

1 **R277. Education, Administration.**

2 **R277-801. Services for Students who are Deaf, Hard of Hearing, Blind, Visually**
3 **Impaired, and Deaf-Blind.**

4 **R277-801-1. Authority and Purpose.**

5 (1) This rule is authorized by:

6 (a) Utah Constitution Article X, Section 3, which vests general control and
7 supervision over public education in the Board;

8 (b) Subsection [53E-3-401](#)(4), which allows the Board to make rules to execute
9 the Board's duties and responsibilities under the Utah Constitution and state law; and

10 (c) Section [53E-8-201](#), which creates USDB, and authorizes USDB to provide
11 services to qualifying students.

12 (2) The purpose of this rule is to establish rules for LEAs and USDB to provide
13 services to students who are deaf, hard of hearing, blind, visually impaired, and deaf-
14 blind.

15
16 **R277-801-2. Definitions.**

17 (1) "504 plan" means a plan required by Section 504, which is designed to
18 accommodate an individual who has been determined, as a result of an evaluation, to
19 have a physical or mental impairment that substantially limits one or more major life
20 activities.

21 (2)(a) "Intensive services" means services requiring vision, deaf-blind, or hearing
22 services:

23 (i) in excess of 180 minutes per day for k-12 or post-high school students; or

24 (ii) in excess of 90 minutes per day for pre-school students.

25 (b) "Intensive services" does not include services that are not vision, deaf-blind,
26 or hearing specific.

27 (3) "Intervener" means a specially trained paraprofessional who provides access
28 to information and communication and facilitates the development of social and
29 emotional well-being for children who are deaf-blind.

30 (4) "Medicaid time study" means the primary mechanism for identifying and
31 categorizing Medicaid administrative activities performed by an LEA's staff, which
32 serves as the basis for developing claims for the costs of administrative activities that
33 may be properly reimbursed under Medicaid.

34 (5) "Minimum school program" or "MSP" means the same as that terms is
35 defined in Section [53F-2-102](#).

36 (6) "Qualifying student" means a student who is deaf, hard of hearing, blind,
37 visually impaired, or deaf-blind who qualifies for services in accordance with Subsection
38 [53E-8-401](#)(1).

39 (7) "Section 504" means Section 504 of the Rehabilitation Act of 1973, codified at
40 29 USC §701, et seq.

41 (8) "Utah eTranscript and Record Exchange" or "UTREx" means a system that
42 allows individual detailed student records to be exchanged electronically among LEAs
43 and the Board, and allows electronic transcripts to be sent to any post-secondary
44 institution, private or public, in-state or out-of-state, that participates in the e-transcript
45 service.

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

48

49 **R277-801-3. Responsibilities of LEAs.**

50 (1)(a) An LEA is the single point of entry for USDB services for qualifying
51 students.

52 (b) A qualifying student may not enroll in a USDB program without a referral from
53 an LEA.

54 (c) When evaluating services for a qualifying student, an LEA and the USDB
55 shall consider:

56 (i) primary disabilities;

57 (ii) secondary disabilities; and

58 (iii) other factors, including:

- 59 (A) transportation needs; and
- 60 (B) length of time the student would spend in transport daily.
- 61 (2) Notwithstanding Subsection (1), a qualifying student may enroll directly in
- 62 USDB if:
- 63 (a) the student's previous primary instruction was in American Sign
- 64 Language; and
- 65 (b) USDB's program most closely matches the qualifying student's prior program
- 66 of instruction.
- 67 (3) A qualifying student may receive services under:
- 68 (a) IDEA;
- 69 (b) Section 504; or
- 70 (c) a USDB preschool services plan.
- 71 (4) An LEA shall annually provide to the Superintendent the name and contact
- 72 information for any student with vision loss or hearing loss, even if it isn't the student's
- 73 primary disability.
- 74 (5)(a) An LEA has the responsibility for the design and implementation of and
- 75 IEP or Section 504 plan for qualifying students.
- 76 (b) Specific details of required intensive services for a student shall be defined
- 77 within the student's IEP.
- 78 (c) A qualifying student who enrolls in a Utah school district or charter school
- 79 may be eligible to receive intensive services from sensory specialists employed by
- 80 USDB, if appropriately designated as specialized instruction or a related services as
- 81 part of an IEP or Section 504 plan.
- 82 (6)(a) An LEA with greater than 3% of the student population statewide may elect
- 83 to contract with USDB to provide outreach services.
- 84 (b) An LEA may employ their own sensory specialists to meet the IEP or 504
- 85 plan needs of qualifying students.
- 86 (7)(a) An LEA is responsible for the development of a qualifying student's IEP,
- 87 including any assessments necessary for initial placement.

88 (b) Notwithstanding Subsection (7)(a), an LEA may not commit USDB to provide
89 services to qualifying students unless USDB has participated in the IEP.

90 (c)(i) An LEA and USDB shall consider least restrictive environment, as well as
91 intensive services needs of a qualifying student in determining an appropriate
92 placement.

93 (ii) In the case of deaf or hard of hearing students, an IEP team should consider
94 the opportunity for a student to have direct communication with teachers and peers.

