

1 **R277. Education, Administration.**

2 **R277-120. Licensing of Material Developed with Public Education Funds.**

3 **R277-120-1. Authority and Purpose.**

4 (1) This rule is authorized by:

5 (a) Article X, Section 3 of the Utah Constitution, 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) Subsection 53E-3-501(1)(e)(i), which directs the Board to encourage school
10 productivity and cost effectiveness measures.

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

12 (a) establish requirements for licensing of courseware and materials produced
13 with public education funds; and

14 (b) promote a policy that education materials produced with public funds be
15 openly, publicly, and freely accessible for use by others.

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17 **R277-120-2. Definitions.**

18 (1)(a) "CC-BY license" means a copyright license developed by Creative
19 Commons, which allows other users to:

20 (i) copy and redistribute the material in any medium or format; and

21 (ii) remix, transform, and build upon the material.

22 (b) Under a CC-BY license, a licensee may share the materials in any manner,
23 including commercially.

24 (c) Under a CC-BY license, a licensee shall:

25 (i) give appropriate credit to the licensor;

26 (ii) provide a link to the license; and

27 (iii) indicate if the licensee made changes to the licensor's work.

28 (2) "Public education materials" means courseware and materials developed with
29 public education funds and includes:

- 30 (a) syllabi;
- 31 (b) instructional materials;
- 32 (c) modules;
- 33 (d) textbooks, including teacher's editions;
- 34 (e) student guides;
- 35 (f) supplemental materials;
- 36 (g) formative and summative assessment supports;
- 37 (h) laboratory activities;
- 38 (i) simulations;
- 39 (j) musical or dramatic compositions;
- 40 (k) audio, video or photographic material;
- 41 (l) manuals;
- 42 (m) codes; and
- 43 (n) software.

44 (3) "Sensitive materials" means the same as the term is defined in Subsection
45 53G-10-103(1)(g).

46 ([3]4) "Utah Education Network" or "UEN" means an online education materials
47 resource maintained by the Utah Education and Telehealth Network offering services to
48 educators and students throughout the state of Utah.

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50 **R277-120-3. Public Education Materials Funded by the Board.**

51 (1) The Superintendent shall share public education materials developed with
52 funds controlled by the Board under a CC-BY license.

53 (2) The Superintendent shall share materials developed in accordance with
54 Subsection (1) through UEN, where appropriate, or through other appropriate means of
55 making public education materials available to educators and the public.

56 (3)(a) An individual or entity that shares or adapts public education materials
57 identified in Subsection (1) shall:

- 58 (i) provide attribution to the Board;
- 59 (ii) provide a link to the license; and

60 (ii) indicate if any changes were made to the original materials.

61 (b) An individual or entity may make attribution in any reasonable manner, but
62 not in any way that implies the Board endorses any adaptation of the materials without
63 express authorization of the Board.

64 (4) The Superintendent may request a copy of shared or adapted public
65 education materials be provided to the Board.

66 (5) If an employee of the Board develops public education materials as part of
67 the employee's employment, the public education materials shall be the property of the
68 Board, subject to licensing in accordance with this R277-120-3.

69 (6) An individual or entity may not develop sensitive materials using public funds.

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71 **R277-120-4. Public Education Materials Funded by an LEA.**

72 (1) An LEA shall develop and maintain a policy regarding public education
73 materials developed with the LEA's funds.

74 (2) A policy developed in accordance with Subsection (1) shall identify:

75 (a) whether the LEA will share public education materials with a CC-BY license
76 or another license approved by the LEA's governing board;

77 (b) whether use of LEA developed public education materials will require
78 attribution to the LEA;

79 (c) whether the LEA will charge third parties for use of the materials;

80 (d) whether the LEA reserves the right to review and approve materials
81 developed by employees on contract time; and

82 (e) whether the LEA restricts employees from sharing materials purchased with
83 LEA funds or specifically licensed for LEA use.

84 (3) A policy developed under Subsection (1) shall prohibit the development of
85 sensitive materials with public funds.

86 ([3]4) An LEA may not charge an educator in a Utah public school for use of
87 materials developed with LEA funds.

88 **R277-120-5. Classroom Materials Developed by Utah Educators.**

89 (1)(a) A public education employee may not sell public education materials
90 developed in whole or in part with funds from the Board or an LEA.

91 (b) If a public education employee sells public education materials subject to
92 Subsection (1)(a) for personal gain, the employee may be subject to the provisions of
93 Section 67-16-4.

94 (2) An LEA may review and approve materials developed by educators on
95 contract time consistent with a policy adopted in accordance with Subsection R277-120-
96 4(1).

97 (3)(a) A Utah licensed educator need not seek permission from the educator's
98 LEA to share classroom materials developed using the educator's personal time and
99 resources.

100 (b) An educator may share materials developed in accordance with Subsection
101 (3)(a) through a CC-BY license.

102 (4)(a) A Utah licensed educator may only share materials that are consistent with
103 the Utah Professional Educator Standards contained in R277-217.

104 (b) An educator may not share materials that advocate illegal activities or
105 materials that are inconsistent with the educator's legal and role model responsibilities.

106 (5) The Superintendent may offer professional development programs that offer
107 support, guidance, and instruction to educators who wish to create, use, or continuously
108 improve public education materials shared in accordance with this R277-120.

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110 **KEY: licensing, material**

111 **Date of Enactment or Last Substantive Amendment: August 7, 2017**

112 **Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4);**
113 **53E-3-501(1)(e)(i)**