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as in effect on January 2020

ADA Compliant: 2/27/2020

R277. Education, Administration.
R277-101. Public Participation in Utah State Board of Education Meetings.
R277-101-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Title 52, Chapter 4, Open and Public Meetings Act, which directs that the deliberations and actions of the Board be conducted openly; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to describe procedures to be followed by the Board in its conduct of the public's business in order to:

(a) hear from those who desire to be heard on public education matters in the state;

(b) effectively and efficiently utilize the time of the Board; and

(c) balance desire for public information with other demands on the Board's time.

R277-101-2. Definitions.

"Chair" means:

(1) the duly elected Chairperson of the Board;

(2) a Vice-chair when conducting a meeting of the Board; or

(3) the Chair of a Board standing committee.

R277-101-3. Public Participation.

(1) The general public may attend meetings of the Board, unless a meeting is closed in accordance with Section 52-4-204.

(2) The general public may speak to the Board regarding any issue when acknowledged and recognized by the Board Chair during scheduled public comment.

(a) The chair may give priority to an individual or group who submits a written request to address the Board prior to the meeting, including a brief description of the issue to be addressed.

(b) The Board may not take action during the public comment portion of a meeting.

(c) A Board member may request that an item raised during public comment be placed on a future agenda for possible action in accordance with Board bylaws.

(d)(i) The Chair may limit the time available for individual comments.

(ii) The Chair may request groups to designate a spokesperson.

(iii) The Board shall include in its meeting agenda the amount of time set aside for public comment and the restrictions on individual speakers or group spokespersons.

(3)(a) A member of the general public may speak to items on the agenda:

(i) during the time designated for public comment; or

(ii) at the discretion of and as invited by the Chair, when the item is properly before the Board or a committee.

(b) The Chair may request that public comment be provided in writing.

(4) All presentations to the Board or one of its committees shall exemplify courteous behavior and appropriate language.

(5) The Chair may invite additional comment to the Board or a committee in the Chair's discretion.

(6) In accordance with Subsection 52-4-202(6)(b), at the discretion of the Chair, the Board may discuss a topic raised by the public in an open meeting even if the item was not included in the public meeting notice.

(7) At the discretion of the Chair, a member of the public may request to comment in the committee meeting by raise of hand.

KEY: school boards, open government
Date of Enactment or Last Substantive Amendment: August 7, 2017
Notice of Continuation: June 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 52-4-1; 53E-3-401(4)

R277. Education, Administration.
R277-104. ADA Complaint Procedure.
R277-104-1. Authority and Purpose.

(1) This rule is authorized pursuant to 28 CFR 35.107 which adopts, defines, and publishes complaint procedures providing for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans with Disabilities Act, as amended.

(2)(a) The purpose of this rule is to establish procedures for individuals to file complaints under the ADA and to provide appropriate classification of the records of complaints and appeals.

(b) A complaint filed by an employee of the Board is not subject to this rule, but is governed by Section R477-8-15.

R277-104-2. Definitions.

(1) "ADA" means the Americans with Disabilities Act, 42 U.S.C. 12201, including the ADA Amendments Act of 2008, Pub. L. No. 110-325, which provides that no qualified individual with a disability, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination.

(2) "Days" means calendar days.

(3) "Disability" means, with respect to an individual disability, a physical or mental impairment that substantially limits one or more of the major life activities of such an individual as defined in the ADA.

(4) "Major life activities" mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(5) "Individual with a disability" or "individual" means a person who has a disability which limits one of his major life activities and who meets the essential eligibility requirement for the receipt of services or the participation in programs or activities.

R277-104-3. Statement of Non-Discrimination.

The Superintendent shall comply with the ADA in administering the services, programs, and activities of the Board.

R277-104-4. Filing of Complaints.

(1) An individual may file a complaint by submitting a claim with the Superintendent no later than 30 days from the date of the alleged act of discrimination.

(2) A complaint under Subsection (1) shall be made in writing or in another format reasonable for the individual and the Superintendent.

(3) Each complaint shall include:

(a) the individual's name and address;

(b) a description of the nature and extent of the individual's disability;

(c) a description of the alleged discriminatory action in sufficient detail to inform the ADA Coordinator of the nature and date of the alleged violation;

(d) a description of the action or accommodation needed; and

(e) the signature of the individual or the individual's legal representative.

R277-104-5. Action on Complaint.

(1) The Superintendent shall investigate each complaint to the extent necessary to assure all relevant facts are determined and documented.

(2) The Superintendent may receive investigative assistance from:

(a) the Attorney General's office;

(b) the Department of Human Resource Management;

(c) State Risk Management; and

(d) Board staff.

(3)(a) The Superintendent shall notify a claimant of the Superintendent's decision in writing within 30 days of receiving a Complaint.

(b) If additional time is necessary to reasonably investigate a complaint, the Superintendent shall notify the Claimant in writing of:

(i) the reasons for the delay; and

(ii) a date certain by which a decision will be provided.

(4) Unless the claimant files a request for reconsideration under Section R277-104-6, the decision of the Superintendent is the final agency action.

R277-104-6. Reconsideration.

(1) A claimant may file a request with the Superintendent to review a decision under Subsection R277-104-5(3) within ten days of the date of the Superintendent's decision.

(2) A request for reconsideration under Subsection (1) shall outline any error alleged in the Superintendent's decision, which warrants reconsideration of the Superintendent's proposed action.

(3) Following a request for reconsideration, the Superintendent may conduct additional investigation, if warranted.

(4) The Superintendent shall issue a final decision in writing within 30 days of a request for reconsideration under Subsection (1), which action shall be the final agency action.

R277-104-7. Classification of Records.

(1) The investigative record of each complaint and all written records produced or received as part of such investigations, recommendations, or actions, shall be classified as protected under Section 63G-2-305, until the Superintendent's action is final.

(2) The Superintendent shall classify any portion of a record which pertain to an individual's medical condition as private, in accordance with Subsection 63G-2-302(1)(b), or controlled, in accordance with Section 63G-2-304.

(3) The final written decision of the Superintendent shall be public, subject to the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

R277-104-8. Relationship to Other Laws.

(1) This rule does not prohibit or limit the use of remedies available to an individual under:

(a) Section 67-19-32;

(b) 28 CFR, Subpart F, Complaint Procedures; or

(c) any other Utah state or federal law that provides equal or greater protection for the rights of individuals with disabilities.

KEY: complaints, disabled persons
Date of Enactment or Last Substantive Amendment: July 9, 2018
Notice of Continuation: May 11, 2018
Authorizing, and Implemented or Interpreted Law: 28 CFR 35.107

R277. Education, Administration.
R277-106. Utah Professional Practices Advisory Commission Appointment Process.
R277-106-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-6-503(1)(a), which directs the Board to adopt rules establishing procedures for nominating and appointing UPPAC members.

(2) The purpose of this rule is to establish nomination and appointment procedures for UPPAC members.

R277-106-2. Definitions.

(1) "Nomination application" means a form prepared by the Superintendent as described in Subsection R277-106-3(2).

(2) "Utah Professional Practices Advisory Commission" or "UPPAC" means an advisory commission established under Section 53E-6-501 to assist and advise the Board in matters relating to the professional practices of educators.

R277-106-3. UPPAC Nomination and Application Process.

(1) The UPPAC Executive Secretary shall notify school districts, charter schools, and education organizations in writing of openings on UPPAC for the upcoming term by May 1.

(2) The Superintendent shall develop a nomination application through which an applicant expresses interest in serving on UPPAC, which outlines the expectations and time commitment required of a UPPAC member.

(3) A nomination application must be signed by:

(a) the applicant;

(b) in the case of a licensed educator whose primary assignment is teaching or school level, the applicant's principal and superintendent or charter school director;

(c) in the case of a licensed educator whose assignment is as a principal or at the district level, the applicant's superintendent;

(d) in the case of a licensed educator whose assignment is as a district superintendent or charter school director, the applicant's local board or charter school governing board chair; and

(e) in the case of an education organization representative, an officer of the education organization as provided in Subsection

53E-6-502(1).

(4) An educator shall submit a statement of interest and resume or vita along with the nomination application.

(5) An applicant who is interested in serving on UPPAC shall submit a nomination application to the Superintendent by May 31.

R277-106-4. UPPAC Selection Process.

(1) The UPPAC Executive Secretary shall review all complete and properly filed applications and may make recommendations to the Superintendent prior to June 1.

(2) Prior to making the recommendations described in Subsection (1), the Executive Secretary may seek additional information to provide to the Superintendent about the experience and qualification of UPPAC applicants.

(3) Prior to making the recommendations described in Subsection (1), the Executive Secretary shall consider demographic diversity, including:

(i) rural and urban representation;

(ii) geographical balance;

(iii) elementary and secondary representation;

(iv) gender diversity;

(v) ethnic diversity;

(vi) specialized knowledge of an applicant; and

(vii) representation of LEA superintendents, principals, or charter school administrators.

(4) If a current UPPAC member desires to serve a second term, the member shall indicate the desire to serve an additional term in writing to the Superintendent prior to May 1 of the year in which the member's term expires.

(5) The application of a UPPAC member seeking reappointment shall be considered for recommendation at the same time that new appointments are considered.

(6) The Executive Secretary may retain nomination applications for consideration in the event of mid-term vacancies or for vacancies in subsequent years.

R277-106-5. Education Organization Member Appointments.

(1) The state organization or a local chapter of the education organization with the largest membership of parents of students and teachers in the state may nominate community members to serve on UPPAC.

(2) Community members may submit their names to the education organization described in Subsection 53E-6-502(1) for nomination by the organization.

(3) The two education organization members may not serve concurrent terms.

R277-106-6. Filling of Vacancies.

(1) The UPPAC Executive Secretary shall recommend names to the Superintendent to fill UPPAC vacancies that occur midyear.

(2) The UPPAC Executive Secretary may recommend names of previous applicants for UPPAC vacancies or names from school districts or charter schools or other groups or areas of the state that are under represented for midyear vacancies.

KEY: professional competency, professional practices
Date of Enactment or Last Substantive Amendment: November 7, 2018
Notice of Continuation: December 14, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-503(1)(a); 53E-3-401(4)

R277. Education, Administration.
R277-107. Educational Services Outside of an Educator's Regular Employment.
R277-107-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which permits the Board to adopt rules to carry out its duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-3-512, which directs the Board to make rules that establish basic ethical conduct standards for employees who provide public education-related services or activities outside of their regular employment.

(1) The purpose of this rule is to provide direction and parameters for employees who provide or participate in public education-related services or activities outside of their regular public education employment.

(2) The Board recognizes that public school educators have expertise and training in various subjects and skills and should have the opportunity to enrich the community with their skills and expertise while still respecting the unique public trust that public educators have.

R277-107-2. Definitions.

(1) "Activity sponsor" means a private or public individual or entity that employs an employee in any program in which public school students participate.

(2) "Extracurricular activity" means an activity for students recognized or sanctioned by an LEA, which may supplement or compliment, but is not part of, the LEA's required program or regular curriculum.

(3) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(4) "Public education employee" or "employee" means a person who is employed on a full-time, part-time, or contract basis by an LEA.

(5)(a) "Private, but public education-related activity" means any type of activity for which:

(i) a public education employee receives compensation; and

(ii) the principle clients are students at the school where the employee works.

(b) "Private, but public education-related activity" may include:

(i) tutoring;

(ii) lessons;

(iii) clinics;

(iv) camps; or
(v) travel opportunities.

R277-107-3. LEA Relationship to Activities Involving Educators.

(1) An LEA may sponsor extracurricular activities or opportunities for students.

(2) Extracurricular activities are subject to:

(a) school fee laws and rules, including the provisions of R277-407;

(b) fee waivers;

(c) procurement laws; and

(d) all other applicable laws and rules.

(3) An employee that participates in a private, but public education-related activity, is subject to the following requirements:

(a) An employee's participation in the activity shall be separate and distinguishable from the employee's public employment;

(b) An employee may not, in promoting private, but public education-related activity:

(a) contact students at a public school, except as permitted by this rule; or

(b) use education records, resources, or information obtained through the employee's public employment unless the records, resources, or information are readily available to the general public.

(4) An employee may not use school time to discuss, promote, or prepare for:

(a) a private activity; or

(b) a private, but public education-related activity.

(5) An employee may:

(a) offer private, but public education-related services, programs or activities to students provided that they are not advertised or promoted by the employee during school time;

(b) discuss a private, but public education-related activity with students or parents outside of the classroom and the regular school day;

(c) use student directories or online resources which are available to the general public; and

(d) use student or school publications in which commercial advertising is allowed, to advertise and promote the activity.

(6) An employee may not condition credit and participation in a public school program or activity on a student's participation in such activities as clinics, camps, private programs, or travel activities, which are not equally and freely available to all students.

(7) No employee may state or imply to any person that

participation in a regular school activity or program is conditioned on participation in a private activity.

(8) No provision of this rule shall preclude a student from requesting or petitioning an LEA for approval of credit based on an extracurricular educational experience consistent with LEA policy.

R277-107-4. Advertising.

(1) An employee may purchase advertising space to advertise an activity or service in a publication, whether or not sponsored by the public schools, that accepts paid or community advertising.

(2) A paid advertisement in a school publication may identify the activity, participants, and leaders or service providers by name, provide non-school contact information, and provide details of the employee's employment experience and qualification.

(3) An employee may post or distribute posters or brochures in the same manner as could be done by a member of the general public, advertising private services, consistent with LEA policy.

(4) Unless an activity is sponsored by the LEA, a paid advertisement in a school publication shall state clearly and distinctly that the activity is NOT sponsored by the LEA.

(5) The name of an LEA may not be used in an advertisement unless the LEA's name relates to the employee's employment history or if school facilities have been rented for the activity.

(6) If the name of an employee offering a service or participating in an activity is stated in any advertisement sent to the employee's students, or is posted, distributed, or otherwise made available in the employee's school, the advertisement shall state that the activity is not school sponsored.

R277-107-5. Public Education Employees.

(1) A public education employee shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) A public education employee shall comply with Title 67, Chapter 16, Public Officers' and Employees' Ethics Act.

(3) Except as provided in Subsection (4), consistent with Section 63G-6a-2404 and Title 67, Chapter 16, Public Officers' and Employees' Ethics Act, a public education employee may not solicit or accept gifts, incentives, honoraria, or stipends from private sources:

(a) for the employee's personal or family use;

(b) in exchange for payment for advertising placed by the employee; or

(c) in exchange for payment for securing agreements, contracts or purchases between private company and public

education employer, programs or teams.

(4) A public education employee may accept a gift, incentive, honoraria, or stipend from a private source if the gift, incentive, honoraria, or stipend is:

(a) of nominal value and is for birthdays, holidays, or teacher appreciation occasions; or

(b) a public award in recognition of public service; and

(c) consistent with school or LEA policies and the Utah Public Employees' Ethics Act.

(5) A public education employee who holds a Utah educator license may be subject to license discipline for violation of this Rule R277-107 and related provisions of Utah law.

R277-107-6. Public Education Employee/Sponsor Agreements or Contracts.

(1) An agreement between an employee and a sponsor of a private, but public education-related activity shall be signed by the employee and include the following acknowledgments:

(a) the parties understand that the activity is not sponsored by an LEA;

(b) the employee's responsibilities to the activity sponsor are outside the scope of and unrelated to any public duties or responsibilities the employee may have as a public education employee; and

(c) the employee agrees to comply with laws and rules of the state and policies regarding advertising and employee participation.

(2) An employee shall provide the LEA business administrator, superintendent, or charter school director with a signed copy of all contracts between the employee and a sponsor of a private, but public-education related activity.

(3) An LEA shall maintain a copy of a contract described in Subsection (2) in the employee's personnel file.

KEY: school personnel
Date of Enactment or Last Substantive Amendment: July 9, 2018
Notice of Continuation: May 11, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-512; 53E-3-401(4)

R277. Education, Administration.
R277-108. Annual Assurance of Compliance by Local School Boards.
R277-108-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law and allows the Board to interrupt disbursements of state aid to any district which fails to comply with rules adopted in accordance with the law.

(2) The purpose of this rule is to provide local school boards with a list of laws requiring local school board action and a means of assuring that local boards are in compliance.

R277-108-2. Definitions.

(1) "Assurance document" means the Annual Assurances of Compliance list outlined in Subsection R277-108-3.

R277-108-3. Incorporation of Annual Assurances of Compliance.

(1) This rule incorporates by reference the Local Education Agency (LEA) Compliance and Assurance Checklist for 2018-2019 School Year (09/06/2018), which lists the required state and federal compliance information for identified programs and funds, including:

(a) Board Rule;

(b) State statute;

(c) Federal Code of Regulations; and

(d) Federal Law.

(2) A copy of the current Annual Assurances of Compliance List is located at:

(a) https://www.schools.utah.gov/financialoperations/formsapplications?mid=2382&tid=2; and

(b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

R277-108-4. Assurance Document Creation and Availability.

(1) The Superintendent shall provide a list of laws and a list of State Board of Education Administrative Rules which require action or compliance by June 1 of each year to school district superintendents, the superintendent for the Utah School for the Deaf and the Blind and charter school directors.

(2) The list described in Subsection (1) shall be approved by the Board and shall identify laws and rules along with required compliance dates and reporting forms, if different or necessary

than or in addition to the annual assurance document.

(3) The Superintendent shall consolidate all required reporting and compliance forms and provide for electronic reporting, to the extent possible and ensure the assurance document is available publicly.

R277-108-5. Process, Procedures, and Penalties.

(1) An LEA shall submit the required annual responses to the assurance document and other compliance forms on or before dates identified by the Board.

(2) An LEA's assurance document shall contain a signed attestation by the appropriate authority attesting to the accuracy and validity of all responses and assurances provided by an LEA.

(3) In the event that an LEA is unable to provide required assurances, compliance information or forms by required dates, an LEA shall provide to the Superintendent a written explanation of the LEA's inability and provide an anticipated submission date.

(4) An LEA's request for additional time to provide the assurance shall be reviewed by the Superintendent and accepted or rejected in a timely manner.

(5) The Superintendent shall request a written explanation from an LEA and identified schools that fail to meet the reporting and compliance deadlines and that have not provided an explanation and request for a delayed submission date.

(6) Following an opportunity to provide explanations and request a delayed submission date, an LEA and identified schools shall be notified of penalties assessed by the Board against the LEA in accordance with rule R277-114, state law, or federal law.

R277-108-6. Reporting Deadlines.

Responses for the assurance document from an LEA are due to the Superintendent no later than July 1 of each year.

R277-108-7. Record Retention.

(1) Responses to the assurance document, as required by the Board, shall be kept on file by the Superintendent for five years, together with letters of explanation and documentation of penalties, as directed by the Board.

KEY: local school boards, compliance
Date of Enactment or Last Substantive Amendment: November 29, 2018
Notice of Continuation: September 13, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

R277. Education, Administration.
R277-109. Legislative Reporting and Accountability.
R277-109-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-501(1), which directs the Board to establish rules and minimum standards for the public schools;

(c) Subsection 53E-3-401(2)(a), which gives the Board general control and supervision of the state's public education system for adoption and enforcement of rules;

(d) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Boards duties and responsibilities under the Utah Constitution and state law, and allows the Board to interrupt disbursements of state aid to any district which fails to comply with rules adopted in accordance with Subsection 53E-3-401(8)(a).

(2) The purpose of this rule is to:

(a) require the Superintendent to create data collection plans necessary as determined by the Superintendent to fulfill statutory or Board reporting requirements; and

(b) require LEAs to submit data upon request to the Superintendent.

(3) The rule provides that LEA participation in Minimum School Program funding is conditioned upon LEAs providing complete and accurate data and information to the Superintendent and the Board.

R277-109-2. Definitions.

(1) "Minimum school program funds" or "MSP funds" means the state and local funds appropriated for the Minimum School Program to support educational activities in all grades Kindergarten through 12th grade, including the Basic State-Supported School Program, Related to Basic Program, the State-Supported Voted and Board Leeway Levy Programs, and other programs or allocations appropriated by the Legislature in Title 53F, Chapter 2, Minimum School Program Act.

(2) "Statutory or Board reporting requirement" means a reporting requirement as described in:

(a) the Utah Code or legislative intent as documented by legislative records; or

(b) Board rule.

R277-109-3. Board Direction to Superintendent and LEA Appeal Process.

(1) The Superintendent shall, in consultation with LEAs, collect data and prepare data collection reports or plans, as the

Board directs or as the Superintendent deems necessary, to fulfill statutory or Board reporting requirements.

(2) The Superintendent is authorized by the Board to assist LEAs to fulfill reporting requests and to complete accountability or reporting plans.

(3) The Superintendent may sanction an LEA, if necessary, if the LEA fails to provide required data or reports by withholding MSP funds due to the LEA's failure to provide complete and accurate data or reports as requested.

(4) The Superintendent shall provide adequate notice to LEAs of reporting requirements and procedures for providing data in requested formats.

(5) If an LEA does not comply with a data program request or requirement, the Superintendent shall provide adequate and timely notice to the LEA that data was not submitted accurately and completely and LEA has 30 days to respond to the Superintendent's request for data or a required data report.

(6) The Superintendent may impose sanctions for noncompliance up to and including the withholding of MSP funds directly related to the data collection or reporting requirement.

(7) The Superintendent may withhold the program funds related to the requested data report or reporting requirement beginning with the next MSP transfer or beginning with subsequent MSP transfers including MSP funding for a subsequent fiscal year.

(8) An LEA may appeal to the Board in writing the Superintendent's decision to withhold program funds within 10 calendar days.

(9) The Board shall respond to the LEA within 30 calendar days.

(10) The Board's response is the final administrative action.

KEY: reporting, accountability
Date of Enactment or Last Substantive Amendment: November 7, 2016
Notice of Continuation: September 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1); 53E-3-401(2)(a); 53E-3-401

R277. Education, Administration.
R277-110. Educator Salary Adjustment.
R277-110-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-2-405(5), which authorizes the Board to make rules to administer the educator salary adjustment program.

(2) The purpose of this rule is to outline a consistent method for enacting educator salary adjustments in accordance with Section 53F-2-405.

R277-110-2. Definitions.

(1) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" has the same meaning as defined in Subsection R277-512-2(1).

(2) "Educator" has the same meaning as defined in Subsection 53F-2-405(1).

(3) "Educator Salary Adjustment" or "Adjustment" means funds allocated by the Board to an LEA in accordance with Subsection 53F-2-405(3).

(4) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

R277-110-3. Procedures.

(1) An LEA shall:

(a)(i) have employee evaluation procedures consistent with Title 53A, Chapter 8a, Public Education Human Resource Management Act; or

(ii) if an LEA is exempt from the requirements of Subsection (1)(a)(i), have employee evaluation procedures in place to receive funds under Section 53F-2-405;

(b) put the adjustment appropriation into the LEA's salary schedule each year that funds are appropriated by the Legislature;

(c) ensure the amount of the adjustment is the same for each eligible full-time-equivalent educator position in the LEA;

(d) ensure that each eligible employee who is not a full-time educator receives a proportional salary adjustment based on the number of hours the employee works in the employee's current assignment as an educator; and

(e) ensure that each educator who receives an adjustment has received a satisfactory or above job performance rating in the educator's most recent evaluation concluded in the school year

prior to the year for which the adjustment is made.

(2) Notwithstanding Subsection (1)(e), an LEA may grant an adjustment to a new hire who has successfully completed the position hiring process and been selected for an educator position.

(3) Once an educator qualifies for an adjustment in a designated school year, the adjustment becomes an ongoing part of the educator's salary.

(4) An educator shall receive an annual adjustment of $4200 based upon legislative funding allocations.

(5) A school building level administrator shall receive an annual adjustment of $2500 and benefits as provided in Subsection 53F-2-405(7).

(6) Each LEA shall annually note on the appropriate salary schedule:

(a) the amount of the educator salary adjustment;

(b) the positions qualifying for the adjustment; and

(c) performance rating requirements in accordance with Subsection 53F-2-405(4)(c).

(7) Each LEA shall annually maintain record of performance ratings for an educator receiving an adjustment in accordance with this rule.

(8)(a) The Superintendent shall remit to LEAs an estimated educator salary adjustment allotment through monthly bank transfers and allotment memos beginning in July of each year.

(b) The Superintendent shall adjust the allotment amount in November of each year to match the number of qualified educators in CACTUS.

(9) An adjustment to CACTUS made after November 15 may not count towards an LEA's amount for educator salary adjustments until the following year.

(10) An LEA may not include educator salary adjustments when calculating the weighted average compensation adjustment for non-administrative licensed staff.

KEY: educators, salary adjustments
Date of Enactment or Last Substantive Amendment: September 21, 2017
Notice of Continuation: July 19, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-1-401(4); 53F-2-405(5)

R277. Education, Administration.
R277-114. Corrective Action and Withdrawal or Reduction of Program Funds.
R277-114-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-401(8)(c), which allows the Board to make rules setting forth the procedures to be followed for enforcing Board rules.

(2) The purpose of the rule is to provide procedures for public education program monitoring and corrective action for noncompliance with identified:

(a) program requirements;

(b) program accountability standards; and

(c) financial propriety.

R277-114-2. Definitions.

(1) "Program" means a public education project or plan under the direction of the Board.

(2) "Recipient" means an LEA or a school.

R277-114-3. Program Monitoring.

(1) For each program, the Superintendent shall design and implement a consistent monitoring plan that includes standards for both program outcomes and program financial compliance.

(2) The Superintendent shall notify all recipients of the initiation of or changes to any monitoring plan.

(3) The Superintendent shall monitor compliance with:

(a) program outcomes;

(b) reporting requirements; and

(c) financial compliance.

R277-114-4. Corrective Action Plans.

(1) The Superintendent shall place a recipient on a corrective action plan when a recipient:

(a) does not demonstrate satisfactory program outcomes;

(b) demonstrates noncompliance with program requirements or allowable program expenditures; or

(c) does not comply with requests to provide accurate and complete program or financial information.

(2) The Superintendent shall clearly outline in a corrective action plan:

(a) all areas of noncompliance;

(b) steps required to satisfy the corrective action plan; and

(c) a reasonable time frame for the recipient to correct identified issues.

(3) A corrective action plan may also include provision and a timeline for:

(a) referral for monitoring by a Board section;

(b) referral for monitoring to the Board's internal audit department, with approval of the Board's Audit Committee;

(c) periodic meetings between a recipient administrator or governing board member and the Superintendent or a member of the Superintendency;

(d) planned appearances before the Board to provide status updates; and

(e) training for the LEA's staff.

(4) The Superintendent may employ escalating restrictive conditions in a corrective action plan based on:

(a) the severity of the violation; or

(b) repeated violations by an LEA.

(5) The Superintendent may include penalties for non-compliance with a corrective action plan in accordance with Subsection 53E-3-401(8).

(6) The Superintendent shall give notice and a copy of the corrective action plan in writing to:

(a) the recipient LEA's administrators;

(b) the respective LEA's governing board; and

(c) the charter school authorizer, if applicable.

(7) The Superintendent shall report to the Board monthly about the status of noncompliant program recipients.

R277-114-5. Recipient Appeals.

(1) A recipient may file an appeal to the Board of any adverse decision of the Superintendent resulting from a corrective action plan or penalty.

(2) An appeal must be made in writing and within 30 days of the date of the Superintendent's action.

(3) The Board may:

(a) review the appeal as a full board; or

(b) refer the matter to the Board audit committee to make a recommendation to the Board for action.

KEY: programs, noncompliance, corrective action
Date of Enactment or Last Substantive Amendment: February 7, 2017
Notice of Continuation: May 1, 2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401BR

R277. Education, Administration.
R277-113. LEA Fiscal and Auditing Policies.
R277-113-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-3-501(1)(e)(i), which directs the Board to establish rules and minimum standards for school productivity and cost effectiveness measures;

(d) Subsection 53E-3-501(1)(e)(iv), which allows the Board to adopt rules regarding financial, statistical, and student accounting requirements;

(e) Section 53E-3-602, which allows the Board to approve auditing standards for school boards; and

(f) Section 53E-3-603, which requires the Board to verify accounting procedures of school board for the purpose of determining the allocation of Uniform School Funds.

(2) The purpose of this rule is to:

(a) require LEAs to formally adopt and implement policies regarding the management and use of public funds;

(b) provide minimum standards, procedures and definitions for LEA policies;

(c) direct that LEAs make policies, procedures and training materials available to the public and readily accessible on LEA or public school websites, to the extent of resources available;

(d) require LEAs to train employees in:

(i) appropriate financial practices;

(ii) necessary accounting procedures; and

(iii) ethical financial practices; and

(e) specify uniform budgeting, accounting, and auditing procedures for LEAs consistent with GAAP and GAAS.

R277-113-2. Definitions.

(1) "Accrual basis of accounting" means a basis of accounting that records:

(a) revenue when earned and expenses when incurred; and

(b) transactions irrespective of the dates on which any associated cash flows occur.

(2) "Arm's length transaction" means a transaction between two unrelated, independent, and unaffiliated parties or a transaction between two parties acting in their own self interest that is conducted as if the parties were strangers so that no conflict of interest exists.

(3) "Exclusive contract or arrangement" means an agreement requiring a buyer to purchase or exchange all needed goods or services from one seller.

(4) "FASB" means the Financial Accounting Standards Board whose purpose is to establish GAAP for nongovernmental entities within the United States.

(5) "GAAP" means Generally Accepted Accounting Principles or a common framework of accounting rules and standards for financial reporting promulgated by either FASB or GASB, as applicable to the reporting entity.

(6) "GAAS" means Generally Accepted Auditing Standards or a set of auditing standards and guidelines promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants.

(7) "GASB" means the Governmental Accounting Standards Board whose purpose is to establish GAAP for state and local governments within the United States.

(8) "Internal controls" means a process, implemented by an entity's governing body, management, or other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

(a) Effectiveness and efficiency of operations;

(b) Reliability of reporting for internal and external use; and

(c) Compliance with applicable laws and regulations.

(9) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(10) "Management" means:

(a) an LEA superintendent or director;

(b) a deputy or associate;

(c) a business administrator or manager; or

(d) other educational administrator or designated staff.

(11) "Modified accrual basis of accounting" means a basis of accounting, commonly used by government agencies, that recognizes revenues when they become available and measurable and recognizes expenditures when liabilities are incurred.

(12) "Non-operating LEA" means an LEA that has not received minimum school program funds or federal funds and is not providing educational services during a fiscal year, such as an LEA in a start-up period.

(13) "Operating LEA" means an LEA that has received state minimum school program funds or federal funds and is providing educational services during a fiscal year.

(14) "Public funds" has the same meaning as that terms is defined in Subsection 51-7-3(26).

(15) "School sponsored" means an activity, fundraising event, club, camp, clinic, or other event or activity that is

authorized by a specific LEA or public school, according to local board policy, and satisfies at least one of the following conditions:

(a) the activity is managed or supervised by an LEA or public school, or LEA or public school employee;

(b) the activity uses the LEA or public school's facilities, equipment, or other school resources; or

(c) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or minimum school program dollars.

(16) "Title IX" refers to that portion of the United States Education Amendments of 1972 codified as 20 U.S.C. 1681 through 20 U.S.C. 1688.

(17) "Utah Public Officers' and Employees' Ethics Act," means Title 67, Chapter 16, which provides standards of conduct for officers and employees of the state of Utah and its political subdivisions in areas where there are actual or potential conflicts of interest between public duties and private interests.

R277-113-3. Superintendent Responsibilities.

(1) The Superintendent shall provide training, informational materials, and model policies for use by LEAs in developing LEA and public school-specific financial policies.

(2) The Superintendent shall provide online training and resources for LEAs regarding the use and management of public funds and ethical practices for licensed Utah educators who manage, control, participate in fundraising, or expend public funds.

(3) The Superintendent shall provide and establish a cycle for state review of LEA fiscal policies and standards.

(4) The Superintendent shall work with and provide information upon request to the Utah State Auditor's Office, the Legislative Fiscal Auditors, and other state agencies with the right to information from the Board.

R277-113-4. LEA Fiscal Responsibilities.

(1)(a) An LEA shall develop and implement written fiscal policies, subject to approval by the LEA's board, as required by R277-113-5.

(b) An LEA shall review the LEA's fiscal policies annually.

(2) An LEA shall develop a plan for annual training of LEA and public school employees on policies enacted by the LEA specific to job function.

(3) LEA policies shall be available at each LEA main office, at individual public schools, and on the LEA's website.

(4) LEA fiscal policies and training may have different components, specificity, and levels of complexity for public

elementary and secondary schools.

(5) An LEA may have one or more policies to satisfy the minimum requirements of this R277-113.

(6) An LEA policy may reference specific training manuals or other resources that provide detailed descriptions of business practices which are too lengthy or detailed to include in the LEA policy.

(7) An LEA governing board shall have the following responsibilities:

(a) ensure that LEA management properly develops and adheres to a sound system of documented internal controls consistent with R277-113-6.

(b) develop a process to regularly review:

(i) LEA management's budget and financial reporting practices;

(ii) financial statements;

(iii) LEA financial position; and

(iv) LEA and individuals school records;

(c) make monthly reports on the fiscal position of the LEA to the LEA board;

(d) monitor LEA contract services by:

(i) determining the appropriate scope of contracts with management companies that provide business services and student services;

(ii) managing the procurement process in compliance with Title 63G, Chapter 6a;

(iii) making recommendations to the LEA board on the results of the procurement process;

(iv) assessing the performance of management companies; and

(v) ensuring management implements sufficient internal controls over the functions of management companies;

(e) monitor procurement and use of systems and software applications for compliance with financial and student privacy laws; and

(f) monitor LEA expenditure of restricted funds to ensure compliance with applicable laws and grant terms and conditions.

(8) A public education foundation established by an LEA shall follow the requirements set forth in Section 53E-3-403.

R277-113-5. LEA Audit Responsibilities.

(1) An LEA governing board shall designate board members to serve on an audit committee, consistent with Subsection 53G-7-401(1).

