considered, consistent with the IDEA, for student placement
13 recommendations at the USDB;

14 (e) Section [53E-8-409](#), which directs the Board to establish the USIMAC and outline
15 collaboration and operating procedures for USIMAC and USDB resources; and

16 (f) Subsection [53E-3-401](#)(4), which allows the Board to make rules to execute the
17 Board's duties and responsibilities under the Utah Constitution and state law .

18 (2) The purpose of this rule is to provide standards and procedures for the
19 operation of the USDB and the USDB outreach programs and services.

20 **R277-800-2. Definitions.**

21 (1) "Accessible media producer" means a company or agency that creates
22 fully-accessible, specialized, student-ready formats for curriculum materials, such as:

23 (a) Braille;

24 (b) large print;

25 (c) audio books; or

26 (d) digital books.

27 (2) "Advisory Council" means the Advisory Council for the Utah Schools for the Deaf

28 and the Blind appointed by the Board in accordance with Subsection [53E-8-204](#)(3) and
29 Section R277-800-4.

30 (3)(a) "Assessment" means the process of documenting, usually in measurable
31 terms, knowledge, skills, attitudes and abilities pertaining to the fields of vision and hearing.

32 (b) An assessment may include the following areas of focus:

33 (i) a valid, reliable and appropriate assessment given to determine eligibility for
34 placement and services by a team of qualified professionals and a student's parent or
35 guardian;

36 (ii) a functional assessment accomplished by observation and measurement of daily
37 living skills and functional use of vision or hearing, or both; and

38 (iii) academic evaluations as part of the [~~Utah Performance Assessment System for~~
39 ~~Students (U-PASS)] Statewide School Accountability System, including an alternate
40 assessment with appropriate accommodations as indicated on a student's IEP.~~

41 (4)(a) "Campus-based program" means a program provided by USDB that offers an
42 alternative to an outreach program for students, ages three to 22, who are blind or visually
43 impaired, deaf or hard of hearing, or deafblind.

44 (b) Under a campus-based program, services are provided by qualified USDB staff
45 at a USDB site.

46 (5)(a) "The Chafee Amendment to the Copyright Act" or the "Chafee Amendment"
47 is a federal law, [17 U.S.C. 121](#), that allows an authorized entity to reproduce or distribute
48 copyrighted materials in specialized formats for students who are blind or have other print
49 disabilities without the need to obtain permission of the copyright owner.

50 (b) Authorized entities under the Chafee Amendment include governmental or
51 nonprofit organizations that have a primary mission to provide copyrighted works in
52 specialized formats for students who are blind or have other print disabilities.

53 (6) "Child Find" means activities and strategies designed to locate, evaluate, and
54 identify individuals eligible for services under the IDEA.

55 (7) "Consultation" means a meeting for discussion or seeking advice.

56 (8) "Designated LEA" means the local education agency assigned by a student's
57 IEP or Section 504 team to have primary responsibility for ensuring that all rights and
58 requirements regarding individual student assessment, eligibility services and procedural
59 safeguards are satisfied consistent with the IDEA.

60 (9) "Deafblindness" or "deafblind" means written verification provided by a medical
61 professional stating that an individual has concomitant hearing and visual impairments, the
62 combination of which causes such severe communication and other developmental and
63 educational needs that they cannot be accommodated in special education programs
64 solely for students with deafness or students with blindness.

65 (10) "Deafness" is a hearing impairment that is so severe that the student is
66 impaired in processing linguistic information through hearing, with or without amplification,
67 and that adversely affects a student's educational performance.

68 (11) "Educational Resource Center" or "ERC" is a center under the direction of the
69 USDB that:

70 (a) provides information, technology, and instructional materials to assist children
71 who are deaf, hard of hearing, blind, visually impaired, and deafblind in progressing in the
72 curriculum; and

73 (b) facilitates access to materials, information, and training for teachers and parents
74 of children who are deaf, hard of hearing, blind, visually impaired, and deafblind.

