

1 **R277. Education, Administration.**

2 **R277-625. Mental Health Screeners~~ing program~~.**

3 **R277-625-1. 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) Section 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;

9 (c) Section 53F-2-522 which directs the board to make rules regarding the  
10 selection of a mental health screener~~ing programs~~ and financial aid for qualifying  
11 parents.

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

13 (a) provide the approval process for a mental health screener~~ing programs~~  
14 chosen by an LEA; and

15 (b) establish the approval and distribution of funds for a qualifying parent to receive  
16 financial assistance for related mental health services.

17

18 **R277-625-2. Definitions.**

19 (1) "Division of Substance Abuse and Mental Health" or "DSAMH" means the  
20 same as the term is defined in Subsection 62A-15-103.

21 (2) "Mental health" means a person's emotional, psychological, and social well-being  
22 which can affect how a person thinks, feels, and acts including how a person handles stress,  
23 relates to others, and makes healthy choices.

24 ~~(2)3~~ "Mental health screenering" or "screener" means ~~[program" or "screening~~  
25 ~~program" means the same as the term is defined in Subsection 53F-2-522(1)(e).~~ the use  
26 of a systematic tool or process:

27 (a) to identify if a student is experiencing, or is at risk of experiencing, issues related  
28 to the student's mental health;

29 (b) for an early identification strategy to detect the onset of mental health conditions,  
30 enabling the mental health conditions to be potentially addressed; and

31 (c) that is not:

32 (i) a diagnostic tool or process; or

33 (ii) a system or process used by a student's teacher to observe behavior for the  
34 purpose of targeted learning interventions.

35 (4) "Mental health services" means the same as the term is defined in Subsection  
36 R523-1-3(3).

37 ([3]5) "Qualifies for financial assistance" means a qualifying parent that has a  
38 student receiving educational services through an LEA who:

39 (a) receives free or reduced lunch; or

40 (b) as recommended by the local mental health authority, demonstrates need  
41 including being:

42 (i) uninsured;

43 (ii) underinsured;

44 (iii) ineligible for Medicaid to cover part or all of any recommended mental health  
45 treatments; or

46 (iv) demonstrates a high need for interventions based upon results of the LEA's  
47 mental health screener~~[ing program]~~.

48 ([4]6) "Qualifying parent" means the same as the term is defined in Subsection  
49 53F-2-522(1)(d).

50 ([5]7) "Relevant services" means mental health services provided to a student that  
51 are directly related to mental health needs identified by a student's mental health  
52 screening.

53

54 **R277-625-3. Approval of Mental Health Screener~~[ing Program]~~s.**

55 (1)(a) The Superintendent, in consultation with DSAMH, shall publish annually a  
56 list of pre-approved mental health screener~~[ing program]~~s to the Board's website.

57 (b) the published pre-approved list shall include:

58 (i) the name or brand of the mental health screener~~[ing program]~~ including a link  
59 to the screener~~[ing program]~~'s website;

60 (ii) the recommended ages for the mental health screener~~[ing program]~~;

61 (ii) any limitations of the mental health screener~~[ing program]~~ including the typical  
62 level of false positives;

63 (iii) the mental health conditions the mental health screener~~[ing program]~~ can  
64 detect; and

65 (iv) the scientific data or research used to verify a screener~~[ing program]~~ is  
66 evidence-based.

67 (2) The Board shall approve:

68 (a) the pre-approved mental health screener~~[ing program]~~ list; and

69 (b) the mental health conditions for which a screener~~[ing program]~~ can be used.

70 (3) All pre-approved mental health screeners~~[ing program]~~ shall comply with the  
71 requirements as described in Title 53E, Chapter 9, Student Privacy and Data Protection,  
72 and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

73 (4) Except as provided for in Subsection (4)(c) and (d), an LEA shall notify the  
74 Superintendent by May 1:

75 (a) if the LEA plans to:

76 (i) use a mental health screener~~[ing program]~~ from the pre-approved list; or

77 (ii) apply to the Superintendent for approval of a mental health screener~~[ing program]~~  
78 ~~program]~~ that is not on the pre-approved list;

79 (b) whether an LEA elects to participate in providing a qualifying parent with  
80 financial assistance;

81 (c) In accordance with Subsections (4)(a) and (b) and for the 2020-2021 school  
82 year, an LEA shall notify the Superintendent by August 15; and

83 (d) An LEA is not required to comply with Subsection (4) if the LEA chooses not  
84 to offer a mental health screener~~[ing program]~~.

85 (5) If the LEA chooses to apply for use of a mental health screener~~[ing program]~~  
86 that is not on the pre-approved list, the LEA shall submit an application in a form  
87 prescribed by the Superintendent specifying:

88 (a) the mental health screener~~[ing program]~~ proposed for use by the LEA;

89 (b) the reason for choosing the mental health screener over a screener from the  
90 pre-approved list~~[ing program]~~;

91 (c) the approved mental health conditions the mental health screener~~[ing program]~~  
92 measures;

93 (d) how the mental health screener~~[ing program]~~ complies with all state and  
94 federal data privacy laws; and

95 (e) the scientific data or research demonstrating the mental health screener~~[ing~~  
96 ~~program]~~ is evidence based and meets industry standards;

97 (f) why the mental health screener~~[ing program]~~ is age appropriate for each grade  
98 the screener~~[ing program]~~ is administered; and

99 (g) why the mental health screen~~er[ing program]~~ is an effective tool for identifying  
100 whether a student has a mental health condition that requires intervention.