(2) An LEA audit committee shall:

(a) if required by Section 53G-7-402, establish an internal audit program that provides internal audit services for the programs administered by the LEA;

(b) receive a report of the risk assessment process undertaken by the LEA management in collaboration with the internal audit department;

(c) monitor the internal and external audit process by:

(i) determining the appropriate scope of the independent external audit;

(ii) determining the appropriate scope of non-audit services to be performed by the independent auditor;

(iii) managing the audit procurement process in compliance with Title 63G, Chapter 6a, State Procurement Code;

(iv) making recommendations to the LEA board on the results of the procurement process;

(v) facilitating regular direct communication with independent external auditors;

(vi) receiving independent external audit report and financial statements;

(vii) ensuring management implements corrective actions;

(viii) assessing performance of the independent auditors;

(ix) reviewing disagreements between independent auditors and management;

(x) prioritizing the internal audit plan based on risk;

(xi) receiving audit reports from internal auditors, contractors providing internal audit services, and other regulatory bodies; and

(xii) providing an independent forum for internal auditors, internal audit contractors, and other regulatory bodies to report findings of fraud, waste, abuse, non-compliance, or control weaknesses, particularly if management is involved;

(d) conduct or advise the LEA board in an annual evaluation of internal audit personnel or contractors providing internal audit services;

(e) ensure that issues and exceptions reported by internal auditors, or other regulatory bodies are resolved in a timely manner;

(f) present the audit reports of external auditors, internal auditors or other regulatory bodies to the LEA board;

(g) receive reports of reviews or audits conducted by the Superintendent and ensure appropriate corrective actions is taken in a timely manner; and

(h) advise the local LEA board in the appointment of an audit director or in contracting services for internal audit services in accordance with Subsection 53G-7-402(3).

(3)(a) An LEA shall follow the internal auditing requirements of Title 53G, Chapter 7, Part 4, Internal Audits.

(b) An LEA internal audit director may not have responsibilities for management or operations of the LEA.

(c) If an LEA internal audit director contracts with a

consultant, any contractual agreement with the consultant shall comply with the LEA's procurement policy.

(4) An LEA shall obtain all audits and financial reports required by Section 51-2a-201.

R277-113-6. Required LEA Fiscal Policies.

(1)(a) An LEA shall ensure that the LEA's fiscal policies address all applicable Utah Code references or Board Rules.

(b) The requirements set forth in this Section R277-113-6 are minimum requirements.

(c) An LEA may include other related items, provide LEA specific policy and guidance, and set polices that are more restrictive and inclusive than the minimum provisions established by Board rule.

(2) LEA fiscal policies shall include the following:

(a) a cash handling policy, which shall address cash receipts (cash, checks, credit cards, and other items) collected at the LEA and individual public schools and shall include:

(i) establishment of internal controls and procedures over the collection, deposit, and reconciliation of cash receipts received; and

(ii) compliance with Utah Code 51-4-2(2) regarding deposits.

(b) an expenditure policy, which shall address all expenditures made by the LEA and individual public schools and shall include:

(i) establishment of internal controls and procedures over the initiation, approval and monitoring of expenditures, including:

(A) credit, debit, or purchase card transactions;

(B) employee reimbursements;

(C) travel; and

(D) payroll;

(ii) establishment of internal controls and procedures to record transactions when they occur in the proper program utilizing the following codes as established by the Board approved chart of accounts:

(A) fund;

(B) function;

(C) location;

(D) program; and

(E) object or revenue code as applicable;

(iii) directives regarding the appropriate use of the LEA's tax exempt status number;

(iv) compliance with Section 63G-6a-1204 regarding length of multi-year contracts;

(v) compliance with:

(A) Title 63G, Chapter 6a;

(B) Board rule regarding construction and improvements; and

(C) Title IX;

(vi) requirements for LEA contracts, including:

(A) inclusion of specific scope of work language;

(B) inclusion of federal requirements;

(C) inclusion of language regarding data privacy and use, where appropriate; and

(D) legal review prior to LEA approval; and

(vii) procedures and documentation maintained by the LEA if the LEA chooses to enter into exclusive contracts or arrangements consistent with state procurement law and the LEA procurement policy.

(c) a fundraising policy that:

(i) establishes procedures for LEA and public school fundraising in general;

(ii) establishes an approval process for fundraising activities for school sponsored activities;

(iii) provides for compliance with school fee and fee waiver provisions; and

(iv) includes:

(A) specific designation of employees by title or job description who are authorized to approve fundraising, school sponsored activities, and grant fee waivers with appropriate attention to student and family confidentiality;

(B) establishment of internal controls and procedures over the approval of fundraising and school sponsored activities and compliance with associated cash handling and expenditure policies;

(C) directives regarding the appropriate use of the LEA's tax exempt status number and issuance of charitable donation receipts;

(D) procedures governing LEA or public school employee interaction with parents, donors, and nonschool sponsored organizations;

(E) disclosure requirements for LEA and public school employees approving, managing, or overseeing fundraising activities, who also have a financial or controlling interest or access to bank accounts in the fundraising organization or company;

(F) Provisions establishing compliance with:

(I) Utah Constitution, Article X, Section 2, establishing a free public education system;

(II) R277-407; and

(III) Title IX;

(v) An LEA may include procedures governing:

(A) student participation and incentives offered to students;

(B) allowable types of fundraising activities; and

(C) participation in school sponsored activities by volunteer or outside organizations;

(d) an LEA donation and gift policy that includes:

(i) an acceptance and approval process for:

(A) monetary donations;

(B) donations and gifts with donor restrictions;

(C) donations of gifts, goods, materials, or equipment; and

(D) donation of funds or items designated for construction or improvements of facilities;

(ii) establishment of internal controls and procedures over the acceptance and approval of donations and gifts and compliance with associated cash handling and expenditure policies;

(iii) directives regarding the appropriate use of the LEA's tax exempt status number, and issuance of charitable donation receipts;

(iv) procedures regarding the objective valuation of donations or gifts if advertising or other services are offered to the donor in exchange for a donation or gift;

(v) procedures governing LEA or public school employee conduct with parents, donors, and nonschool sponsored organizations;

(vi) procedures establishing provisions for direct donations or gifts to the LEA or LEA programs, individual public school or public school programs;

(vii) provisions restricting donations from being directed at specific LEA employees, individual students, vendors, or brand name goods or services;

(viii) compliance with:

(A) Title 63G, Chapter 6a;

(B) state law and Board rule regarding construction and improvements;

(C) IRS regulations and tax deductible directives; and

(D) Title IX;

(ix) procedures for:

(A) accepting donations and gifts through an LEA's legally organized foundation, if applicable;

(B) recognition of donors; or

(C) granting naming rights; and

(e) an LEA Financial Reporting policy, which shall include the following:

(i) a requirement that the LEA shall ensure financial reporting in accordance with GAAP and audits of LEA financial reporting in accordance with GAAS;

(ii)(A) a requirement that the LEA shall provide financial reporting in a manner consistent with the basis of accounting as required by GAAP, as applicable to the entity; and

(B) if an LEA follows FASB standards, a requirement that the

LEA shall provide reconciliation between the accrual basis of accounting and modified accrual basis of accounting; and

(iii) a requirement that the LEA shall provide data and information consistent with budgeting, accounting, including the uniform chart of accounts for LEAs, and auditing standards for Utah LEAs provided online annually by the Superintendent.

(3) The Superintendent shall maintain a School Finance website with applicable Utah statutes, Board rules, and uniform rules for:

(a) budgeting;

(b) financial accounting, including a chart of accounts required for an LEA;

(c) student membership and attendance accounting;

(d) indirect costs and proration;

(e) financial audits;

(f) statistical audits; and

(g) compliance and performance audits.

R277-113-7. School Sponsored Activities.

(1)(a) If an activity, fundraising event, clinic, club, camp, or activity does not meet the definition of school sponsored and is organized by a third party, then the requirements of Subsection R277-113-4(11) do not apply.

(b) All transactions pertaining to nonschool sponsored events shall be conducted at arm's length.

(c) Revenues and expenditures from nonschool sponsored events may not be commingled with public funds.

(2) For nonschool sponsored events, funds may only be managed or held by a public school employee consistent with Rule R277-107.

(3) The definition of school sponsored and requirements of Subsection R277-113-4(11) do not apply to non-curricular clubs specifically authorized and meeting all criteria of Sections 53G-7-704 through 53G-7-707.

(4) An LEA or individual public school shall comply with the following regarding school and nonschool sponsored activities:

(a) An LEA may establish LEA specific rules or polices designating categories of school sponsored activities or groups and establishing LEA policy regarding use of facilities or LEA resources.

(b) An LEA may enter into contractual agreements to allow for fundraising and use of LEA facilities.

(i) An agreement under Subsection (4)(a) shall take into consideration the LEA's fiduciary responsibility for the management and use of public funds.

(ii) An LEA should consult with the LEA's insurer or legal counsel, or both, to ensure risks are adequately considered and

managed;

(c) An LEA shall annually review fundraising activities that support or subsidize LEA or public school-authorized clubs, activities, sports, classes or programs to determine if the activities are school sponsored;

(d) An LEA shall ensure that revenues raised from school sponsored activities and funds expended from the proceeds are classified and processed as public funds;

(e) An LEA shall maintain adequate records to verify that funds collected from or during school sponsored activities are in compliance with LEA cash handling policies as required by Section R277-113-5;

(f) An LEA shall maintain adequate records to show that expenditures made to support activities from LEA or public school funds are in compliance with LEA expenditure of funds policies as required by Section R277-113-5; and

(g) An LEA shall:

(i) make records of activities available to parents, students, and donors;

(ii) maintain records in sufficient detail to track individual contributions and expenditures, as well as overall financial outcome.

(iii) restrict access to records as required by state or federal law.

R277-113-8. LEA Policies and Compliance with State and Federal Law.

(1) An LEA is responsible to ensure that its policies comply with the following state laws and Board Rules:

(a) Utah Constitution Article X, Section 3;

(b) Title 63G, Chapter 6a, Utah Procurement Code;

(c) Title 51, Chapter 4, Deposit of Funds Due State;

(d) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(e) Family Educational Rights and Privacy Act, 20 U.S.C. 1232g;

(f) Title 63G, Chapter 2, Government Records Access and Management Act;

(g) Title 53G, Chapter 7, Fees and Textbooks;

(h) Section 53A-4-205, Public Education Foundations;

(i) Title 53G, Chapter 7, Part 7, Student Clubs Act;

(j) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(k) Additional state legal compliance guides for operating LEAs and non-operating LEAs as published by the office of the state Auditor;

(l) Subsection 51-7-3(26), Definition of Public Funds;

(m) Title 53G, Chapter 7, Part 4, Internal Audits;

(n) Rule R277-407, School Fees;

(o) Rule R277-107, Educational Services Outside of Educator's Regular Employment;

(p) Rule R277-515, Utah Educator Standards;

(q) Rule R277-605, Coaching Standards and Athletic Clinics.

(2) An LEA shall include the following requirements of Title IX in LEA policies:

(a) Fundraising shall equitably benefit males and females;

(b) Males and females shall have reasonably equal access to facilities, fields, and equipment;

(c) School sponsored activities shall be reasonably equal for males and females.

KEY: school sponsored activities, public funds, fiscal policies and procedures, audit committee
Date of Enactment or Last Substantive Amendment: June 22, 2018
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-401(4); 53E-3-501(1)(e)

R277. Education, Administration.
R277-115. LEA Supervision and Monitoring Requirements of Third Party Providers and Contracts.
R277-115-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(b) Subsection 53E-3-401(10), which allows the Board to require an LEA to require in a contract with a third party provider that the third party provider shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:

(i) Titles 53E, 53F, and 53G; and

(ii) Board rule.

(2) The purpose of this rule is:

(a) to provide standards for an LEA working with a third party provider to ensure the third party provider complies with applicable law.

R277-115-2. Definitions.

(1) "Educational good or service" means the same as that term is defined in Section 53E-3-401.

(2) "Third party provider" means a third party who provides an educational good or service on behalf of an LEA.

R277-115-3. Third Party Provider Provision of Services.

(1) An LEA that contracts with a third party provider to provide an educational good or service on behalf of the LEA shall:

(a) require in the LEA's contract with a third party provider that the third party provider shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:

(i) Titles 53E, 53F, and 53G; and

(ii) Board rule;

(b) establish monitoring and compliance procedures to ensure that a third party provider who provides educational services to a student on behalf of the LEA complies with the provisions of this rule;

(c) develop a written monitoring plan to supervise the educational good or service provided by the third party provider;

(d) ensure the third party provider is complying with:

(i) federal law;

(ii) state law; and

(iii) Board rules;

(e) monitor and supervise all activities of the third party provider related to the educational good or service provided by

the third party provider to the LEA; and

(f) maintain documentation of the LEA's supervisory activities consistent with the LEA's administrative records retention schedule.

(2) An LEA shall:

(a) verify the accuracy and validity of a student's enrollment verification data, prior to enrolling a student in the LEA; and

(b) provide a student and the student's parent or guardian with notification of the student's enrollment in a school or program within the LEA.

(3) The Board or the Superintendent may require an LEA to repay public funds to the Superintendent if:

(a) the LEA fails to comply with the provisions of this rule; and

(b) the repayment is made in accordance with the procedures established in R277-114.

KEY: third party providers, contracts, monitoring
Date of Enactment or Last Substantive Amendment: May 23, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4) and (10)

R277. Education, Administration.
R277-116. Audit Procedure.
R277-116-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 63I-5-201(4) which requires the Board to direct the establishment of an internal audit department for programs administered by the entities it governs;

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Boards duties and responsibilities under the Utah Constitution and state law;

(d) Subsection 53E-3-501(1)(e), which directs the Board to develop rules and minimum standards regarding school productivity and cost effectiveness measures, school budget formats, and financial, statistical, and student accounting requirements for the local school districts;

(e) Section 53E-3-602, which allows the Board to approve auditing standards for school boards;

(f) Section 53E-3-603, which makes the Board responsible for verifying audits of local school districts;

(g) Subsection 53F-2-204(2), which directs the Board to assess the progress and effectiveness of all programs funded under the State System of Public Education; and

(h) Subsection 53E-3-401(9), which gives the Board authority to audit the use of state funds by an education entity that receives state funds as a distribution from the Board.

(2) The purpose of this rule is to:

(a) outline the role of the Audit Director, Superintendent, and agency in the audit process; and

(b) outline the Board's procedures for audits of agencies.

R277-116-2. Definitions.

(1) "Agency" means:

(a) an entity governed by the Board;

(b) an LEA; or

(c) a sub-recipient.

(2) "Audit committee" means a standing committee of members appointed by the Board in accordance with Board bylaws.

(3) "Audit Director" means the person who:

(a) directs the audit program of the Board in accordance with Title 63I, Chapter 5, the Utah Internal Audit Act and Board policies;

(b) is appointed by and reports to the audit committee; and

(c) is independent of the agencies subject to Board audit.

(4) "Audit plan" means a prioritized list of audits with associated resource requirements to be performed by the audit

program that is reviewed, approved, and adopted at least annually by the Board.

(5) "Audit program" means a department that provides internal audit services for the Board that is directed by the Audit Director.

(6) "Draft audit report" means a draft audit report compiled by the Audit Director that is classified as protected under Title 63G, Chapter 2, Part 3, Section 305, Protected records.

(7) "Education entity" means the same as that term is defined in Section 53E-3-401.

(8) "Final audit report" means a draft audit report that is approved by the audit committee and the Board as a final audit report that is classified as public under Title 63G, Chapter 2, Part 3, Section 301, Public records.

(9) "Local administrator" means the district superintendent or charter school director.

(10) "Sub-recipient" means any entity that receives funds from an entity governed by the Board.

R277-116-3. Audit Director Authority and Responsibilities.

(1) The Audit Director shall:

(a) manage the audit program and facilitate the audit process:

(i) as approved and directed by the Board and audit committee;

(ii) in accordance with the current International Standards for the Professional Practice of Internal Auditing; and

(iii) in accordance with the USBE Internal Audit Department Policy and Procedure Manual.

(b) act as the liaison for external audits of the Board;

(c) maintain the classification of any public record consistent with GRAMA;

(d) be subject to the same penalties under GRAMA as the custodian of a public record;

(e) publish final reports on the Internal Audit department webpage if appropriate; and

(f) make a copy of the USBE Internal Audit Department Policy and Procedure Manual to the general public upon request.

(2) The Audit Director may contract with an LEA or other education entity to provide internal audit services to the LEA or other education entity if the contract is approved by the audit committee in accordance with Board contract policies.

R277-116-4. Superintendent Authority and Responsibilities.

The Superintendent shall:

(1) provide resources necessary to conduct the audit program including adequate funds, staff, tools, and space to support the

audit program;

(2) facilitate communications with those charged with governance, management, and staff as requested by the Audit Director or the audit committee to ensure the access necessary to perform an audit;

(3) ensure access to all personnel, records, data, and other agency information that the Audit Director or staff consider necessary to carry out their assigned duties;

(4) notify the Audit Director of external audits of entities governed by the Board;

(5) notify the agency that the Audit Director shall be the liaison for an external audit;

(6) support the audit program as otherwise requested by the audit committee or Audit Director; and

(7) facilitate appropriate action by the Board on issues identified in audits by:

(a) sending the final management response letter and form to the governing board and local administrator of an audited agency in response to the final audit report;

(b) following up on final management response forms sent to the governing board and local administrator of an audited agency in accordance with timelines outlined in the management response letter, as monitored by the Audit Director, to ensure either:

(i) the audited agency took appropriate action;

(ii) the audited agency's lack of action is acceptable; or

(iii) implementation of a corrective action plan in accordance with R277-114; and

(c) sending the closure letter to the governing board and local administrator of an audited agency when the Board accepts the audited agency's management response.

R277-116-5. Agency Authority and Responsibilities.

The agency shall wholly cooperate and provide the Audit Director and the internal audit staff all:

(1) necessary access to those charged with governance, management, and staff; and

(2) personnel, records, data, and other agency information that the Audit Director or staff consider necessary to carry out their assigned duties in a timely manner.

R277-116-6. Audit Process.

(1) The Audit Director shall develop and recommend an audit plan to the Board and the audit committee based on the results of periodic risk assessments and audits.

(2) Once approved and adopted by the Board, the Audit Director shall implement the audit plan.

(3) At the initiation of an audit, the Audit Director shall,

as necessary:

(a) send an engagement letter to the governing board and local administrator of the agency subject to the audit; and

(b) hold an entrance conference with the agency's governing board.

(4) After conducting an audit, the Audit Director shall:

(a) submit a preliminary draft audit report directly to:

(i) the audit committee;

(ii) the Superintendent; and

(iii) the governing board of the audited agency;

(b) hold an exit conference, if necessary, with the governing board and local administrator of the audited agency and administration to discuss the preliminary draft audit report; and

(c) edit the preliminary draft audit report, as appropriate, based on feedback received.

(5) The Audit Director shall submit a revised draft audit report directly to:

(a) the audit committee;

(b) the Board;

(c) the governing board and local administrator of the audited agency; and

(d) the Superintendent.

(6) Within fourteen days of the Audit Director's submission of the revised draft audit report to the audited agency governing board, and after the exit conference, if applicable, the auditing agency's governing board shall:

(a) provide a written response or comment on the draft audit report to the Audit Director and audit committee; or

(b) file a written request for an extension to the audit committee setting forth:

(i) the justification for the extension request; and

(ii) the extension time necessary to provide the response;

(7) Upon receiving written response and comment from the audited agency governing board, the Audit Director shall:

(a) incorporate into the draft audit report the written response, if any, received from the audited agency governing board;

(b) prepare Audit concluding remarks, if appropriate; and

(c) submit the amended draft audit report to the audit committee for recommendation.

(8) The audit committee may:

(a) recommend an amended draft audit report for approval and adoption; or

(b) send the amended draft audit report back to the Audit Director with instructions for additional review.

(9) Upon recommendation from the audit committee on the amended draft audit report, the Board may:

(a) approve and adopt an amended draft audit report as the final audit report; or

(b) send the amended draft audit report back to the audit committee with instructions for additional review.

R277-116-7. Audit Reports.

(1) An audit report prepared by the Audit Director and staff shall be based upon audits of agency programs, activities, and functions.

(2) An audit report prepared by the Audit Director shall include identification of any:

(a) abuse;

(b) illegal acts;

(c) errors;

(d) omissions; or

(e) conflicts of interest.

(3) The Audit Director shall provide, upon written request, a copy of an audit report to the Office of Legislative Auditor General or the Office of the State Auditor.

(4) The Audit Director shall ensure that public release of a final audit report complies with the conditions specified by the state laws and rules governing the audited agency.

KEY: educational administration
Date of Enactment or Last Substantive Amendment: April 9, 2018
Notice of Continuation: September 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-1-401; 53E-3-501(1)(e); 53E-3-603; 53F-2-204; 63I-5-101 through 401

R277. Education, Administration.
R277-120. Licensing of Material Developed with Public Education Funds.
R277-120-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Article X, Section 3 of the Utah Constitution, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-501(1)(e)(i), which directs the Board to encourage school productivity and cost effectiveness measures.

(2) The purpose of this rule is to:

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

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

R277-120-2. Definitions.

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

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

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

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

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

(i) give appropriate credit to the licensor;

(ii) provide a link to the license; and

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

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

(a) syllabi;

(b) instructional materials;

(c) modules;

(d) textbooks, including teacher's editions;

(e) student guides;

(f) supplemental materials;

(g) formative and summative assessment supports;

(h) laboratory activities;

(i) simulations;

(j) musical or dramatic compositions;

(k) audio, video or photographic material;

(l) manuals;

(m) codes; and

(n) software.

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

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

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

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

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

(i) provide attribution to the Board;

(ii) provide a link to the license; and

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

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

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

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

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

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

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

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

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

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

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

(e) whether the LEA restricts employees from sharing

materials purchased with LEA funds or specifically licensed for LEA use.

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

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

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

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

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

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

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

(4)(a) A Utah licensed educator may only share materials that are consistent with the Utah Professional Educator Standards contained in R277-515.

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

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

KEY: licensing, materials
Date of Enactment or Last Substantive Amendment: August 7, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(e)(i)

R277. Education, Administration.
R277-121. Board Waiver of Administrative Rules.
R277-121-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

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

R277-121-2. Procedures for Waiver Requests.

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

(b) A written request under Subsection (1)(a) shall include:

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

(ii) student achievement data that supports the requested waiver;

(iii) data demonstrating the cost effectiveness of the waiver request;

(iv) a proposed agreement with the Board that includes:

(A) a proposed effective date;

(B) provisions for public review and accountability;

(C) data gathering and reporting timelines;

(D) a sunset date; and

(v) in the case of a charter school, a recommendation from the board of the school's authorizer.

(2) An LEA board may not request a waiver from a Board rule:

(a) that is required by or adopts criteria from a federal statute, federal regulation, or state law;

(b) that would negatively affect the health, safety, or welfare of public education students;

(c) that could reasonably result in discrimination or harassment of public school students or employees;

(d) that would benefit one element of the public education system to the detriment of another; or

(e) when the concerns giving rise to an LEA board's request could be addressed through means other than waiver of Board rules.

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

(1) The Board Executive Committee may assign a waiver request made under this Rule R277-121 to a Board standing committee.

(2) The standing committee assigned in accordance with

Subsection (1):

(a) may solicit additional information or testimony;

(b) shall review the request in an open meeting; and

(c) shall make a recommendation for consideration by the full Board.

(3) The Board Executive Committee may consolidate consideration of duplicate or similar requests.

(4) The Board shall consider available data in evaluating an LEA waiver request and shall make data driven decisions.

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

(1) An LEA that receives a waiver from Board rule in accordance with this R277-121 for more than one year shall annually report to a Board committee:

(a) student achievement data that supports continuation of the requested waiver; and

(b) data demonstrating the cost effectiveness of the waiver, if applicable.

KEY: Utah State Board of Education, waivers, administrative rules
Date of Enactment or Last Substantive Amendment: August 7, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

R277. Education, Administration.
R277-122. Board of Education Procurement.
R277-122-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Title 63G, Chapter 6a, Utah Procurement Code.

(2) The purpose of this rule is to adopt and incorporate by reference Title R33, Purchasing and General Services, with exceptions as described in this rule.

R277-122-2. Definitions.

(1) "Professional service provider" means a provider of a professional service as defined in Subsection 63G-6a-103(61) and includes an expert in educational instruction and teaching.

(2) "Responsible" means the same as that term is defined in Subsection 63G-6a-103 (75).

(3) "Responsive" means the same as that term is defined in Subsection 63G-6a-103 (76).

(4) "Unsolicited proposal" means the same as that term is defined in Subsection 63G-6a-712(1).

R277-122-3. Incorporation of Title R33 With Exceptions.

(1) The Board adopts and incorporates by reference Title R33, Purchasing and General Services, as in effect on April 1, 2017, with the exceptions described in this section.

(2) The Board does not adopt Section R33-8-101b.

(3) The Board adopts Section R277-122-5 in place of Sections R33-5-104 and R33-5-107.

(4) The Board adopts Section R277-122-6 in place of Section R33-5-108.

(5) The Board adopts Section R277-122-7 in place of Section R33-7-704.

(6) The Board adopts Section R277-122-9 in place of Sections R33-9-102 and R33-9-103.

(7) The Board adopts Section R277-122-10 in place of Section R33-12-201.

(8) The Board adopts Section R277-122-12 in place of Section R33-12-608.

(9) The Board adopts Section R277-122-13 in place of Subsections:

(a) R33-16-101a (2)(a); and

(b) R33-16-301 (4).

R277-122-4. Head of the Procurement Unit Designated.

The Board designates the Board's Director of Purchasing as the head of the procurement unit.

R277-122-5. Small Purchases of Procurement Items Other than Professional Services and Consultants.

(1) The head of the procurement unit shall make small purchases in accordance with the requirements set forth in Section 63G-6a-506 and this Section R277-122-10.

(2) Unless otherwise required as part of another standard procurement process being used in conjunction with a small purchase, the head of the procurement unit need not utilize a solicitation or provide public notice to conduct a small purchase.

(3) The head of the procurement unit may make a small purchase of a procurement item other than a professional service by:

(a) direct award without seeking competitive bids or quotes up to the following threshold amounts:

(i) $10,000 for one or more procurement items purchased at the same time from one source; and

(ii) $75,000 for multiple procurement items purchased in a 12-month period from one source; and

(b) subject to Rule R33-4-109, obtaining quotes from a minimum of two vendors and purchasing the procurement item from the responsible vendor offering the lowest quote for a purchase of up to $75,000 for one or more procurement items purchased at the same time from a single source.

(4) When conducting a purchase under Subsection (3)(b) in conjunction with an approved vendor list, the head of the procurement unit:

(a)(i) may obtain quotes from all the vendors on the approved vendor list; or

(ii) may obtain quotes from a minimum of two vendors on the approved vendor list, using one or more of the following methods to select vendors from whom to obtain quotes:

(A) a rotation system, organized alphabetically, numerically, or randomly;

(B) the geographic area serviced by each vendor;

(C) each vendor's particular expertise or field;

(D) solicitation of an additional quote from the vendor that provided the lowest quote on the most recently completed procurement conducted by the Board using the approved vendor list; or

(E) another method approved by the head of the procurement unit;

(b) shall document that all vendors on the approved vendor

list have a fair and equitable opportunity to obtain a contract; and

(c) shall purchase the procurement item from the responsible vendor on the approved list offering the lowest quote.

(5) Whenever practicable, the head of the procurement unit shall use a rotation system or other system designed to allow for competition when using a small purchase process.

(6) In the process of obtaining a competitive quote, the head of the procurement unit shall record and maintain the following as a government record:

(a) the names of the vendors from whom quotes were requested and received; and

(b) the date of receipt and amount of each quote.

(7) The head of the procurement unit shall comply with all applicable laws and rules in the conduct of small purchases, including:

(a) Subsection 63G-6a-506(8);

(b) Title 63G, Chapter 6a, Part 24, Unlawful Conduct and Penalties; and

(c) Sections R33-24-104 through R33-24-106.

R277-122-6. Small Purchases of Professional Service Providers and Consultants.

(1) The head of the procurement unit shall make small purchases of professional services in accordance with the requirements set forth in Section 63G-6a-506 and this Section R277-122-11.

(2) Unless otherwise specifically required in this rule or as part of another standard procurement process being used in conjunction with a small purchase, the head of the procurement unit need not utilize a solicitation or provide public notice to conduct a small purchase of professional services.

(3) The head of the procurement unit may procure professional services:

(a) up to a maximum of $10,000 by direct negotiation with any professional services provider or consultant determined in writing by the head of the procurement unit to be qualified to provide the professional service; and

(b) up to a maximum of $100,000 by:

(i) subject to Rule R33-4-109, obtaining quotes from a minimum of three professional services providers or consultants determined in writing by the head of the procurement unit to be qualified to provide the professional services; and

(ii) making the purchase from the professional service provider or consultant determined in writing by the head of the procurement unit to provide the Board with the best value, comparing qualifications and price.

(4) The head of the procurement unit may utilize the process set forth in Subsection (3)(b) to make purchases from multiple professional service providers or consultants if:

(a) multiple professional service providers or consultants of the same type are required to fulfill the need for the professional service;

(b) the total amount awarded to the selected professional service providers or consultants does not exceed $250,000;

(c) a request for qualifications and quotes is published in accordance with Section 63G-6a-112;

(d) the request for qualifications and quotes states that the Board may make a purchase from multiple professional service providers or consultants; and

(e) all responses received are reviewed and considered when selecting the best value professional service providers or consultants.

(5) The head of the procurement unit shall comply with all applicable laws and rules in the conduct of small purchases for professional services, including:

(a) Subsection 63G-6a-506(8);

(b) Title 63G, Chapter 6a, Part 24, Unlawful Conduct and Penalties; and

(c) Sections R33-24-104 through R33-24-106.

R277-122-7. Scoring of Proposals Against Evaluation Criteria Other Than Cost in the Request for Proposal Process.

(1) The head of the procurement unit shall score proposals against evaluation criteria other than cost in the request for proposal process to:

(a) determine which proposals meet mandatory minimum requirements or minimum score thresholds set forth in a request for proposal; and

(b) assist the head of the procurement unit in selecting the proposal that provides the best value or is the most advantageous to the Board.

(2) The head of the procurement unit shall award points for each applicable evaluation criteria set forth in a request for proposal.

(3) The head of the procurement unit shall evaluate request for proposals based on a ten-point scale consisting of all whole numbers from zero to ten, with scores adhering to the following benchmarks:

(a) Ten points: the proposed solution measurably exceeds requirements and expectations as described in the request for proposal;

(b) Five points: the proposed solution satisfactorily meets requirements and expectations as described in the request for

proposal; and

(c) Zero points: the proposed solution does not meet requirements and expectations as described in the request for proposal.

(4) The head of the procurement unit may use an alternative scoring scale if approved in writing by the head of the procurement unit.

R277-122-8. Multiple Category Request for Proposals Process Resulting in a Single Award.

(1) In accordance with Section 63G-6a-710, the head of the procurement unit may conduct a multiple stage process as a multiple category request for proposals process resulting in a single contract award.

(2) The head of the procurement unit may use a multiple category request for proposals process when proposals are accepted in more than one category of solution, and the category of solution providing the best value to the Board is not determined until the final stage of the multiple stage process.

(3) When conducting a multiple category request for proposals process, the head of the procurement unit shall:

(a) comply with all requirements set forth in Title 63G, Chapter 6a, Part 7, Requests for Proposals;

(b) allow offerors to submit proposals in more than one category; and

(c) include in the request for proposals:

(i) the subjective and objective criteria that will be used to evaluate proposals in each category of solution;

(ii) the minimum score thresholds required to advance to subsequent stages of the multiple stage process;

(iii) the method of identifying the best value proposal in each category of solution; and

(iv) the method of identifying the best value category of solution in the final stage of the multiple stage process.

(4) Categories in a multiple category request for proposals may consist of:

(a) different types of solutions addressing the same need;

(b) a base solution and its variants, including add alternates building upon the base solution; or

(c) any other category determined in writing by the head of the procurement unit to be appropriate for use in a multiple category request for proposals.

R277-122-9. Cancellation Before Award.

(1) A solicitation may be cancelled prior to a contract award if:

(a) the Board does not receive any responsive responses to

the solicitation; or

(b) the head of the procurement unit determines the cancellation is:

(i) in the best interest of the Board; and

(ii) supported by a reasonable and good faith justification.

(2) The head of the procurement unit shall include notice of the Board's right of cancellation described in Subsection (1) in each Board solicitation.

(3) A solicitation may be re-issued:

(a) with or without modification, if cancelled pursuant to Subsection (1)(a); or

(b) with modification, if cancelled pursuant to Subsection (1)(b).

R277-122-10. Establishment of Terms and Conditions.

The head of the procurement unit shall develop standard terms and conditions for use with Board contracts and agreements.

R277-122-11. Requirements for Cost or Pricing Data.

(1) If cost or pricing data is required by Section 63G-6a-1206 or Section R33-12-601, the head of the procurement unit shall require the person who seeks a cost-based contract to submit:

(a) factual and verifiable information related to the contractor's estimated cost for completing a project on:

(i) the date the contract is signed by both parties; or

(ii) an earlier date agreed to by both parties that is:

(A) as close as practicable to the date described in Subsection (1)(a)(i); and

(B) before prudent buyers and sellers would reasonably expect price negotiations to be affected significantly; and

(b) underlying data related to a contractor's estimate that can be reasonably expected to contribute to the soundness of estimates of future costs and the validity of determinations of costs already incurred, including:

(i) vendor quotations;

(ii) nonrecurring costs;

(iii) information on changes in production methods and in production or purchasing volume;

(iv) data supporting projections of business prospects and objectives and related operations costs;

(v) unit-cost trends such as those associated with labor efficiency;

(vi) make-or-buy decisions;

(vii) estimated resources to attain business goals; or

(viii) information on management decisions that could have a significant bearing on costs.

(2) Submission of certified cost or pricing data applies to

contracts of $50,000.00 or greater if the contract price is not established by:

(a) adequate price competition;

(b) established catalogue or market prices; or

(c) law or regulation.

R277-122-12. Use of Federal Cost Principles.

The head of the procurement unit shall apply the federal cost principles described in 2 CFR Part 200, Subpart E in determining which costs expended under Board contracts are reasonable, allocable, and allowable.

R277-122-13. Grounds for Protest - Intervention in a Protest.

(1) A bidder who files a protest shall include in the bidder's submission a concise statement of the grounds for the protest, which shall include the facts leading the protestor to contend that a grievance has occurred, including but not limited to specifically referencing:

(a) the circumstances described in Subsections R33-16-101a(2)(a) (i) through (iii);

(b) a provision of the solicitation alleged to be:

(i) unduly restrictive;

(ii) anticompetitive; or

(iii) unlawful;

(c) an alleged material error made by the evaluation committee or conducting procurement unit; or

(d) the circumstances described in Subsections R33-16-101a(2)(a)(vi) and (vii).