95 (8) Notwithstanding Subsection (7), if a qualifying student enrolls directly with
96 USDB in accordance with Subsection (2), USDB shall develop the student's IEP,
97 including any assessments necessary for initial placement.

98 (9) If an LEA is working with USDB staff:

99 (a) the LEA shall provide internet access and technical support to permit USDB
100 staff to access the internet through technology and hardware;

101 (b) the LEA and USDB technology staff will jointly determine procedures to
102 ensure access to LEA technology systems; and

103 (c) USDB shall provide and maintain all needed hardware and software provided
104 to USDB staff.

105 (10) An LEA shall provide an assistive technology device a student if the
106 assistive technology device is required for the implementation of the student's IEP.

107

108 **R277-801-4. Designation of USDB as an LEA.**

109 (1)(a) In order to meet the educational needs of qualifying students, an IEP team
110 may enroll a qualifying student in a USDB program and may designate USDB as the
111 LEA for the qualifying student.

112 (b) If USDB is designated as the LEA under Subsection (1)(a), the USDB
113 program shall be treated as a placement option within the LEA continuum, and the
114 referring LEA staff shall continue to attend IEP meetings.

115 (2)(a) If USDB is designated as a qualifying student's LEA, USDB is responsible
116 from that point on for the design and implementation of the student's IEP, 504 Plan, or

117 USDB [P]preschool [S]service [P]plan.

118 (b) USDB shall provide all special education and related services and costs
119 documented in an IEP for a qualifying student described in Subsection (2)(a).

120 (c) USDB may request consultation from the referring LEA for the design of
121 services that are required by the student beyond the student's sensory needs.
122

123 **R277-801-5. Correlation of Responsibilities.**

124 (1) For qualifying students currently enrolled with an LEA and receiving services
125 through USDB outreach programs, an LEA will provide a list of students and their IEP
126 due dates for the upcoming school year to [the] USDB [Assistant Superintendent]no
127 later than June 30 annually.

128 (2) An LEA shall invite USDB staff to attend IEP or 504 plan meetings for
129 qualifying students, including meetings for:

130 (a) students transitioning from Part C to Part B;

131 (b) students moving from out of state; and

132 (c) students transferring between LEAs.

133 (3)(a) For qualifying students enrolled in an LEA and receiving no services from
134 USDB, an LEA shall invite USDB to attend any meeting where USDB services may be
135 considered for that student.

136 (b) If a change of placement is considered[;], [(+)] both the referring LEA and
137 USDB will participate and establish a timeline to ensure a successful transition for the
138 student.

139 [~~—(ii) both the referring LEA and USDB will participate in the IEP or 504 meeting.~~]

140 (4) IEP or 504 plan meetings shall be [held] at a mutually agreed upon time and
141 location, with appropriate notification to all parties.

142 (5)(a) The Board and USDB shall provide ongoing interpreter training toward
143 certification and mentoring for all interpreters, as requested by individual LEAs.

144 (b) Training provided under Subsection ([7]5)(a) shall provide certified
145 interpreters with the opportunity to improve skills and move up to a higher level of

146 certification.

147 (c) An LEA may contract with USDB to provide interpreter services for students
148 attending the LEA or an LEA school where a USDB extension classroom is located.

149 (6)(a) Each LEA, including USDB as the designated LEA, is responsible for
150 ensuring the timely provision of textbooks and material as required by the IDEA.

151 (b) The Board shall~~[-(i)]~~ annually provide information to LEAs regarding the costs
152 of accessible materials in the state~~[-and~~

153 ~~——(ii) determine an equitable cost-sharing plan].~~

154

155 **R277-801-6. Services for Qualifying Students.**

156 (1) If a qualifying student is enrolled with USDB as the designated LEA:

157 (a) USDB shall include the qualifying student in all Board-required enrollment
158 reports including:

159 (i) fall enrollment counts;

160 (ii) the child count of students with disabilities; and

161 (iii) the end-of-year enrollment report;

162 (b) Any agreements between the referring LEA and USDB shall be documented
163 as part of a written agreement, which shall be reviewed at least annually;

164 (c)(i) A qualifying student's IEP team shall determine the student's transportation
165 needs;

166 (ii) USDB shall provide transportation as a related service in an IEP or if required
167 to implement a 504 plan; and

168 (iii) A referring LEA shall combine resources with USDB, whenever possible, to
169 provide within-LEA transportation;

170 (d)(i) USDB shall annually administer all Board-required assessments.

171 (ii) USDB may provide alternate tests in accordance with a student's IEP and
172 state law; and

173 (e) USDB shall develop and implement all programs, policies, and procedures
174 required of an LEA by the Board and state law.