75 (12) "Extension classroom" means a classroom provided by an LEA where USDB
76 provides a full-time classroom teacher and related services to students who remain
77 enrolled in the LEA's general education programs.

78 (13) "Hearing loss" is an impairment in hearing, whether permanent or fluctuating,
79 that adversely affects a student's educational performance, but that is not included under
80 the definition of deafness.

81 (14) "National Instructional Materials Access Center" or "NIMAC" is a central
82 national repository that receives file sets in the NIMAS from publishers to maintain,
83 catalogue, and house for future reference file sets for states to use with students who have

84 print disabilities and require accessible alternate formats.

85 (15) "National Instructional Materials Accessibility Standard" or "NIMAS" means the
86 electronic standard that enables all producers of alternate formats for students with print
87 disabilities to work from one standard format available from publishers for this purpose.

88 (16)(a) "Outreach program" is a program provided by the USDB that offers an
89 alternative to a campus-based program for students ages three to 22 who are blind or
90 visually impaired, deaf or hard of hearing, or deafblind.

91 (b) In an outreach program, services are provided at a student's resident school or
92 at a designated school by a qualified teacher of the blind or visually impaired, deaf or hard
93 of hearing, or deafblind.

94 (17)(a) "Related services" means ~~[those supportive services that are necessary for~~
95 ~~the appropriate implementation of an IEP]~~ transportation and such developmental,
96 corrective, and other supportive services as are required to assist a student with disability
97 to benefit from special education.

98 (b) Related services may include~~[-but are not limited to]:~~

99 (i) speech-language pathology services;

100 (ii) audiology services;

101 (iii) interpreting services;

102 (iv) psychological services;

103 (v) physical and occupational therapy;

104 (vi) recreation, including therapeutic recreation;

105 (vii) early identification and assessment of disabilities in students;

106 ~~[(iii) low vision services;~~

107 ~~—(iv) orientation and mobility;]~~

108 (viii) [school] counseling services, including rehabilitation counseling;

109 (ix) orientation and mobility services;

110 ~~[(vi) transportation;]~~

111 ~~[(vii)x] health services and school nursing services;~~

- 112 (xi) social work services in schools;
113 (xii) parent counseling and training; or
114 [~~(viii) occupational therapy; or~~
115 ~~——(ix) physical therapy]~~
116 (xi) low vision services.

117 (18) "Section 504 accommodation plan" means a plan required by [Section 504](#) of
118 the Rehabilitation Act of 1973, which is designed to accommodate an individual who has
119 been determined, as a result of an evaluation, to have a physical or mental impairment that
120 substantially limits one or more major life activities.

121 (19) "Technical assistance" means assistance to public education employees,
122 licensed educators, parents, and families in significant areas of need by someone who has
123 the expertise necessary to give council and training in designated areas.

124 (20) "USDB" means the Utah Schools for the Deaf and the Blind.

125 (21) "Utah State Instructional Materials Access Center" or "USIMAC" means a
126 center that receives NIMAS electronic file sets and produces them in the accessible
127 alternate format required by students with print disabilities.

128 (22)(a) "Visual impairment," is an impairment in vision that, even with correction,
129 adversely affects a student's educational performance.

130 (b) "Visual impairment" includes both partial sight and blindness that adversely
131 affect a student's educational performance.

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

134 **R277-800-3. Operation of USDB.**

135 (1) Consistent with Section [53E-8-204](#), the Board is the governing board of the
136 USDB.

137 (2) The USDB superintendent, appointed consistent with Subsection [53E-8-204](#)(2),
138 is subject to the direction of the Board and the Superintendent.