101 (6) The Superintendent shall review the application in consultation with DSAMH  
102 and approve or deny the application within 30 days of receipt.

103 (7) If the application is approved, the Superintendent shall submit the approved  
104 application to the Board for final approval.

105 (8) Subject to legislative appropriation, the Superintendent shall provide annually  
106 a maximum reimbursement amount an LEA may receive for use of a mental health  
107 screener~~[ing program]~~.

108 (9) An LEA may request in writing a reimbursement from the Superintendent in an  
109 amount not to exceed the amount described in Subsection (8).

110 (10)(a) An LEA shall require relevant staff, who will be administering a mental  
111 health screener~~[ing program]~~, to attend an annual mental health screener~~[ing program]~~  
112 training provided by the Superintendent in collaboration with DSAMH;

113 (b) the training described in Subsection (10)(a) shall provide an LEA with  
114 information needed for appropriate parental consent including:

115 (i) consent shall be obtained:

116 (A) within ~~[8]eight~~ weeks prior to administration of the mental health screener~~[ing~~  
117 ~~program]~~; and

118 (B) in accordance with Subsection 53E-9-203(4);

119 (ii) the consent form shall be provided separately from other consent forms given  
120 to a parent pursuant to other state or federal laws;

121 (iii) additional variables that might influence a screener~~[ing program]~~'s results; and

122 (iv) a statement that:

123 (A) the mental health screener is optional;

- 124 (B) a screener~~[ing program]~~ is not a diagnostic tool;
- 125 (C) a parent has the right to seek outside resources or opinions; and
- 126 (D) specifies which board approved mental health conditions the mental health
- 127 screener~~[ing program]~~ measures.

128 (11) An LEA may not administer a mental health screener~~[ing program]~~ if the LEA

129 has not attended the annual mental health screener~~[ing program]~~ training described in

130 Subsection (10).

131 (12) An LEA shall report annually to the Superintendent aggregate data regarding

132 the types of LEA provided mental health interventions, referrals, or other actions taken

133 based on screener~~[ing program]~~ results.

134

135 **R277-625-4. Data Privacy.**

136 (1)(a) An LEA shall ensure all data collected or stored by a mental health

137 screener~~[ing program]~~ complies with all state and federal data privacy laws and

138 requirements, including those described in Subsection R277-625-3(3).

139 (b) notwithstanding Subsection (1)(a), an LEA shall provide a parent with a list of

140 all parties that may receive any data related to a student's mental health screener prior

141 to the parent providing consent.

142 (2) An LEA shall provide a parent with a list of all data potentially collected by the

143 mental health screener~~[ing program]~~ prior to consenting to a student's mental health

144 screening.

145 (3) An LEA shall provide the parent of a screened student with:

146 (a) results as described in Subsection 53F-2-522(4)(d);

147 (b) applicable available resources; and

148 (c) who has access to the screener~~[ing program]~~ data

149 (4) If an LEA has received parental consent, an LEA may share data collected

150 from the mental health screener~~[ing program]~~ with a school's multi-disciplinary team.

151 (5) An LEA shall retain and dispose of all data related to a student's mental health

152 screener in accordance with an approved retention schedule not to exceed three years.

153

154 **R277-625-5. Financial Assistance for a Qualifying Parent.**

155 (1) An LEA that has elected to participate as described in Subsection R277-625-  
156 3(4)(b), may receive reimbursement for relevant services obtained by a qualifying parent  
157 ~~[that qualifies for]~~who receives financial assistance.

158 (2) An LEA may not receive reimbursement for a qualifying parent if:

159 (a) the qualifying parent's student has begun to receive relevant services outside  
160 of the school setting prior to seeking reimbursement;

161 (b) the LEA can provide the relevant services, including relevant services provided  
162 by a third party through a contract with the LEA;

163 (c) except for as provided in Subsection (d), the qualifying parent has received  
164 reimbursement for the same relevant services within one year from the date the relevant  
165 services began for the student; or

166 (d) an LEA may provide reimbursement to a qualifying parent for the same relevant  
167 services within one year from the date relevant services began for the student if:

168 (i) the LEA has no other qualifying parents seeking reimbursement by April 1 and;

169 (ii) has reimbursement funds remaining.

170 (3) An LEA may not receive reimbursements that exceed the LEA's award amount  
171 as described in Subsection (4).

172 (4) An LEA that has elected to participate as described in Subsection R277-625-  
173 3(4)(b), shall receive a total award amount based on need as determined by the  
174 Superintendent.

175 (5) The Superintendent shall determine a participating LEA's need by considering  
176 the LEA's ability to support and provide mental health services for a student including:

177 (a) the availability of mental health services within the LEA;

178 (b) the availability of mental health services within the LEA's surrounding  
179 community;

180 (c) the overall accessibility of mental health services for students within the LEA;

181 (d) the current student demand for mental health services within an LEA; and

182 (e) capacity of the LEA to meet existing and future student demands for mental  
183 health services.

184

185 **KEY: mental health screener~~[ing program]~~, mental health, prevention**

186 **Date of Enactment or Last Substantive Amendment: August 12, 2020**  
187 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-**  
188 **2-522**