

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 the
9 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-blind.

14 **R277-801-2. Definitions.**

15 (1) "504 plan" means a plan required by Section 504, which is designed to
16 accommodate an individual who has been determined, as a result of an evaluation, to have
17 a physical or mental impairment that substantially limits one or more major life activities.

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

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

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

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

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

27 (4) "Medicaid time study" means the primary mechanism for identifying and
28 categorizing Medicaid administrative activities performed by an LEA's staff, which serves
29 as the basis for developing claims for the costs of administrative activities that may be

30 properly reimbursed under Medicaid.

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

33 (6) "Qualifying student" means a student who is deaf, hard of hearing, blind, visually
34 impaired, or deaf-blind who qualifies for services in accordance with Subsection [53E-8-](#)
35 [401\(1\)](#).

36 (7) "Section 504" means Section 504 of the Rehabilitation Act of 1973, codified at
37 29 USC §701, et seq.

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

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

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

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

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

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

50 (i) primary disabilities;

51 (ii) secondary disabilities; and

52 (iii) other factors, including:

53 (A) transportation needs; and

54 (B) length of time the student would spend in transport daily.

55 (2) Notwithstanding Subsection (1), a qualifying student may enroll directly in USDB
56 if:

57 (a) the student's previous primary instruction was in American [s]Sign [H]Language;

58 and

59 (b) USDB’s program most closely matches the qualifying student’s prior program
60 of instruction.

61 (3) A qualifying student may receive services under:

62 (a) IDEA;

63 (b) Section 504; or

64 (c) a USDB [P]preschool [S]services [P]plan.

65 (4) An LEA shall annually provide to the Superintendent the name and contact
66 information for any student with vision loss or hearing loss, even if it isn’t the student’s
67 primary disability.

68 (5)(a) An LEA has the responsibility for the design and implementation of and IEP
69 or Section 504 plan for qualifying students.

70 (b) Specific details of required intensive services for a student shall be defined
71 within the student’s IEP.

72 (c) A qualifying student who enrolls in a Utah school district or charter school may
73 be eligible to receive intensive services from sensory specialists employed by USDB, if
74 appropriately designated as specialized instruction or a related services as part of an IEP
75 or Section 504 plan.

76 (6)(a) An LEA with greater than [~~3%~~5%] of the student population statewide may
77 elect to contract with USDB to provide outreach services.

78 (b) An LEA may employ their own sensory specialists to meet the IEP or 504 plan
79 needs of qualifying students.

80 (7)(a) An LEA is responsible for the development of a qualifying student’s IEP,
81 including any assessments necessary for initial placement.

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

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

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

88 (8) Notwithstanding Subsection (7), if a qualifying student enrolls directly with USDB

89 in accordance with Subsection (2), USDB shall develop the student's IEP, including any
90 assessments necessary for initial placement.

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

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

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

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

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

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

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

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

107 (2)(a) If USDB is designated as a qualifying student's LEA, USDB is responsible
108 from that point on for the design and implementation of the student's IEP, 504 Plan, or
109 USDB [P]reschool [S]ervice [P]lan.

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

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

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

115 (1) For qualifying students currently enrolled with an LEA and receiving services
116 through USDB outreach programs, an LEA will provide a list of students and their IEP due

117 dates for the upcoming school year to [the]USDB [Assistant Superintendent]no later than
118 June 30 annually.

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

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

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

123 (c) students transferring between LEAs.

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

127 (b) If a change of placement is considered[;] [(†)] both the referring LEA and USDB
128 will participate and establish a timeline to ensure a successful transition for the student.

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

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

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

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

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

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

140 (b) The Board shall[;-(†)] annually provide information to LEAs regarding the costs
141 of accessible materials in the state[; and

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

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

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

145 (a) USDB shall include the qualifying student in all Board-required enrollment

- 146 reports including:
- 147 (i) fall enrollment counts;
 - 148 (ii) the child count of students with disabilities; and
 - 149 (iii) the end-of-year enrollment report;
- 150 (b) Any agreements between the referring LEA and USDB shall be documented as
151 part of a written agreement, which shall be reviewed at least annually;
- 152 (c)(i) A qualifying student's IEP team shall determine the student's transportation
153 needs;
- 154 (ii) USDB shall provide transportation as a related service in an IEP or if required
155 to implement a 504 plan; and
 - 156 (iii) A referring LEA shall combine resources with USDB, whenever possible, to
157 provide within-LEA transportation;
- 158 (d)(i) USDB shall annually administer all Board-required assessments.
- 159 (ii) USDB may provide alternate tests in accordance with a student's IEP and state
160 law; and
- 161 (e) USDB shall develop and implement all programs, policies, and procedures
162 required of an LEA by the Board and state law.
- 163 (2) If a qualifying student attends USDB extension classrooms located within an
164 LEA:
- 165 (a) the student shall be enrolled in the general education program of the LEA
166 school the student is attending;
 - 167 (b) the LEA school shall be designated as the "school of record" for the student;
 - 168 (c) the student shall be included by the LEA school or district in all required reports
169 and uploads to UTREx;
 - 170 (d) the student shall be counted in the LEA school or district total enrollment, and
171 will be included in the calculation of all funding formulas, including Weighted Pupil Units
172 and Minimum School Program;
 - 173 (e) the student shall receive access to LEA programs and services consistent with
174 their IEP or 504 plan, consistent with services available to other students enrolled in the
175 student's school;