- 139 (3) The USDB superintendent shall serve subject to the following:
- 140 (a) the USDB superintendent's term of office is for two years and until a successor
- 141 is appointed;
- 142 (b) the Board shall set the USDB superintendent's compensation for services;
- 143 (c) the USDB superintendent shall have, at a minimum, an annual evaluation, as
- 144 directed by the Board;
- 145 (d) the USDB superintendent qualifications shall be established by the Board; and
- 146 (e) the duties of the USDB superintendent shall be established by the Board.
- 147 (4) The Superintendent shall support, provide assistance, and work cooperatively
- 148 with the USDB in providing services to designated Utah students.
- 149 (5) The Superintendent shall assign a liaison to provide appropriate supervision to
- 150 the USDB to ensure compliance with the law.
- 151 (6) The Superintendent shall assist the USDB, its superintendent, and associate
- 152 superintendents in adopting policies and preparing an annual budget that are consistent
- 153 with the law.
- 154 (7) The Board shall approve the annual budget and expenditures of USDB.
- 155 (8)(a) The USDB superintendent shall, subject to the approval of the Board, appoint
- 156 an associate superintendent to administer the Utah School for the Deaf and an associate
- 157 superintendent to administer the Utah School for the Blind.
- 158 (b) Qualifications of a USDB associate superintendent shall be aligned with the
- 159 requirements of Section [53E-8-204](#).
- 160 (9)(a) The USDB superintendent and associate superintendents may hire staff and
- 161 teachers as needed for the USDB.
- 162 (b) Educators and related service providers shall be appropriately licensed and
- 163 credentialed for their specific assignments.
- 164 (10) In employment practices and decisions, the [~~USDB and the~~] USDB
- 165 superintendent shall maintain the accreditation of the USDB school and programs.
- 166 (11) The USDB superintendent and associate superintendents shall communicate

167 regularly and effectively with the Board and provide a written report to the Board at least
168 annually in adequate time prior to the November legislative interim meeting, or at such
169 other time as requested by the Board.

170 (12) The USDB report shall ~~contain:~~

171 ~~—— (a) a financial report;~~

172 ~~—— (b) a report on the activities of the superintendent and associate superintendents;~~

173 ~~—— (c) a report on activities to involve parents and constituency, including LEA
174 personnel and advocacy groups, in the governance of the school and implementation of
175 service delivery plans for students who are deaf, hard of hearing, blind, visually impaired,
176 and deafblind; and~~

177 ~~—— (d) a report on student achievement, including student achievement data, that
178 provides:~~

179 ~~—— (i) longitudinal data for both current and previous students served by USDB;~~

180 ~~—— (ii) graduation rates; and~~

181 ~~—— (iii) students exiting USDB and their educational placements after exiting] include
182 the data required by Subsection 53E-8-204(6).~~

183 (13) USDB shall ensure that each child or student served by USDB is assigned a
184 unique student identifier (SSID) to allow for annual data collection and reporting of
185 achievement of current and past students.

186 (14) USDB shall provide the Superintendent with a listing of past and current
187 children or students, including the assigned unique student identifier, served by USDB by
188 September 1 of each year to facilitate the required data collection.

189 **R277-800-4. USDB Advisory Council and Community Council.**

190 (1) The Board shall establish the Advisory Council for USDB and appoint Advisory
191 Council members as directed in Section [53E-8-204](#).

192 (2) The Advisory Council shall have not more than 11 Board-appointed voting
193 members and shall include members as qualified under Section [53E-8-204](#).

194 (3)(a) Advisory Council members shall serve two year terms and members may
195 serve no more than three consecutive terms.

196 (b) Notwithstanding, Subsection (3)(a), advisory Council members serve at the
197 pleasure of the Board.

198 (4) If an Advisory Council member resigns or is asked to resign, the Board shall
199 appoint another member in a timely manner after seeking nominations.

200 (5) The Board shall assist the Advisory Council in developing and passing by-laws
201 establishing procedures for:

202 (a) nominating Advisory Council members;

203 (b) recommending dismissal of Advisory Council members;

204 (c) ethical standards for Advisory Council members; and

205 (d) operation of the Advisory Council.

206 (6) Advisory Council bylaws may allow for representation on the Advisory Council
207 of constituencies within the USDB community.