(2) A motion to intervene in a post-award protest may only be made by the announced awardee.

(3) A person may intervene in a pre-award protest, if the person's proposal:

(a) was evaluated;

(b) found to be responsive; and

(c) the head of the procurement unit finds the person to be responsible.

R277-122-14. Unsolicited Proposals.

The head of the procurement unit may not consider an unsolicited proposal.

KEY: procurement, efficiency
Date of Enactment or Last Substantive Amendment: February 7, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401; 63G-6a

R277. Education, Administration.
R277-210. Utah Professional Practices Advisory Commission (UPPAC), Definitions.
R277-210-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to establish definitions for terms in UPPAC activities.

(3) The definitions contained in this rule apply to Rules R277-210 through R277-216.

(b) Any calculation of time called for by these rules shall be governed by Utah R. Civ. P. 6.

R277-210-2. Definitions.

(1)(a) "Action" means a disciplinary action taken by the Board adversely affecting an educator's license.

(b) "Action" does not include a disciplinary letter.

(c) "Action" includes:

(i) a letter of reprimand;

(ii) probation;

(iii) suspension; and

(iv) revocation.

(2) "Administrative hearing" or "hearing" has the same meaning as that term is defined in Section 53E-6-601.

(3) "Alcohol related offense" means:

(a) driving under the influence;

(b) alcohol-related reckless driving or impaired driving;

(c) intoxication;

(d) driving with an open container;

(e) unlawful sale or supply of alcohol;

(f) unlawful permitting of consumption of alcohol by minors;

(g) driving in violation of an alcohol or interlock restriction; and

(h) any offense under the laws of another state that is substantially equivalent to the offenses described in Subsections(3)(a) through (g).

(4) "Allegation of misconduct" means a written report alleging that an educator:

(a) has engaged in unprofessional or criminal conduct;

(b) is unfit for duty;

(c) has lost the educator's license in another state due to revocation or suspension, or through voluntary surrender or lapse of a license in the face of a claim of misconduct; or

(d) has committed some other violation of standards of ethical conduct, performance, or professional competence as provided in Rule R277-515.

(5) "Answer" means a written response to a complaint filed by the Executive Secretary alleging educator misconduct.

(6) "Applicant" means a person seeking:

(a) a new license;

(b) reinstatement of an expired, surrendered, suspended, or revoked license; or

(c) clearance of a criminal background review from Executive Secretary at any stage of the licensing process.

(7) "Boundary violation" means the same as that term is defined in Rule R277-515.

(8) "Chair" means the Chair of UPPAC.

(9) "Complaint" means a written allegation or charge against an educator filed by the Executive Secretary against the educator.

(10) "Complainant" means the Executive Secretary.

(11) "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file developed by the Superintendent and maintained on all licensed Utah educators.

(12) "Conflict of interest" means the same as that term is defined in Rule R277-101.

(13)(a) "Conviction" means the final disposition of a judicial action for a criminal offense, except in cases of a dismissal on the merits.

(b) "Conviction" includes:

(i) a finding of guilty by a judge or jury;

(ii) a guilty or no contest plea;

(iii) a plea in abeyance; and

(iv) for purposes of this rule, a conviction that has been expunged.

(14) "Criminal Background Review" means the process by which the Executive Secretary, UPPAC, and the Board review information pertinent to:

(a) a charge revealed by a criminal background check;

(b) a charge revealed by a hit as a result of ongoing monitoring; or

(c) an educator or applicant's self-disclosure.

(15)(a) "Disciplinary letter" means a letter issued to a respondent by the Board as a result of an investigation into an allegation of educator misconduct.

(b) "Disciplinary letter" includes:

(i) a letter of admonishment;

(ii) a letter of warning; and

(iii) any other action that the Board takes to discipline an educator for educator misconduct that does not rise to the level of an action as defined in this section.

(16) "Drug" means controlled substance as defined in Section 58-37-2.

(17) "Drug related offense" means any criminal offense under:

(a) Title 58, Chapter 37;

(b) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(c) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(d) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(e) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(f) Title 58, Chapter 37e, Drug Dealer's Liability Act. Sections 58-37 through 37e.

(18) "Educator Misconduct" means:

(a) unprofessional or criminal conduct;

(b) conduct that renders an educator unfit for duty; or

(c) conduct that is a violation of standards of ethical conduct, performance, or professional competence as provided in Rule R277-515.

(19) "Executive Committee" means a subcommittee of UPPAC consisting of the following members:

(a) Executive Secretary;

(b) Chair;

(c) Vice-Chair; and

(d) one member of UPPAC at large.

(20) "Executive Secretary" means:

(a) an employee of the Board who:

(i) is appointed by the Superintendent to serve as the UPPAC Director; and

(ii) serves as a non-voting member of UPPAC, consistent with Section 53E-6-502; or

(b) the Executive Secretary's designee.

(21) "Expedited Hearing" means an informal hearing aimed at determining an Educator's fitness to remain in the classroom held as soon as possible following an arrest, citation, or charge for a criminal offense requiring mandatory self-reporting under Section R277-516-3.

(22) "Expedited Hearing Panel" means a panel of the following three members:

(a) the Executive Secretary;

(b) a voting member of UPPAC; and

(c) a UPPAC attorney.

(23) "Final action" means an action by the Board that

concludes an investigation of an allegation of misconduct against a licensed educator.

(24) "GRAMA" refers to the Government Records Access and Management Act, Title 63G, Chapter 2, Government Records Access and Management Act.

(25) "Hearing officer" means a licensed attorney who:

(a) is experienced in matters relating to administrative procedures;

(b) is appointed by the Executive Secretary to manage the proceedings of a hearing;

(c) is not an acting member of UPPAC;

(d) has authority, subject to the limitations of these rules, to regulate the course of the hearing and dispose of procedural requests; and

(e) does not have a vote as to the recommended disposition of a case.

(26) "Hearing panel" means a panel of three or more individuals designated to:

(a) hear evidence presented at a hearing;

(b) make a recommendation to UPPAC as to disposition; and

(c) collaborate with the hearing officer in preparing a hearing report.

(27) "Hearing report" means a report that:

(a) is prepared by the hearing officer consistent with the recommendations of the hearing panel at the conclusion of a hearing; and

(b) includes:

(i) a recommended disposition;

(ii) detailed findings of fact and conclusions of law, based upon the evidence presented in the hearing, relevant precedent; and

(iii) applicable law and rule.

(28) "Informant" means a person who submits information to UPPAC concerning the alleged misconduct of an educator.

(29) "Investigator" means an employee of the Board, or independent investigator selected by the Board, who:

(a) is assigned to investigate allegations of educator misconduct under UPPAC supervision;

(b) offers recommendations of educator discipline to UPPAC and the Board at the conclusion of the investigation;

(c) provides an independent investigative report for UPPAC and the Board; and

(d) may also be a UPPAC attorney but does not have to be.

(30) "Investigative report" means a written report of an investigation into allegations of educator misconduct, prepared by an Investigator that:

(a) includes a brief summary of the allegations, the

investigator's narrative, and a recommendation for UPPAC and the Board;

(b) may include a rationale for the recommendation, and mitigating and aggravating circumstances;

(c) is maintained in the UPPAC Case File; and

(d) is classified as protected under Subsection 63G-2-305(34).

(31) "LEA" or "local education agency" for purposes of this rule includes the Utah Schools for the Deaf and the Blind.

(32) "Letter of admonishment" is a letter sent by the Board to an educator cautioning the educator to avoid or take specific actions in the future.

(33) "Letter of reprimand" is a letter sent by the Board to an educator:

(a) for misconduct that was longer term or more seriously unethical or inappropriate than conduct warranting a letter of warning, but not warranting more serious discipline;

(b) that provides specific directives to the educator as a condition for removal of the letter;

(c) appears as a notation on the educator's CACTUS file; and

(d) that an educator can request to be removed from the educator's CACTUS file after two years, or after such other time period as the Board may prescribe in the letter of reprimand.

(34) "Letter of warning" is a letter sent by the Board to an educator:

(a) for misconduct that was inappropriate or unethical; and

(b) that does not warrant longer term or more serious discipline.

(35) "License" means a teaching or administrative credential, including an endorsement, which is issued by the Board to signify authorization for the person holding the license to provide professional services in Utah's public schools.

(36) "Licensed educator" means an individual issued a teaching or administrative credential, including an endorsement, issued by the Board to signify authorization for the individual holding the license to provide professional services in Utah's public schools.

(37) "National Association of State Directors of Teacher Education and Certification (NASDTEC) Educator Information Clearinghouse" means a database maintained by NASDTEC for the members of NASDTEC regarding persons who:

(a) had their license suspended or revoked;

(b) have been placed on probation; or

(c) have received a letter of reprimand.

(38) "Notification of Alleged Educator Misconduct" means the official UPPAC form that may be accessed on UPPAC's internet website, and may be submitted by any person, school, or LEA that

alleges educator misconduct.

(39) "Party" means a complainant or a respondent.

(40) "Petitioner" means an individual seeking:

(a) an educator license following a denial of a license;

(b) reinstatement following a license suspension; or in the event of compelling circumstances, reinstatement following a license revocation.

(41) "Probation" is an action directed by the Board that:

(a) involves monitoring or supervision for a designated time period, usually accompanied by a disciplinary letter;

(b) may require the educator to be subject to additional monitoring by an identified person or entity;

(c) may require the educator to be asked to satisfy certain conditions in order to have the probation lifted;

(d) may be accompanied by a letter of reprimand, which shall appear as a notation on the educator's CACTUS file; and

(e) unless otherwise specified, lasts at least two years and may be terminated through a formal petition to the Board by the respondent.

(42) "Revocation" means a permanent invalidation of a Utah educator license consistent with Rule R277-517.

(43) "Respondent" means an educator against whom:

(a) a complaint is filed; or

(b) an investigation is undertaken.

(44) "Serve" or "service," as used to refer to the provision of notice to a person, means:

(a) delivery of a written document or its contents to the person or persons in question; and

(b) delivery that may be made in person, by mail, by electronic correspondence, or by any other means reasonably calculated, under all of the circumstances, to notify an interested person or persons to the extent reasonably practical or practicable of the information contained in the document.

(45) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-103.

(46) "Stipulated agreement" means an agreement between a respondent and the Board:

(a) under which disciplinary action is taken against the educator in lieu of a hearing;

(b) that may be negotiated between the parties and becomes binding:

(i) when approved by the Board; and

(ii) at any time after an investigative letter has been sent;

(c) is a public document under GRAMA unless it contains specific information that requires redaction or separate classification of the agreement.

(47)(a) "Suspension" means an invalidation of a Utah educator license.

(b) "Suspension" may:

(i) include specific conditions that an educator must satisfy; and

(ii) may identify a minimum time period that must elapse before the educator may request a reinstatement hearing before UPPAC.

(48) "Utah Professional Practices Advisory Commission" or "UPPAC" means an advisory commission established to assist and advise the Board in matters relating to the professional practices of educators, established in Section 53E-6-501.

(49) "UPPAC Attorney File" means a file:

(a) that is kept by the attorney assigned by UPPAC to investigate and/or prosecute a case that contains:

(i) the attorney's notes prepared in the course of investigation; and

(ii) other documents prepared by the attorney in anticipation of an eventual hearing; and

(b) that is classified as protected pursuant to Subsection 63G-2-305(18).

(50) "UPPAC Background Check File" means a file maintained securely by UPPAC on a criminal background review that:

(a) contains information obtained from:

(i) BCI; and

(ii) letters, police reports, court documents, and other materials as provided by an educator; and

(b) is classified as private under Subsection 63G-2-302(2).

(51) "UPPAC Case File" means a file:

(a) maintained securely by UPPAC on an investigation into educator misconduct;

(b) opened following UPPAC's direction to investigate alleged misconduct;

(c) that contains the original notification of misconduct with supporting documentation, correspondence with the Executive Secretary, the investigative report, the stipulated agreement, the hearing report, and the final disposition of the case;

(d) that is classified as protected under Subsection 63G-2-305(10) until the investigation and any subsequent proceedings before UPPAC and the Board are completed; and

(e) that after a case proceeding is closed, is considered public under GRAMA, unless specific documents contained therein contain non-public information or have been otherwise classified as non-public under GRAMA, in which case the file may be redacted or partially or fully restricted.

(52) "UPPAC Evidence File" means a file:

(a) maintained by the attorney assigned by UPPAC to

investigate a case containing materials, written or otherwise, obtained by the UPPAC investigator during the course of the attorney's investigation;

(b) that contains correspondence between the Investigator and the educator or the educator's counsel;

(c) that is classified as protected under Subsection 63G-2-305(10) until the investigation and any subsequent proceedings before UPPAC and the Board are completed; and

(d) that is considered public under GRAMA after case proceedings are closed, unless specific documents contained therein contain non-public information or have been otherwise classified as non-public under GRAMA.

(53) "UPPAC investigative letter" means a letter sent by UPPAC to an educator notifying the educator that an allegation of misconduct has been received against him and that UPPAC or the Board has directed that an investigation of the educator's alleged actions take place.

KEY: professional practices, definitions, educators
Date of Enactment or Last Substantive Amendment: February 7, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-306; 53A-1-401

R277. Education, Administration.
R277-211. Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions.
R277-211-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to provide procedures regarding:

(a) notifications of alleged educator misconduct;

(b) review of notifications by UPPAC; and

(c) complaints, proposed stipulated agreements, approved stipulated agreements, and defaults.

(3) Except as provided in Subsection (4), Title 63G, Chapter 4, Administrative Procedures Act does not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

(4) UPPAC may invoke and use sections or provisions of Title 63G, Chapter 4, Administrative Procedures Act as necessary to adjudicate an issue.

R277-211-2. Initiating Proceedings Against Educators.

(1) The Executive Secretary may refer a case to UPPAC to make a determination if an investigation should be opened regarding an educator:

(a) upon receiving a notification of alleged educator misconduct; or

(b) upon the Executive Secretary's own initiative.

(2) An informant shall submit an allegation to the Executive Secretary in writing, including the following:

(a) the informant's:

(i) name;

(ii) position, such as administrator, teacher, parent, or student;

(iii) telephone number;

(iv) address; and

(v) contact information;

(b) information of the educator against whom the allegation is made:

(i) name;

(ii) position, such as administrator, teacher, candidate;

and

(iii) if known, the address and telephone number;

(c) the facts on which the allegation is based and supporting information; and

(d) signature of the informant and date.

(3) If an informant submits a written allegation of misconduct as provided in this rule, the informant may be notified of a final action taken by the Board regarding the allegation.

(4)(a) Proceedings initiated upon the Executive Secretary's own initiative may be based on information received through a telephone call, letter, newspaper article, media information, notice from another state, or by other means.

(b) The Executive Secretary may also recommend an investigation based on an anonymous allegation, notwithstanding the provisions of this rule, if the allegation bears sufficient indicia of reliability.

(5) The Executive Secretary shall maintain all written allegations, subsequent dismissals, actions, or disciplinary letters related to a case against an educator shall be maintained permanently in the UPPAC case file.

R277-211-3. Review of Notification of Alleged Educator Misconduct.

(1)(a) Upon receipt of a notification of alleged educator misconduct, the Executive Secretary shall recommend one of the following to UPPAC:

(i) dismiss the matter if UPPAC determines that alleged misconduct does not involve an issue that UPPAC should address; or

(ii) initiate an investigation if UPPAC determines that the alleged misconduct involves an issue that may be appropriately addressed by UPPAC and the Board.

(b) If the Executive Secretary recommends UPPAC initiate an investigation:

(i) UPPAC shall initiate an investigation; and

(ii) the Executive Secretary shall direct a UPPAC investigator to gather evidence relating to the allegations.

(2)(a) Prior to a UPPAC investigator's initiation of an investigation, the Executive Secretary shall send a letter to the following with information that UPPAC has initiated an investigation:

(i) the educator to be investigated;

(ii) the LEA that employs the educator; and

(iii) the LEA where the alleged activity occurred.

(b) A letter described in Subsection(2)(a) shall inform the educator and the LEA that an investigation shall take place and is not evidence of unprofessional conduct.

(c) UPPAC shall place a flag on the educator's CACTUS file

after sending the notices as provided in this rule.

(3)(a) The investigator shall review relevant documentation and interview individuals who may have knowledge of the allegations.

(b) The investigator shall prepare an investigative report of the findings of the investigation and a recommendation for appropriate action or disciplinary letter.

(c) If the investigator discovers additional evidence of unprofessional conduct that could have been included in the original notification of alleged educator misconduct, the investigator may include the additional evidence of misconduct in the investigative report.

(d) The investigator shall submit the investigative report to the Executive Secretary.

(e) The Executive Secretary shall review the investigative report described in Subsection(3)(d) with UPPAC.

(f) The investigative report described in Subsection(3)(d) shall become part of the UPPAC case file.

(4) UPPAC shall review the investigative report and take one of the following actions:

(a) UPPAC determines no further action should be taken, UPPAC may recommend that the Board dismiss the case; or

(b) UPPAC may make an initial recommendation of appropriate action or disciplinary letter.

(5) After receiving an initial recommendation from UPPAC for action, the Executive Secretary shall direct a UPPAC attorney to:

(a) prepare and serve a complaint; or

(b) negotiate and prepare a proposed stipulated agreement.

(6)(a) Upon request of an educator, UPPAC will provide an electronic or paper copy of the UPPAC case file and evidence file to the educator.

(b) UPPAC may charge fees in accordance with R277-103-5 if the educator requests a paper copy.

(7)(a) A proposed stipulated agreement shall conform to the requirements set forth in Section R277-211-6.

(b) An educator may stipulate to any recommended disposition for an action.

(8) The Executive Secretary shall forward any proposed stipulated agreement to the Board for approval.

R277-211-4. Expedited Hearings.

(1) In a case involving the report of an arrest, citation, or charge of a licensed educator, which requires self-reporting by the educator under Section R277-516-3, the Executive Secretary, with the consent of the educator, may schedule the matter for an expedited hearing in lieu of initially referring the matter to UPPAC.

(2)(a) The Executive Secretary shall hold an expedited hearing within 30 days of a report of an arrest, citation, or charge, unless otherwise agreed upon by both parties.

(b) The Executive Secretary or the Executive Secretary's designee shall conduct an expedited hearing with the following additional invited participants:

(i) the educator;

(ii) the educator's attorney or representative;

(iii) a UPPAC attorney;

(iv) a voting member of UPPAC; and

(v) a representative of the educator's LEA.

(3) The panel may consider the following matters at an expedited hearing:

(a) an educator's oral or written explanation of the events;

(b) a police report;

(c) a court docket or transcript;

(d) an LEA's investigative report or employment file; and

(e) additional information offered by the educator if the panel deems it probative of the issues at the expedited hearing.

(4) After reviewing the evidence described in Subsection (3), the expedited hearing panel shall make written findings and a recommendation to UPPAC to do one of the following:

(a) close the case;

(b) close the case upon completion of court requirements;

(c) recommend issuance of a disciplinary letter to the Board;

(d) open a full investigation; or

(e) recommend action by the Board, subject to an educator's due process rights under these rules.

(5) An expedited hearing may be recorded, but the testimony from the expedited hearing is inadmissible during a future UPPAC action related to the allegation.

(6) If the Board fails to adopt the recommendation of an expedited hearing panel, UPPAC shall open a full investigation.

R277-211-5. Complaints.

(1) If UPPAC determines that an allegation is sufficiently supported by evidence discovered in the investigation, the Executive Secretary shall direct the UPPAC attorney to serve a complaint upon the educator being investigated.

(2) At a minimum, a complaint shall include:

(a) a statement of legal authority and jurisdiction under which the action is being taken;

(b) a statement of the facts and allegations upon which the complaint is based;

(c) other information that the investigator believes is necessary to enable the respondent to understand and address the

allegations;

(d) a statement of the potential consequences if an allegation is found to be true or substantially true;

(e) a statement that the respondent shall answer the complaint and request a hearing, if desired, within 30 days of the date the complaint is mailed to the respondent;

(f) a statement that the respondent is required to file a written answer described in Subsection(2)(e) with the Executive Secretary;

(g) a statement advising the respondent that if the respondent fails to respond within 30 days, a default judgment for revocation or a suspension of the educator's license may occur for a term of five years or more;

(h) a statement that, if a hearing is requested, the hearing will be scheduled no less than 45 days, nor more than 180 days, after receipt of the respondent's answer, unless a different date is agreed to by both parties in writing; and

(i) a copy of the applicable hearing rules as required by Subsection 53E-6-607.

(3) On the Executive Secretary's own motion, the Executive Secretary, or the Executive Secretary's designee, with notice to the parties, may reschedule a hearing date.

(4)(a) A respondent may file an answer to a complaint by filing a written response signed by the respondent or the respondent's representative with the Executive Secretary within 30 days after the complaint is mailed.

(b) The answer may include a request for a hearing, and shall include:

(i) the file number of the complaint;

(ii) the names of the parties;

(iii) a statement of the relief that the respondent seeks; and

(iv) if not requesting a hearing, a statement of the reasons that the relief requested should be granted.

(c) As an alternative to filing an answer, the respondent may file a voluntary surrender pursuant to Rule R277-216.

(5)(a) As soon as reasonably practicable after receiving an answer, or no more than 30 days after receipt of an answer, the Executive Secretary shall schedule a hearing, if requested by the respondent, as provided in Rule R277-212.

(b) If the parties can reach an agreement prior to the hearing consistent with the terms of UPPAC's initial recommendation, the UPPAC attorney may negotiate a proposed stipulated agreement with the respondent.

(c) A proposed stipulated agreement described in Subsection(5)(b) shall be submitted to the Board for the Board's final approval.

(6)(a) If a respondent does not respond to the complaint within 30 days, the Executive Secretary may initiate default proceedings in accordance with the procedures set forth in Section R277-211-7.

(b) Except as provided in Subsection R277-211-7(3), if the Executive Secretary enters an order of default, the Executive Secretary shall make a recommendation to the Board for a revocation or a suspension of the educator's license for five years before the educator may request a reinstatement hearing.

(c) If a default results in a suspension, a default may include conditions that an educator shall satisfy before the educator may qualify for a reinstatement hearing.

(d) An order of default shall result in a recommendation to the Board for a revocation if the alleged misconduct is conduct identified in Subsection 53E-6-604(5)(b).

R277-211-6. Proposed Consent to Discipline.

(1) At any time after UPPAC has made an initial recommendation, a respondent may accept UPPAC's initial recommendation, rather than request a hearing, by entering into a proposed consent to discipline.

(2) By entering into a proposed consent to discipline, a respondent waives the respondent's right to a hearing to contest the recommended disposition, contingent on final approval by the Board.

(3) At a minimum, the Executive Secretary shall include the following in a proposed consent to discipline:

(a) a summary of the facts, the allegations, the presumption described in Rule R277-215, mitigating or aggravating factors described in Rule R277-215, and the evidence relied upon by UPPAC in its recommendation;

(b) a statement that the respondent admits the facts recited in the proposed consent to discipline as true for purposes of the Board administrative action;

(c) a statement that the respondent:

(i) waives the respondent's right to a hearing to contest the allegations that gave rise to the investigation; and

(ii) agrees to limitations on the respondent's license or surrenders the respondent's license rather than contest the allegations;

(d) a statement that the respondent agrees to the terms of the proposed consent to discipline and other provisions applicable to the case, such as remediation, counseling, restitution, rehabilitation, and other conditions, if any, under which the respondent may request a reinstatement hearing or a removal of the letter of reprimand or termination of probation;

(e) if for suspension or revocation of a license, a

statement that the respondent:

(i) may not seek or provide professional services in a public school in the state;

(ii) may not seek to obtain or use an educator license in the state; or

(iii) may not work or volunteer in a public K-12 setting in any capacity without express authorization from the UPPAC Executive Secretary, unless or until the respondent:

(A) first obtains a valid educator license or authorization from the Board to obtain such a license; or

(B) satisfies other provisions provided in the proposed consent to discipline;

(f) a statement that the action and the proposed consent to discipline shall be reported to other states through the NASDTEC Educator Information Clearinghouse and any attempt to present to any other state a valid Utah license shall result in further licensing action in Utah;

(g) a statement that respondent waives the respondent's right to contest the facts stated in the proposed consent to discipline at a subsequent reinstatement hearing, if any;

(h) a statement that all records related to the proposed consent to discipline shall remain permanently in the UPPAC case file;

(i) a statement reflecting the proposed consent to discipline classification under Title 63G, Chapter 2, Government Records Access and Management Act;

(j) a statement that information regarding the proposed letter of reprimand, suspension, or revocation may be included in an online licensing database that is available for public access in accordance with R277-512.

(k) a statement that a violation of the terms of an approved consent to discipline may result in additional disciplinary action and may affect the reinstatement process; and

(l) a statement that the educator understands that the Board is not bound by UPPAC's recommendation or the negotiated proposed stipulated agreement unless the Board approves the proposed consent to discipline.

(4)(a) The Executive Secretary shall forward a proposed consent to discipline to the Board for approval.

(b) If the Board does not approve a proposed consent to discipline, the Board may:

(i)(A) remand the case to UPPAC and may include issues that need to be addressed;

(B) offer respondent the opportunity for a hearing; or

(C) provide alternative terms and disposition to the Executive Secretary, that would be satisfactory to the Board to be submitted to the educator for consideration;

(ii) direct the Executive Secretary to issue a disciplinary letter or dismiss the matter; or

(iii) take other appropriate action consistent with due process and R277-215.

(5) If the respondent accepts a consent to discipline with alternative terms and disposition proposed by the Board, the consent to discipline, as modified, is a final Board administrative action without further Board consideration.

(6) If the terms approved by the Board are rejected by the respondent, the proceedings shall continue from the point under these procedures at which the agreement was negotiated, as if the stipulated agreement had not been submitted.

(7) If the Board remands to UPPAC to provide respondent the opportunity for a hearing under Subsection (4)(b)(i)(B), the Executive Secretary shall:

(a) notify the parties of the decision;

(b) direct a UPPAC attorney to issue a complaint; and

(c) direct the proceedings as if the proposed consent to discipline had not been submitted.

(8) If the Board approves a proposed consent to discipline, the approval is a final Board administrative action and the Executive Secretary shall:

(a) notify the parties of the decision;

(b) update CACTUS to reflect the action;

(c) report the action to the NASDTEC Educator Information Clearinghouse if the agreement results in:

(i) a revocation;

(ii) a suspension;

(iii) probation; or

(iv) a letter of reprimand;

(d) direct the appropriate penalties to begin; and

(e) notify the LEAs throughout the state.

R277-211-7. Default Procedures.

(1) If a respondent does not respond to a complaint within 30 days from the date the complaint is served, the Executive Secretary may issue an order of default against the respondent consistent with the following:

(a) the Executive Secretary shall prepare and serve on the respondent an order of default including:

(i) a statement of the grounds for default; and

(ii) a recommended disposition if the respondent fails to file a response to a complaint;

(b) ten days following service of the order of default, a UPPAC attorney shall attempt to contact respondent by telephone or electronically;

(c) UPPAC shall maintain documentation of attempts toward

written, telephonic, or electronic contact;

(d) the respondent has 20 days following service of the order of default to respond to UPPAC; and

(e) if UPPAC receives a response from respondent to a default order before the end of the 20 day default period, UPPAC shall allow respondent a final ten day period to respond to a complaint.

(2) Except as provided in Subsection (3), if an order of default is issued, the Executive Secretary shall make a recommendation to the Board for discipline in accordance with Rule R277-215.

(3) If an order of default is issued, the Executive Secretary shall make a recommendation to the Board for a revocation of the educator's license if the alleged misconduct is conduct identified in Subsection 53E-6-604(5)(b).

R277-211-8. Disciplinary Letters and Dismissal.

(1) If UPPAC recommends issuance of a disciplinary letter or dismissal, the Executive Secretary shall forward the case to the Board for review.

(2) If the Board does not approve a recommendation for a disciplinary letter or dismissal described in Subsection (1), the Board may:

(a) remand the case to UPPAC with:

(i) direction as to the issues UPPAC should address;

(ii) alternative terms and disposition that should be satisfactory to the Board to be submitted to the educator for consideration; and

(iii) the opportunity for the educator to participate in a hearing;

(b) direct the Executive Secretary to issue a different level of disciplinary letter;

(c) dismiss the matter; or

(d) take other appropriate action consistent with due process and Rule R277-215.

(3) If the Board approves a disciplinary letter, the Executive Secretary shall:

(a) prepare the disciplinary letter and mail it to the educator;

(b) place a copy of the disciplinary letter in the UPPAC case file; and

(c) update CACTUS to reflect that the investigation is closed.

KEY: teacher licensing, conduct, hearings
Date of Enactment or Last Substantive Amendment: May 10, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-6-506; 53E-3-401(4)

R277. Education, Administration.
R277-212. UPPAC Hearing Procedures and Reports.
R277-212-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to establish procedures regarding UPPAC hearings and hearing reports.

(3) The standards and procedures of Title 63G, Chapter 4, Administrative Procedures Act do not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

R277-212-2. Scheduling a Hearing.

(1)(a) Following receipt of an answer by respondent requesting a hearing, or at the direction of the Board to give the respondent an opportunity to have a hearing:

(i) UPPAC shall select panel members;

(ii) the Executive Secretary shall appoint a hearing officer from among a list of hearing officers identified by the state procurement process and approved by UPPAC; and

(iii) UPPAC shall schedule the date, time, and place for the hearing.

(b) The Executive Secretary shall schedule a hearing for a date that is not less than 45 days nor more than 180 days from the date the Executive Secretary receives the answer unless otherwise stipulated by the parties.

(c) The required scheduling periods may be waived by mutual written consent of the parties or by the hearing officer for good cause shown.

(2)(a) Any party may request a change of hearing date by submitting a request in writing that shall:

(i) include a statement of the reasons for the request; and

(ii) be submitted to the hearing officer at least five days prior to the scheduled date of the hearing.

(b) The hearing officer shall determine whether the reason stated in the request is sufficient to warrant a change.

(c) If the hearing officer finds that the reason for the request for a change of hearing date is sufficient, the hearing officer shall promptly notify all parties of the new time, date, and place for the hearing.

(d) If the hearing officer does not find the reason for the

request for a change of hearing date to be sufficient, the hearing officer shall immediately notify the parties that the request has been denied.

(e) The hearing officer and the parties may waive the time period required for requesting a change of hearing date for good cause shown.

(3) An educator is entitled to a hearing on any matter in which an action is recommended.

(4) An educator is not entitled to a hearing on a matter in which a disciplinary letter is recommended.

R277-212-3. Appointment and Duties of the Hearing Officer and Hearing Panel.

(1)(a) The Executive Secretary shall appoint a hearing officer to chair the hearing panel and conduct the hearing.

(b) The Executive Secretary shall select a hearing officer on a random basis from a list of available contracted hearing officers, subject to availability and conflict of interest.

(c) The Executive Secretary shall provide such information about the case as necessary to determine whether the hearing officer has a conflict of interest and shall disqualify any hearing officer that cannot serve under the Utah Rules of Professional Conduct.

(d) A hearing officer:

(i) may require the parties to submit a brief and a list of witnesses prior to the hearing;

(ii) presides at the hearing and regulates the course of the proceeding;

(iii) administers an oath to a witness as follows: "Do you swear or affirm that the testimony you will give is the truth?";

(iv) may take testimony, rule on a question of evidence, and ask a question of a witness to clarify a specific issue; and

(v) prepares and submits a hearing report to the Executive Secretary at the conclusion of the proceedings in consultation with panel members and the timelines of this rule.

(2)(a) UPPAC shall select three or more individuals to serve as members of the hearing panel.

(b) The majority of panel members shall be current UPPAC members.

(c) As directed by UPPAC, a licensed educator or member of the community may serve as a panel member, if needed.

(d) UPPAC shall select panel members on a rotating basis to the extent practicable.

(e) UPPAC shall accommodate each prospective panel member based on the availability of the panel member.

(f) If the respondent is a teacher, at least one panel member shall be a teacher.

(g) If the respondent is a non-teacher licensed educator, at least one panel member shall be a non-teacher licensed educator.

(3) The requirements of Subsection (2) may be waived only upon the stipulation of both UPPAC and the respondent.

(4)(a) A UPPAC panel member shall:

(i) assist a hearing officer by providing information concerning professional standards and practices of educators in the respondent's particular field of practice and in the situations alleged;

(ii) ask a question of a witness to clarify a specific issue;

(iii) review all evidence and briefs, if any, presented at the hearing;

(iv) make a recommendation to UPPAC as to the suggested disposition of a complaint; and

(v) assist the hearing officer in preparing the hearing report.

(b) A panel member may only consider the evidence approved for admission by the hearing officer.

(c) The Executive Secretary may make an emergency substitution of a panel member for cause with the consent of the parties.

(d) The agreement to substitute a panel member shall be in writing.

(e) Parties may agree to a two-member UPPAC panel in an emergency situation.

(f) If the parties do not agree to a substitution or to having a two-member panel, the Executive Secretary shall reschedule the hearing.

(5)(a) A party may request that the Executive Secretary disqualify a hearing officer by submitting a written request for disqualification to the Executive Secretary.

(b) A party shall submit a request to disqualify a hearing officer to the Executive Secretary at least 15 days before a scheduled hearing.

(6)(a) The Executive Secretary shall review a request described in Subsection (5) and supporting evidence to determine whether the reasons for the request are substantial and compelling.

(b) If the Executive Secretary determines that the hearing officer should be disqualified, the Executive Secretary shall appoint a new hearing officer and, if necessary, reschedule the hearing.

(7) A hearing officer may recuse himself or herself from a hearing if, in the hearing officer's opinion, the hearing officer's participation would violate any of the Utah Rules of Professional Conduct consistent with the Supreme Court Rules of

Professional Practice.

(8)(a) If the Executive Secretary denies a request to disqualify a hearing officer described in Subsection (5), the Executive Secretary shall notify the party within ten days prior to the date of the hearing.

(b) The requesting party may submit a written appeal of the Executive Secretary's denial to the Superintendent no later than five days prior to the hearing date.

(c) If the Superintendent finds that the appeal is justified, the Superintendent shall direct the Executive Secretary to appoint a new hearing officer and, if necessary, reschedule the hearing.

(d) The decision of the Superintendent described in Subsection (8)(c) is final.

(e) If a party fails to file an appeal within the time requirements of Subsection (8)(b), the appeal shall be deemed denied.

