

1 **R277. Education, Administration.**

2 **R277-752. Special Education Intensive Services Fund.**

3 **R277-752-1. 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) 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) Section [53F-2-309](#), which requires the Board to make rules establishing a
10 distribution formula to allocate money appropriated to the board for the special
11 education intensive services fund.

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

13 (a) an application process for the special education intensive services fund; and

14 (b) a formula to distribute the funds.

15 **R277-752-2. Definitions.**

16 (1) "Budget" means the total expenditures reported on an LEA's Annual Program
17 Report, "APR."

18 (2) "Cost of setting" means the cost of a student's educational environment,
19 including:

20 (a) for a preschool student, the cost of services provided in an early childhood
21 setting;

22 (b) for a general education student, the cost of services provided in a general
23 education classroom by special education personnel;

24 (c) for resource students, the cost of services provided in a special education
25 classroom by pull-out from the general education classroom;

26 (d) for a student in a special class, the cost of services provided in a special
27 education classroom for all or most of the day; and

28 (e) for a student in a special school, the cost of services provided in a separate
29 school where all students have disabilities.

30 ([1]3) "Highest impacted LEA cost ratio" means the quotient of, for a fiscal year:

31 (a) an LEA's unreimbursed expenses remaining after allocations are made from
32 the high cost student fund described in R277-752-3; and

33 (b) an LEA's total state special education revenues from the prior fiscal year.

34 ([2]4) "Local education agency" or "LEA" includes, for purposes of this rule, the
35 Utah Schools for the Deaf and the Blind.

36 ([3]5) "Special education intensive services fund" means funding available to
37 offset the costs of students whose educational program exceeds three times the state
38 average per pupil expenditures.

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40 **R277-752-3. Application Process - Distribution Formula.**

41 (1) To receive an annual allocation from the special education intensive services
42 fund, an LEA shall annually submit to the Superintendent an application claiming:

43 (a) prior year expenses that:

44 (i) are associated with providing direct special education and related services
45 identified in a student's IEP; and

46 (ii) exceed three times the state average per pupil expenditures using data from
47 the most recently published State Superintendent's Annual Report; and

48 (b) any reimbursements received for the expenses described in Subsection
49 (1)(a)(i) from private insurance or Medicaid.

50 (2)(a) Except as provided in Subsection (2)(b), if ~~[if an LEA's]~~ the prior year carry
51 forward balances ~~[funds]~~ of an LEA's state special education programs exceed 20% of
52 the LEA's special education budget, the LEA may not submit an application for an
53 annual allocation or reimbursement under the intensive services fund.

54 (b) An LEA that submits an application for an annual allocation or reimbursement
55 under the intensive services fund shall:

56 (i) demonstrate the LEA's state special education carry forward balances do not
57 exceed 20% of the LEA's special education current year budget; and

58 (ii) submit a letter signed by the LEA's superintendent or charter school director
59 certifying the LEA's state special education fund balances as of March 1 of the year of
60 application.

61 ([2]3) From the special education intensive services fund, the Superintendent
62 shall allocate:

63 (a) 50% of the appropriation to the high cost student fund to be distributed to
64 LEAs based on the highest cost students with disabilities:

65 (i) as described in Section 53F-2-309; and
66 (ii) in accordance with Subsection ([3]4); and

67 (b) 50% of the appropriation to the highly impacted LEA fund to be distributed to
68 LEAs based on the highest impact to an LEA due to high cost students with disabilities:

69 (i) as described in Section 53F-2-309; and
70 (ii) in accordance with Subsection ([4]5).

71 ([3]4) (a) The Superintendent shall distribute funds to LEAs from the high cost
72 student fund using a step down reimbursement process as described in this Subsection
73 ([3]4).

74 (b) The first step is to reimburse for the highest cost student equal to the
75 difference between the highest cost student and the second highest cost student.

76 (c) The second step is to reimburse for the highest cost student and second
77 highest cost student equal to the difference between the second highest cost student
78 and the third highest cost student.

79 (d) Except as provided in Subsection ([3]4)(e), the Superintendent shall continue
80 the step down reimbursement process described in this subsection until funds are
81 exhausted.

82 (e) If funding is insufficient to fully reimburse the cost for all students in a step,
83 the Superintendent shall reallocate the remaining funds to the highly impacted LEA

84 fund.

85 (f) In determining student cost under this Subsection (~~[3]4~~), the Superintendent
86 shall sum expenses described in Subsection (1)(a)(i) less:

87 (i) the state average per pupil expenditures using data from the most recently
88 published State Superintendent's Annual Report; and

89 (ii) reimbursements from private insurance or Medicaid.

90 (~~[4]5~~)(a) The Superintendent shall distribute funds to LEAs from the highly
91 impacted LEA fund by providing a reimbursement equal to the difference between:

92 (i) an LEA's unreimbursed expenses remaining after allocations are made from
93 the high cost student fund; and

94 (ii) the product of:

95 (A) an LEA's total federal and state special education funding from the prior
96 fiscal year; and

97 (B) the median of the highest impacted LEA cost ratios.

98 (b) The Superintendent shall provide a reimbursement described in Subsection
99 (~~[4]5~~)(a) starting with the LEA with the highest impacted LEA cost ratio until funds are
100 exhausted.

101 (6)(a) The Superintendent shall maintain and publish a list of costs eligible for
102 reimbursement under this rule along with the rate of reimbursement.

103 (b) The Superintendent shall exclude cost of setting from reimbursement
104 calculations.

105 (7) If an LEA's carry forward exceeds the LEA's special education budget by an
106 amount greater than 20% of the special education budget, the Superintendent shall
107 recoup funds in excess of the 20% carry forward and [make the funds available for](#)
108 [distribution in the next year's](#) ~~[add the funds to the next year's]~~ intensive services fund
109 [program](#)~~[-budget]~~.

110 (b) Notwithstanding the requirements of Subsection (7)(b), an LEA has three
111 years to spend carry forward fund balances incurred prior to June 30, 2019.

112 **KEY: special education, intensive services fund**

113 **Date of Enactment of Last Substantive Amendment:**

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

115 **[53F-2-309](#)**