208 (7) The USDB shall establish a community council to operate in a comparable
209 manner to a school community council under Section [53G-7-1202](#) through [53G-7-1203](#)
210 and Rule [R277-491](#).

211 (8) Members of the Advisory Council may serve as school community council
212 members.

213 (9) The USDB school community council and election process shall be the same as
214 for a district school in Section [53G-7-1202](#) and Rule [R277-491](#).

215 (10) The USDB may implement electronic voting and consider encouraging school
216 community council participation through electronic meetings and technology that facilitate
217 participation of parents of USDB students.

218

219 **R277-800-5. USDB or Student's District of Residence/Charter School as Designated**
220 **LEA.**

221 (1) To be eligible to receive free services from the USDB, a student must meet the

222 requirements of Section [53E-8-401](#).

223 (2)(a) A student's IEP or Section 504 accommodation plan shall determine a
224 student's placement at the USDB, in a district school or charter school.

225 (b) USDB shall limit its services for students who are school-age to those on an IEP
226 or Section 504 accommodation plan.

227 (3) Consistent with Subsection [53E-8-401](#)(3), an IEP team or Section 504 team
228 shall determine the appropriate placement for each blind, deaf or deafblind student
229 consistent with Board Special Education Rules incorporated by reference in Section
230 [R277-750-2](#).

231 (4)(a) It is the responsibility of the student's district of residence or charter school
232 to conduct Child Find, and to convene the initial IEP or Section 504 team meeting in
233 order to determine a student's placement.

234 ([a]b) A student's initial IEP or Section 504 accommodation plan meeting shall
235 include a representative from the student's district of residence or charter school and a
236 representative from the USDB.

237 [~~(b) An LEA shall defer, where appropriate, to the parental preference in the IEP
238 or Section 504 accommodation plan process consistent with Subsection
239 [53E-8-401](#)(3)(c).~~]

240 ~~——(c) Notwithstanding, Subsection (4)(b), in compliance with the IDEA, the final
241 placement decision, as documented on the IEP or Section 504 accommodation plan,
242 shall document a free appropriate public education for the student and shall not be
243 determined solely by parental preference.]~~

244 (5)(a) If USDB is the designated LEA for a student, USDB has full responsibility
245 for all services defined in the student's IEP or Section 504 accommodation plan.

246 (b) Notwithstanding USDB's designation as LEA for a student, a representative
247 from the district of residence or charter school remains a required member of the IEP or
248 Section 504 accommodation plan team.

249 (6) If a district of residence or charter school is the LEA designated to provide

250 services to a student with an IEP or Section 504 accommodation plan, the district of
251 residence or charter school has the responsibility for providing instruction and services
252 for the student except that the USDB:

- 253 (a) may be designated by the team as a related service provider; and
- 254 (b) remains a required member of the student's IEP or 504 accommodation plan
255 team.

256 (7) A student's IEP or Section 504 accommodation plan shall clearly define what
257 services are to be provided by a related service provider.

258 (8) The IEP or Section 504 accommodation plan team shall determine the
259 designated LEA for student placement.

260 (9) If a parent is dissatisfied with a student's placement at USDB, the student's
261 district of residence, or charter school, the parent may access dispute resolution
262 procedures, consistent with Utah State Board of Education Special Education Rules,
263 adopted by the Board in Section [R277-750-2](#)

264 (10) If a student's IEP or Section 504 accommodation plan provides for services
265 to be provided by both the USDB and the student's district of residence, or for the
266 USDB and district of residence to share responsibility for serving a student, a parent
267 may access dispute resolution procedures consistent with Utah State Board of
268 Education Special Education Rules, adopted by the Board in Section [R277-750-2](#).

269 **R277-800-6. Assessment of USDB Students Served in LEAs of Residence.**

270 (1) An appropriate specialist shall assess a student who may be deaf, hard of
271 hearing, blind, visually impaired, or deafblind using statewide assessment results and in
272 compliance with Board rule and state and federal law.