(f) If the Executive Secretary fails to meet the time requirements described in Subsection (6) or (8), the request or appeal is approved.

(9)(a) A UPPAC member shall recuse himself or herself as a panel member due to any known financial or personal interest, prior relationship, personal and independent knowledge of the persons or issues in the case, or other association that the panel member believes would compromise the panel member's ability to make an impartial decision.

(b) A party may request that a UPPAC panel member be disqualified by submitting a written request to the following:

(i) the hearing officer; or

(ii) to the Executive Secretary if there is no hearing officer.

(c) A party shall submit a request described in Subsection (9)(b) no less than 15 days before a scheduled hearing.

(d) The hearing officer, or the Executive Secretary, if there is no hearing officer, shall:

(i) review a request described in Subsection (9)(b) and supporting evidence to determine whether the reasons for the request are substantial and compelling enough to disqualify the panel member; and

(ii) if the reasons for the request described in Subsection (9)(b) are substantial and compelling, disqualify the panel member.

(e) If the panel member's disqualification leaves the hearing panel with fewer than three UPPAC panel members:

(i) UPPAC shall appoint a replacement; and

(ii) the Executive Secretary shall, if necessary, reschedule the hearing.

(f) If a request described in Subsection (9)(b) is denied, the hearing officer or the Executive Secretary if there is no hearing officer, shall notify the party requesting the panel member's disqualification no less than ten days prior to the date of the hearing.

(g) The requesting party may file a written appeal of a denial described in Subsection (9)(f) with the Superintendent no later than five days prior to the hearing date.

(h) If the Superintendent finds that an appeal described in Subsection (9)(g) is justified, the Superintendent shall direct the hearing officer or the Executive Secretary if there is no hearing officer, to replace the panel member.

(i) If a panel member's disqualification leaves the hearing panel with fewer than three UPPAC panel members, UPPAC shall agree upon a replacement and the Executive Secretary shall, if necessary, reschedule the hearing.

(j) The decision of the Superintendent described in Subsection (9)(h) is final.

(k) If a party fails to file an appeal within the time requirements of Subsection (9)(g), the appeal shall be deemed denied.

(l) If the hearing officer, or the Executive Secretary if there is no hearing officer, fails to meet the time requirements described in this Subsection (9), the request or appeal is approved.

(10) The Executive Secretary may, at the time the Executive Secretary selects a hearing officer or panel member, select an alternative hearing officer or panel member following the process for selecting those individuals.

(11) The Executive Secretary may substitute a panel member with an alternative panel member if the Executive Secretary notifies the parties of the substitution.

R277-212-4. Preliminary Instructions to Parties to a Hearing.

(1) A hearing shall be scheduled no less than 45 days after receipt of an answer, unless otherwise stipulated by the parties.

(2) No later than 25 days before the date of a hearing, the Executive Secretary shall provide the parties with the following information:

(a) date, time, and location of the hearing;

(b) names and LEA affiliations of each panel member, and the name of the hearing officer; and

(c) instructions for accessing these rules.

(3) No later than 20 days before the date of the hearing, the respondent and the complainant shall provide the following to the other party and to the hearing officer:

(a) a brief, if requested by the hearing officer containing:

(i) any procedural and evidentiary motions along with the party's position regarding the allegations; and

(ii) relevant laws, rules, and precedent;

(b) the name of the person who will represent the party at the hearing;

(c) a list of witnesses expected to be called, including a summary of the testimony that each witness is expected to present;

(d) a summary of documentary evidence that the party intends to submit; and

(e) following receipt of the other party's witness list, a list of anticipated rebuttal witnesses and evidence no later than ten days prior to the hearing.

(4)(a) Except as provided in Subsection (4)(b), a party may not present a witness or evidence at the hearing if the witness or evidence has not been disclosed to the other party as required in Subsection (3).

(b) A party may present a witness or evidence at the hearing even if the witness or hearing has not been disclosed to the other party if:

(i) the parties stipulate to the presentation of the witness or evidence at the hearing; or

(ii) the hearing officer makes a determination of good cause to allow the witness or evidence.

(5) If a party fails to comply in good faith with a directive of the hearing officer, including time requirements, the hearing officer may prohibit introduction of the testimony or evidence or take other steps reasonably appropriate under the circumstances.

(6) A party shall provide materials to the hearing officer, panel members, and UPPAC as directed by the hearing officer.

R277-212-5. Hearing Parties' Representation.

(1) A UPPAC attorney shall represent the complainant.

(2) A respondent may represent himself or herself or be represented, at the respondent's own cost, by another person.

(3) The informant has no right to:

(a) individual representation at the hearing; or

(b) to be present or heard at the hearing unless called as a witness.

(4) A respondent shall notify the Executive Secretary in a timely manner and in writing if the respondent chooses to be represented by anyone other than the respondent.

R277-212-6. Discovery Prior to a Hearing.

(1) Discovery is permitted to the extent necessary to obtain relevant information necessary to support claims or defenses, as determined by the hearing officer.

(2) Unduly burdensome legalistic discovery may not be used to delay a hearing.

(3) A hearing officer may limit discovery:

(a) at the discretion of the hearing officer; or

(b) upon a motion by either party.

(4) A hearing officer rules on all discovery requests and motions.

(5) The Executive Secretary shall issue a subpoena or other order to secure the attendance of a witness pursuant to Subsection 53E-6-606(1) if:

(a) requested by either party; and

(b) notice of intent to call the witness has been timely provided as required by Section R277-212-4.

(6) The Executive Secretary shall issue a subpoena to produce evidence if timely requested by either party.

(7)(a) A party may not present an expert witness report or expert witness testimony at a hearing unless the requirements of Section R277-212-10 have been met.

(b) A respondent may not subpoena the UPPAC attorney or investigator as an expert witness.

R277-212-7. Burden and Standard of Proof for UPPAC Proceedings.

(1) In matters other than those involving applicants for licensing, and excepting the presumptions under Subsection R277-212-11(11), the Board shall have the burden of proving that an action against the license is appropriate.

(2) An applicant for licensing has the burden of proving that licensing is appropriate.

(3) The standard of proof in all UPPAC hearings is a preponderance of the evidence.

(4) The Utah Rules of Evidence are not applicable to UPPAC proceedings.

(5) The criteria to decide an evidentiary question are:

(a) reasonable reliability of the offered evidence;

(b) fairness to both parties; and

(c) usefulness to UPPAC in reaching a decision.

(6) The hearing officer has the sole responsibility to determine the application of the hearing rules and the admissibility of evidence.

R277-212-8. Deportment.

(1) Parties, their representatives, witnesses, and other persons present during a hearing shall conduct themselves in an appropriate manner during a hearing, giving due respect to members of the hearing panel and complying with the instructions of the hearing officer.

(2) A hearing officer may exclude a person from the hearing

room who fails to conduct himself or herself in an appropriate manner and may, in response to extreme instances of noncompliance, disallow the person's testimony.

(3) Parties, attorneys for parties, or other participants in the professional practices investigation and hearing process may not harass, intimidate, or pressure witnesses or other hearing participants, nor may they direct others to harass, intimidate, or pressure witnesses or participants.

R277-212-9. Hearing Record.

(1) A hearing shall be recorded at UPPAC's expense, and the recording shall become part of the UPPAC case file, unless otherwise agreed upon by all parties.

(2) An individual party may, at the party's own expense, make a recording or transcript of the proceedings if the party provides notice to the Executive Secretary.

(3) If an exhibit is admitted as evidence, the record shall reflect the contents of the exhibit.

(4) All evidence and statements presented at a hearing shall become part of the UPPAC case file and may not be removed except by direction of the Executive Secretary or by order of the Board.

(5)(a) Upon request of an educator, UPPAC will provide an electronic or paper copy of the UPPAC case file to the educator.

(b) UPPAC may charge fees in accordance with Rule R277-103-5 if the educator requests a paper copy.

R277-212-10. Expert Witnesses in UPPAC Proceedings.

(1) A hearing officer may allow testimony by an expert witness.

(2) A party may call an expert witness at the party's own expense.

(3) A party shall provide a hearing officer and the opposing party with the following information at least 15 days prior to the hearing date:

(a) notice of intent of a party to call an expert witness;

(b) the identity and qualifications of an expert witness;

(c) the purpose for which the expert witness is to be called; and

(d) any prepared expert witness report.

(4) Defects in the qualifications of an expert witness, once a minimum threshold of expertise is established, go to the weight to be given the testimony and not to its admissibility.

(5) An expert witness who is a member of the complainant's staff or staff of an LEA may testify and have the testimony considered as part of the record in the same manner as the testimony of any other expert.

R277-212-11. Evidence and Participation in UPPAC Proceedings.

(1) A hearing officer may not exclude evidence solely because the evidence is hearsay.

(2) Each party has a right to call witnesses, present evidence, argue, respond, cross-examine witnesses who testify in person at the hearing, and submit rebuttal evidence.

(3) Testimony presented at the hearing shall be given under oath if the testimony is offered as evidence to be considered in reaching a decision on the merits.

(4) On the hearing officer's own motion or upon objection by a party, the hearing officer:

(a) may exclude evidence that the hearing officer determines to be irrelevant, immaterial, or unduly repetitious;

(b) shall exclude evidence that is privileged under law applicable to administrative proceedings in the state unless waived;

(c) may receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all pertinent portions of the original document;

(d) may take official notice of any facts that could be judicially noticed under judicial or administrative laws of the state, or from the record of other proceedings before the agency.

(5)(a) In addition to a rebuttable presumption described in Subsection 53E-6-506(3)(e), a rebuttable evidentiary presumption exists that a person has committed a sexual offense against a minor if the person has:

(i) been found, pursuant to a criminal, civil, or administrative action to have committed a sexual offense against a minor; or

(ii) failed to defend himself or herself against the charge when given a reasonable opportunity to do so.

(b) A rebuttable evidentiary presumption exists that a person is unfit to serve as an educator if the person has been found pursuant to a criminal, civil, or administrative action to have exhibited behavior evidencing unfitness for duty, including immoral, unprofessional, or incompetent conduct, or other violation of standards of ethical conduct, performance, or professional competence.

(c) Evidence of behavior described in Subsection (11)(b) may include:

(i) conviction of a felony;

(ii) a felony charge and subsequent conviction for a lesser related charge pursuant to a plea bargain or plea in abeyance;

(iii) an investigation of an educator's license, certificate, or authorization in another state; or

(iv) the expiration, surrender, suspension, revocation, or invalidation of an educator's license for any reason.

R277-212-12. Testimony of a Minor Victim or Witness.

(1) For purposes of this section, a "minor victim or witness" is an individual who is less than 18 years old at the time of hearing.

(2) If a case involves allegations of child abuse or of a sexual offense against a minor under applicable federal or state law, either party, a member of the hearing panel, or the hearing officer, may request that a minor victim or witness be allowed to testify outside of the respondent's presence.

(3) If the hearing officer determines that a minor victim or witness would suffer undue emotional or mental harm, or that the minor victim or witness's testimony in the presence of the respondent would be unreliable, the minor victim or witness's testimony may be admitted as described in this section.

(4) An oral statement of a minor victim or witness that is recorded prior to the filing of a complaint is admissible as evidence in a hearing regarding the offense if:

(a) no attorney for either party is in the minor victim or witness's presence when the statement is recorded;

(b) the recording is visual and aural and is recorded;

(c) the recording equipment is capable of making an accurate recording;

(d) the operator of the equipment is competent;

(e) the recording is accurate and has not been altered; and

(f) each voice in the recording is identified.

(5) The testimony of a minor victim or witness may be taken in a room other than the hearing room, and may be transmitted by closed circuit equipment to another room where it can be viewed by the respondent if:

(a) only the hearing panel members, attorneys for each party, persons necessary to operate equipment, and a person approved by the hearing officer whose presence contributes to the welfare and emotional well-being of the minor victim or witness may be with the minor victim or witness during the testimony;

(b) the respondent is not present during the minor victim or witness's testimony;

(c) the hearing officer ensures that the minor victim or witness cannot hear or see the respondent;

(d) the respondent is permitted to observe and hear, but not communicate with the minor victim or witness; and

(e) only hearing panel members, the hearing officer, and the attorneys question the minor victim or witness.

(6)(a) If a witness testifies under circumstances described in Subsection (5), a pro se educator, may submit written questions to the hearing officer to ask on the educator's behalf.

(b) A hearing officer shall take appropriate recesses to

ensure a pro se educator is allowed to ask all needed follow up questions.

(7) If the hearing officer determines that the testimony of a minor victim or witness may be taken consistent with Subsections (2) through (5), the minor victim or witness may not be required to testify in any proceeding where the recorded testimony is used.

R277-212-13. Hearing Report.

(1) Within 20 days after the hearing, or within 20 days after the deadline imposed for the filing of any post-hearing materials as permitted by the hearing officer, the hearing officer shall sign and issue a hearing report consistent with the recommendations of the panel that includes:

(a) detailed findings of fact and conclusions of law based upon the evidence of record or on facts officially noted;

(b) a statement of relevant precedent, if available;

(c) a statement of applicable law and rule;

(d) presumptions applied by UPPAC;

(e) mitigating and aggravating circumstances considered by UPPAC;

(f) a recommended disposition of UPPAC panel members that shall be one or an appropriate combination of the following:

(i) dismissal of the complaint;

(ii) letter of admonishment;

(iii) letter of warning;

(iv) letter of reprimand;

(v) probation, to include the following terms and conditions:

(A) it is the respondent's responsibility to petition UPPAC for removal of probation and letter of reprimand from the respondent's CACTUS file;

(B) a recommended minimum probationary time;

(C) conditions that can be monitored;

(D) if recommended by the panel, a person or entity to monitor a respondent's probation;

(E) a statement providing for costs of probation, if appropriate; and

(F) whether or not the respondent may work in any capacity in public education during the probationary period;

(vi) disciplinary action held in abeyance;

(vii) suspension, to include the following terms and conditions:

(A) a recommended minimum time period consistent with R277-215 after which an educator may request a reinstatement hearing under Rule R277-213; and

(B) any recommended conditions precedent to requesting a reinstatement hearing under Section R277-213-2; or

(viii) revocation; and

(g) notice that UPPAC's recommendation is subject to approval by the Board and judicial review as may be allowed by law.

(2) Findings of fact may not be based solely upon hearsay, and conclusions shall be based upon competent evidence.

(3) Any of the consequences described in Subsection (1)(d) may be imposed in the form of a disciplinary action held in abeyance.

(4)(a) If the respondent's penalty is held in abeyance, the respondent's penalty is stayed subject to the satisfactory completion of probationary conditions.

(b) The decision to impose a consequence in the form of a disciplinary action held in abeyance shall provide for appropriate or presumed discipline if the respondent does not fully satisfy the probationary conditions.

(5)(a) A hearing officer shall circulate a draft report to hearing panel members prior to the 20 day completion deadline of the hearing report.

(b) Hearing panel members shall notify the hearing officer of any changes to the report:

(i) as soon as possible after receiving the report; and

(ii) prior to the 20 day completion deadline of the hearing report.

(c) The hearing officer shall file the completed hearing report with the Executive Secretary, who shall review the report with UPPAC.

(d) The Executive Secretary may participate in UPPAC's deliberation as a resource to UPPAC in explaining the hearing report and answering any procedural questions raised by UPPAC members.

(e) The hearing officer may confer with the Executive Secretary or the panel members or both while preparing the hearing report.

(f) The hearing officer may request the Executive Secretary to confer with the hearing officer and panel following the hearing.

(g) The Executive Secretary may return a hearing report to a hearing officer if the report is incomplete, unclear, or unreadable, or missing essential components or information.

(h) UPPAC shall vote to uphold the hearing officer's and panel's report if UPPAC finds that:

(i) there are no significant procedural errors;

(ii) the hearing officer's recommendations are based upon a preponderance of the evidence presented at the hearing; and

(iii) that all issues explained in the hearing report are adequately addressed in the conclusions of the report.

(i) After the UPPAC review, the Executive Secretary shall send a copy of the hearing report to:

(i) the Board for further action;

(ii) the respondent; and

(iii) the UPPAC case file.

(6)(a) If UPPAC adopts a hearing report that recommends an action, as defined in Subsection R277-210-2(1), either party may request review by the Superintendent within 15 days from the date the Executive Secretary sends a copy of the hearing report to the respondent.

(b) The request for review shall consist of:

(i) the name, position, and address of the appellant;

(ii) the issue being appealed; and

(iii) the signature of the appellant or the appellant's representative.

(c) An appeal to the Superintendent is limited to a question of fairness or a violation of due process.

(d) If the Superintendent finds that a procedural error has occurred that violates fairness or due process, the Superintendent shall:

(i) refer the report back to UPPAC for reconsideration as to whether the findings, conclusions, or decisions are supported by a preponderance of the evidence; or

(ii) direct the UPPAC Executive Secretary to take specific administrative action.

(e) After UPPAC completes reconsideration, the Superintendent shall:

(i) notify all parties; and

(ii) refer the report to the Board, if necessary, for final disposition consistent with this rule.

(7) If the Board does not approve a UPPAC hearing report, the Board may:

(a) remand the case to UPPAC with direction to cure due process issues; or

(b) direct the Executive Secretary to make other evidence available pursuant to Section R277-212-14 before issuing a final decision with official findings; or

(c) issue findings based on the UPPAC hearing record and report:

(i) specifying the reasons, including presumptions and the mitigating and aggravating circumstances the Board considered, why the Board disapproves of the hearing report;

(ii) adopting the Board's decision on the matter; and

(iii) directing the Executive Secretary to include the findings as an addendum to the hearing report, which findings constitute final Board action; or

(d) take other appropriate action consistent with due

process and R277-215.

(8) Following Board adoption of a hearing report or the Board's decision under Subsection (7)(b), the Executive Secretary shall:

(a) notify the educator;

(b) notify the educator's employer;

(c) update CACTUS to reflect the Board's action; and

(d) report the action to the NASDTEC Educator Information Clearing house if the action results in:

(i) a revocation;

(ii) a suspension;

(iii) probation; or

(iv) a letter of reprimand.

(9) The hearing report is a public document under Title 63G, Chapter 2, Government Records Access and Management Act after final action is taken in the case, but may be redacted if it is determined that the hearing report contains particular information, the dissemination of which is otherwise restricted under the law.

(10) A respondent's failure to comply with the terms of a final disposition may result in additional discipline against the educator license.

(11) If a hearing officer fails to satisfy the hearing officer's responsibilities under this rule, the Executive Secretary may:

(a) notify the Utah State Bar of the failure;

(b) reduce the hearing officer's compensation consistent with the failure;

(c) take timely action to avoid disadvantaging either party; or

(d) preclude the hearing officer from further employment by the Board for UPPAC purposes.

(12) The Executive Secretary may waive the deadlines within this section if the Executive Secretary finds good cause.

(13) All criteria of letters of warning and reprimand, probation, suspension, and revocation apply to the comparable sections of the final hearing report.

R277-212-14. Additional Relevant Evidence.

(1) If the Board directs the Executive Secretary to make additional relevant evidence available to the Board for review, before the Board issues a final decision with official findings, the Executive Secretary shall give the educator a notice that includes:

(a) what additional relevant evidence the Board directed UPPAC to make available to review;

(b) file a response described in Subsection (2); and

(c) a statement that the educator's failure to file either a timely written response or request for hearing would be a waiver of the right to either respond, or request a hearing.

(2) An educator who receives a notice described in Subsection (1) may submit one of the following within 30 days of the notice described in Subsection (1) was sent:

(a) a written response to the additional relevant evidence that the Board directed the Executive Secretary to make available for review; or

(b) a written request for a hearing before the Board to respond to the additional relevant evidence.

(3) If the educator fails to timely respond as provided in Subsection (2):

(a) the Executive Secretary shall notify the respondent that the respondent waived the right to respond or request a hearing; and

(b) the Board may proceed to view the additional relevant evidence.

(4) If the educator files a timely written response, the Executive Secretary shall submit the written response to the Board for consideration before the Board issues a final decision.

(5) If the educator files a timely hearing request, before the Board issues a final decision, the Executive Secretary shall:

(a) request a hearing before the Board, as described in Subsection (7);

(b) provide the respondent notice of the hearing meeting the requirements of Section 53E-6-607;

(c) include a copy of the Board rules that apply; and

(d) notify the respondent that if the respondent fails to attend or participate in the hearing:

(i) that the respondent has waived the right to appear and respond to the additional relevant evidence; and

(ii) that the Board may proceed to review the additional relevant evidence.

(6) The Board shall schedule a hearing described in Subseciton (5)(b) within no less than 45 days and no more than 90 days from the date the Executive Secretary receives the respondent's written request for a hearing.

(7) If the Board conducts a hearing described in Subsection (6), Sections R277-212-4, R277-212-5, and R277-212-7 through R277-212-12 apply.

(8) The Executive Secretary shall issue a subpoena or other order to secure the attendance of a witness pursuant to Subsection 53E-6-506(3)(c)(i) if:

(a) requested by either party; and

(b) notice of intent to call the witness has been timely provided as required by Section R277-212-4.

(9) Subsection R277-212-3(1) governs the appointment of a hearing officer to conduct hearing, but no hearing report is required.

(10) After the hearing or viewing the additional relevant evidence, the Board will prepare findings that support the reasons for the Board's decision, including the presumptions and mitigating and aggravating circumstances described in R277-215 that the Board applied.

(11) Findings issued by the Board as described in Subsection (11) may not be based solely upon hearsay.

R277-212-15. Default.

(1)(a) The Executive Secretary shall prepare an order of default if:

(i) the respondent fails to file an answer as described in Subsection R277-211-5(4);

(ii) the respondent fails to attend or participate in a properly scheduled hearing after receiving proper notice; or

(iii) the hearing officer recommends default as a sanction as a result of misconduct by the respondent or the respondent's representative during the course of the hearing process.

(b) The hearing officer may determine that the respondent has failed to attend a properly scheduled hearing if the respondent has not appeared within 30 minutes of the appointed time for the hearing to begin, unless the respondent shows good cause for failing to appear in a timely manner.

(2) The recommendation of default may be executed by the Executive Secretary following all applicable time periods, without further action by UPPAC.

(3) Except as provided in Subsection (4), the Executive Secretary shall make a recommendation to the Board for discipline in accordance with Rule R277-215.

(4) An order of default shall result in an Executive Secretary recommendation to the Board for a revocation if the alleged misconduct is conduct identified in Subsection 53E-6-604(5)(b).

R277-212-16. Rights of Victims at Hearings.

(1) If the allegations that gave rise to the underlying allegations involve abuse of a sexual or physical nature, UPPAC shall make reasonable efforts to:

(a) advise the alleged victim that a hearing has been scheduled;

(b) notify the alleged victim of the date, time, and location of the hearing; and

(c) notify the alleged victim of the right to attend the hearing alone or with a victim advocate present.

(2) An alleged victim or guardian entitled to notification of a hearing is permitted, but is not required, to attend the hearing.

(3) An alleged victim or witness may have a criminal justice victim advocate or support person attend the hearing with them.

KEY: hearings, reports, educators
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R277. Education, Administration.
R277-213. Request for Licensure Reinstatement and Reinstatement Procedures.
R277-213-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to establish procedures regarding educator license reinstatement.

(3) The standards and procedures of the Utah Administrative Procedures Act do not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

R277-213-2. Application for Licensing Following Denial or Loss of License.

(1)(a) An individual who has been denied a license or lost the individual's license through suspension, or allowed a license to lapse in the face of an allegation of misconduct, may request a review to consider reinstatement of a license.

(b) A request for review described in Subsection (1)(a) shall:

(i) be in writing;

(ii) be transmitted to the UPPAC Executive Secretary; and

(iii) have the following information:

(A) name and address of the individual requesting review;

(B) the action being requested;

(C) specific evidence and documentation of compliance with terms and conditions of any remedial or disciplinary requirements or recommendations from UPPAC or the Board;

(D) reason(s) that the individual seeks reinstatement; and

(E) signature of the individual requesting review.

(2)(a) The Executive Secretary shall review the request with UPPAC.

(b) If UPPAC determines that the request is incomplete or invalid:

(i) the Executive Secretary shall deny the request; and

(ii) notify the individual requesting reinstatement of the denial.

(c) If UPPAC determines that the request of an individual described in Subsection (1) is complete, timely, and appropriate, UPPAC shall schedule and hold a hearing as provided under Section

R277-213-3.

(3)(a) Burden of Persuasion: The burden of persuasion at a reinstatement hearing shall fall on the individual seeking the reinstatement.

(b) An individual requesting reinstatement of a suspended license shall:

(i) show sufficient evidence of compliance with any conditions imposed in the past disciplinary action;

(ii) provide sufficient evidence to the reinstatement hearing panel that the educator will not engage in recurrences of the actions that gave rise to the suspension and that reinstatement is appropriate;

(iii) undergo a criminal background check not more than six months prior to the requested hearing; and

(iv) provide materials for review by the hearing panel that demonstrate the individual's compliance with directives from UPPAC or the Board found in petitioner's original stipulated agreement or hearing report.

(c) An individual requesting licensing following a denial shall show sufficient evidence of completion of a rehabilitation or remediation program, if applicable, when requesting reinstatement.

(4) An individual whose license has been suspended or revoked in another state shall seek reinstatement of the individual's license in the other state before a request for a reinstatement hearing may be approved.

R277-213-3. Reinstatement Hearing Procedures.

(1) A hearing officer shall:

(a) preside over a reinstatement hearing; and

(b) rule on all procedural issues during the reinstatement hearing as they arise.

(2) A hearing panel, comprising individuals as set forth in Subsection (2), shall:

(a) hear the evidence; and

(b) along with the UPPAC attorney and hearing officer, question the individual seeking reinstatement regarding the appropriateness of reinstatement.

(3) An individual seeking reinstatement may:

(a) be represented by counsel; and

(b) may present evidence and witnesses.

(4) A party may present evidence and witnesses consistent with Rule R277-212.

(5) A hearing officer of a reinstatement hearing shall direct one or both parties to explain the background of a case to panel members at the beginning of the hearing to provide necessary information about the initial misconduct and subsequent UPPAC and

Board action.

(6) An individual seeking reinstatement shall present documentation or evidence that supports reinstatement.

(7) The Executive Secretary, represented by a UPPAC attorney, shall present any evidence or documentation that explains and supports UPPAC's recommendation in the matter.

(8) Other evidence or witnesses may be presented by either party and shall be presented consistent with Rule R277-212.

(9) The individual seeking reinstatement shall:

(a) focus on the individual's actions, rehabilitative efforts, and performance following license denial or suspension;

(b) explain item by item how each condition of the hearing report or stipulated agreement was satisfied;

(c) provide documentation in the form of evaluations, reports, or plans, as directed by the hearing report or stipulated agreement, of satisfaction of all required and outlined conditions;

(d) be prepared to completely and candidly respond to the questions of the UPPAC attorney and hearing panel regarding:

(i) the misconduct that caused the license suspension;

(ii) subsequent rehabilitation activities;

(iii) counseling or therapy received by the individual related to the original misconduct; and

(iv) work, professional actions, and behavior between the suspension and reinstatement request;

(e) present witnesses and be prepared to question witnesses (including counselors, current employers, support group members) at the hearing who can provide substantive corroboration of rehabilitation or current professional fitness to be an educator;

(f) provide copies of all reports and documents to the UPPAC attorney and hearing officer at least five days before a reinstatement hearing; and

(g) bring eight copies of all documents or materials that an individual seeking reinstatement plans to introduce at the hearing.

(10) The UPPAC attorney, the hearing panel, and hearing officer shall thoroughly question the individual seeking reinstatement as to the individual's:

(a) underlying misconduct which is the basis of the sanction on the educator's license;

(b) specific and exact compliance with reinstatement requirements;

(c) counseling, if required for reinstatement;

(d) specific plans for avoiding previous misconduct; and

(e) demeanor and changed understanding of petitioner's professional integrity and actions consistent with Rule R277-515.

(11) If the individual seeking reinstatement sought

counseling as described in Subsection(10)(c), the individual shall state, under oath, that he provided all relevant information and background to his counselor or therapist.

(12) A hearing officer shall rule on procedural issues in a reinstatement hearing in a timely manner as they arise.

(13) No more than 20 days following a reinstatement hearing, a hearing officer, with the assistance of the hearing panel, shall:

(a) prepare a hearing report in accordance with the requirements set forth in Section R277-213-5; and

(b) provide the hearing report to the UPPAC Executive Secretary.

(14) The Executive Secretary shall submit the hearing report to UPPAC at the next meeting following receipt of the hearing report by the Executive Secretary.

(15) UPPAC may do the following upon receipt of the hearing report:

(a) accept the hearing panel's recommendation as prepared in the hearing report;

(b) amend the hearing panel's recommendation with conditions or modifications to the hearing panel's recommendation which shall be:

(i) directed by UPPAC;

(ii) prepared by the UPPAC Executive Secretary; and

(iii) attached to the hearing report; or

(c) reject the hearing panel's recommendation.

(16) After UPPAC makes a recommendation on the hearing panel report, the UPPAC recommendation will be forwarded to the Board for final action on the individual's reinstatement request.

(17) If the Board denies an individual's request for reinstatement, the individual shall wait at least twenty four (24) months prior to filing a request for reinstatement again, unless a different time is specified by UPPAC or the Board.

(18) If the Board reinstates an educator's license, the Executive Secretary shall:

(a) update CACTUS to reflect the Board's action; and

(b) report the Board's action to the NASDTEC Educator Information Clearing house.

(19) The Executive Secretary shall send notice of the Board's decision no more than 30 days following Board action to:

(a) the educator;

(b) the educator's LEA.

R277-213-4. Rights of a Victim at a Reinstatement Hearing.

(1) If the allegations that gave rise to the underlying suspension involve abuse of a sexual or physical nature, UPPAC shall make reasonable efforts to notify the victim or the victim's

family of the reinstatement request.

(2) A UPPAC's notification described in Subsection (1) shall:

(a) advise the victim or the victim's family that a reinstatement hearing has been scheduled;

(b) notify the victim or the victim's family of the date, time, and location of the hearing;

(c) advise the victim or the victim's family of the victim's right to be heard at the reinstatement hearing; and

(d) provide the victim or the victim's family with a form upon which the victim can submit a statement for consideration by the hearing panel.

(3) A victim entitled to notification of the reinstatement proceedings shall be permitted:

(a) to attend the hearing; and

(b) to offer the victim's position on the educator's reinstatement request, either by testifying in person or by submitting a written statement.

(4) A victim choosing to testify at a reinstatement hearing shall be subject to reasonable cross examination in the hearing officer's discretion.

(5) A victim choosing not to respond in writing or appear at the reinstatement hearing waives the victim's right to participate in the reinstatement process.

R277-213-5. Reinstatement Hearing Report.

(1) A hearing officer shall provide the following in a reinstatement hearing report:

(a) a summary of the background of the original disciplinary action;

(b) adequate information, including summary statements of evidence presented, documents provided, and petitioner's testimony and demeanor for both UPPAC and the Board to evaluate petitioner's progress and rehabilitation since petitioner's original disciplinary action;

(c) the hearing panel's conclusions regarding petitioner's appropriateness and fitness to be a public school educator again;

(d) the hearing panel's recommendation; and

(e) a statement indicating whether the hearing panel's recommendation to UPPAC was unanimous or identifying how the panel member's voted concerning reinstatement.

(2)(a) The hearing panel report is a public document under GRAMA following the conclusion of the reinstatement process unless specific information or evidence contained therein is protected by a specific provision of GRAMA, or another provision of state or federal law.

(b) The Executive Secretary shall add the hearing panel

report to the UPPAC case file.

(3) If a license is reinstated, an educator's CACTUS file shall be updated to:

(a) remove the flag;

(b) show that the educator's license was reinstated; and

(c) show the date of formal Board action reinstating the license.

R277-213-6. Reinstatement from Revocation of License.

(1) The Executive Secretary shall deny any request for a reinstatement hearing for a revoked license unless the educator's stipulated agreement or revocation order from the Board allows the educator to request a reinstatement hearing.

(2) An educator may request that the Superintendent order a reconsideration of the prior Board licensing action if:

(a) an educator provides:

(i) evidence of mistake or false information that was critical to the revocation action; or

(ii) newly discovered evidence:

(A) that undermines the revocation determination; and

(B) that the educator could not have reasonably obtained during the original disciplinary proceedings; or

(b) an educator identifies material procedural Board error in the revocation process.

(3) A request for reconsideration by the Superintendent must be filed within 30 days of Board action for circumstances identified in Subsection (2)(a)(i) or (b).

(4) A request for reconsideration by the Superintendent must be filed within 90 days of discovery of the new evidence for circumstances identified in Subsection(2)(a)(ii).

(5) The Superintendent:

(a) shall make a determination on a request made under Subsection(2) within 60 days; and

(b) may request briefing from an educator and the Executive Secretary in making a determination.

(6) If the Superintendent finds that the criteria in Subsection (2)(a) have been established, the Superintendent shall make a recommendation to the Board to conduct a new hearing consistent with Rule R277-212.

(7) If the Superintendent finds that the criteria in Subsection (2)(b) have been established, the Superintendent shall recommend to the Board that they reconsider their previous action.

KEY: licensure, reinstatement, hearings
Date of Enactment or Last Substantive Amendment: August 12, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-506; 53E-3-401(4)

R277. Education, Administration.
R277-214. Utah Professional Practices Advisory Commission Criminal Background Review.
R277-214-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is:

(a) to establish procedures for an applicant to proceed toward licensing; or

(b) be denied to continue when an application or recommendation for licensing or renewal identifies offenses in the applicant's criminal background check.

(3) The standards and procedures of the Utah Administrative Procedures Act do not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

R277-214-2. Initial Submission and Evaluation of Information.

(1) The Executive Secretary shall review all information received as part of a criminal background review.

(2) The Executive Secretary may request any of the following information from an educator in determining how to process a criminal background review:

(a) a letter of explanation for each reported offense that details the circumstances, the final disposition, and any explanation for the offense the applicant may want to provide UPPAC, including any advocacy for approving licensing;

(b) official documentation regarding each offense, including court records and police reports for each offense, or if both court records and police reports are not available, a letter on official police or court stationery from the appropriate court or police department involved, explaining why the records are not available; and

(c) any other information that the Executive Secretary considers relevant under the circumstances in a criminal background review.

(3)(a) The Executive Secretary may only process a criminal background review after receipt of all letters of explanation and documentation requested in good faith by the Executive Secretary.