175 (2) If a qualifying student attends USDB extension classrooms located within an

176 LEA:

177 (a) the student shall be enrolled in the general education program of the LEA
178 school the student is attending;

179 (b) the LEA school shall be designated as the "school of record" for the student;

180 (c) the student shall be included by the LEA school or district in all required
181 reports and uploads to UTREx;

182 (d) the student shall be counted in the LEA school or district total enrollment, and
183 will be included in the calculation of all funding formulas, including Weighted Pupil Units
184 and Minimum School Program;

185 (e) the student shall receive access to LEA programs and services consistent
186 with their IEP or 504 plan, consistent with services available to other students enrolled
187 in the student's school;

188 (f) the student may not be enrolled in the special education program of the LEA
189 school the student is attending;

190 (g) USDB shall ensure the student receives a free appropriate public education;

191 (h) USDB shall ensure the student receives all special education and related
192 services, including interpreting services, as required on the student's IEP or 504 plan;

193 (i) the LEA school shall generate general education funding or WPU for the
194 student;

195 (j) USDB shall receive federal IDEA funding in accordance with USDB's
196 legislative line item funding;

197 (k) the LEA school shall receive no state or federal special education funding for
198 the student;

199 (l)(i) USDB shall provide transportation for the student as a related service when
200 it is included in an IEP.

201 (ii) an LEA school shall combine resources with USDB, whenever possible, to
202 provide within-LEA transportation; and

203 (m) an LEA school and USDB shall jointly ensure that any portable classrooms

204 have access to intercom and phone service.

205 (3) If a qualifying student receives USDB outreach or consulting services:

206 (a) the student shall be enrolled in the general and special education programs of
207 the LEA school the student attends;

208 (b) the LEA shall include~~[e]~~ the student in the calculation of state special
209 education and IDEA funds for the school district or charter school; and

210 (c) USDB may not submit the students to UTREx and may not receive state or
211 federal special education funding.

212 (4) USDB shall provide the following services free of charge to every LEA,
213 regardless of size, exclusive of additional related services:

214 (a) Educational Resource Center resources, including loaner equipment;

215 (b) USIMAC materials;

216 (c) ~~[H]~~interpreter training;

217 (d) ~~[P]~~professional development;

218 (e) ~~[E]~~expanded core curriculum;

219 (f) ~~[E]~~enrichment programs and activities;

220 (g) ~~[C]~~onsultations;

221 (h) ~~[P]~~psychological assessments for the ~~[D]~~deaf and the ~~[B]~~blind;

222 (i) ~~[S]~~peech assessments for ~~[D]~~deaf students;

223 (j) ~~[B]~~behavioral intervention and supports;

224 (k) ~~[D]~~deaf-~~[B]~~blind ~~[S]~~specialists; and

225 (l) ~~[D]~~deaf-~~[B]~~blind ~~[H]~~interveners.

226 (5) USDB may offer to provide the following other services to LEAs for ~~[Deaf,~~
227 ~~Blind, and Deaf-Blind]~~deaf, blind, and deaf-blind qualifying students, exclusive of
228 additional related services:

229 (a) Teachers of the Blind and Visually Impaired or “TVI;”

230 (b) Orientation and Mobility or “O & M;”

231 (c) ~~[E]~~ducational and ~~[A]~~ssistive ~~[T]~~echnology;

232 (d) ~~[V]~~ision ~~[S]~~creenings;

- 233 (e) [L]ow vision support and evaluations;
- 234 (f) [E]xtended [S]chool [Y]ear services in accordance with [R277-751](#);
- 235 (g) [T]eachers for the [D]eaf and [H]ard of [H]earing;
- 236 (h) [A]udiological services; and
- 237 (i) American Sign Language[/-]English interpreters.
- 238 (6) USDB shall provide all funded outreach services at no cost for qualifying
- 239 students within an LEA with less than 3% of the student population statewide.
- 240 (7) An LEA with greater than 3% of the student population statewide shall provide
- 241 services for qualifying students.
- 242 (a) An LEA may contract with USDB to provide services for students if an LEA
- 243 has greater than 3% of the student population statewide.
- 244 (i) An LEA and USDB shall sign contracts prior to initiation of services.
- 245 (ii) An LEA shall make payments in two installments, in January and June.
- 246 (iii) The Board may assist USDB in collection of outstanding balances upon
- 247 request.
- 248 (b) An LEA with greater than 3% of the student population statewide may opt out
- 249 and transfer responsibilities for providing services to USDB subject to legislative
- 250 appropriation of funds.
- 251 (8) The Superintendent shall provide a list of LEAs that exceed the 3% threshold
- 252 by December 15 for the upcoming school year.
- 253 (9) An LEA and USDB may contract for services beyond those specified in this
- 254 Rule R277-801.
- 255 (10) Notwithstanding this Section R277-801-6, USDB shall maintain all funded
- 256 outreach services offered to each LEA, as of the 2017-18 school year.
- 257 (11)(a) USDB may participate in Medicaid time studies for services provided
- 258 directly by USDB.
- 259 (b) An LEA may not include services provided directly by USDB in the LEA's
- 260 Medicaid time studies.
- 261 (c) If an LEA contracts with USDB for payable services, an LEA shall include those

262 services in the LEA's Medicaid time study.

263

264 **KEY: students, services, deaf, blind**

265 **Date of Enactment of Last Substantive Amendment: June 8, 2018**

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

267 **[8-201](#)**