273 (2) The USDB shall establish an assessment policy and guidelines to implement
274 required assessments, which address:

- 275 (a) appropriate, complete, and timely evaluations of students;
- 276 (b) procedures for administration of assessments in addition to those required by

277 the law, as determined by IEPs, Section 504 accommodation plans, and individual
278 teachers;

279 (c) complete and accurate required assessments available to eligible students
280 consistent with state and LEA assessment timelines and availability of materials for
281 non-disabled students;

282 (d) staff professional development and preparation on appropriate administration
283 of assessments and reporting of assessment results; and

284 (e) procedures to ensure appropriate interpretation and use of assessments and
285 results for parents and USDB personnel.

286 **R277-800-7. Extension Classrooms.**

287 (1) The USDB and an LEA may negotiate to share the costs for providing more
288 efficient, cost-effective, and convenient services to students who are deaf, blind, or
289 deafblind in extension classrooms in locations other than the USDB campus.

290 (2) If the USDB and an LEA enter into an agreement in accordance with
291 Subsection (1), the LEA shall provide:

292 (a) classrooms;

293 (b) basic instructional materials;

294 (c) physical education, music, media, school lunch, and other programs and
295 services, consistent with those programs and services provided to other students within
296 the LEA;

297 (d) administrative support;

298 (e) basic secretarial services;

299 (f) special education and related services; and

300 (g) IT support.

301 (3) If the USDB and an LEA enter into an agreement in accordance with
302 Subsection (1), the USDB shall provide:

303 (a) classroom instructors, including aides; and

304 (b) instructional materials specific to the disability of the students.

305 (4) An agreement pursuant to Subsection (1) may reassign the responsibilities of
306 the USDB and a school district or charter school as negotiated between the LEA and
307 the USDB.

308 (5) An LEA shall claim the state WPU if the LEA provides all items or services
309 identified in Subsection (2).

310 **R277-800-8. USDB Fiscal Procedures.**

311 (1) The USDB shall keep fiscal, program, and accounting records as required by
312 the Board and shall submit reports required by the Board.

313 (2) The USDB shall follow state standards for fiscal procedures, auditing, and
314 accounting, consistent with Subsection [53E-8-203](#)(3).

315 (3) The USDB is a public state entity under the direction of the Board and as
316 such is subject to state laws and exemptions consistent with Section [53E-8-203](#).

317 (4)(a) The USDB shall prepare and present an annual budget to the Board that
318 includes no more than a five percent carryover of any one fund, including
319 reimbursement funds from federal programs.

320 (b) The five percent carryover prohibition does not apply to funds received under
321 Section [53F-2-404](#) and Section 12 of the [Utah Enabling Act](#).

322 (5)(a) The Superintendent shall recover federal reimbursement funds (IDEA and
323 Medicaid) quarterly during the year.

324 (b) The Superintendent shall identify reimbursement amounts in the current
325 year's budget, but in no event later than the subsequent year's budget.

326 (6)(a) The USDB shall use the revenue from the federal trust land grant
327 designated for the benefit of the blind and the deaf, solely for the benefit of deaf, blind,
328 and deafblind students.

329 (b) The recommended or designated use of federal trust land funds is subject to
330 review by the Board.

331 **R277-800-9. Utah State Instructional Materials Access Center.**

332 (1) The USIMAC shall produce core instructional materials in alternative formats
333 to ensure that all students with print disabilities qualified under the Chafee Amendment
334 receive their materials in a timely manner.

335 (2) The USIMAC shall provide materials for all students with print disabilities
336 who are qualified under the Chafee Amendment or otherwise eligible through an IEP or
337 Section 504 accommodation plan.

338 (3) The Superintendent shall oversee the operations of the USIMAC.

339 (4) The USDB is the fiscal agent and operates the USIMAC to the extent of
340 funds received annually from the Utah Legislature and the Board.