(b) The Executive Secretary shall provide timely notice if the information provided by an applicant is incomplete.

(4) If an applicant is under court supervision of any kind, including parole, informal or formal probation, or plea in abeyance, the Executive Secretary may not process the background check review until the Executive Secretary receives proof that court supervision has terminated.

(5) It is the applicant's sole responsibility to provide any requested material to the Executive Secretary.

(6) The Executive Secretary shall process criminal background reviews subject to the following criteria:

(a) the Executive Secretary may clear a criminal background review without further action if the arrest, citation, or charge resulted in a dismissal, unless the dismissal resulted from a plea in abeyance agreement;

(b) the Executive Secretary shall forward a recommendation to clear the following criminal background reviews directly to the Board:

(i) singular offenses committed by an applicant, excluding offenses identified in Subsection(6)(c), if the arrest occurred more than two years prior to the date of submission to UPPAC for review;

(ii) more than two offenses committed by the applicant, excluding offenses identified in Subsection(6)(c), if at least one arrest occurred more than five years prior to the date of submission to UPPAC for review; or

(iii) more than two offenses committed by the applicant, excluding offenses identified in Subsection(6)(c), if all arrests for the offenses occurred more than 10 years prior to the date of submission to UPPAC for review;

(c) the Executive Secretary shall forward the following criminal background reviews to UPPAC, which shall make a recommendation to the Board for final action:

(i) convictions or pleas in abeyance for any offense where the offense date occurred less than two years prior to the date of submission to UPPAC;

(ii) convictions or pleas in abeyance for multiple offenses where all offenses occurred less than five years prior to the date of submission to UPPAC;

(iii) convictions or pleas in abeyance for felonies;

(vi) arrests, convictions, or pleas in abeyance for sex-related or lewdness offenses;

(v) convictions or pleas in abeyance for alcohol-related offenses or drug-related offenses where the offense date was less than five years prior to the date of submission to UPPAC;

(vi) convictions or pleas in abeyance involving children in any way; and

(vii) convictions or pleas in abeyance involving any other matter which the Executive Secretary determines, in his

discretion, warrants review by UPPAC and the Board; and

(d) If the criminal background review involves a conviction for an offense requiring mandatory revocation under Subsection 53E-6-604(5)(b) or meeting the definition of sex offender under Subsection 77-41-102(17), the Executive Secretary shall forward a recommendation directly to the Board that clearance be denied.

(7) The Executive Secretary shall use reasonable discretion to interpret the information received from the Bureau of Criminal Identification to comply with the provisions of this rule.

(8) In Board review of recommendations of the Executive Secretary and UPPAC for criminal background checks, the following shall apply:

(a) the Board shall consider a criminal background review in accordance with the standards described in Section 53E-6-603;

(b) the Board may uphold any recommendation of the Executive Secretary or UPPAC, which action shall be the final agency action of USOE;

(c) the Board may substitute its own judgment in lieu of the recommendation of the Executive Secretary or UPPAC, which action shall be the final agency action of USOE; and

(d) if the Board chooses to substitute its own judgment in a criminal background review, the Board shall adopt findings articulating its reasoning.

(9) If a criminal background review arises as a result of conduct that was cleared in a prior criminal background review by the Executive Secretary, UPPAC, or the Board, the prior action shall be deemed final, and the Executive Secretary shall clear the criminal background review.

(10) If a criminal background review results in an applicant's denial, the applicant may request to be heard, and to have the matter reconsidered by the Board, consistent with the requirements of Subsection 53E-6-603(4).

R277-214-3. Alcohol and Drug Related Offenses of an Individual Who Does Not Hold Licensing.

(1)(a) If as a result of a background check, it is discovered that an applicant has been convicted of an alcohol related offense or a drug related offense within five years of the date of the background check, the minimum conditions described in this Subsection (1) shall apply.

(b) One conviction--the individual shall be denied clearance for a period of one year from the date of the conduct giving rise to the charge.

(c) Two convictions--the individual shall be denied clearance for a period of two years from the date of the conduct giving rise to the most recent charge and the applicant shall present documentation of clinical assessment and recommended

treatment before clearance shall be considered.

(d) Three convictions--the individual shall be denied clearance for a period of five years from the date of the conduct giving rise to the most recent charge, and the applicant shall present documentation of clinical assessment and recommended treatment before clearance shall be considered.

(2) UPPAC or the Board may take action in excess of the minimum conditions specified in Subsection (1) if aggravating circumstances exist as set forth in Subsection R277-215-2(9).

KEY: educator licenses, background reviews, background checks
Date of Enactment or Last Substantive Amendment: August 12, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-506; 53E-3-401(4)

R277. Education, Administration.
R277-215. Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions.
R277-215-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to establish rebuttable presumptions for UPPAC and Board review of UPPAC cases.

R277-215-2. Rebuttable Presumptions.

(1) UPPAC and the Board shall consider the rebuttable presumptions in this section when evaluating a case of educator misconduct.

(2) Revocation is presumed appropriate if an educator:

(a) is subject to mandatory revocation under Subsection 53E-6-604(5)(b);

(b) is convicted of, admits to, or is found pursuant to an evidentiary hearing to have engaged in viewing child pornography, whether real or simulated, on or off school property;

(c) is convicted of an offense that requires the educator to register as a sex offender under Subsection 77-41-105(3);

(d) intentionally provides alcohol or illegal drugs to a minor.

(3)(a) Suspension of ten years or more is presumed if an educator is convicted of any felony not specified in Subsection (2).

(b) An educator who is suspended based on a felony conviction under Subsection (3)(a) may apply for a reinstatement hearing early if the educator's felony:

(i) is expunged; or

(ii) is reduced pursuant to Section 76-3-402.

(4) Suspension of three years or more is presumed appropriate if an educator:

(a) engages in a boundary violation of a sexually suggestive nature that is not sexually explicit conduct;

(b) is convicted of child abuse if the conduct results in a conviction of a class A misdemeanor;

(c) is convicted of an offense that results in the educator being placed on court supervision for three or more years; or

(d) is convicted of intentional theft or misappropriation of

public funds.

(5) Suspension of one to three years is presumed appropriate, if an educator:

(a) willfully or knowingly creates, views, or gains access to sexually inappropriate material on school property or using school equipment;

(b) is convicted of one or more misdemeanor violence offenses in the last 3 years;

(c) is convicted of using physical force with a minor if the conviction is a class B misdemeanor or lower;

(d) engages in repeated incidents of or a single egregious incident of excessive physical force or discipline to a child or student that:

(i) does not result in a criminal conviction; and

(ii) does not meet the circumstances described in Subsection 53G-8-302(2);

(e) threatens a student physically, verbally, or electronically;

(f) engages in a pattern of boundary violations with a student under a circumstance not described in Subsection (4)(a);

(g) engages in multiple incidents or a pattern of theft or misappropriation of public funds that does not result in a criminal conviction;

(h) attends a school or school-related activity in an assigned employment-related capacity while possessing, using, or under the influence of alcohol or illegal drugs;

(i) is convicted of two drug-related offenses or alcohol-related offenses in the three years previous to the most recent conviction;

(j) engages in a pattern of or a single egregious incident of:

(i) harassing;

(ii) bullying; or

(iii) threatening a co-worker or community member; or

(k) knowingly and deliberately falsifies or misrepresents information on an education-related document.

(6) A suspension of up to one year is presumed appropriate if an educator:

(a) has three or more incidents of inappropriate conduct that would otherwise warrant lesser discipline so long as the educator had notice that such conduct was inappropriate from:

(i) Board rule or LEA policy; or

(ii) verbal or written notice from an LEA or UPPAC;

(b) fails to report to appropriate authorities suspected child or sexual abuse; or

(c) knowingly teaches, counsels, or assists a minor student in a manner that disregards a legal, written directive, such as a

court order or an approved college and career ready plan.

(7) A letter of admonition, letter of warning, or letter of reprimand, with or without probation, is presumed appropriate if an educator:

(a) engages in a miscellaneous minimal boundary violation with a student or minor, whether physical, electronic, or verbal;

(b) engages in minimal inappropriate physical contact with a student;

(c) engages in unprofessional communications or conduct with a student, co-worker, community member, or parent;

(d) engages in an inappropriate discussion with a student that violates state or federal law;

(e) knowingly violates a requirement or procedure for special education needs;

(f) knowingly violates a standardized testing protocol;

(g) is convicted of one of the following with or without court probation:

(i) a single driving under the influence of alcohol or drugs offense under Section 41-6a-502;

(ii) impaired driving under Section 41-6a-502.5; or

(iii) a charge that contains identical or substantially similar elements to the state's driving under the influence of alcohol or drugs law or under the law of another state or territory;

(h) carelessly mismanages public funds or fails to accurately account for receipt and expenditure of public funds entrusted to the educator's care;

(i) fails to make a report required by Rule R277-516;

(j) except for a class C misdemeanor under Title 41, Motor Vehicles, is convicted of one or two misdemeanor offenses not otherwise listed;

(k) engages in an activity that constitutes a conflict of interest; or

(l) engages in other minor violations of the Utah Educator Standards in Rule R277-515.

(8) In considering a presumption described in this section, UPPAC or the Board shall consider deviating from the presumptions if:

(a) the presumption does not involve a revocation mandated by statute; and

(b) aggravating or mitigating factors exist that warrant deviation from the presumption.

(9) An aggravating factor may include the following:

(a) the educator has engaged in prior misconduct;

(b) the educator presents a serious threat to a student;

(c) the educator's misconduct directly involved a student;

(d) the educator's misconduct involved a particularly

vulnerable student;

(e) the educator's misconduct resulted in physical or psychological harm to a student;

(f) the educator violated multiple standards of professional conduct;

(g) the educator's attitude does not reflect responsibility for the misconduct or the consequences of the misconduct;

(h) the educator's misconduct continued after investigation by the LEA or UPPAC;

(i) the educator holds a position of heightened authority as an administrator;

(j) the educator's misconduct had a significant impact on the LEA or the community;

(k) the educator's misconduct was witnessed by a student;

(l) the educator was not honest or cooperative in the course of UPPAC's investigation;

(m) the educator was convicted of crime as a result of the misconduct;

(n) any other factor that, in the view of UPPAC or the Board, warrants a more serious consequence for the educator's misconduct; and

(o) the educator is on criminal probation or parole; or

(p) the Executive Secretary has issued an order of default on the educator's case as described in Rules R277-211 or R277-212.

(10) A mitigating factor may include the following:

(a) the educator's misconduct was the result of strong provocation;

(b) the educator was young and new to the profession;

(c) the educator's attitude reflects recognition of the nature and consequences of the misconduct and demonstrates a reasonable expectation that the educator will not repeat the misconduct;

(d) the educator's attitude suggests amenability to supervision and training;

(e) the educator has little or no prior disciplinary history;

(f) since the misconduct, the educator has an extended period of misconduct-free classroom time;

(g) the educator was a less active participant in a larger offense;

(h) the educator's misconduct was directed or approved, whether implicitly or explicitly, by a supervisor or person in authority over the educator;

(i) the educator has voluntarily sought treatment or made restitution for the misconduct;

(j) there was insufficient training or other policies that might have prevented the misconduct;

(k) there are substantial grounds to partially excuse or justify the educator's behavior though failing to fully excuse the violation;

(l) the educator self-reported the misconduct; or

(m) any other factor that, in the view of UPPAC or the Board, warrants a less serious consequence for the educator's misconduct.

(11)(a) UPPAC and the Board have sole discretion to determine the weight they give to an aggravating or mitigating factor.

(b) The weight UPPAC or the Board give an aggravating or mitigating factor may vary in each case and any one aggravating or mitigating factor may outweigh some or all other aggravating or mitigating factors.

KEY: educators, disciplinary presumptions
Date of Enactment or Last Substantive Amendment: August 12, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-506; 53E-3-401(4)

R277. Education, Administration.
R277-216. Surrender of License with UPPAC Investigation Pending.
R277-216-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to establish procedures for Board consideration of an educator request to surrender a license in the face of a UPPAC investigation.

(3) The standards and procedures of the Utah Administrative Procedures Act do not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

R277-216-2. Petition to Surrender.

(1) An educator may surrender an educator license prior to the resolution of a UPPAC investigation.

(2) An educator who requests to surrender an educator license under Subsection (1), shall submit a petition or stipulated agreement to UPPAC for submission to the Board, which shall include:

(a) a brief statement of the procedural history of the investigation leading up to the voluntary surrender;

(b) a statement that the educator is entitled to due process in UPPAC's investigation and that the educator freely and voluntarily waives the educator's due process rights, including:

(i) a right to a hearing;

(ii) a right to confront and cross examine witnesses;

(iii) a right to present witnesses;

(iv) a right to an impartial decision based upon evidence presented at the hearing; and

(v) a right to subpoena witnesses; and

(c) a statement that the educator surrenders the educator's license freely and voluntarily and without coercion or duress;

(d) a statement that the educator:

(i) is represented by counsel; or

(ii) understands the educator's right to be represented by counsel and knowingly and voluntarily waives the assistance of counsel in UPPAC's investigation;

(e) a statement that the educator is fully aware of the implications of surrendering the educator's license with an investigation pending, including:

(i) that the educator may not work, consult, or volunteer in any K-12 public school in the state of Utah in any capacity;

(ii) that the educator is not eligible for a reinstatement hearing at any time;

(iii) that UPPAC files and case resolution are subject to public disclosure in accordance with state and federal law;

(iv) that notification of the educator's license surrender will be shared with all states through NASDTEC; and

(v) except as provided in Subsection (3), that notification of the educator's license surrender will be:

(A) classified and reported as a voluntary surrender (UPPAC investigation); and

(B) shared with LEAs throughout the state.

(3) If an educator surrenders a license during an investigation of allegations described in Subsection 53E-6-604(5)(b), the surrender will be:

(a) classified and reported as a revocation; and

(b) shared with LEAs through the state.

(4)(a) Voluntary surrender of a license as set forth in this section is permanent.

(b) An educator who surrenders a license as set forth in this section is not eligible for a reinstatement hearing at any time.

R277-216-3. Review of Petition to Surrender.

(1)(a) Upon receiving a petition or stipulated agreement as provided in Subsection R277-216-2(2), the Executive Secretary shall review the request for surrender to determine if it meets the requirements set forth in the rule.

(b) If the requirements of Subsection R277-216-2(2) are not met, the Executive Secretary shall notify the educator that the request is insufficient and the reasons why the request is insufficient.

(c) If the requirements of Subsection R277-216-2(2) are met, the Executive Secretary shall notify the Board of the voluntary surrender and request direction on whether to continue the investigation.

(2) Upon receipt of a voluntary surrender of an educator license, the Executive Secretary shall:

(a) notify the educator:

(i) that the voluntary surrender was received;

(ii) whether the Board required UPPAC to continue the investigation;

(iii) that the voluntary surrender will be reported in the public record as a voluntary surrender with pending UPPAC investigation except as provided in Subsection R277-216-2(3);

(iv) that the voluntary surrender will be reported to

NASDTEC and to LEAs throughout the state; and

(v) that the educator's license cannot be reinstated at any time.

(b) update CACTUS to reflect the disposition;

(c) report the disposition to NASDTEC;

(d) notify the educator's last employer of record;

(e) report the disposition to LEAs through the state; and

(f) provide the educator a copy of the report to LEAs described in Subsection (2)(e).

R277-216-4. Applicability of Rule.

This R277-216 does not apply to an educator's voluntary surrender of the educator's license if the educator is not being investigated by UPPAC.

KEY: educators, license surrender, UPPAC
Date of Enactment or Last Substantive Amendment: August 12, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-506; 53E-3-401(4)

R277. Education, Administration.
R277-301. Educator Licensing.
R277-301-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-6-201, which gives the Board power to issue licenses.

(2) This rule specifies the types of licenses and license areas of concentration available and the requirements and procedures for obtaining a license, required for employment as a licensed educator in the public schools of Utah.

R277-301-2. Definitions.

(1) "Accredited school" means a public or private school that:

(a) meets standards essential for the operation of a quality school program; and

(b) has received formal approval through a regional accrediting association.

(2) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the electronic file maintained on all licensed Utah educators including information such as:

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history; and

(e) a record of disciplinary action taken against the educator.

(3) "Educator preparation program" means the same as that term is defined in R277-303-2.

(4) "Endorsement" means a designation on a license area of concentration earned through demonstrating required competencies established by the Superintendent that qualifies the individual to:

(a) provide instruction in a specific content area; or

(b) apply a specific set of skills in an education setting.

(5) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(6)(a) "License areas of concentration" or "license area" means a designation on a license of the specific educational setting or role for which the individual is qualified, to include

the following:

(i) Early Childhood;

(ii) Elementary;

(iv) Secondary;

(v) Educational Leadership

(vi) Career and Technical Education or "CTE";

(vii) School Counselor;

(viii) School Psychologist;

(ix) Special Education;

(x) Preschool Special Education;

(xi) Deaf Education;

(xii) Speech-Language Pathologist;

(xiii) Speech-Language Technician;

(xiv) School Social Worker; and

(xv) Communication Disorders.

(7) "Licensing Jurisdiction" means the designated educator licensing authority in any foreign country or state of the United States of America and the Department of Defense Education Activity (DoDEA).

(8) "Renewal" means reissuing or extending the length of a license consistent with R277-500.

R277-301-3. License Structure.

(1) Utah educator licenses include the following licenses:

(a) Associate educator license;

(b) Professional educator license; and

(c) LEA-specific educator license.

(2) All new Utah educator licenses shall include general, content knowledge, and pedagogical requirements.

(3) The Superintendent may only issue a single active Utah educator license to an individual.

(4) An educator license shall include at least one area of concentration.

(5) License areas of concentration and endorsements shall have a designation of:

(a) associate;

(b) professional; or

(c) LEA-specific.

(6) An associate educator license may only include associate or LEA-specific license areas of concentration and endorsements.

(7) An LEA-specific educator license may only include LEA-specific license areas of concentration and endorsements.

(8) The Superintendent may establish deadlines and uniform forms and procedures for all aspects of licensing.

(9) The Superintendent shall review, adopt, and establish passing standards for all assessments required for educator licensing.

(10)(a) All licenses expire on June 30 of the year of expiration and may be renewed any time after January 1 of the same year.

(b) Responsibility for license renewal rests solely with the licensee.

R277-301-4. Associate Educator License Requirements.

(1) The Superintendent shall issue an associate educator license to an individual that applies for the license and that meets all requirements in this Section R277-301-4.

(2) An associate educator license, license area, or endorsement is valid for two years.

(3) The Superintendent may only renew an associate educator license if:

(a) the individual has less than two years of experience in a Utah public or accredited private school; or

(b) the individual is employed by a Utah public or accredited private school and the employer has requested a one year extension of the license.

(4) The general requirements for an associate educator license shall include:

(a) completion of a criminal background check including review of any criminal offenses and clearance in accordance with Rule R277-214;

(b) completion of the educator ethics review described in R277-500 within one calendar year prior to the application; and

(c) one of the following:

(i) a bachelor's degree or higher from a regionally accredited institution;

(ii) current enrollment in a university-based Board-approved educator preparation program that will result in a bachelor's degree or higher from a regionally accredited institution; or

(iii) skill certification in a specific CTE area as established by the Superintendent.

(5) The content knowledge requirements for an associate educator license shall include:

(a) for an elementary license area, passage of an elementary content knowledge test, approved by the Superintendent, that distinctly measures content in:

(i) mathematics;

(ii) reading/language arts;

(iii) social studies; and

(iv) science;

(b) for a secondary or CTE license area with a content endorsement, one of the following:

(i) passage of a content knowledge test approved by the Superintendent, where available;

(ii) a bachelor's degree or higher with a major in the content area from a regionally accredited university; or

(iii) enrollment in a program that will result in a degree described in Subsection (5)(b)(ii); and

(c) for all other license areas, enrollment in a university-based Board-approved educator preparation program.

(6) Additional requirements for an associate educator license shall include:

(a) successful completion of professional learning modules created or approved by the Superintendent in:

(i) educator ethics;

(ii) classroom management and instruction;

(iii) basic special education law and instruction;

(iv) the Utah Effective Teaching Standards described in R277-530; or

(b) enrollment in a university-based Board-approved educator preparation program.

(7) An individual holding a professional educator license may receive an associate license area or endorsement in additional areas if all the requirements of this section are met.

(8) A license applicant who has received or completed license preparation activities inconsistent with this rule may present compelling information and documentation for review and approval by the Superintendent to satisfy the associate educator license requirements.

(9) The Superintendent shall designate a panel of at least three Board staff members to review an appeal made under subsection (8).

(10) An LEA that employs an individual that holds an associate educator license shall develop a personalized professional learning plan designed to support the educator in meeting the requirements for a professional educator license no later than 60 days after beginning work in the classroom, which shall:

(a) be provided to the Superintendent upon request;

(b) include a formal discussion and observation process no later than 30 days after beginning work in the classroom; and

(c) consider:

(i) previous education related experience; and

(ii) previous educational preparation activities.

(11) An educator with an associate educator license may upgrade to a professional educator license at any time prior to expiration of the associate educator license if the educator meets all requirements of Section R277-301-5.

R277-301-5. Professional Educator License Requirements.

(1) The Superintendent shall issue a professional educator

license to an individual that applies for the license and meets all requirements in this Section R277-301-6.

(2) A professional educator license, license area, or endorsement is valid for five years.

(3) The general requirements for a professional educator license shall include:

(a) all general requirements for an associate educator license under Subsection R277-301-5(4);

(b) completion of:

(i) a bachelor's degree or higher from a regionally accredited institution; or

(ii) skill certification in a specific CTE area as established by the Superintendent; and

(c) one of the following:

(i) a recommendation from a Board-approved educator preparation program; or

(ii) a standard educator license in the area issued by a licensing jurisdiction outside of Utah that is currently valid or is renewable consistent with Section 53E-6-307.

(4) The content knowledge requirements for a professional educator license shall include:

(a) all content knowledge requirements for an associate educator license under Subsection R277-301-4(5); and

(b) demonstration of all content knowledge competencies as established by the Superintendent.

(5) The pedagogical requirements for professional educator license shall include:

(a) demonstration of all pedagogical competencies as established by the Superintendent; and

(b) when applicable to the license area, passage of a pedagogical performance assessment meeting standards:

(i) established by the Superintendent; and

(ii) approved by the Board.

(6) An individual holding a Utah level 1, level 2, or level 3 educator license on January 1, 2020 is considered to have met the pedagogical requirements described in Subsection (5).

(7) An individual holding a Utah level - APT educator license that is employed by a Utah LEA and an individual enrolled in ARL or a university-based Board-approved educator preparation program on January 1, 2020 may meet the content knowledge and pedagogical requirements described in this Section R277-301-6 by completing all requirements of the applicable program.

(8) An individual holding a Utah professional educator license and license area in early childhood education, elementary, secondary, CTE, special education, or deaf education is considered to have met the pedagogical performance assessment requirement of Subsection (5)(b) if applying to add any of the license areas in

the subsection.

(9) A license applicant who has received or completed license preparation activities inconsistent with this rule may present compelling information and documentation for review and approval or denial by the Superintendent to satisfy the professional educator license requirements.

(10) The Superintendent shall designate a panel of at least three individuals, including at least two Board licensed educators not employed by the Board, to review an appeal and make a recommendation to the Superintendent for the Superintendent's review and decision described in Subsection (9).

R277-301-6. Educator Licenses Issued by Licensing Jurisdictions Outside of Utah.

(1) The Superintendent shall review applications for a Utah educator license for individuals holding educator licenses issued by licensing jurisdictions outside of Utah to determine if the applicant has met the requirements for a Utah license under this rule.

(2) The Superintendent shall accept scores from an applicant that meet the Utah standard for passing on assessments from licensing jurisdictions outside of Utah that utilize the same assessment as Utah as meeting the requirements of this rule.

(3) The Superintendent shall accept scores from an applicant on reasonably equivalent content knowledge or pedagogical performance assessments utilized by licensing jurisdictions outside of Utah that meet the passing standard of that jurisdiction as meeting the requirements of this rule.

(4) The Superintendent shall accept demonstrations of content knowledge and pedagogical competencies from an applicant utilized by licensing jurisdictions outside of Utah that are reasonably equivalent to Utah competencies.

(5) Individuals with 4 or more years of successful experience in a public or accredited private school under a standard license issued by another jurisdiction shall be considered to have met both the content knowledge and pedagogical assessment requirements in the areas and subjects taught.

R277-301-7. LEA-specific Educator License Requirements.

(1) The Superintendent may issue an LEA-specific educator license to a candidate if:

(a) the LEA requesting the LEA-specific educator license has an adopted policy, posted on the LEA's website, which includes:

(i) educator preparation and support:

(A) as established by the LEA; and

(B) aligned with the Utah Effective Teaching Standards described in R277-530;

(ii) criteria for employing educators with an LEA-specific license; and

(iii) compliance with all requirements of this Rule R277-301;

(b) an LEA governing board applies on behalf of the the candidate

(c) the candidate meets all the requirements in this Section R277-301-7; and

(d) within the first year of employment, the LEA trains the candidate on:

(i) educator ethics;

(ii) classroom management and instruction;

(iii) basic special education law and instruction; and

(iv) the Utah Effective Teaching Standards described in R277-530.

(2)(a) Except as provided in Subsection (2)(b), an LEA governing board may request an LEA-specific educator license for a license area described in Subsection R277-301-2(6).

(b) An LEA may not request an LEA-specific educator license for a license area in:

(i) Special Education; or

(ii) Preschool Special Education.

(3) An LEA-specific license, license area, or endorsement is valid only within the requesting LEA.

(4) An LEA-specific license, license area, or endorsement is valid for one, two, or three years in accordance with the LEA governing board's application.

(5) The first renewal of an LEA-specific educator license, license area, or endorsement shall be approved or denied by the Board.

(6) The Board may require that subsequent renewals be approved by the Board on a case by case basis.

(7) An LEA-specific license expires immediately if the educator's employment with the LEA that requested the license ends.

(8) The general requirements for an LEA-specific educator license shall include:

(a) completion of a criminal background check including review of any criminal offenses and clearance in accordance with Rule R277-214;

(b) completion of the educator ethics review described in Rule R277-500 within one calendar year prior to the application; and

(c) approval of the request by the LEA governing board in a public meeting no more than 60 days prior to the application, which includes the LEA's rationale for the request.

(9) The content knowledge and pedagogical requirements for

an LEA-specific educator license shall be established by the LEA governing board.

R277-301-8. Requirements for LEAs.

(1) An LEA shall provide a mentoring program that provides a trained mentor educator and annual mentoring plan:

(a) for educators holding an associate educator license;

(b) for at least two years for LEA-specific educator license holders; and

(c) for educators holding a professional educator license with less than three years of experience.

(2) A trained mentor educator under Subsection (1) shall hold a professional educator license and shall, where possible:

(a) perform substantially the same duties as the educator with release time to work as a mentor; or

(b) be assigned as an instructional coach or equivalent position.

(3) A trained mentor educator under Subsection (1) shall assist the educator to meet the Utah Effective Educator Standards established in Rule R277-530, but may not serve as an evaluator of the educator.

(4) A mentoring program under Subsection (1) shall include:

(a) a formal professional learning plan and LEA support in meeting the requirements of a professional license area; and

(b) if the educator holds an LEA-specific educator license, on-going training on educator ethics and special education.

(5) An LEA school that requests LEA-specific licenses, license areas, or endorsements shall prominently post the following information on each school's website:

(a) disclosure of the fact that the school employs individuals holding LEA-specific educator licenses, license areas, or endorsements;

(b) the percentage of the types of licenses, license areas, and endorsements held by educators employed in the school based on the employees' FTE in CACTUS; and

(c) a link to the Utah Educator Look-up tool provided by the Superintendent in accordance with Subsection R277-515-7(6).

R277-301-9. Superintendent Annual Report to the Board.

The Superintendent shall annually report to the Board on licensing, including:

(1) educator licensing;

(2) educator preparation; and

(3) equitable distribution of teachers.

R277-301-10. Effective Date.

(1) This rule will be effective beginning January 1, 2020.

(2) This rule will supersede Rule R277-502 on January 1, 2020.

KEY: professional competency, educator licensing
Date of Enactment or Last Substantive Amendment: July 2, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-104; 53A-1-401

R277. Education, Administration.
R277-303. Educator Preparation Programs.
R277-303-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-6-201(3)(a), which allows the Board to establish the criteria for obtaining licenses; and

(d) Section 53E-6-302, which requires the Board to establish standards for approval of educator preparation programs.

(2) The purpose of this rule is to establish criteria for educator preparation programs in the State of Utah.

R277-303-2. Definitions.

(1)(a) "Educator preparation program" means a comprehensive program administered by an entity that is intended to prepare individuals to meet the requirements for a Utah professional license or license area of concentration.

(b) "Educator preparation program" may include a program developed by or associated with an institution of higher education, individual LEA, or the Board.

(2) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(3) "License area" has the same meaning as set forth in Subsection R277-301-2(5)(a).

(4) "Professional license" means the educator license described in Section R277-301-6.

R277-303-3. Educator Preparation Program Review and Approval.

(1) The Superintendent shall establish uniform procedures for initial approval and review of educator preparation programs to ensure compliance with this R277-303.

(2) The Superintendent shall approve an educator preparation program that meets the requirements of this rule and the standards for program approval established in:

(a) Rule R277-304;

(b) Rule R277-305;

(c) Rule R277-306; and

(d) all other applicable Board rules.

(3) The Superintendent shall conduct an on-going review of approved educator preparation programs and shall renew or deny approval for a program at least every seven years.

(4) The Superintendent may grant preliminary approval to a

new educator preparation program within a Utah public college or university pending approval by the Utah State Board of Regents.

(5) The Superintendent shall make a report to the Board when an educator preparation program's initial application for approval is granted or denied.

(6) The Superintendent may place an approved educator preparation program on probation for:

(a) failure to meet program requirements detailed in applicable Board rules; or

(b) failure to submit complete and accurate information in a report required under this rule.

(7) The Board may revoke the approval of a probationary program that fails to meet probationary requirements with at least one year's notice to the educator preparation program.

(8) The Superintendent may require a program or subset of programs to submit reports to inform the annual report to the Board required in Section R277-301-10.

(9) The Superintendent shall accept an approved educator preparation program's recommendations for a professional license or license area if the prospective licensee has met all other requirements of Board rule.

R277-303-4. Educator Preparation Programs.

(1) An educator preparation program that applies for approval by the Superintendent shall demonstrate how it will ensure that participants:

(a) are prepared to meet the Utah Effective Educator Standards established in R277-530;

(b) successfully complete or are prepared to complete the pedagogical performance assessment required in R277-301;

(c) have met the competencies required in R277-301; and

(d) have sufficiently demonstrated the ability to work in the applicable license area and subject area.

(2) In addition to the requirements of Subsection (1), an educator preparation program that is not also a Utah LEA shall:

(a) have a physical location in the state of Utah where participants attend classes; or

(b) if the program provides only online instruction:

(i) have the program's primary headquarters located in Utah; and

(ii) be licensed to do business through the Utah Department of Commerce; and

(c) establish entry requirements that are designed to ensure that only high quality individuals enter the preparation program, which include measures of:

(i) previous academic success;

(ii) disposition for employment in an educational setting;

and

(iii) basic skills in reading, writing, and mathematics; and

(d) include a student teaching or intern experience that meets the requirements detailed in:

(i) Rule R277-304;

(ii) Rule R277-305; and

(iii) Rule R277-306; and

(e) include a pedagogical performance assessment meeting standards established by the Superintendent and approved by the Board for all new students enrolled in the program after January 1, 2020 in all license areas for which such an assessment is available.

(3)(a) If the Superintendent denies an application from an educator preparation program, the proposed educator preparation program may appeal the Superintendent's decision to the Board by submitting a written appeal to the Board Secretary.

(b) The Board shall assign an appeal under Subsection (3)(a) to a standing committee to make a recommendation to the full Board for final action.

(4) An approved educator preparation program may recommend an individual that completed the program for a professional license or license area for up to five years after the individual completed the program, as long as all current license requirements have been met.

(5) If five years have passed since an individual completed an approved educator preparation program, the program may recommend the individual for a professional license or license area if the program:

(a) reviews the individual's program; and

(b) requires the individual to complete any additional necessary requirements to meet current programs standards prior to making a licensing recommendation.

(6) Notwithstanding Subsections (4) and (5), an approved educator preparation program may recommend an individual who began the program before January 1, 2020 for a professional license or license area without meeting the pedagogical performance assessment requirement in R277-301, but must present documentation showing that the individual met the appropriate license requirements in effect prior to that date.

R277-303-5. Superintendent Responsibilities.

(1) The Superintendent shall provide support to educator preparation programs and potential licensees to the extent that funding allows by:

(a) maintaining a website to:

(i) facilitate collaboration between educator preparation programs;

(ii) facilitate communication between potential educators and approved programs; and

(iii) provide access to up-to-date research on educator preparation and education practices;

(b) reviewing third-party preparation materials for alignment with the Utah Effective Educator Standards in R277-530; and

(c) working with potential licensed educators to help them become licensed educators.

(2) The Superintendent shall design and maintain a model educator preparation program that:

(a) meets all requirements of this rule;

(b) may be adopted by an LEA or an accredited private school; and

(c) is overseen by staff distinct from the staff responsible for ensuring educator preparation program compliance with this Rule R277-303.

R277-303-6. Effective Date.

This rule will be effective beginning January 1, 2020.

KEY: educator preparation program, pedagogical assessment, professional competency, programs
Date of Enactment or Last Substantive Amendment: July 2, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201(3)(a)

R277. Education, Administration.
R277-304. Teacher Preparation Programs.
R277-304-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-6-201(3)(a), which allows the Board to make rules to establish the criteria for obtaining an educator license.

(2)(a) The purpose of this rule is to specify the standards which the Board expects of teacher preparation institution prior to program approval in specified areas.

(b) The standards in this rule apply to the specific educational area and grade level for which the preparation program is designed.

R277-304-2. Definitions.

(1)(a) "Career and technical education" or "CTE" means organized educational programs or competencies which directly or indirectly prepare students for employment, or for additional preparation leading to employment, in occupations where entry requirements do not generally require a baccalaureate or advanced degree.

(b) CTE programs provide all students a continuous education system, driven by a student's college and career readiness plan, through competency-based instruction, culminating in essential life skills, certified occupational skills, and meaningful employment.

