

1 **R277. Education, Administration.**

2 **R277-625. Mental Health Screeners~~ing program~~.**

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~~ing programs~~ and financial aid for qualifying
11 parents.

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

13 (a) provide the approval process for a mental health screener~~ing programs~~
14 chosen by an LEA; and

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

17

18 **R277-625-2. Definitions.**

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

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

24 ~~(2)3~~ "Mental health screener~~ing~~" or "screener" means ~~[program" or "screening~~
25 ~~program" means the same as the term is defined in Subsection 53F-2-522(1)(e).~~ the use
26 of a systematic tool or process:

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

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

31 (c) that is not:

32 (i) a diagnostic tool or process; or

33 (ii) a system or process used by a student's teacher to observe behavior for the
34 purpose of targeted learning interventions.

35 (4) "Mental health services" means the same as the term is defined in R523-1-3(3).

36 ([3]5) "Qualifies for financial assistance" means a qualifying parent that has a
37 student receiving educational services through an LEA who:

38 (a) receives free or reduced lunch; or

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

41 (i) uninsured;

42 (ii) underinsured;

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

45 (iv) demonstrates a high need for interventions based upon results of the LEA's
46 mental health screener~~[ing program]~~.

47 ([4]6) "Qualifying parent" means the same as the term is defined in Subsection
48 53F-2-522(1)(d).

49 ([5]7) "Relevant services" means mental health services provided to a student that
50 are directly related to mental health needs identified by a student's mental health
51 screening.

52

53 **R277-625-3. Approval of Mental Health Screener~~[ing Program]~~s.**

54 (1)(a) The Superintendent, in consultation with DSAMH, shall publish annually a
55 list of pre-approved mental health screener~~[ing program]~~s to the Board's website.

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

57 (i) the name or brand of the mental health screener~~[ing program]~~ including a link
58 to the screener~~[ing program]~~'s website;

59 (ii) the recommended ages for the mental health screener~~[ing program]~~;

60 (ii) any limitations of the mental health screener~~[ing program]~~ including the typical
61 level of false positives;

62 (iii) the mental health conditions the mental health screener~~[ing program]~~ can
63 detect; and

64 (iv) the scientific data or research used to verify a screener~~[ing program]~~ is
65 evidence-based.

66 (2) The Board shall approve:

67 (a) the pre-approved mental health screener~~[ing program]~~ list; and

68 (b) the mental health conditions for which a screener~~[ing program]~~ can be used.

69 (3) All pre-approved mental health screener~~[ing program]~~ shall comply with the
70 requirements as described in Title 53E, Chapter 9, Student Privacy and Data Protection,
71 and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

72 (4) Except as provided for in Subsection (4)(c) and (d), an LEA shall notify the
73 Superintendent by May 1:

74 (a) if the LEA plans to:

75 (i) use a mental health screener~~[ing program]~~ from the pre-approved list; or

76 (ii) apply to the Superintendent for approval of a mental health screener~~[ing program]~~
77 ~~program]~~ that is not on the pre-approved list;

78 (b) whether an LEA elects to participate in providing a qualifying parent with
79 financial assistance;

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

82 (d) An LEA is not required to comply with Subsection (4) if the LEA chooses not
83 to offer a mental health screener~~[ing program]~~.

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

87 (a) the mental health screener~~[ing program]~~ proposed for use by the LEA;

88 (b) the reason for choosing the mental health screener~~[ing program]~~;

89 (c) the approved mental health conditions the mental health screener~~[ing program]~~
90 measures;

91 (d) how the mental health screener~~[ing program]~~ complies with all state and
92 federal data privacy laws; and

93 (e) the scientific data or research demonstrating the mental health screener~~[ing program]~~
94 ~~program]~~ is evidence based and meets industry standards;

95 (f) why the mental health screener~~[ing program]~~ is age appropriate for each grade
96 the screener~~[ing program]~~ is administered; and

97 (g) why the mental health screen~~er~~~~[ing program]~~ is an effective tool for identifying
98 whether a student has a mental health condition that requires intervention.

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

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

103 (8) Subject to legislative appropriation, the Superintendent shall provide annually
104 a maximum reimbursement amount an LEA may receive for use of a mental health
105 screener~~[ing program]~~.

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

108 (10)(a) An LEA shall require relevant staff, who will be administering a mental
109 health screener~~[ing program]~~, to attend an annual mental health screener~~[ing program]~~
110 training provided by the Superintendent in collaboration with DSAMH;

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

113 (i) consent shall be obtained:

114 (A) within ~~[8]~~eight weeks prior to administration of the mental health screener~~[ing~~
115 ~~program]~~; and

116 (B) in accordance with Subsection 53E-9-203(4);

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

119 (iii) additional variables that might influence a screener~~[ing program]~~'s results; and

120 (iv) a statement that:

121 (A) the mental health screener is optional;

122 (B) a screener~~[ing program]~~ is not a diagnostic tool;

123 (C) a parent has the right to seek outside resources or opinions; and

124 (D) specifies which board approved mental health conditions the mental health
125 screener~~[ing program]~~ measures.

126 (11) An LEA may not administer a mental health screener~~[ing program]~~ if the LEA
127 has not attended the annual mental health screener~~[ing program]~~ training described in
128 Subsection (10).

129 (12) An LEA shall report annually to the Superintendent aggregate data regarding
130 the types of LEA provided mental health interventions, referrals, or other actions taken
131 based on screener~~[ing program]~~ results.

132

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

134 (1)(a) An LEA shall ensure all data collected or stored by a mental health
135 screener~~[ing program]~~ complies with all state and federal data privacy laws and
136 requirements, including those described in Subsection R277-625-3(3).

137 (b) notwithstanding Subsection (1)(a), an LEA shall provide a parent with a list of
138 all parties that may receive any data related to a student's mental health screener prior
139 to the parent providing consent.

140 (2) An LEA shall provide a parent with a list of all data potentially collected by the
141 mental health screener~~[ing program]~~ prior to consenting to a student's mental health
142 screening.

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

144 (a) results as described in Subsection 53F-2-522(4)(d);

145 (b) applicable available resources; and

146 (c) who has access to the screener~~[ing program]~~ data

147 (4) If an LEA has received parental consent, an LEA may share data collected
148 from the mental health screener~~[ing program]~~ with a school's multi-disciplinary team.

149 (5) An LEA shall retain and dispose of all data related to a student's mental health
150 screener in accordance with an approved retention schedule not to exceed three years.

151

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

153 (1) An LEA that has elected to participate as described in Subsection R277-625-
154 3(4)(b), may receive reimbursement for relevant services obtained by a qualifying parent
155 that qualifies for financial assistance.

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

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

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

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

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

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

167 (ii) has reimbursement funds remaining.

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

170 (4) An LEA that has elected to participate as described in Subsection R277-625-
171 3(4)(b), shall receive a total award amount based on need as determined by the
172 Superintendent.

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

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

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

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

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

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

182

183 **KEY: mental health screener~~[ing program]~~, mental health, prevention**

184 **Date of Enactment or Last Substantive Amendment: August 12, 2020**

185 **Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-3-401\(4\)](#); [53F-](#)
186 [2-522](#)**