341 (5) An LEA may purchase accessible instructional materials using the LEA's own
342 funding or request the production of accessible instructional materials in alternate
343 formats from the USIMAC in accordance with established opt in procedures to ensure
344 timely access for students with print disabilities.

345 (6) USIMAC shall provide a textbook in an alternate format by the beginning of
346 the school year if requested no later than April 1 of the preceding school year by an
347 LEA.

348 (7) The USDB ERC shall serve as the repository and distribution center for the
349 USIMAC.

350 (8) A student qualifies for accessible instructional materials from the USIMAC,
351 including Braille, audio, large print, or digital formats following an LEA determination
352 that the student has a print disability in accordance with:

- 353 (a) the Chafee Amendment;
354 (b) IDEA; or
355 (c) Section 504 of the Rehabilitation Act.

356 (2)(a) An LEA may request textbooks for blind, vision impaired or deafblind
357 students served by the USDB or the LEA consistent with a student's IEP or Section 504
358 accommodation plan.

359 (b)(i) When an LEA requests a core instructional textbook the USIMAC shall
360 conduct a search for the textbook within existing resources, and if the textbook is
361 available, the USIMAC shall send the textbook to the ERC for distribution to the LEA.

362 (ii) If a textbook is not available within existing resources, the USIMAC will
363 conduct a search to determine if the textbook is available for purchase through another
364 source.

365 (iii) If a textbook is available through the American Printing House for the Blind
366 (APH), the USDB shall order the textbook using state acquired federal funds designated
367 specifically for USIMAC materials and send the textbook to the ERC for distribution to
368 the LEA.

369 (iv) If a textbook is not available from APH, but is available from another
370 accessible media producer, the textbook shall be purchased and sent to the ERC for
371 distribution to the LEA.

372 (v) If a textbook is not available for purchase, the LEA shall provide a regular
373 print hard copy of the textbook to the USIMAC, which shall then produce the textbook
374 and send it to the ERC for distribution.

375 ~~[(vi) The USIMAC shall produce a textbook in an LEA requested alternate format~~
376 ~~in accordance with the cost sharing outlined in a technical manual prepared by the~~
377 ~~Superintendent.]~~

378 ~~—(c) The sharing of costs for purchases described in this Section R277-800-9 shall~~
379 ~~be outlined in a technical manual prepared by the Superintendent.]~~

380 (3)(a) All approved textbook contracts for the state of Utah for instructional
381 materials published after August 2006 shall include a provision for making NIMAS file
382 sets available through the NIMAC in accordance with the IDEA and Board Instructional
383 Materials Contract timelines.

384 (b) If the USIMAC is unable to obtain the NIMAS file set from the NIMAC
385 because the publisher fails to timely provide the NIMAS file set to the NIMAC in
386 accordance with the IDEA and Board Instructional Materials Contract timelines, the

387 USIMAC may:

388 (i) bill the textbook publisher the difference in the cost of producing the alternate
389 format textbook without benefit of the NIMAS file set; or

390 (ii) request authorization from the Board to seek damages from the publisher for
391 failure to meet contract provisions.

392 (c) The Superintendent shall advise publishers of the provisions of this
393 Subsection (3).

394 (d) The Utah Instructional Materials Commission created under [Rule R277-469](#)
395 may not approve textbooks and materials from publishers that have a pattern of not
396 providing materials and textbooks for students with disabilities in a timely manner,
397 consistent with the law and Board rules.

398 (4)(a) An LEA may request and access audio books through the USIMAC, as
399 appropriate, or through other sources.

400 (b) Membership required for other sources is the responsibility of the LEA
401 designated as the responsible entity for serving the student in the IEP or Section 504
402 accommodation plan.

403 **KEY: educational administration**

404 **Date of Enactment or Last Substantive Amendment: September 21, 2017**

405 **Notice of Continuation: July 19, 2017**

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

407 **[53E-8-204; 53E-8-402; 53E-8-409](#)**