- 176 (f) the student may not be enrolled in the special education program of the LEA
177 school the student is attending;
- 178 (g) USDB shall ensure the student receives a free appropriate public education;
- 179 (h) USDB shall ensure the student receives all special education and related
180 services, including interpreting services, as required on the student's IEP or 504 plan;
- 181 (i) the LEA school shall generate general education funding or WPU for the student;
- 182 (j) USDB shall receive federal IDEA funding in accordance with USDB's legislative
183 line item funding;
- 184 (k) the LEA school shall receive no state or federal special education funding for
185 the student;
- 186 (l)(i) USDB shall provide transportation for the student as a related service when
187 it is included in an IEP.
- 188 (ii) an LEA school shall combine resources with USDB, whenever possible, to
189 provide within-LEA transportation; and
- 190 (m) an LEA school and USDB shall jointly ensure that any portable classrooms
191 have access to intercom and phone service.
- 192 (3) If a qualifying student receives USDB outreach or consulting services:
- 193 (a) the student shall be enrolled in the general and special education programs of
194 the LEA school the student attends;
- 195 (b) the LEA shall include[~~e~~] the student in the calculation of state special education
196 and IDEA funds for the school district or charter school; and
- 197 (c) USDB may not submit the students to UTREx and may not receive state or
198 federal special education funding.
- 199 (4) USDB shall provide the following services free of charge to every LEA,
200 regardless of size, exclusive of additional related services:
- 201 (a) Educational Resource Center resources, including loaner equipment;
- 202 (b) USIMAC materials;
- 203 (c) [~~h~~]interpreter training;
- 204 (d) [~~P~~]professional development;
- 205 (e) [~~E~~]expanded core curriculum;

- 206 (f) [E]nrichment programs and activities;
- 207 (g) [C]onsultations;
- 208 (h) [P]sychological assessments for the [D]eaf and the [B]lind;
- 209 (i) [S]peech assessments for [D]eaf students;
- 210 (j) [B]ehavioral intervention and supports;
- 211 (k) [D]eaf-[B]lind [S]pecialists; and
- 212 (l) [D]eaf-[B]lind [H]interveners.
- 213 (5) USDB may offer to provide the following other services to LEAs for [~~Deaf, Blind,~~
- 214 ~~and Deaf-Blind~~deaf, blind, and deaf-blind qualifying students, exclusive of additional
- 215 related services:
- 216 (a) Teachers of the Blind and Visually Impaired or “TVI;”
- 217 (b) Orientation and Mobility or “O & M;”
- 218 (c) [E]ducational and [A]ssistive [T]echnology;
- 219 (d) [V]ision [S]creenings;
- 220 (e) [L]ow vision support and evaluations;
- 221 (f) [E]xtended [S]chool [Y]ear services in accordance with [R277-751](#);
- 222 (g) [T]eachers for the [D]eaf and [H]ard of [H]earing;
- 223 (h) [A]udiological services; and
- 224 (i) American Sign Language[7]-English interpreters.
- 225 (6) USDB shall provide all funded outreach services at no cost for qualifying
- 226 students within an LEA with less than [3%]5% of the student population statewide.
- 227 (7) An LEA with greater than [3%]5% of the student population statewide shall
- 228 provide services for qualifying students.
- 229 (a) An LEA may contract with USDB to provide services for students if an LEA has
- 230 greater than [3%]5% of the student population statewide.
- 231 (i) An LEA and USDB shall sign contracts prior to initiation of services.
- 232 (ii) An LEA shall make payments in two installments, in January and June.
- 233 (iii) The Board may assist USDB in collection of outstanding balances upon request.
- 234 (b) An LEA with greater than [3%]5% of the student population statewide may opt
- 235 out and transfer responsibilities for providing services to USDB subject to legislative

236 appropriation of funds.

237 (8) The Superintendent shall provide a list of LEAs that exceed the [~~3%~~5%
238 threshold by December 15 for the upcoming school year.

239 (9) An LEA and USDB may contract for services beyond those specified in this Rule
240 R277-801.

241 (10) Notwithstanding this Section R277-801-6, USDB shall maintain all funded
242 outreach services offered to each LEA, as of the 2017-18 school year.

243 (11) Notwithstanding this Section R277-801-6, an LEA with greater than 3% of the
244 student population statewide shall continue to provide services for any of its students who
245 have been served by the LEA prior to the 2021-2022 school year.

246 (1~~[4]~~2)(a) USDB may participate in Medicaid time studies for services provided
247 directly by USDB.

248 (b) An LEA may not include services provided directly by USDB in the LEA's
249 Medicaid time studies.

250 (c) If an LEA contracts with USDB for payable services, an LEA shall include those
251 services in the LEA's Medicaid time study.

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

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

254 **Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; [53E-3-401\(4\)](#); [53E-8-](#)**
255 **[201](#)**