(2) "Clinical experience" means a structured opportunity in which a program candidate is mentored by a licensed educator and evaluated by a teacher leader, school administrator, or university preparation program faculty member, in order to develop and demonstrate competency in the skills and knowledge necessary to be an effective teacher, in a physical classroom, which may include experiences in a virtual classroom.

(3) "Council for the Accreditation of Educator Preparation" or "CAEP" means a national organization that advances equity and excellence in educator preparation through evidence-based accreditation that assures quality and supports continuous improvement to strengthen P-12 student learning.

(4)(a) "Council for Exceptional Children" or "CEC" means an international professional organization dedicated to improving the educational success of both individuals with disabilities and

individuals with gifts and talents.

(b) CEC advocates for appropriate governmental policies, sets professional standards, provides professional development, advocates for individuals with exceptionalities, and helps professionals obtain conditions and resources necessary for effective professional practice.

(5) "Essential Elements" means the alternate academic achievement standards for students with significant cognitive disabilities, established by the Board in the Special Education Rules Manual, dated October 2016, incorporated by reference in Section R277-750-2.

(6)(a) "Multi-tiered system of supports" or "MTSS" means a framework for integrating assessment and intervention to maximize student achievement, reduce behavior problems, and increase long-term success.

(b) The combination of systematic implementation of increasingly intensive intervention, sometime referred to as tiers, and carefully monitoring students' progress, distinguishes MTSS from typical prevention measures.

(c) Emphasis, in MTSS, is placed on ensuring interventions are implemented effectively.

(7) "Utah Core Standards" means the course standards established by the Board in Rule R277-700 for grades K-12.

R277-304-3. General Teacher Preparation.

Prior to approval by the Board, a teacher preparation program shall:

(1) prepare candidates to meet the Utah Effective Teaching Standards in Rule R277-530;

(2) prepare candidates to teach:

(a) the Utah Core Standards; and

(b) the Essential Elements, as appropriate to a candidate's prospective area of licensure as established by the Board;

(3) include school-based clinical experiences for a candidate to observe, practice skills, and reflect on teaching that:

(a) are significant in number, depth, breadth, and duration;

(b) are progressively more complex;

(c) occur in multiple schools and classrooms;

(d) include working with all types of students; and

(e) include creating and consistently implementing beginning of semester or school year classroom procedures and practices;

(4) require the demonstration of competency in:

(a) content and content-specific pedagogy appropriate for the area of licensure;

(b) knowledge of the Utah Educator Professional Standards contained in Rule R277-515;

(c) creating effective learning environments by establishing and implementing routines and procedures with consistent expectations;

(d) skills in providing tier one and tier two instruction and intervention on the Utah Core Standards and positive behavior supports to each student within a multi-tiered system of supports;

(e) integrating technology to support and meaningfully supplement the learning of students, including the effective use of software for personalized learning;

(f) designing, administering, and reviewing educational assessments in a meaningful and ethical manner;

(g) analyzing formative and summative assessments results to inform and modify instruction;

(h) assessing students for competency for the purpose of personalized learning;

(i) skills in implementing personalized learning practices that consider the whole child including:

(i) trauma-informed instructional practices; and

(ii) restorative instructional practices;

(j) knowledge and skills designed to assist in the identification of students with disabilities to meet the needs of students with disabilities in the general classroom, including:

(i) knowledge of the IDEA and Section 504 of the Rehabilitation Act;

(ii) knowledge of the role of non-special-education teachers in the education of students with disabilities;

(iii) knowledge and skills in implementing least restrictive behavior interventions;

(iv) skills in implementing and assessing the results of interventions; and

(v) skills in the implementation of an educational program with accommodations, modifications, services, and supports established by an IEP or a 504 plan for students with disabilities in the general education classroom;

(k) knowledge and skills designed to meet the needs of diverse student populations in the general education classroom, including:

(i) allowing students multiple ways to demonstrate learning that are sensitive to student diversity;

(ii) creating an environment using a teaching model that is sensitive to multiple experiences and diversity;

(iii) designing, adapting, and delivering instruction to address each student's diverse learning strengths and needs; and

(iv) incorporating tools of language development into planning, instruction, and intervention for students learning English and supporting development of English proficiency; and

(l) knowledge and skills in collaborating with parents and

guardians.

(5) for a program applicant accepted on or after January 1, 2020, require multiple opportunities for a program applicant to successfully demonstrate application of knowledge and skills gained through the program in one or more clinical experiences in each of the following competencies:

(a) implementing the planning and design, delivery, facilitation, assessment, evaluation, and reflection of a unit of instruction, including:

(i) systematic and explicit instructional design and implementation;

(ii) varied evidence-based instructional strategies;

(iii) developmentally appropriate and authentic learning experiences;

(iv) scaffolded instruction;

(v) differentiated instruction;

(vi) instruction targeting higher order thinking and metacognitive skills;

(vii) project-based or competency-based learning opportunities;

(viii) designing and selecting pre-assessments, formative, and summative assessments that align to student learning objectives; and

(ix) revising instructional plans for future implementation or reteaching concepts as appropriate;

(b) integrating cross-disciplinary skills, such as literacy or numeracy, into instruction;

(c) engaging students in the learning process;

(d) utilizing technology to enhance and personalize instruction;

(e) implementing the accommodations, modifications, services, and supports as outlined in a student's IEP or 504 plan;

(f) evaluating student artifacts and assessments for the purposes of:

(i) measuring student understanding;

(ii) modifying instruction;

(iii) targeting tier two instruction and intervention in a multi-tiered system of support;

(iv) providing feedback to students; and

(v) documenting student progress, i.e., assigning an academic grade;

(g) establishing and maintaining classroom procedures and routines that include positive behavior interventions and supports;

(h) establishing and maintaining a positive learning climate;

(i) reflecting on the teaching process and justifying

instructional decisions;

(j) collaborating with grade level, subject, or cross-curricular teams to:

(i) analyze student data; and

(ii) inform, plan, and modify instruction;

(k) participating in at least one IEP meeting or parental consultation regarding a student that the program applicant has instructed;

(l) effectively communicating with parents, colleagues, and administration; and

(m) consulting with a school counselor regarding the emotional well-being of students and referring the students to a school counselor when necessary;

(6) include consideration of a candidate's dispositions and suitability for teaching; and

(7) include plans for candidate remediation and exit counseling if applicable.

R277-304-4. Early Childhood and Elementary Preparation Programs.

(1) Prior to approval by the Board, a preparation program for early childhood education or elementary education shall:

(a) align, as appropriate, with:

(i) the 2010 National Association for the Education of Young Children Standards for Initial and Advanced Early Childhood Professional Preparation Programs; or

(ii) the CAEP 2018 K-6 Elementary Teacher Preparation Standards; and

(b) require the demonstration of competency in:

(i) the areas outlined in Section R277-304-3;

(ii) the appropriate content knowledge needed to teach:

(A) literacy, including listening, speaking, writing, and reading;

(B) mathematics;

(C) physical and life science;

(D) health and physical education;

(E) social studies; and

(F) fine arts;

(iii) the science of reading instruction including:

(A) phonemic awareness;

(B) phonics;

(C) fluency;

(D) vocabulary; and

(E) comprehension;

(iv) the science of mathematics instruction, including:

(A) quantitative reasoning;

(B) problem solving;

(C) representation;

(D) numeracy; and

(E) a balance of procedural and conceptual understanding; and

(v) early childhood development and learning.

(2) For a program applicant accepted after January 1, 2020, a preparation program for early childhood or elementary education shall require multiple opportunities for a program applicant to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) all requirements outlined in Subsection R277-304-3(6);

(b) demonstrating content specific pedagogy in each of the areas outlined in Subsection R277-304-4(1)(b)(ii);

(c) diagnosing students struggling with reading and planning and implenting remediation for those students; and

(d) diagnosing students struggling with mathematics and planning and implenting remediation for those students.

(3) An educator preparation program shall apply the standards in this Section R277-304-4 to the specific age group or grade level for which the program of preparation is designed.

(a) An early childhood education program shall focus primarily on early childhood development and learning in kindergarten through grade 3.

(b) An elementary program shall include both early childhood development and learning and elementary content and pedagogy in kindergarten through grade 6.

R277-304-5. Secondary Preparation Programs.

(1) Prior to approval by the Board, a secondary preparation program shall require competency in:

(a) all content competencies established by the Superintendent for a professional educator license in at least one endorsement;

(b) all areas outlined in Section R277-304-3;

(c) including literacy and quantitative learning objectives in content specific classes in alignment with the Utah Core Standards; and

(d) planning instruction and assessment in content-specific teams and in cross-curricular teams.

(2) For a program applicant accepted after January 1, 2020, a secondary preparation program shall require multiple opportunities for a program applicant to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) all requirements outlined in Subsection R277-304-3(6);

(b) ensuring student safety and learning in educational labs or shops and extra-curricular settings; and

(c) collaborating with a school counselor, as necessary, to ensure student progress on the student's four-year plan for college and career readiness as described in Rule R277-462.

R277-304-6. Special Education and Preschool Special Education Programs.

(1) Prior to approval by the Board, a special education or preschool special education preparation program shall:

(a) be operated by or partnered with a Utah institution of higher education or the Utah State Board of Education;

(b) aligned with the 2012 Council for Exceptional Children Initial Preparation Standards as informed by the Council for Exceptional Children Specialty Sets for Initial Preparation Programs in one or more of the following special education areas:

(i) Mild/Moderate Disabilities;

(ii) Severe Disabilities;

(iii) Deaf and Hard of Hearing;

(iv) Blind and Visually Impaired;

(v) Deafblind; or

(vi) Preschool Special Education (Birth-Age 5);

(c) require the passage of a special education content knowledge assessment approved by the Superintendent;

(d) require the passage of a Braille assessment approved by the Superintendent for a program in the Blind and Visually Impaired area;

(e) require the demonstration of competency in:

(i) all areas detailed in Section R277-304-3;

(ii) legal and ethical issues surrounding special education, including:

(A) the IDEA;

(B) the Special Education Rules Manual incorporated by reference in Section R277-750-2; and

(C) all other applicable statutes and Board rules;

(iii) the IDEA and Board Special Education rules;

(iv) working with other school personnel to implement and evaluate academic and positive behavior supports and interventions for students with disabilities within a multi-tiered system of supports;

(v) training in and supervising the services and supports provided to students with disabilities by general education teachers, related service providers, and paraprofessionals; and

(vi) providing specially designed instruction, including content specific pedagogy, as per IEPs, to students with disabilities, including:

(A) the Utah Core Standards; and

(B) the Essential Elements as appropriate to a candidate's prospective area of licensure as established by the Board;

(C) skills in assessing and addressing the educational needs and progress of students with disabilities;

(D) skills in implementing and assessing the results of research and evidence-based interventions for students with disabilities; and

(E) skills in implementing an educational program with accommodations, modifications, services, and supports established by an IEP for students with disabilities.

(2) For a program applicant accepted after January 1, 2020, a special education or preschool special education preparation program shall require multiple opportunities for a program applicant to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) all requirements outlined in Subsection R277-304-3(6);

(b) creating learning goals and objectives for a student with disabilities that are specific, measurable, time-bound, and aligned to identified student needs and the Utah Core Standards;

(c) designing or adapting learning environments for diverse student populations that encourage active participation in individual and group activities;

(d) monitoring school compliance with the provisions of multiple student's IEP and Section 504 plans;

(e) conducting a student IEP meeting under the supervision of a licensed special education teacher;

(f) using knowledge of measurement principles and practices to interpret assessment information in making instructional, eligibility, program, and placement decisions for students with disabilities, including those from culturally or linguistically diverse backgrounds;

(g) developing and implementing a secondary transition plan as it relates to post-secondary education and training, competitive employment and independent living; and

(h) communicating with parents of students with disabilities to ensure they are informed regarding the progress of their student and their right to due process.

R277-304-7. Deaf Education Preparation Programs.

(1) Prior to approval by the Board, a deaf education preparation program shall:

(a) be operated by or partnered with a Utah institution of higher education or the Utah State Board of Education;

(b) be aligned with the National Association of State Directors of Special Education, Inc., Optimizing Outcomes for Students who are Deaf or Hard of Hearing, Educational Service Guidelines, Third Edition;

(c) be focused on one or more of the following areas:

(i) teaching students who are deaf or hard of hearing from birth to age five using both listening and spoken language strategies and American Sign Language;

(ii) teaching students who are deaf or hard of hearing with listening and spoken language strategies; or

(iii) teaching students who are deaf or hard of hearing with strategies that promote the development of American Sign Language and English literacy across the curriculum;

(d) require the passage of a deaf education content knowledge assessment approved by the Superintendent;

(e) require demonstration of competency in:

(i) the areas detailed in Section R277-304-3.

(ii) legal and ethical issues surrounding special education, including:

(A) the IDEA;

(B) the Special Education Rules Manual incorporated by reference in Section R277-750-2; and

(C) all other applicable statutes and Board rules;

(iii) addressing specific linguistic and cultural needs of deaf and hard of hearing students throughout the curriculum;

(iv) skills for incorporating language into all aspects of the curriculum;

(v) pedagogical skills unique to teaching reading, writing, mathematics, and other content areas to deaf and hard of hearing students;

(vi) basic fluency in the use of American Sign Language;

(vii) knowledge of the audiological and physiological components of audition;

(viii) skills for teaching speech to deaf and hard of hearing students;

(ix) the socio-cultural and psychological implications of hearing loss; and

(x) assessing and addressing the educational needs and educational progress of deaf and hard of hearing students.

(2) For a program applicant accepted after January 1, 2020, a deaf or hard of hearing education preparation program shall require multiple opportunities for a program applicant to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) all requirements outlined in Subsection R277-304-3(6);

(b) for a program focused on Subsection R277-304-7(1)(c)(i):

(i) assessing early childhood language development and assessment in American Sign Language and spoken English;

(ii) working with families with students who are deaf or hard of hearing while respecting a variety of communication modalities;

(iii) integrating language, speech, and listening everyday activities;

(iv) sharing knowledge with families with students who are deaf or hard of hearing about the complexities of deaf culture, including norms and behaviors of the deaf community;

(v) developing auditory perception in children and educating parents about developmental milestones for listening skills; and

(vi) proficiency in American Sign Language as demonstrate by passing an assessment approved by the Superintendent;

(c) for a program focused on Subsection R277-304-7(1)(c)(ii):

(i) developing auditory perception in children and strategies for developing listening and spoken language in deaf and hard of hearing students;

(ii) demonstrating understanding and expertise regarding early childhood spoken language development;

(iii) involving family members with students who are deaf or hard of hearing in learning and therapeutic activities;

(iv) integrating speech, listening, and spoken language in preschool and early elementary content areas; and

(v) integrating current listening technology, including troubleshooting such technology; and

(d) for a program focused on Subsection R277-304-7(1)(c)(iii):

(i) integrating American Sign Language into instruction of core academic content for all school-age students;

(ii) enhancing bilingual literacy of students who are deaf or hard of hearing in both American Sign Language and English;

(iii) integrating respect and understanding of deaf culture into instruction;

(iv) demonstrating understanding and expertise regarding American Sign Language language development; and

(v) proficiency in American Sign Language as demonstrated by passing an assessment approved by the Superintendent.

R277-304-8. Career and Technical Education Preparation Programs.

(1) Prior to approval by the Board, a CTE teacher preparation program designed for individuals that do not hold a bachelor's degree or higher shall:

(a) focus on one or more of the following areas:

(i) family and consumer sciences;

(ii) health sciences;

(iii) information technology;

(iv) skilled and technical sciences; or

(v) work-based learning;

(b) require that candidates have six years of documented, related occupational experiences within the 10 years prior to the

program application in an approved CTE license area;

(c) require demonstration of competency in all areas detailed in Sections R277-304-3 and R277-304-5;

(d) For a program applicant accepted after January 1, 2020, a CTE preparation program shall require multiple opportunities for a program applicant to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in all requirements outlined in Section R277-304-5; and

(e) require candidates to hold the applicable license or certificate issued by the Utah State Department of Commerce, Division of Occupational and Professional Licensing in any area where such licensure or certification exists.

(2) A program may count an associate's degree in a related area for up to two years of occupational experience to satisfy the requirement in Subsection R277-304-8(1)(b).

(3)(a) An approved program may request a waiver from the Superintendent of the occupational experience required for a candidate if the candidate has passed an approved competency examination in the respective field at or above the passing score established by the Superintendent.

(b) The Superintendent may grant a waiver under Subsection (2)(a) for up to five years from the date the candidate passed the examination.

KEY: teacher preparation, programs, educators
Date of Enactment or Last Substantive Amendment: May 23, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401

R277. Education, Administration.
R277-305. School Leadership License Areas of Concentration and Programs.
R277-305-1. Authority and Purpose.

(1) This rule is authorized by

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-6-201, which permits the Board to issue certificates for educators.

(2) The purpose of this rule is to:

(a) specify the requirements for a professional school leadership license area of concentration;

(b) specify the standards which the Board expects of a school leadership preparation program prior to program approval.

R277-305-2. Definitions.

(1) "Clinical experience" means a structured opportunity in which a program candidate is mentored by a licensed educator and evaluated by an LEA administrator or university preparation program faculty member, in order to develop and demonstrate competency in the skills and knowledge necessary to be an effective school leader.

(2) "School leadership license area of concentration" means the initial credential issued by the Board that authorizes a holder to be employed as a school principal, vice-principal, or assistant principal.

R277-305-3. School Leadership License Area of Concentration Requirements.

(1) The Superintendent shall issue a professional school leadership license area of concentration to an individual that applies for the license and meets all requirements in this section.

(2) The requirements for a professional school leadership license area of concentration shall include:

(a) a master's degree or more advanced degree;

(b) passage of a school leadership assessment approved by the Superintendent; and

(c)(i) a recommendation from a Board-approved school leadership preparation program pursuant to the process described in Rule R277-303; or

(ii) subject to Subsection (3), a valid school leadership license in another jurisdiction under the NASDTEC interstate agreement.

(3) Prior to being awarded a school leadership license area of concentration, an applicant that holds a valid school leadership license in another jurisdiction under the NASDTEC interstate agreement as described in Subsection (2)(c)(ii) shall have completed:

(a) at least one year of school leadership experience in that state; or

(b) a school leadership preparation program reasonably equivalent to a Board-approved school leadership preparation program pursuant to the process described in Rule R277-303.

R277-305-4. School Leadership Preparation Programs.

(1) Prior to approval by the Superintendent, a preparation program for school leadership shall:

(a) demonstrate how it will prepare candidates to meet the Utah educational leadership Standards described in R277-530;

(b) subject to Subsection (2), establish weighted entry requirements that consider prior leadership experiences of applicants and are designed to select high quality candidates to enter the licensure program;

(c) include school-based clinical experiences for a candidate to observe, practice skills, and reflect on school leadership that:

(i) are significant in number, depth, breadth, and duration;

(ii) are progressively more complex;

(iii) occur in multiple schools;

(iv) include working with both elementary and secondary teachers and students; and

(v) occur throughout the preparation program;

(d) require the demonstration of competency in:

(i) properly utilizing data, including student performance data, to evaluate educator and school performance and provide actionable information to educators to improve instruction;

(ii) facilitating educator use of technology to support and meaningfully supplement the learning of students;

(iii) collaborating with stakeholder groups to create a shared vision, mission, and goals for a school;

(iv) implementing the shared vision, mission, and goals for a school:

(A) as a principal; and

(B) as an assistant principal supporting the school principal;

(v) communicating effectively with parents, community groups, staff, and students;

(vi) recognizing effective and ineffective instructional practice in order to ensure authentic learning and assessment experiences for all students;

(vii) implementing a multi-tiered system of supports in individual classrooms and the school as a whole;

(viii) counseling and coaching educators in relation to the educator's evaluation, professional learning, and student performance to improve the educator's practice;

(ix) understanding the laws and legal ramifications surrounding school leadership decisions and practices;

(x) understanding the requirements and LEA responsibilities of the IDEA;

(xi) ensuring a safe, secure, emotionally protective, and healthy school environment, including the prevention of bullying and youth suicide;

(xii) establishing and maintaining a school culture that supports inquiry, risk-taking, innovation, and learning of both students and teachers; and

(xiii) connecting management operations, policies, and resources to the vision and values of the school.

(2) Beginning on January 1, 2020, the entry requirements described in Subsection (1)(b) shall require an individual entering a Board-approved education leadership licensure program to:

(a) clear a USBE fingerprint background check described in:

(i) statute; and

(ii) background check rule;

(b) hold a:

(i) Utah professional educator license; or

(ii) an equivalent out of state license;

(c) have been deemed effective or higher by:

(i) an evaluation system meeting the standards of R277-531; or

(ii) the LEA's equivalent on the applicant's most recent evaluation;

(d) have a confidential recommendation from:

(i) the individual's immediate administrative supervisor; or

(ii) an LEA-level administrator with knowledge regarding the individual's potential as a school leader; and

(e) pass an interview conducted by the program to measure the potential of the individual as a school leader.

(3) Board-approved education leadership licensure program may waive the entrance requirements described in Subsections (2)(b) through (e) based on program established guidelines for no more than ten percent of an incoming cohort.

(4) For a program applicant accepted on or after January 1, 2020, an -approved school leadership licensure program shall require multiple opportunities for a program applicant to successfully demonstrate application of knowledge and skills gained through the program in one or more clinical experiences in

each of the following competencies:

(a) analyzing school assessment data from common formative assessments, summative assessments, standardized assessments, and interim or benchmark assessments with school staff and with individual teachers;

(b) administering all aspects of a teacher evaluation system that meets the requirements of:

(i) R277-531; or

(ii) the LEA's equivalent;

(c) administering all aspects of an evaluation system for a classified employee;

(d) planning, organizing, conducting, and evaluating the effectiveness of a professional learning activity for school staff;

(e) supporting or overseeing a school-based learning team;

(f) working with a School Community Council, including the annual development and evaluation of a school's Teacher and Student Success Act plan and School LAND Trust plan;

(g) performing formal and informal classroom observations for the purpose of improving instruction;

(h) acting as the LEA representative in IEP and 504 accommodation plan meetings;

(i) appropriately handling cases of student discipline referred to the school office;

(j) supervising school activities and monitoring the process for collecting and handling fees and gate receipts; and

(k) implementing a school's screening and hiring process, including interviews and the notification of successful and unsuccessful applicants.

R277-305-5. Superintendent Responsibilities.

(1) The Superintendent shall ensure that the model mentoring program required under Rule R277-308 includes induction for new school leaders.

(2) The Superintendent shall explore the adoption of a performance-based school leadership assessment and make related recommendations to the Board by September 1, 2020.

(3) The Superintendent shall include a list of resources for potential school leadership candidates to help them prepare for school leadership on the Utah Leading through Effective and Dynamic Education website.

(4) The Superintendent shall implement a network for principal.

(5) The Superintendent shall create a depository of school principal learning resources that can be utilized by LEAs in the Utah Leading through Effective and Dynamic Education website.

KEY: school leadership license, program
Date of Enactment or Last Substantive Amendment: August 19, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201

R277. Education, Administration.
R277-308. New Educator Induction and Mentoring.
R277-308-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-6-201, which gives the Board power to issue licenses.

(2) The purpose of this rule is to establish requirements for induction of new educators.

R277-308-2. Definitions.

(1) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(2) "Mentor" means an educator with a professional educator license who is trained to advise, coach, consult, and guide the development of a new educator.

R277-308-3. LEA Induction Programs.

(1) An LEA shall provide an induction program for the LEA's licensed employees if:

(a) an educator holds an associate educator license; or

(b) an educator holds a professional educator license with less than three years experience.

(2) An LEA shall provide an induction program for at least three years for employees with an LEA-specific educator license.

(3) An induction program under this rule shall include, at a minimum:

(a) a documented professional learning plan, appropriate for each educator;

(b) LEA support in meeting the requirements of a professional license for an individual who holds an associate license;

(c) mentor observation and feedback for each educator beginning early in the program;

(d) principal observation and feedback for each educator as required by Rule R277-533; and

(e) assistance in meeting the pedagogical requirements described in Subsection R277-301-5(5).

(4) An induction plan under Subsection (1) shall provide a new educator with a trained mentor educator with a professional educator license.

(5) A trained mentor educator under Subsection (3) shall

assist the educator to meet the Utah Effective Educator Standards established in Rule R277-530.

(6) A trained mentor educator may not have responsibility to evaluate a new educator for whom the educator acts as mentor.

(7) An LEA and a Utah approved university-based education preparation program may partner in implementing the induction program required by Subsection (1).

(8) The Superintendent shall:

(a) develop a model induction program, including model competencies for mentors;

(b) provide training for mentors based on the competencies developed in accordance with Subsection (8)(a);

(c) provide training for principals to oversee and support mentor training; and

(d) facilitate the sharing of best practices between LEAs.

R277-308-4. Effective Date.

This rule will be effective beginning July 1, 2020.

KEY: new educators, mentors, programs
Date of Enactment or Last Substantive Amendment: February 7, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201

R277. Education, Administration.
R277-322. LEA Codes of Conduct.
R277-322-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 63G-7-301, which requires the Board to create a model policy that regulates behavior of a school employee toward a student.

(2) The purpose of this rule is to require LEAs to create a code of conduct/appropriate behavior policy applicable to the LEA's staff.

R277-322-2. Definitions.

(1) "Boundary violation" means the same as that term is defined in R277-515.

(2) "Staff" or "staff member" means an employee, contractor, or volunteer with unsupervised access to students.

(3) "Sexual conduct" means any sexual contact or communication between a staff member and a student, including:

(a) "sexual abuse" as defined in Section 76-5-404.1;

(b) "sexual battery" as defined in Section 76-9-702.1; or

(c) a staff member and student sharing any sexually explicit or lewd communication, image, or photograph.

R277-322-3. Required Code of Conduct Policy.

(1) The Superintendent shall create a model code of conduct/appropriate behavior policy.

(2) Each LEA shall adopt a code of conduct/appropriate behavior policy applicable to the LEA's staff.

(3) An LEA's code of conduct/appropriate behavior policy, adopted pursuant to Subsection (2), may not be less stringent than the model code of conduct/appropriate behavior policy described in Subsection (1) and shall include, at a minimum:

(a) a statement that a staff member should avoid boundary violations, as defined in Rule R277-515, with students;

(b) a statement that a staff member may not subject a student to:

(i) physical abuse;

(ii) verbal abuse;

(iii) sexual abuse; or

(iv) mental abuse;

(c) a statement that a staff member shall report any

suspected incidents of:

(i) physical abuse;

(ii) verbal abuse;

(iii) sexual abuse;

(iv) mental abuse; or

(v) neglect;

(d) a statement that a staff member may not touch a student in a way that makes a reasonably objective student feel uncomfortable;

(e) a statement that a staff member may not participate in sexual conduct with a student;

(f) a statement regarding appropriate verbal or electronic communication between a staff member and a student;

(g) a statement regarding providing gifts, special favors, or preferential treatment to a student or group of students;

(h) a statement that a staff member shall not discriminate against a student on the basis of sex, race, religion, or any other prohibited class;

(i) a statement regarding appropriate use of electronic devices and social media for communication between a staff member and a student;

(j) a statement regarding use of alcohol, tobacco, and illegal substances during work hours and on school property;

(k) a statement that a staff member is required to:

(i) report any suspicion of child abuse or bullying to the proper authorities;

(ii) annually read and sign all policies related to identifying, documenting, and reporting child abuse; and

(iii) for an employee or contractor, annually attend abuse prevention training required in Section 53G-9-207; and

(3) An LEA shall post the LEA's code of conduct/appropriate behavior policy adopted pursuant to Subsection (2) on the LEA's website.

(4) An LEA shall annually provide training to staff regarding the policy, including the staff member's responsibility to report and how to report:

(a) known violations of the LEA's code of conduct/appropriate behavior policy; and

(b) known violations of the Utah Educator Standards contained in R277-515.

(5) A staff member shall annually sign a statement acknowledging that the staff member has read and understands the code of conduct/appropriate behavior policy.

KEY: codes of conduct, appropriate behavior, employee conduct
Date of Enactment or Last Substantive Amendment: August 19, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401(4); 63G-7-301

R277. Education, Administration.
R277-404. Requirements for Assessments of Student Achievement.
R277-404-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-4-302, which directs the Board to adopt rules for the administration of statewide assessments;

(c) Subsection 53G-6-803(9)(b), which requires the Board to adopt rules to establish a statewide procedure for exempting a student from taking certain assessments; and

(d) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) provide consistent definitions; and

(b) assign responsibilities and procedures for the administration of statewide assessments, as required by state and federal law.

R277-404-2. Definitions.

(1) "Benchmark reading assessment" means the Board approved literacy assessment that is administered to a student in grade 1, grade 2, and grade 3 at the beginning, middle, and end of year.

(2) "College readiness assessment" means the:

(a) same as that term is defined in Section 53E-4-305; and

(b) American College Testing exam, or ACT.

(3) "English Learner" or "EL student" means a student who is learning in English as a second language.

(4) "English language proficiency assessment" means the World-class Instructional Design and Assessment (WIDA) Assessing Comprehension in English State-to-State (ACCESS), which is designed to measure the acquisition of the academic English language for an English Learner student.

(5) "Family Educational Rights and Privacy Act of 1974" or "FERPA," 20 U.S.C. 1232g, means a federal law designed to protect the privacy of students' education records.

(6) "High school assessment":

(a) means the same as that term is defined in Section 53E-4-304;

(b) means the "Utah Aspire Plus"; and

(c) includes the Utah Aspire Plus assessment of proficiency in:

(i) English;

(ii) math;

(iii) science; and

(iv) reading.

(7) "National Assessment of Education Progress" or "NAEP" means the national achievement assessment administered by the United States Department of Education to measure and track student academic progress.

(8) "State required assessment" means an assessment described in Subsection 53G-6-803(9)(a).

(9) "Standards Assessment":

(a) means the same as that term is defined in Section 53E-4-303; and

(b) means the "Readiness Improvement Success Empowerment" or "RISE";

(c) for each school year, includes one writing prompt from the writing portion of the RISE English language arts assessment for grades 5 and 8.

(10) "Statewide assessment" means the:

(a) standards assessment;

(b) high school assessment;

(c) college readiness assessment;

(d) Utah alternative assessment;

(e) benchmark reading assessment; and

(f) English language proficiency assessment.

(11) "Section 504 accommodation plan" means a plan:

(a) required by Section 504 of the Rehabilitation Act of 1973; and

(b) designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

(12)(a) "Utah alternate assessment" means an assessment instrument:

(i) for a student in special education with a disability so severe the student is not able to participate in a statewide assessment even with an assessment accommodation or modification; and

(ii) that measures progress on the Utah core instructional goals and objectives in the student's IEP.

(b) "Utah alternate assessment" means:

(i) for science, the Utah Alternate Assessment (UAA); and

(ii) for English language arts and mathematics, the Dynamic Learning Maps (DLM).

(13) "Utah eTranscript and Record Exchange" or "UTREx" means a system that allows:

(a) an LEA and the Superintendent to electronically exchange an individual detailed student record; and

(b) electronic transcripts to be sent to any post-secondary institution, private or public, in-state or out-of-state, that

participates in the e-transcript service.

R277-404-3. Incorporation of Standard Test Administration and Testing Ethics Policy by Reference.

(1) This rule incorporates by reference the Standard Test Administration and Testing Ethics Policy, August 2, 2018, which establishes:

(a) the purpose of testing;

(b) the statewide assessments to which the policy applies;

(c) teaching practices before assessment occurs;

(d) required procedures for after an assessment is complete and for providing assessment results;

(e) unethical practices;

(f) accountability for ethical test administration;

(g) procedures related to testing ethics violations; and

(h) additional resources.

(2) A copy of the Standard Test Administration and Testing Ethics Policy is located at:

(a) https://www.schools.utah.gov/assessment; and

(b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

R277-404-4. Superintendent Responsibilities.

(1) The Superintendent shall facilitate:

(a) administration of statewide assessments; and

(b) participation in NAEP, in accordance with Subsection 53E-4-302(1)(b).

(2) The Superintendent shall provide guidelines, timelines, procedures, and assessment ethics training and requirements for all statewide assessments.

(3) The Superintendent shall designate a testing schedule for each statewide assessment and publish the testing window dates on the Board's website before the beginning of the school year.

R277-404-5. LEA Responsibilities - Time Periods for Assessment Administration.

(1)(a) Except as provided in Section (1)(b), (1)(c), and R277-404-7 an LEA shall administer statewide assessments to all students enrolled in the grade level or course to which the assessment applies.

(b) A student's IEP team, English Learner team, or Section 504 accommodation plan team shall determine an individual student's participation in statewide assessments consistent with the Utah Participation and Accommodations Policy.

(2) An LEA shall develop a plan to administer statewide assessments.

(3) The plan shall include:

(a) the dates that the LEA will administer each statewide assessment;

(b) professional development for an educator to fully implement the assessment system;

(c) training for an educator and an appropriate paraprofessional in the requirements of assessment administration ethics; and

(d) training for an educator and an appropriate paraprofessional to use statewide assessment results effectively to inform instruction.

(4) An LEA shall submit the plan to the Superintendent by September 15 annually.

(5) At least once each school year, an LEA shall provide professional development for all educators, administrators, and assessment administrators concerning guidelines and procedures for statewide assessment administration, including educator responsibility for assessment security and proper professional practices.

(6) LEA assessment staff shall use the Standard Test Administration and Testing Ethics Policy in providing training for all assessment administrators and proctors.

(7) An LEA may not release state assessment data publicly until authorized to do so by the Superintendent.

(8) An LEA educator or trained employee shall administer statewide assessments consistent with the testing schedule published on the Board's website.

(9) An LEA educator or trained employee shall complete all required assessment procedures prior to the end of the assessment window defined by the Superintendent.

(10)(a) If an LEA requires an alternative schedule with assessment dates outside of the Superintendent's published schedule, the LEA shall submit the alternative testing plan to the Superintendent by September 15 annually.

(b) The alternative testing plan shall set dates for assessment administration for courses taught face-to-face or online.

R277-404-6. School Responsibilities.

(1)(a) An LEA, school, or educator may not use a student's score on a state required assessment to determine:

(i) the student's academic grade, or a portion of the student's academic grade, for the appropriate course; or

(ii) whether the student may advance to the next grade level.

(b)(i) An LEA may consider, as one of multiple lines of evidence, a student's score on a state required assessment to determine whether a student may enroll in an honors, advanced

placement, or International Baccalaureate course.

