

1 **R277. Education, Administration.**

2 **R277-121. Board Waiver of Administrative Rules.**

3 **R277-121-1. 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; ~~and~~

7 (b) Subsection 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~~[-];~~ and

9 (c) Section 53G-7-202, which allows the Board to grant an LEA's request for a
10 waiver from a Board rule.

11 (2) The purpose of this rule is to establish procedures for an LEA to request a waiver
12 from a Board rule.

13

14 **R277-121-2. Procedures for Waiver Requests.**

15 (1)(a) An LEA board may request a waiver from a Board rule by filing a written
16 request with the Superintendent.

17 (b) ~~[A]~~ Except for a request for a waiver due to snow, inclement weather, or other
18 emergency school closure described in Section R277-121-5, a written request under
19 Subsection (1)(a) shall include:

20 (i) verification that the LEA board voted to request the waiver in an open meeting;

21 (ii) ~~[student achievement]~~ data that support~~[s]~~ the requested waiver~~[-];~~ which may
22 include:

23 (A) student achievement data;

24 (B) community, staff, or student survey data;

25 (C) student enrollment data; or

26 ~~[(iii)]~~(D) data demonstrating the cost effectiveness of the waiver request;

27 ~~[(iv)]~~(iii) a proposed agreement with the Board that includes:

28 (A) a proposed effective date;

29 (B) provisions for public review and accountability;

- 30 (C) data gathering and reporting timelines; and
31 (D) a sunset date; and
32 ~~[(v)]~~(iv) in the case of a charter school, a recommendation from the board of the
33 school's authorizer.
- 34 (2) An LEA board may not request a waiver from a Board rule:
35 (a) that is required by or adopts criteria from a federal statute, federal regulation, or
36 state law;
37 (b) that would negatively affect the health, safety, or welfare of public education
38 students;
39 (c) that could reasonably result in discrimination or harassment of public school
40 students or employees;
41 (d) that would benefit one element of the public education system to the detriment
42 of another; or
43 (e) when the concerns giving rise to an LEA board's request could be addressed
44 through means other than waiver of Board rules.

45 **R277-121-3. Board Review of Waiver Requests.**

- 46 (1) The Superintendent shall:
47 (a) review an LEA's waiver request; and
48 (b) may provide a recommendation to the Board.
- 49 ~~[(1)]~~(2) The Board Executive Committee may assign a waiver request made under
50 this Rule R277-121 to a Board standing committee.
- 51 ~~[(2)]~~(3) The standing committee assigned in accordance with Subsection (1):
52 (a) may solicit additional information or testimony;
53 (b) shall review the request in an open meeting; and
54 (c) shall make a recommendation for consideration by the full Board.
- 55 ~~[(3)]~~(4) The Board Executive Committee may consolidate consideration of duplicate
56 or similar requests.
- 57 ~~[(4)]~~(5) The Board shall consider available data in evaluating an LEA waiver request

58 and shall make data driven decisions.

59 **R277-121-4. Annual Review of Approved Waivers.**

60 (1) ~~[An]~~The Board may request an LEA that receives a waiver from Board rule in
61 accordance with this R277-121 for more than one year ~~[shall annually]~~ to report the
62 following to a Board committee:

63 (a) ~~[student achievement]~~ data that supports continuation of the requested waiver;
64 and

65 (b) data related to the data the LEA presented as apart of the LEA's request for
66 waiver.~~[-and~~

67 ~~——(b) data demonstrating the cost effectiveness of the waiver, if applicable.]~~

68 **R277-121-5. Snow, Inclement Weather, or Other Emergency School Closure Days.**

69 (1) An LEA may seek a waiver directly from the Superintendent from the 180 day
70 requirement described in Subsection R277-419-4(1) if:

71 (a) the LEA closes a school for ~~[one school day]~~ due to excessive snow, inclement
72 weather, or an other emergency; and

73 (b) the school closure will result in the LEA not meeting the 180 day requirement
74 described in Section R277-419-4.

75 (2) The Superintendent may grant ~~[up to one]~~ a waiver~~[- per school year, per school,~~
76 ~~for the school to close]~~ due to excessive snow, inclement weather, or other emergency without
77 Board approval if the LEA has provided ~~[adequate]~~ contingency school days and hours into
78 the LEA's calendar as required in Subsection R277-419-4(5) ~~[to avoid the necessity of~~
79 ~~requesting a waiver]~~, or has another plan in place to avoid the necessity of requesting a
80 waiver.

81 ~~[(4) If an LEA seeks a waiver for two or more school days due to excessive snow,~~
82 ~~inclement weather, or other emergency, the LEA shall seek the waiver pursuant to the~~
83 ~~procedures described in Sections R277-121-2, 3, and 4.]~~

84 (3)(a) An LEA may request the [\[Board\]Superintendent](#) to waive the school day and
85 hour requirement pursuant to a directive from the Utah State Health Department or a local
86 health department, that results in the closure of a school in the event of a pandemic or other
87 public health emergency.

88 (b) A waiver described in this Subsection (3) may be for a designated time period, for
89 a specific area, or for a specific LEA in the state, as determined by the health department
90 directive.

91 (c) A waiver may allow an LEA to continue to receive state funds for pupil services and
92 reimbursements.

93 (d) A waiver granted by the [\[Board-or\]](#) Superintendent as described in this Subsection
94 (3) shall direct an LEA to provide as much notice to students and parents of the suspension
95 of school services, as is reasonably possible.

96 (e) A waiver granted [as described in this Subsection \(3\)](#) shall direct an LEA to comply
97 with health department directives, but to continue to provide any services to students that are
98 not inconsistent with the directive.

99 (f) The [\[Board\]Superintendent](#) may encourage an LEA to provide electronic or
100 distance learning services to affected students for the period of the pandemic or other public
101 health emergency to the extent of personnel and funds available.

102 (4) An LEA request for a waiver due to snow, inclement weather, or other emergency
103 school closure described in this Section is not required to include the information described
104 in Subsections [R277-121-2\(1\)\(b\)\(ii\)](#) through (iv) [unless requested by the Superintendent](#).

105 (5) [If the Superintendent denies an LEA's request described in this Section, the](#)
106 [LEA may appeal the Superintendent's decision by making the request of the full Board.](#)

107 **KEY: Utah State Board of Education, waivers, administrative rules**

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

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