(ii) An LEA may not prohibit a student from enrolling in an honors, advanced placement, or International Baccalaureate course:

(A) based on a student's score on a state required assessment; or

(B) because the student was exempted from taking a state required assessment.

(c) In accordance with Subsection 53G-6-803(1), an LEA shall reasonably accommodate a parent's or guardian's request to allow a student's demonstration of proficiency on a state required assessment to fulfill a requirement in a course.

(2) An LEA and school shall require an educator, assessment administrator, and proctor to individually sign a document provided by the Superintendent acknowledging or assuring that the educator administers statewide assessments consistent with ethics and protocol requirements.

(3) An educator and assessment administrator shall conduct assessment preparation, supervise assessment administration, and certify assessment results before providing results to the Superintendent.

(4) An educator, assessment administrator, and proctor shall securely handle and return all protected assessment materials, where instructed, in strict accordance with the procedures and directions specified in assessment administration manuals, LEA rules and policies, and the Standard Test Administration and Testing Ethics Policy.

R277-404-7. Student and Parent Participation in Student Assessments in Public Schools; Parental Exclusion from Testing and Safe Harbor Provisions.

(1) As used in this section, "penalize" means to put in an unfavorable position or at an unfair disadvantage.

(2)(a) Parents are primarily responsible for their children's education and have the constitutional right to determine which aspects of public education, including assessment systems, in which their children participate.

(b) Parents may further exercise their inherent rights to exempt their children from a state required assessment without further consequence by an LEA.

(3)(a) A parent may exercise the right to exempt their child from a state required assessment.

(b) Except as provided in Subsection (3)(c), an LEA may not penalize a student who is exempted from a state required assessment under this section.

(c) If a parent exempts the parent's child from the basic civics test required in Sections 53E-4-205 and R277-700-8, the parent's child is not exempt from the graduation requirement in

Subsection 53E-4-205(2), and may not graduate without successfully completing the requirements of Sections 53E-4-205 and R277-700-8.

(4)(a) To exercise the right to exempt a child from a state required assessment under this provision and ensure the protections of this provision, a parent shall:

(i) fill out:

(A) the Parental Exclusion from State Assessment Form provided on the Board's website; or

(B) an LEA specific form as described in Subsection (4)(b); and

(ii) submit the form:

(A) to the principal or LEA either by email, mail, or in person; and

(B) on an annual basis; and

(C) except as provided in Subsection (4)(b), at least one day prior to the beginning of the assessment.

(b) An LEA may allow a parent to exempt a student from taking a state required assessment less than one day prior to the beginning of the assessment upon parental request.

(c) An LEA may create an LEA specific form for a parent to fill out as described in Subsection (4)(a)(i)(B) if:

(i) the LEA includes a list of local LEA assessments that a parent may exempt the parent's student from as part of the LEA specific form; and

(ii) the LEA specific form includes all of the information described in the Parental Exclusion from State Assessment Form provided on the Board's website as described in Subsection (4)(a)(i)(A).

(5)(a) A teacher, principal, or other LEA administrator may contact a parent to verify that the parent submitted a parental exclusion form described in Subsection (4)(a)(i).

(b) An LEA may request, but may not require, a parent to meet with a teacher, principal, or other LEA administrator regarding the parent's request to exclude the parent's student from taking a state required assessment.

(6) The administration of any assessment that is not a state required assessment, including consequences associated with taking or failing to take the assessment, is governed by policy adopted by each LEA.

(7) An LEA shall provide a student's individual test results and scores to the student's parent or guardian upon request and consistent with the protection of student privacy.

(8) An LEA may not reward a student for a student's participation in or performance on a state required assessment.

(9) An LEA shall ensure that a student who has been exempted from participating in a state required assessment under this section is provided with an alternative learning experience if the

student is in attendance during test administration.

(10) An LEA may allow a student who has been exempted from participating in a state required assessment under this section to be physically present in the room during test administration.

R277-404-8. Public Education Employee Compliance with Assessment Requirements, Protocols, and Security.

(1) An educator, test administrator or proctor, administrator, or school employee may not:

(a) provide a student directly or indirectly with a specific question, answer, or the content of any specific item in a statewide assessment prior to assessment administration;

(b) download, copy, print, take a picture of, or make any facsimile of protected assessment material prior to, during, or after assessment administration without express permission of the Superintendent and an LEA administrator;

(c) change, alter, or amend any student online or paper response answer or any other statewide material at any time in a way that alters the student's intended response;

(d) use any prior form of any statewide assessment, including pilot assessment materials, that the Superintendent has not released in assessment preparation without express permission of the Superintendent and an LEA administrator;

(e) violate any specific assessment administrative procedure specified in the assessment administration manual, violate any state or LEA statewide assessment policy or procedure, or violate any procedure specified in the Standard Test Administration and Testing Ethics Policy;

(f) fail to administer a statewide assessment;

(g) fail to administer a statewide assessment within the designated assessment window;

(h) submit falsified data;

(i) allow a student to copy, reproduce, or photograph an assessment item or component; or

(j) knowingly do anything that would affect the security, validity, or reliability of statewide assessment scores of any individual student, class, or school.

(2) A school employee shall promptly report an assessment violation or irregularity to a building administrator, an LEA superintendent or director, or the Superintendent.

(3) An educator who violates this rule or an assessment protocol is subject to Utah Professional Practices Advisory Commission or Board disciplinary action consistent with R277-515.

(4) All assessment material, questions, and student responses for required assessments is designated protected, consistent with Section 63G-2-305, until released by the Superintendent.

(5)(a) Each LEA shall ensure that all assessment content is secured so that only authorized personnel have access and that assessment materials are returned to Superintendent following testing, as required by the Superintendent.

(b) An individual educator or school employee may not retain or distribute test materials, in either paper or electronic form, for purposes inconsistent with ethical test administration or beyond the time period allowed for test administration.

R277-404-9. Data Exchanges.

(1) The Board's IT Section shall communicate regularly with an LEA regarding the required format for electronic submission of required data.

(2) An LEA shall update UTREx data using the processes and according to schedules determined by the Superintendent.

(3) An LEA shall ensure that any computer software for maintaining or submitting LEA data is compatible with data reporting requirements established in Rule R277-484.

(4) The Superintendent shall provide direction to an LEA detailing the data exchange requirements for each statewide assessment.

(5) An LEA shall ensure that all statewide assessment data have been collected and certify that the data are ready for accountability purposes no later than July 12.

(6) An LEA shall verify that it has satisfied all the requirements of the Superintendent's directions described in this section.

(7) Consistent with Utah law, the Superintendent shall return assessment results from all statewide assessments to the school before the end of the school year.

KEY: assessments, student achievements
Date of Enactment or Last Substantive Amendment: February 22, 2019
Notice of Continuation: November 29, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-4-3; 53E-3-401(4)

R277. Education, Administration.
R277-406. Early Literacy Program and Benchmark Reading Assessment.
R277-406-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53F-2-503(14)(a), which directs the Board to develop rules for implementing the Early Literacy Program; and

(d) Section 53E-4-307, which requires the Board to approve a benchmark assessment for statewide use to assess the reading competency of students in grades one, two, and three.

(2) The purpose of this rule is to outline the responsibilities of the Superintendent and LEAs for implementation of Section 53F-2-503 and the Board's administration of Early Literacy in the state, including to:

(a) set expectations for LEA Early Literacy Plans;

(b) establish timelines for LEA Early Literacy Plans;

(c) provide definitions and designate assessments required in Section 53E-4-307;

(d) provide testing reporting windows, and timelines; and

(e) require LEAs to submit student reading assessment data to the Board.

R277-406-2. Definitions.

(1) "Benchmark reading assessment" means the Acadience Reading assessment that:

(a) is given three times each year;

(b) gives teachers information to:

(i) plan appropriate instruction; and

(ii) evaluate the effects of instruction; and

(c) provides data about the extent to which students are prepared to be successful on an end of year criterion referenced test.

(2) "Evidence-based" means a strategy that has demonstrated a statistically significant effect on improving student outcomes.

(3) "Parental notification requirements" means notice by any reasonable means, including electronic notice, notice by telephone, written notice, or personal notice.

(4) "Plan" means the literacy proficiency improvement plan required in the Early Literacy Program that is submitted by a public school district or a charter school, as required in Subsection 53F-2-503(4).

(5) "Program money" means the same as that term is defined in Section 53F-2-503.

(6) "Reading below grade level" means that a student:

(a) performs below the benchmark score on the benchmark reading assessment; and

(b) requires additional instruction beyond that provided to typically-developing peers in order to close the gap between the student's current level of reading achievement and that expected of all students in that grade.

(7) "Reading remediation interventions" means reading instruction or reading activities, or both, given to students in addition to their regular reading instruction, during another time in the school day, outside regular instructional time, or in the summer, which is focused on specific needs as identified by reliable and valid assessments.

(8) "Utah eTranscript and Record Exchange" or "UTREx" means the same as that term is defined in Section R277-404-2.

R277-406-3. Benchmark Reading Assessments.

(1) An LEA shall administer the benchmark reading assessments in grade 1, grade 2, and grade 3 within the following testing windows:

(a) the first benchmark before September 30;

(b) the second benchmark between December 1 and January 31; and

(c) the third benchmark between the middle of April and June 15.

(2) An LEA shall report benchmark reading assessment results to the Superintendent by:

(a) October 30;

(b) the last day of February; and

(c) June 30.

(3) If the benchmark reading assessment indicates a student is reading below grade level, the LEA shall implement the parental notification requirements and evidence-based reading remediation interventions described in Section 53E-4-307.

(4) An LEA shall report benchmark reading assessment results to parents of students in grade 1, grade 2, and grade 3 by:

(a) October 30;

(b) the last day of February; and

(c) June 30.

(5) An LEA shall submit to UTREx the following information from the benchmark reading assessment:

(a) whether or not each student received reading intervention; and

(b) UTREx Special Codes related to the benchmark reading assessment.

(6) An LEA that selects the reading assessment technology shall use the assessment consistent with Board directives.

R277-406-4. Early Literacy Plans -- LEA and Superintendent Requirements - Timelines.

(1) Beginning with the 2019-20 school year, to receive program money, an LEA shall submit:

(a) a plan in accordance with Subsection 53F-2-503(4); and

(b) other required materials within established deadlines.

(2)(a) Any time before July 1, an LEA may submit its plan to the Superintendent for pre-approval; and

(b) For each LEA that submits a plan for pre-approval, the Superintendent shall provide feedback in preparation for the LEA submitting the plan to its local board;

(3) An LEA shall submit a final plan to the Superintendent by no later than August 15;

(4) Notwithstanding Subsection (3), by September 1 an LEA shall provide to the Superintendent:

(a) proof that the LEA's governing board reviewed and approved the LEA's plan in an open meeting; and

(b) if necessary, a revised plan reflecting changes made to the LEA's plan by the LEA's governing board.

(5) Within three weeks of an LEA submitting a final, local board-approved plan to the Superintendent, the Superintendent shall notify the LEA if the plan has been approved or if modifications to the plan are required.

(6) If the Superintendent does not approve an LEA's plan, the LEA may, by October 15:

(a) incorporate needed changes or provisions;

(b) obtain approval for the amended plan from the LEA's governing board; and

(c) resubmit the amended plan; and

(7) If an LEA timely resubmits a plan that includes the required modifications, the Superintendent shall approve the plan by November 1.

(8) If an LEA fails to timely resubmit an acceptable plan by November 1, the LEA is not eligible for funding in the current school year.

(9) When reviewing an LEA plan for approval, the Superintendent shall evaluate:

(a) the extent to which the LEA's goals are ambitious, yet attainable; and

(b) whether the plan uses evidence-based curriculum, materials, and practices, which will support the LEA in meeting its growth goals.

(10) All LEA plans shall be reported to the Superintendent using a digital reporting platform.

R277-406-5. Accountability and Reporting on Early Literacy Plans.

(1) An LEA shall report progress toward the goals outlined in the LEA's plan to the Superintendent by June 30 each year.

(2) In accordance with Section 53F-2-503, a growth goal in an LEA's plan:

(a) is calculated using the percentage of students in an LEA's grades 1 through 3 who made typical, above typical, or well-above typical progress from the beginning of the year to the end of the year, as measured by the benchmark reading assessment; and

(b) sets the target percentage of students in grades 1 through 3 making typical progress or better at a minimum of 60 percent.

(3) The Superintendent shall use the information provided by an LEA described in Subsection R277-406-4 to determine the progress of each student in grades 1 through 3 within the following categories:

(i) well-above typical;

(ii) above typical;

(iii) typical;

(iv) below typical; or

(v) well-below typical.

(4) If an LEA does not make sufficient progress toward its plan goals, as defined in Subsection (5), the LEA shall be in the Board System of Support and required to participate in interventions to improve early literacy.

(5) Sufficient progress toward plan goals means the LEA meets:

(a) the LEA's growth goal, as described in Subsection 53F-2-503(4)(a)(v); and

(b) at least one of the LEA-designated goals addressing performance gaps, as described in Subsection 53F-2-503(4)(a)(vi).

(6) The Superintendent shall establish the strategies, interventions, and techniques for schools that are in the Board System of Support to help schools achieve early literacy goals.

KEY: reading, improvement, goals
Date of Enactment or Last Substantive Amendment: July 2, 2019
Notice of Continuation: June 7, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-503(14)(a)

R277. Education, Administration.
R277-407. School Fees.
R277-407-1. Authority and Purpose.

(1) This rule is authorized under:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Article X, Section 2 of the Utah Constitution, which provides that:

(i) public elementary schools shall be free; and

(ii) secondary schools shall be free, unless the Legislature authorizes the imposition of fees;

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(d) Subsection 53G-7-503(2), which requires the Board to adopt rules regarding student fees; and

(e) Subsection 53G-7-504 which authorizes waiver of fees for eligible students with appropriate documentation.

(2) This rule also serves to comply with the order arising from the Permanent Injunction issued in Doe v. Utah State Board of Education, Civil No. 920903376 (3rd District 1994).

(3) The purpose of this rule is to:

(a) permit the orderly establishment of a system of reasonable fees;

(b) provide adequate notice to students and families of fees and fee waiver requirements; and

(c) prohibit practices that would:

(i) exclude those unable to pay from participation in school-sponsored activities; or

(ii) create a burden on a student or family as to have a detrimental impact on participation.

R277-407-2. Definitions.

(1) "Co-curricular activity" means an activity, course, or program, outside of school hours, that also includes a required regular school day program or curriculum.

(2) "Extracurricular activity" means an activity or program for students, outside of the regular school day, that:

(a) is sponsored, recognized, or sanctioned by an LEA; and

(b) supplements or compliments, but is not part of, the LEA's required program or regular curriculum.

(3)(a) "Fee" means something of monetary value requested or required by an LEA as a condition to a student's participation in an activity, class, or program provided, sponsored, or supported by a school.

(b) "Fee" includes money or something of monetary value

raised by a student or the student's family through fund-raising.

(4)(a) "Fundraiser," "fundraising," or "fundraising activity" means an activity or event provided, sponsored, or supported by a school that uses students to generate funds to raise money to:

(i) provide financial support to a school or any of the school's classes, groups, teams, or programs; or

(ii) benefit a particular charity or for other charitable purposes.

(b) "Fundraiser," "fundraising," or "fundraising activity" may include:

(i) the sale of goods or services;

(ii) the solicitation of monetary contributions from individuals or businesses; or

(iii) other lawful means or methods that use students to generate funds.

(c) "Fundraiser," "fundraising," or "fundraising activity" does not include an alternative method of raising revenue without students.

(5) "Group fundraiser" or "group fundraising" means a fundraising activity where the money raised is used for the mutual benefit of the group, team, or organization.

(6) "Individual fundraiser" or "individual fundraising" means a fundraising activity where money is raised by each individual student to pay the individual student's fees.

(7)(a) "Instructional equipment" means equipment or supplies required for a student to use as part of a secondary course that become the property of the student upon exiting the course.

(b) "Instructional equipment" includes course related tools or instruments.

(8) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(9) "Noncurricular club" has the same meaning as that term is defined in Section 53G-7-701.

(10) "Non-waivable charge" means a cost, payment, or expenditure that:

(a) is a personal discretionary charge or purchase, including:

(i) a charge for insurance, unless the insurance is required for a student to participate in an activity, class, or program;

(ii) a charge for college credit related to the successful completion of:

(A) a concurrent enrollment class; or

(B) an advanced placement examination; or

(iii) except when requested or required by an LEA, a charge for a personal consumable item such as a yearbook, class ring, letterman jacket or sweater, or other similar item;

(b) is subject to sales tax as described in Utah State Tax Commission Publication 35, Sales Tax Information for Public and Private Elementary and Secondary Schools; or

(c) by Utah Code, federal law, or Board rule is designated not to be a fee, including:

(i) a school uniform as provided in Section 53G-7-801;

(ii) a school lunch; or

(iii) a charge for a replacement for damaged or lost school equipment or supplies.

(11)(a) "Provided, sponsored, or supported by a school" means an activity, class, program, fundraiser, club, camp, clinic, or other event that:

(i) is authorized by an LEA or school, according to local education board policy; or

(ii) satisfies at least one of the following conditions:

(A) the activity, class, program, fundraiser, club, camp, clinic, or other event is managed or supervised by an LEA or school, or an LEA or school employee;

(B) the activity, class, program, fundraiser, club, camp, clinic, or other event uses, more than inconsequentially, the LEA or school's facilities, equipment, or other school resources; or

(C) the activity, class, program, fund-raising event, club, camp, clinic, or other event is supported or subsidized, more than inconsequentially, by public funds, including the school's activity funds or minimum school program dollars.

(b) "Provided, sponsored, or supported by a school" does not include an activity, class, or program that meets the criteria of a noncurricular club as described in Title 53G, Chapter 7, Part 7, Student Clubs.

(12)(a) "Provision in lieu of fee waiver" means an alternative to fee payment or waiver of fee payment.

(b) "Provision in lieu of fee waiver" does not include a plan under which fees are paid in installments or under some other delayed payment arrangement.

(13) "Regular school day" has the same meaning as the term "school day" described in Section R277-419-2.

(14) "Requested or required by an LEA as a condition to a student's participation" means something of monetary value that is impliedly or explicitly mandated or necessary for a student, parent, or family to provide so that a student may:

(a) fully participate in school or in a school activity, class, or program;

(b) successfully complete a school class for the highest grade; or

(c) avoid a direct or indirect limitation on full participation in a school activity, class, or program, including limitations created by:

(i) peer pressure, shaming, stigmatizing, bullying, or the like; or

(ii) withholding or curtailing any privilege that is otherwise provided to any other student.

(15)(a) "Something of monetary value" means a charge, expense, deposit, rental, fine, or payment, regardless of how the payment is termed, described, requested or required directly or indirectly, in the form of money, goods or services.

(b) "Something of monetary value" includes:

(i) charges or expenditures for a school field trip or activity trip, including related transportation, food, lodging, and admission charges;

(ii) payments made to a third party that provide a part of a school activity, class, or program;

(iii) classroom supplies or materials; and

(iv) a fine, except for a student fine specifically approved by an LEA for:

(A) failing to return school property;

(B) losing, wasting, or damaging private or school property through intentional, careless, or irresponsible behavior; or

(C) improper use of school property, including a parking violation.

(16)(a) "Student supplies" means items which are the personal property of a student which, although used in the instructional process, are also commonly purchased and used by persons not enrolled in the class or activity in question and have a high probability of regular use in other than school-sponsored activities.

(b) "Student supplies" include:

(i) pencils;

(ii) paper;

(iii) notebooks;

(iv) crayons;

(v) scissors;

(vi) basic clothing for healthy lifestyle classes; and

(vii) similar personal or consumable items over which a student retains ownership.

(c) "Student supplies" does not include items listed in Subsection (16)(b) if the requirement from the school for the student supply includes specific requirements such as brand, color, or a special imprint in order to create a uniform appearance not related to basic function.

(17) "Supplemental Security Income for children with disabilities" or "SSI" means a benefit administered through the Social Security Administration that provides payments for qualified children with disabilities in low income families.

(18) "Temporary Assistance for Needy Families" or "TANF,"

means a program, formerly known as AFDC, which provides monthly cash assistance and food stamps to low-income families with children under age 18 through the Utah Department of Workforce Services.

(19)(a) "Textbook" means instructional material necessary for participation in a course or program, regardless of the format of the material.

(b) "Textbook" does not include instructional equipment.

(20) "Waiver" means a full or partial release from the requirement of payment of a fee and from any provision in lieu of fee payment.

R277-407-3. Classes and Activities During the Regular School Day.

(1) No fee may be charged in kindergarten through grade six for:

(a) materials;

(b) textbooks;

(c) supplies, except for student supplies described in Subsection (6); or

(d) any class or regular school day activity, including assemblies and field trips.

(2)(a) An LEA may charge a fee in connection with an activity, class, or program provided, sponsored, or supported by a school for a student in a secondary school that takes place during the regular school day if the fee is approved as provided in this R277-407.

(b) All fees are subject to the fee waiver provisions of Section R277-407-8.

(3)(a) Notwithstanding, Subsection (1) and except as provided in Subsection (3)(b), a school may charge a fee to a student in grade six if the student attends a school that includes any of grades seven through twelve.

(b) A school that provides instruction to students in grades other than grades six through twelve may not charge fees for grade six unless the school follows a secondary model of delivering instruction to the school's grade six students.

(c) If a school charges fees in accordance with Subsection (3)(a), the school shall annually provide notice to parents that the school will collect fees from grade six students and that the fees are subject to waiver.

(4) If a class is established or approved, which requires payment of fees or purchase of items in order for students to participate fully and to have the opportunity to acquire all skills and knowledge required for full credit and highest grades, the fees or costs for the class shall be subject to the fee waiver provisions of Rule R277-407-8.

(5)(a) In project related courses, projects required for

course completion shall be free to all students.

(b) A school may require a student at any grade level to provide materials or pay for an additional discretionary project if the student chooses a project in lieu of, or in addition to a required classroom project.

(c) A school shall avoid allowing high cost additional projects, particularly if authorization of an additional discretionary project results in pressure on a student by teachers or peers to also complete a similar high cost project.

(d) A school may not require a student to select an additional project as a condition to enrolling, completing, or receiving the highest possible grade for a course.

(6) An elementary school or elementary school teacher may provide to a student's parent or guardian, a suggested list of student supplies for use during the regular school day so that a parent or guardian may furnish, on a voluntary basis, student supplies for student use, provided that, in accordance with Section 53G-7-503, the following notice is provided with the list:

"NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

(7) A school may require a secondary student to provide student supplies, subject to the provisions of Section R277-407-8.

(8) Except as provided in Subsection (9), if a school requires special shoes or items of clothing that meet specific requirements, including requesting a specific color, style, fabric, or imprints, the cost of the special shoes or items of clothing are:

(a) considered a fee; and

(b) subject to fee waiver.

(9) As provided in Subsection 53G-7-802(4), an LEA's school uniform policy, including a requirement for a student to wear a school uniform, is not considered a fee for either an elementary or a secondary school if the LEA's school uniform policy is consistent with the requirements of Title 53G, Chapter 7, Part 8, School Uniforms.

R277-407-4. School Activities Outside of the Regular School Day.

(1) A school may charge a fee, subject to the provisions of Section R277-407-8, in connection with any school-sponsored activity, that does not take place during the regular school day, regardless of the age or grade level of the student, if participation in the activity is voluntary and does not affect a student's grade or ability to participate fully in any course taught during the regular school day.

(2) A fee related to a co-curricular or extracurricular activity may not exceed the maximum fee amounts for the co-

curricular or extracurricular activity adopted by the LEA governing board as described in Subsection R277-407-6(3).

(3) A school may only collect a fee for an activity, class, or program provided, sponsored, or supported by a school consistent with LEA policies and state law.

(4) An LEA that provides, sponsors, or supports an activity, class, or program outside of the regular school day or school calendar is subject to the provisions of this rule regardless of the time or season of the activity, class, or program.

R277-407-5. Fee-Waivable Activities, Classes, or Programs Provided, Sponsored, or Supported by a School.

Fees for the following are waivable:

(1) an activity, class, or program that is:

(a) primarily intended to serve school-age children; and

(b) taught or administered, more than inconsequentially, by a school employee as part of the employee's assignment;

(2) an activity, class, or program that is explicitly or implicitly required:

(a) as a condition to receive a higher grade, or for successful completion of a school class or to receive credit, including a requirement for a student to attend a concert or museum as part of a music or art class for extra credit; or

(b) as a condition to participate in a school activity, class, program, or team, including, a requirement for a student to participate in a summer camp or clinic for students who seek to participate on a school team, such as cheerleading, football, soccer, dance, or another team;

(3) an activity or program that is promoted by a school employee, such as a coach, advisor, teacher, school-recognized volunteer, or similar person, during school hours where it could be reasonably understood that the school employee is acting in the employee's official capacity;

(4) an activity or program where full participation in the activity or program includes:

(a) travel for state or national educational experiences or competitions;

(b) debate camps or competitions; or

(c) music camps or competitions; and

(5) a concurrent enrollment, CTE, or AP course.

R277-407-6. LEA Requirements to Establish a Fee Schedule -- Maximum Fee Amounts -- Notice to Parents.

(1) An LEA, school, school official, or employee may not charge or assess a fee or request or require something of monetary value in connection with an activity, class, or program provided, sponsored, or supported by a including for a co-curricular or

extracurricular activity, unless the fee:

(a) has been set and approved by the LEA's governing board;

(b) is equal to or less than the maximum fee amount established by the LEA governing board as described in Subsection (3); and

(c) is included in an approved fee schedule or notice in accordance with this rule.

(2)(a) If an LEA charges a fee, on or before April 1 and in consultation with stakeholders, the LEA governing board shall annually adopt a fee schedule and fee policies for the LEA in a regularly scheduled public meeting.

(b) Before approving the LEA's fee schedule described in this Section, an LEA shall provide an opportunity for the public to comment on the proposed fee schedule during a minimum of two public LEA governing board meetings.

(c) An LEA shall:

(i) provide public notice of the meetings described in Subsections (2)(a) and (b) in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) encourage public participation in the development of fee schedules and waiver policies.

(d) In addition to the notice requirements of Subsection(2)(c), an LEA shall provide notice to parents and students of the meetings described in Subsections (2)(a) and (b) using the same form of communication regularly used by the LEA to communicate with parents, including notice by e-mail, text, flyer, or phone call.

(e) An LEA shall keep minutes of meetings during which fee and waiver policies are developed or adopted, together with copies of approved policies, in accordance with Section 52-4-203.

(3)(a) As part of an LEA's fee setting process, the LEA shall establish a per student annual maximum fee amount that the LEA's schools may charge a student for the student's participation in all courses, programs, and activities provided, sponsored, or supported by a school for the year.

(b) An LEA shall establish:

(i) a maximum fee amount per student for each activity; and

(ii) a maximum total aggregate fee amount per student per school year.

(c) The amount of revenue raised by a student through an individual fundraiser shall be included as part of the maximum fee amount per student for the activity and maximum total aggregate fee amount per student.

(4) As part of an LEA's fee setting process described in this Section, the LEA may review and consider the following per school:

(a) the school's cost to provide the activity, class, or

program;

(b) the school's student enrollment;

(c) the median income of families:

(i) within the school's boundary; or

(ii) enrolled in the school;

(d) the number and monetary amount of fee waivers, designated by individual fee, annually granted within the prior three years;

(e) the historical participation and school interest in certain activities;

(f) the prior year fee schedule;

(g) the amount of revenue collected from each fee in the prior year;

(h) fund-raising capacity;

(i) prior year community donors; and

(j) other resources available, including through donations and fundraising.

(5)(a) An LEA shall annually provide written notice to a parent or guardian of each student who attends a school within the LEA of all current and applicable fee schedules and fee waiver policies.

(6)(a) If an LEA charges a fee, the LEA shall:

(i) annually publish the LEA's fee waiver policies and fee schedule, including the fee maximums described in Subsection (3), on each of the LEA's schools' websites;

(ii) annually include a copy of the LEA's fee schedule and fee waiver policies with the LEA's registration materials; and

(iii) provide a copy of the LEA's fee schedule and fee waiver policies to a student's parent who enrolls a student after the initial enrollment period.

(b) If an LEA's student or parent population in a single language other than English exceeds 20%, the LEA shall also publish the LEA's fee schedule and fee waiver policies in the language of those families.

(c) An LEA representative shall meet personally with each student's parent or family and make available an interpreter for the parent to understand the LEA's fee waiver schedules and policies if:

(i) the student or parent's first language is a language other than English; and

(ii) the LEA hasn't published the LEA's fee schedule and fee waiver policies in the parent's first language.

(7) A notice described in Subsection (6)(a) shall:

(a) be in a form approved by the Board; and

(b) include the following:

(i) for a school serving elementary students:

(A) School Fees Notice for Families of Children in

Elementary School;

(B) Fee Waiver applications (Elementary School);

(C) Fee Waiver Decision and Appeals Form; and

(D) the Board's elementary school poster; and

(ii) for a school serving secondary students:

(A) School Fees Notice For Families of Students in a Secondary School;

(B) Fee Waiver Application (Secondary School);

(C) Application for Fee Waivers and Community Service (Secondary School);

(D) Community Service Assignments and Notice of Appeal Rights;

(E) Appeal of Community Service Assignment; and

(F) the Board's secondary school poster.

(8)(a) An LEA policy shall include easily understandable procedures for obtaining a fee waiver and for appealing an LEA's denial of a fee waiver, as soon as possible before the fee becomes due.

(b) If an LEA denies a student or parent request for a fee waiver, the LEA shall provide the student or parent:

(i) the LEA's decision to deny a waiver; and

(ii) the procedure for the appeal in the form approved by the Board.

(9)(a) A school may not deny a present or former student receipt of transcripts or a diploma, nor may a school refuse to issue a grade for a course for failure to pay school fees.

(b) A school may impose a reasonable charge to cover the cost of duplicating, mailing, or transmitting transcripts and other school records.

(c) A school may not charge for duplicating, mailing, or transmitting copies of school records to an elementary or secondary school in which a former student is enrolled or intends to enroll.

(10) To preserve equal opportunity for all students and to limit diversion of money and school and staff resources from the basic school program, each LEA's fee policies shall be designed to limit student expenditures for school-sponsored activities, including expenditures for activities, uniforms, clubs, clinics, travel, and subject area and vocational leadership organizations, whether local, state, or national.

R277-407-7. Donations in Lieu of Fees.

(1)(a) A school may not request or accept a donation in lieu of a fee from a student or parent unless the activity, class, or program for which the donation is solicited will otherwise be fully funded by the LEA and receipt of the donation will not affect participation by an individual student.

(b) A donation is a fee if a student or parent is required to make the donation as a condition to the student's participation in an activity, class, or program.

(c) An LEA may solicit and accept a donation or contribution in accordance with the LEA's policies, but all such requests must clearly state that donations and contributions by a student or parent are voluntary.

(2) If an LEA solicits donations, the LEA:

(a) shall solicit and handle donations in accordance with policies established by the LEA; and

(b) may not place any undue burden on a student or family in relation to a donation.

(3) An LEA may raise money to offset the cost to the LEA attributed to fee waivers granted to students through the LEA's foundation.

(4) An LEA shall direct donations provided to the LEA through the LEA's foundation in accordance with the LEA's policies governing the foundation.

(5) An LEA may not accept a donation that would create a significant inequity among the schools within the LEA.

R277-407-8. Fee Waivers.

(1)(a) All fees are subject to waiver.

(b) Fees charged for an activity, class, or program held outside of the regular school day, during the summer, or outside of an LEA's regular school year are subject to waiver.

(c) Non-waivable charges are not subject to waiver.

(2)(a) Except as provided in Subsection (2)(b), beginning with the 2020-21 school year, an LEA may not use revenue collected through fees to offset the cost of fee waivers by requiring students and families who do not qualify for fee waivers to pay an increased fee amount to cover the costs of students and families who qualify for fee waivers.

(b) An LEA may notify students and families that the students and families may voluntarily pay an increased fee amount or provide a donation to cover the costs of other students and families.

(c) For an LEA with multiple schools, the LEA shall distribute the impact of fee waivers across the LEA so that no school carries a disproportionate share of the LEA's total fee waiver burden.

(3) An LEA shall provide, as part of any fee policy or schedule, for adequate waivers or other provisions in lieu of fee waivers to ensure that no student is denied the opportunity to participate in a class or school-sponsored or supported activity because of an inability to pay a fee.

(4) An LEA shall designate at least one person at an

appropriate administrative level in each school to review and grant fee waiver requests.

(5) An LEA shall administer the process for obtaining a fee waiver or pursuing an alternative fairly, objectively, without delay, and in a manner that avoids stigma, embarrassment, undue attention, and unreasonable burdens on students and parents.

(6) An LEA may not treat a student receiving a fee waiver or provision in lieu of a fee waiver differently from other students.

(7) A school may not identify a student on fee waiver to students, staff members, or other persons who do not need to know.

(8)(a) An LEA shall ensure that a fee waiver or other provision in lieu of fee waiver is available to any student whose parent is unable to pay a fee.

(b) A school or LEA administrator shall verify fee waivers consistent with this rule.

(9) An LEA shall submit school fee compliance forms to the Superintendent for each school that affirm compliance with the permanent injunction, consistent with Doe v. Utah State Board of Education, Civil No. 920903376 (3rd District 1994).

(10) An LEA shall adopt a fee waiver policy for review and appeal of fee waiver requests which:

(a) provides parents the opportunity to review proposed alternatives to fee waivers;

(b) establishes a timely appeal process, which shall include the opportunity to appeal to the LEA or its designee; and

(c) suspends any requirement that a given student pay a fee during any period for which the student's eligibility for waiver is under consideration or during which an appeal of denial of a fee waiver is in process.

(11) An LEA may pursue reasonable methods for collecting student fees, but may not, as a result of unpaid fees:

(a) exclude a student from a school, an activity, class, or program that is provided, sponsored, or supported by a school;

(b) refuse to issue a course grade; or

(c) withhold official student records, including written or electronic grade reports, diplomas or transcripts.

(12)(a) A school may withhold student records in accordance with Subsection 53G-8-212(2)(a).

(b) Notwithstanding Subsection (12)(a), a school may not withhold any records required for student enrollment or placement in a subsequent school.

(13) A school is not required to waive a non-waivable charge.

R277-407-9. Service in Lieu of Fees -- Voluntary Requests for Installment Plans.

(1) Subject to the provisions of Subsection (2), an LEA may

allow a student to perform community service in lieu of a fee, but community service in lieu of a fee may not be required.

(2) An LEA may allow a student to perform community service in lieu of a fee if:

(a) the LEA establishes a community service policy that ensures that a community service assignment is appropriate to the:

(i) age of the student;

(ii) physical condition of the student; and

(iii) maturity of the student;

(b) the LEA's community service policy is consistent with state and federal laws, including:

(i) Section 53G-7-504; and

(ii) the Federal Fair Labor Standards Act, 29 U.S.C.201;

(c) the community service can be performed within a reasonable period of time; and

(d) the service is at least equal to the minimum wage for each hour of service.

(3)(a) A student who performs community service may not be treated differently than other students who pay a fee.

(b) The community service may not create an unreasonable burden for a student or parent and may not be of such a nature as to demean or stigmatize the student.

(4) An LEA shall transfer a student's community service credit to:

(a) another school within the LEA; or

(b) another LEA upon request of the student.

(5)(a) An LEA may make an installment payment plan available to a parent or student to pay for a fee.

(b) An installment payment plan described in Subsection (5)(a) may not be instigated by the school but must be voluntarily requested by the student or parent.

(6) An LEA that charges fees shall adopt policies that include at least the following:

(a) a process for obtaining waivers or pursuing alternatives that is administered fairly, objectively, and without delay, and avoids stigma and unreasonable burdens on students and families;

(b) a process with no visible indicators that could lead to identification of fee waiver applicants;

(c) a process that complies with the privacy requirements of The Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 123g (FERPA);

(d) a student may not collect fees or assist in the fee waiver approval process;

(e) a standard written decision and appeal form is provided to every applicant; and

(f) during an appeal the requirement that the fee be paid is suspended.

R277-407-10. Individual and Group Fundraising Requirements.

(1) An LEA governing board shall establish a fundraising policy that includes a fundraising activity approval process.

(2) An LEA's fundraising policy described in Subsection (1):

(a) may not authorize, establish, or allow for required individual fundraising;

(b) may provide optional individual fundraising opportunities for students to raise money to offset the cost of the student's fees;

(c) may allow for group fundraisers;

(d) shall prohibit denying a student membership in or participation on a team or group or in an activity based on the student's non-participation in a fundraiser; and

(e) shall require compliance with the requirements of Rule R277-113 when using alternative methods of raising revenue that do not include students.

R277-407-11. Fee Waiver Eligibility.

(1) A student is eligible for fee waiver if an LEA receives verification that:

(a) based on family income, the student qualifies for free school lunch under United States Department of Agriculture child nutrition program regulations;

(b) the student to whom the fee applies receives SSI;

(c) the family receives TANF funding;

(d) the student is in foster care through the Division of Child and Family Services; or

(e) the student is in state custody.

(2) In lieu of income verification, an LEA may require alternative verification under the following circumstances:

(a) If a student's family receives TANF, an LEA may require a letter of decision covering the period for which a fee waiver is sought from the Utah Department of Workforce Services;

(b) If a student receives SSI, an LEA may require a benefit verification letter from the Social Security Administration;

(c) If a student is in state custody or foster care, an LEA may rely on the youth in care required intake form and school enrollment letter or both provided by a case worker from the Utah Division of Child and Family Services or the Utah Juvenile Justice Department.

(d) An LEA may not subject a family to unreasonable demands for re-qualification.

(3) A school may grant a fee waiver to a student, on a case by case basis, who does not qualify for a fee waiver under Subsection (1), but who, because of extenuating circumstances is not reasonably capable of paying the fee.

(4) An LEA may charge a proportional share of a fee or reduced fee if circumstances change for a student or family so that fee waiver eligibility no longer exists.

R277-407-12. Fees for Textbooks and Remediation.

(1) Beginning with the 2020-21 school year, an LEA may not charge a fee for:

(a) a textbook as provided in Section 53G-7-603, except for a textbook used for a concurrent enrollment or advanced placement course as described in Subsection (2); or

(b) a remediation course, if, as described in Subsection 53G-7-504(1)(b):

(i) the student or the student's parent is financially unable to pay the fee;

(ii) the fee for remediation would constitute an extreme financial hardship on the student or student's parent; or

(iii) the student has suffered a long-term illness, death in the family, or other major emergency.

(2)(a) An LEA may charge a fee for a textbook used for a concurrent enrollment or advanced placement.

(b) A fee for a textbook used for a concurrent enrollment or advanced placement course is fee waivable as described in Section R277-407-8.

R277-407-13. Budgeting and Spending Revenue Collected Through Fees -- Fee Revenue Sharing Requirements.

(1) An LEA shall follow the general accounting standards described in Rule R277-113 for treatment of fee revenue.

(2) An LEA shall:

(a) establish a spend plan for the revenue collected from each fee charged; and

(b) if the LEA has two or more schools within the LEA, share revenue lost due to fee waivers across the LEA.

(3)(a) Financial inequities or disproportional impact of fee waivers may not fall inequitably on any one school within an LEA.

(b) An LEA that has multiple schools shall establish a procedure to identify and address potential inequities due to the impact of the number of students who receive fee waivers within each of the LEA's schools.

R277-407-14. Fee Waiver Reporting Requirements.

(1) An LEA shall attach the following to the LEA's annual year end report for inclusion in the Superintendent's annual report:

(a) a summary of:

(i) the number of students in the LEA given fee waivers;

(ii) the number of students who worked in lieu of a waiver;

and

(iii) the total dollar value of student fees waived by the LEA;

(b) a copy of the LEA's fee and fee waiver policies;

(c) a copy of the LEA's fee schedule for students; and

(d) the notice of fee waiver criteria provided by the LEA to a student's parent or guardian.

(e) a fee waiver compliance form approved by the Superintendent for each school and LEA.

R277-407-15. Superintendent and LEA Policy and Training Requirements.

(1) The Superintendent shall provide ongoing training, informational materials, and model policies, as available, for use by LEAs.

(2) The Superintendent shall provide online training and resources for LEAs regarding:

(a) an LEA's fee approval process;

(b) LEA notification requirements;

(c) LEA requirements to establish maximum fees;

(d) fundraising practices;

(e) fee waiver eligibility requirements, including requirements to maintain student and family confidentiality; and

(f) community service or fundraising alternatives for students and families who qualify for fee waivers.

(3) An LEA governing board shall annually review the LEA's policies on school fees, fee waivers, fundraising, and donations.

(4) An LEA shall develop a plan for, at a minimum, annual training of LEA and school employees on fee related policies enacted by the LEA specific to each employee's job function.

R277-407-16. Enforcement.

(1) The Superintendent shall monitor LEA compliance with this rule:

(a) through the compliance reports provided in Section R277-407-14; and

(b) by such other means as the Superintendent may reasonably request at any time.

(2) If an LEA fails to comply with the terms of this rule or request of the Superintendent, the Superintendent shall send the LEA a first written notice of non-compliance, which shall include a proposed corrective action plan.

(3) Within 45 days of the LEA's receipt of a notice of non-compliance, the LEA shall:

(a) respond to the allegations of noncompliance described in Subsection (2); and

(b) work with the Superintendent on the Superintendent's

proposed corrective action plan to remedy the LEA's noncompliance.

(4)(a) Within fifteen days after receipt of a proposed corrective action plan described in Subsection (3)(b), an LEA may request an informal hearing with the Superintendent to respond to allegations of noncompliance or to address the appropriateness of the proposed corrective action plan.

(b) The form of an informal hearing described in Subsection (4)(a) shall be as directed by the Superintendent.

(5) The Superintendent shall send an LEA a second written notice of non-compliance and request for the LEA to appear before a Board standing committee if:

(a) the LEA fails to respond to the first notice of non-compliance within 60 days; or

(b) the LEA fails to comply with a corrective action plan described in Subsection (3)(b) within the time period established in the LEA's corrective action plan.

(6) If an LEA that failed to respond to a first notice of non-compliance receives a second written notice of non-compliance, the LEA may:

(a)(i) respond to the notice of non-compliance described in Subsection (5); and

(ii) work with the Superintendent on a corrective action plan within 30 days of receiving the second written notice of non-compliance; or

(b) seek an appeal as described in Subsection (8)(b).

(7) If an LEA that failed to respond to a first notice of non-compliance fails to comply with either of the options described in Subsection (6), the Superintendent shall impose one of the financial consequences described in Subsection (10).

(8)(a) Prior to imposing a financial consequence described in Subsection (10), the Superintendent shall provide an LEA thirty days' notice of any proposed action.

(b) The LEA may, within fifteen days after receipt of a notice described in Subsection (8)(a), request an appeal before the Board.

(9) If the LEA does not request an appeal described in Subsection (8)(b), or if after the appeal the Board finds that the allegations of noncompliance are substantially true, the Superintendent may continue with the suggested corrective action, formulate a new form of corrective action or additional terms and conditions which must be met and may proceed with the appropriate remedy which may include an order to return funds improperly collected.

(10) A financial consequence may include:

(a) requiring an LEA to repay an improperly charged fee, commensurate with the level of non-compliance;

(b) withholding all or part of an LEA's monthly Minimum

School Program funds until the LEA comes into full compliance with the corrective action plan; and

(c) suspending the LEA's authority to charge fees for an amount of time specified by the Superintendent or Board in the determination.

(11) The Board's decision described in Subsection (9) is final and no further appeals are provided.

R277-407-17. Effective Date.

(1) This rule will be effective beginning January 1, 2020.

KEY: education, school fees
Date of Enactment or Last Substantive Amendment: April 8, 2019
Notice of Continuation: July 19, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 2; Art X Sec 3; 53E-3-401(4); 53G-7-503; Doe v. Utah State Board of Education, Civil No. 920903376

R277. Education, Administration.
R277-409. Public School Membership in Associations.
R277-409-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to place limitations on public school membership in certain associations with rules or policies that conflict with Board policies.

R277-409-2. Definitions.

(1) "Association" means an organization that governs or regulates a student's participation in an interscholastic activity.

(2) "Interscholastic activity" means an activity within the state in which the students that participate represent a school in the activity.

(3) "Recruiting" means a solicitation or conversation:

(a) initiated by:

(i) an employee of a school or school district;

(ii) a coach or advisor of an interscholastic activity; or

(iii) a member of a booster, alumni, or other organization that performs a substantially similar role as a booster organization, affiliated with a school or school district; and

(b) to influence a student, or the student's relative or legal guardian, to transfer to a school for the purpose of participating in an interscholastic activity at the school.

R277-409-3. Membership Restrictions.

(1) Beginning with the 2017-2018 school year, a public school may not be a member of, or pay dues to an association that adopts rules or policies that are inconsistent with this R277-409-3.

(2) An association shall permit the Board to audit the association's:

(a) financial statements; and

(b) compliance with Utah Code, Board rule, and the association's bylaws, policies, rules, and best practices.

(3) An association may not treat similarly situated schools differently in the association's designation of division classifications, or in applying other association policies, based solely on the school's status as a charter school or district public school.

(4) An association may sanction a school, coach, or individual who oversees or works with students as part of an interscholastic activity of a public school if the association finds that the coach or individual:

(a) engaged in recruiting activities; or

(b) violated any other rule or policy of the association.

(5) An association shall establish a policy or rule to govern the association's use of student data that complies with the student data privacy requirements of:

(a) FERPA;

(b) Title 53E, Chapter 9, Part 3, Student Data Protection Act;

(c) Title 53E, Chapter 9, Part 2, Utah Family Educational Rights and Privacy Act; and

(d) R277-484.

(6) An association shall establish policies or rules that require:

(a) coaches and individuals who oversee interscholastic activities or work with students as part of an interscholastic activity to meet a set of professional standards that are consistent with the Utah Educator Professional Standards described in Rule R277-515; and

(b) the association or public school to annually train each coach or other individual who oversees or works with students as part of an interscholastic activity of a public school on the following:

(i) child sexual abuse prevention as described in Section 53G-9-207;

(ii) the prevention of bullying, cyber-bullying, hazing, harassment, and retaliation as described in:

(A) Title 53G, Chapter 9, Part 6, Bullying and Hazing; and

(B) R277-613; and

(iii) the professional standards described in Subsection (6)(a).

(7) An association shall establish procedures and mechanisms to:

(a) monitor LEA compliance with the association's training requirements described in Subsection (6);

(b) sanction individuals who violate the association's professional standards described in Subsection (6)(a);

(c) track individuals who violate the association's standards described in Subsection (6)(a); and

(d) prohibit individuals who have violated the association's standards described in Subsection (6)(a) from coaching, overseeing, or working with students as part of an interscholastic activity.

(8) An association shall establish a policy or rule that

requires the association to follow requirements similar to the requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

KEY: schools, memberships, associations
Date of Enactment or Last Substantive Amendment: December 8, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

R277. Education, Administration.
R277-410. Accreditation of Schools.
R277-410-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-3-501, which directs the Board to establish rules governing school accreditation.

(2) The purpose of this rule is to require qualifying secondary schools to be accredited.

R277-410-2. Definitions.

For the purposes of this rule:

"Qualifying secondary school" means a public school that:

(1) includes any of grades 9-12; or

(2) offers credits toward high school graduation.

R277-410-3. Accreditation of Public Schools.

(1) A qualifying secondary school shall obtain accreditation from a regional accrediting body.

(2) If a qualifying secondary school does not obtain accreditation before the beginning of the school's second year of operation, the credit awarded by the qualifying secondary school is considered earned from a non-accredited source as described in Section R277-705-3:

(a) for the school's first year of operation; and

(b) until the school becomes accredited.

(3)(a) In addition to standards set by an accrediting body, the Superintendent shall establish Utah-specific assurances demonstrating compliance with state law and Board rule.

(b) The Superintendent shall ensure that qualified secondary schools meet the Utah-specific assurances described in Subsection (3)(a).

(4) The Superintendent may require on-site visits as part of the accreditation process.

R277-410-4. Transfer or Acceptance of Credit.

(1) A qualifying secondary school shall accept transfer credits from an accredited qualifying secondary school consistent with Section 53G-7-206 and Section R277-705-3.

(2) A qualifying secondary school may accept transfer credits from other credit sources consistent with Section R277-705-3.

KEY: accreditation, public schools, nonpublic schools
Date of Enactment or Last Substantive Amendment: August 7, 2017
Notice of Continuation: June 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(c); 53E-3-401(4)

R277. Education, Administration.
R277-412. State Capitol Visit Program.
R277-412-1. Definitions.

A. "Board" means Utah State Board of Education.

B. "State Capitol visit" means public school student field trips to the State Capitol.

C. "USOE" means the Utah State Office of Education.

R277-412-2. Authority and Purpose.

A. The rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Subsection 53F-2-509(3) which requires the Board to make rules establishing procedures for applying for and awarding grants and specifying how grant money shall be allocated among school districts and charter schools, and Subsection 53E-3-401(4), which allows the Board to make rules in accordance with its responsibilities.

B. The purpose of this rule is to provide criteria, procedures and timelines for the Board to select schools to participate in State Capitol visits.

R277-412-3. School Application Process.

A. All public schools shall be eligible for the program.

B. An applicant school shall provide a completed application for the school's State Capitol field trip that shall:

(1) indicate how the field trip will meet self-identified academic objectives;

(2) estimate the number of students served by the program; and

(3) provide additional information requested by the USOE on the application.

R277-412-4. School Selection Criteria and Timeline.

A. The USOE shall provide an application for the Capitol Visit funding by June 15, 2013.

B. The USOE shall screen all applications for compliance with all application requirements.

C. The USOE shall seek the participation and advice of the Utah Commission on Civic and Character Education in selecting the applications for consideration for funding to ensure an equitable distribution of funding to as many school districts and public charter schools within the state as possible. The Board shall make final school selections.

D. The Board shall select and notify successful applicants no later than August 15, 2013.

KEY: public schools, State Capitol visits

Date of Enactment or Last Substantive Amendment: October 8, 2013
Notice of Continuation: September 13, 2018
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-2-509(3); 53E-3-401(4)

R277. Education, Administration.
R277-415. School Nurses Matching Funds.
R277-415-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53A-17a-154, which requires the Board to distribute grant money to LEAs for school nurses.

(2) The purpose of this rule is to provide rules for awarding of matching funds under Section 53A-17a-154.

R277-415-2. Definitions.

(1) "Advanced Practice Registered Nurse" or "APRN" is a nurse practitioner who may practice as a school nurse, or in a supervisory role.

(2) "Health aid or clerk" means an unlicensed assistive person who must work under the supervision of an RN.

(3) "Licensed Practical Nurse" or "LPN" means a nurse who may only assist or work under the supervision of a registered nurse or a medical doctor.

(4) "Physician" means a licensed doctor with a doctorate in medicine or osteopathic medicine from an accredited college or university.

(5) "Registered nurse" or "RN" is a licensed practicing nurse with a degree in nursing from an accredited college or university.

(6) "Typical school nurse" means a licensed RN specializing in school nursing that serves as a health care expert in a school.

R277-415-3. Appropriation for School Nurses.

(1) The Superintendent shall award an appropriation for school nurses to LEAs subject to the requirements of this Rule R277-415 and Section 53A-17a-154.

(2) An LEA that seeks an appropriation for school nurses under this Rule shall submit an application for school nurse funds annually.

(3) The Superintendent shall determine the amount of an LEA's allocation taking into account:

(a) an LEA's student enrollment;

(b) an LEA's ability to match funds as provided in this Section R277-415-3;

(c) the percentage of change to an LEA's school nursing staff since state fiscal year 2007; and

(d) the annual allocation of funds towards the school nursing program by the Legislature.

(4) An LEA shall provide a dollar for dollar match for an appropriation for school nurses awarded in accordance with this rule.

(5) An LEA shall provide a physician or APRN consultant to provide oversight to the LEA's school nursing program.

(6) Beginning with the 2018-19 school year, an LEA may use matching funds for paid personnel costs of:

(a) a typical school nurse;

(b) a registered professional nurse; or

(c) a licensed medical physician.

(7) Beginning with the 2018-19 school year, an LEA may not use matching funds for:

(a) an LPN;

(b) a special education school nurse;

(c) a pre-school school nurse;

(d) a health aid or clerk;

(e) a certified nurse assistant;

(f) office space; or

(g) medical supplies.

(8) An LEA may not count a school nurse as a full FTE at one school and a partial FTE at another school.

(9) An LEA shall provide documentation to the Superintendent to ensure that an appropriation for school nurses received does not supplant previous school nursing costs, including the LEA's:

(a) funding amounts and sources of funding for school nurses employed prior to state fiscal year 2008;

(b) funding amounts and sources of funding for current school nurses;

(c) current personnel cost information; and

(d) names and license numbers of employed school nurses.

(10) An LEA shall provide names and license numbers of the LEA's school nurses, including new hires, and overseeing consultants to the Superintendent by November 30 annually.

(11)(a) An LEA may provide an in-kind service match to qualify for state funds under this rule.

(b) An in-kind match under Subsection (11)(a) may include:

(i) a collaborative agreement with a local health department supported by an executed memorandum of understanding or contract, which shall include an hourly rate attributable to the services provided;

(ii) volunteer hours by a registered professional nurse valued at any hourly market rate approved by the Superintendent;

(iii) volunteer hours by a licensed medical physician valued at an hourly market rate approved by the Superintendent;

(iv) funds paid by a local health department towards school

nurse personnel costs; and

(v) funds paid by any other outside source towards school nurse personnel costs.

(12) The Superintendent may require an LEA receiving an appropriation for school nurses to:

(a) submit reports to the Superintendent and Utah Department of Health regarding the LEA's school nursing activities; and

(b) participate in standardized data collection as established by the Utah Department of Health, including the annual school health workload census.

(13) An LEA that fails to meet its matching obligations shall reimburse any state funds awarded in accordance with this rule.

(14) Nothing in this rule gives any medical provider authorization to prescribe medications to a student without the written consent of the student's parent or guardian.

KEY: school nurses, awarding, funds
Date of Enactment or Last Substantive Amendment: March 14, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401

R277. Education, Administration.
R277-417. Prohibiting LEAs and Third Party Providers from Offering Incentives or Disbursement for Enrollment or Participation.
R277-417-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to provide standards and procedures for prohibiting LEAs and third party providers from offering incentives for student enrollment.

R277-417-2. Definitions.

(1)(a) "Disbursement" means the payment of money or provision of other item of value greater than $10, per school year, offered as payment or compensation to a student or to a parent or guardian for:

(i) a student's enrollment in an LEA; or

(ii) a student's participation in an LEA's program.

(b) "Disbursement" does not include a reimbursement paid by an LEA to a student, parent or guardian, for an expenditure incurred by the student, parent or guardian on behalf of the LEA if:

(i) the expenditure is for an item that will be the property of the LEA; and

(ii) the expenditure was preauthorized by the LEA, as evidenced by preauthorization documentation.

(2) "Educational good or service" means the same as that term is defined in Section 53E-3-401.

(3) "Incentive" means one of the following given to a student or to the student's parent or guardian by an LEA or by a third party provider as a condition of the student's enrollment in an LEA or specific program for any length of time, during any school year:

(a) money greater than $10; or

(b) an item of value greater than $10.

(4) "Program" means a program within a school that is designed to accomplish a predetermined curricular objective or set of objectives.

(5) "Section 504 accommodation plan" required by Section 504 of the Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that

substantially limits one or more major life activities.

(6) "Third party provider" means a third party who provides an educational good or service on behalf of an LEA.

R277-417-3. LEA and Third Party Provider Use of Public Funds for Incentives and Disbursement.

(1) An LEA or a third party provider may not use public funds, as defined under Subsection 51-7-3(26), to provide the following to a student, parent or guardian, individual, or group of individuals:

(a) an incentive for a student's:

(i) enrollment in an LEA; or

(ii) participation in an LEA's program; or

(b) a referral bonus for a student's:

(i) enrollment in an LEA; or

(ii) participation in an LEA's program.

(2) An LEA or third party provider may not use public funds to provide a disbursement to a student or the student's parent or guardian for:

(a) curriculum exclusively selected by a parent;

(b) instruction not provided by the LEA;

(c) private lessons or classes not provided by:

(i) an employee of the LEA; or

(ii) a third party provider who meets all of the requirements of R277-115;

(d) technology devices exclusively selected by a parent; or

(e) other educational expense exclusively selected by a parent.

(3) An LEA may use public funds to provide:

(a) uniforms, technology devices, curriculum, or materials and supplies to a student if the uniforms, technology devices, curriculum, or materials and supplies are:

(i) available to all students enrolled in the LEA or program within the LEA; or

(ii) authorized by the student's college and career readiness plan, IEP, or Section 504 accommodation plan; or

(b) internet access for instructional purposes to a student:

(i) in kindergarten through grade 6; or

(ii) in grade 7 through grade 12 if:

(A) the internet access is provided in accordance with the fee waiver policy requirements of Section R277-407-8; or

(B) failure to provide the internet access will cause economic hardship on the student or parent.

(4) An LEA or third party provider shall ensure that equipment purchased or leased by the LEA or third party provider remains the property of the LEA and is subject to the LEA's asset policies if:

(a) the LEA or third party provider purchases equipment; and

(b) provides the equipment to a student or to the student's parent or guardian.

KEY: students, enrollment, incentives
Date of Enactment or Last Substantive Amendment: July 2, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

R277. Education, Administration.
R277-418. Distance, Blended, Online, or Competency Based Learning Program.
R277-418-1. Definitions.

A. "Blended learning program" means a program under the direction of an LEA:

(1) where a student learns at least in part:

(a) at a supervised brick and mortar location away from home; and

(b) at least in part through an online delivery; and

(2) that may include some element of student control over time, place, or path, or pace.

B. "Board" means the Utah State Board of Education.

C. "Distance learning program" means a program, under the direction of an LEA, in which the participants are a distance from each other in space.

D. "Enrollment verification data" includes:

(1) a student's birth certificate or other verification of age;

(2) verification of immunization or exemption from immunization form;

(3) proof of Utah public school residency;

(4) family income verification; or

(5) special education program information, including information for:

(a) an individualized education program;

(b) a Section 504 accommodation plan; and

(c) an English learner plan.

E. "Competency based learning program" means an education program that requires a student to acquire a competency and includes a classroom structure and operation that aid and facilitate the acquisition of specified competencies on an individual basis wherein a student is allowed to master and demonstrate competencies as fast as the student is able.

F. "LEA" or "local education agency" means a school district or charter school.

F. "Nontraditional Program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through a:

(1) distance learning program;

(2) online learning program;

(3) blended learning program; or

(4) competency based learning program.

G. "Online learning program" means a program, under the direction of an LEA, where there is an organized offering of courses delivered primarily over the internet.

H. "Superintendent" means the State Superintendent of Public

Instruction or the Superintendent's designee.

I. "Third party provider" means a third party who provides educational services on behalf of an LEA.

R277-418-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board and by Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide standards and procedures for nontraditional programs.

R277-418-3. Distance, Blended, Online, or Competency Based Learning Program Standards.

A. An LEA offering a nontraditional program shall comply with the following standards:

(1) student eligibility and membership/enrollment requirements described in R277-419-5, 419-6, and 419-7;

(2) school and program requirements described in R277-419-3(A);

(3) minimum school day requirements described in R277-419-4(A)1-2;

(4) compliance with official record standards and membership audit requirements described in:

(a) R277-419-4B(1) and (2); and

(b) R277-419-4C and 4D;

(5) educator licensure requirements described in R277-502;

(6) fingerprint and background check requirements for educators, employees and volunteers, described in:

(a) Title 53G, Chapter 11, Part 4, Background Checks;

(b) Section 53G-5-402;

(c) Section 53E-6-403;

(d) R277-516; and

(e) R277-520;

(7) integration of the Utah Core Standards in the nontraditional program's student instruction consistent with Subsection 53E-3-501(1)(a) and R277-700;

(8) compliance with statewide assessment administration requirements by the LEA, as required under:

(a) Title 53E, Chapter 4, Part 3, Achievement Tests; and

(b) R277-404; and

(9) compliance with the public school data confidentiality and disclosure requirements described in R277-487.

B. An LEA that contracts with a third party provider to provide educational services on behalf of the LEA for the LEA's nontraditional program shall:

(1) develop a written monitoring plan to supervise the activities and services provided by the third party provider;

(2) ensure the third party provider is complying with:

(a) federal law;

(b) state law; and

(c) Board rules;

(3) monitor and supervise all activities of the third party provider related to services provided by the third party provider to the LEA; and

(4) maintain documentation of the LEA's supervisory activities consistent with the LEA's administrative records retention schedule.

C. An LEA shall:

(1) verify the accuracy and validity of a student's enrollment verification data, prior to enrolling a student in the LEA; and

(2) provide a student and the student's parent or guardian with notification of the student's enrollment in a school or program within the LEA.

D. The Board or the Superintendent may require an LEA to repay public funds to the Superintendent if:

(1) the LEA or the LEA's third party provider fails to comply with the provisions of this R277-418; and

(2) the repayment is made in accordance with the procedures established in R277-114.

E. An LEA offering a nontraditional program shall retain sufficient documentation to demonstrate the nontraditional program's compliance with this R277-418-3.

KEY: student, enrollment, nontraditional learning programs
Date of Enactment or Last Substantive Amendment: July 8, 2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

R277. Education, Administration.
R277-419. Pupil Accounting.
R277-419-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-3-501(1)(e), which directs the Board to establish rules and standards regarding:

(i) cost-effectiveness;

(ii) school budget formats; and

(iii) financial, statistical, and student accounting requirements;

(d) Subsection 53E-3-602(2), which requires a local school board's auditing standards to include financial accounting and student accounting;

(e) Subsection 53E-3-301(3)(d), which requires the Superintendent to present to the Governor and the Legislature data on the funds allocated to LEAs; and

(f) Section 53G-4-404, which requires annual financial reports from all school districts.

(2) The purpose of this rule is to specify pupil accounting procedures used in apportioning and distributing state funds for education.

R277-419-2. Definitions.

(1) "Aggregate Membership" means the sum of all days in membership during a school year for eligible students enrolled in a public school.

(2) "Approved CTE course" means a course approved by the Board within the Career and Technical Education (CTE) Pathways in the eight areas of study.

(3) "Blended learning program" means a program under the direction of an LEA:

(a) where a student learns at least in part:

(i) at a supervised brick and motar location away from a student's home; and

(ii) through an online delivery; and

(b) that may include some element of student control over time, place, or path, or pace.

(4) "Brick and mortar school" means a traditional school or traditional school building.

(5) "Competency based learning program" means an education program that requires a student to acquire a competency and

includes a classroom structure and operation that aid and facilitate the acquisition of specified competencies on an individual basis wherein a student is allowed to master and demonstrate competencies as fast as the student is able.

(6) "Continuing enrollment measurement" means a methodology used to establish a student's continuing membership or enrollment status for purposes of generating membership days.

(7) "Data Clearinghouse" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.

(8) "Distance learning program" means a program, under the direction of an LEA, in which students receive educational services in a location other than a brick and mortar school, and may include educational services delivered over the internet.

(9) "Early graduation student" means a student who has an early graduation student education plan as described in Rule R277-703.

(10) "Eligible student" means a student who satisfies the criteria for enrollment in an LEA, set forth in Section R277-419-5.

(11) "Enrollment verification data" includes:

(a) a student's birth certificate or other verification of age;

(b) verification of immunization or exemption from immunization form;

(c) proof of Utah public school residency;

(d) family income verification; or

(e) special education program information, including:

(i) an individualized education program;

(ii) a Section 504 accommodation plan; or

(iii) an English learner plan.

(12) "Face-to-face learning program" means a program within an LEA that consists of eligible, enrolled public school students who physically attend school in a brick and mortar school.

(13)(a) "Home school" means the formal instruction of children in their homes instead of in an LEA.

(b) The differences between a home school student and an online student include:

(i) an online student may receive instruction at home, but the student is enrolled in a public school that follows state Core Standards;

(ii) an online student is:

(A) subject to laws and rules governing state and federal mandated tests; and

(B) included in accountability measures;

(iii) an online student receives instruction under the direction of a highly qualified, licensed teacher who is subject to the licensure requirements of R277-502 and fingerprint and background checks consistent with R277-516 and R277-520;

(iv) instruction delivered in a home school course is not eligible to be claimed in membership of an LEA and does not qualify for funding under the Minimum School Program in Title 53F, Chapter 2, Minimum School Program Act.

(14) "Home school course" means instruction:

(a) delivered in a home school environment where the curriculum and instruction methods, evaluation of student progress or mastery, and reporting, are provided or administered by the parent, guardian, custodian, or other group of individuals; and

(b) not supervised or directed by an LEA.

(15)(a) "Influenza pandemic" or "pandemic" means a global outbreak of serious illness in people.

(b) "Influenza pandemic" or "pandemic" may be caused by a strain of influenza that most people have no natural immunity to and that is easily spread from person to person.

(16) "ISI-1" means a student who receives 1 to 59 minutes of YIC related services during a typical school day.

(17) "ISI-2" means a student who receives 60 to 179 minutes of YIC related services during a typical school day.

(18)(a) "Membership" means a public school student is on the current roll of a public school class or public school as of a given date.

(b) A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official removal from the class or school due to the student having left the school.

(c) Removal from the roll does not mean that an LEA should delete the student's record, only that the student should no longer be counted in membership.

(19) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.

(20) "Nontraditional Program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through a:

(a) distance learning program;

(b) online learning program;

(c) blended learning program; or

(d) competency based learning program.

(21) "Online learning program" means a program:

(a) that is under the direction of an LEA; and

(b) in which students receive educational services primarily over the internet.

(22) "Private school" means an educational institution that:

(a) is not an LEA;

(b) is owned or operated by a private person, firm, association, organization, or corporation; and

(c) is not subject to governance by the Board consistent with the Utah Constitution.

(23) "Program" means a course of instruction within a school that is designed to accomplish a predetermined curricular objective or set of objectives.

(24) "Resource" means a student who receives 1 to 179 minutes of special education services during a typical school day consistent with the student's IEP provided for under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.

(25) "Qualifying school age" means:

(a) a person who is at least five years old and no more than 18 years old on or before September 1;

(b) with respect to special education, a person who is at least three years old and no more than 21 years old on or before July 1;

(c) with respect to YIC, a person who is at least five years old and no more than 21 years old on or before September 1.

(26) "Retained senior" means a student beyond the general compulsory school age who is authorized at the discretion of an LEA to remain in enrollment as a high school senior in the year(s) after the student's cohort has graduated due to:

(a) sickness;

(b) hospitalization;

(c) pending court investigation or action; or

(d) other extenuating circumstances beyond the control of the student.

(27) "S1" means the record maintained by the Superintendent containing individual student demographic and school membership data in a Data Clearinghouse file.

(28) "S2" means the record maintained by the Superintendent containing individual student data related to participation in a special education program in a Data Clearinghouse file.

(29) "S3" means the record maintained by the Superintendent containing individual student data related to participation in a YIC program in a Data Clearinghouse file.

(30) "School" means an educational entity governed by an LEA that:

(a) is supported with public funds;

(b) includes enrolled or prospectively enrolled full-time students;

(c) employs licensed educators as instructors that provide instruction consistent with Section R277-502;

(d) has one or more assigned administrators;

(e) is accredited consistent with Section R277-410-3; and

(f) administers required statewide assessments to the school's students.

(31) "School day" means a minimum of two hours per day per session in kindergarten and a minimum of four hours per day in grades one through twelve, subject to the requirements described in Section R277-419-4.

(32) "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.

(33) "School of enrollment" means:

(a) a student's school of record; and

(b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.

(34) "School year" means the 12 month period from July 1 through June 30.

(35) "Self-contained" means a public school student with an IEP or YIC, who receives 180 minutes or more of special education or YIC related services during a typical school day.

(36) "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.

(37) "SSID" means Statewide Student Identifier.

(38) "Unexcused absence" means an absence charged to a student when:

(a) the student was not physically present at school at any of the times attendance checks were made in accordance with Subsection R277-419-6(3); and

(b) the student's absence could not be accounted for by evidence of a legitimate or valid excuse in accordance with local board policy on truancy as defined in Section 53G-6-201.

(39) "Year end upload" means the Data Clearinghouse file due annually by July 15 from LEAs to the Superintendent for the prior school year.

(40) "Youth in custody (YIC)" means a person under the age of 21 who is:

(a) in the custody of the Department of Human Services;

(b) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or

(c) being held in a juvenile detention facility.

R277-419-3. Schools and Programs.

(1)(a) The Superintendent shall provide a list to each school detailing the required accountability reports and other

state-mandated reports for the school type and grade range.

(b) All schools shall submit a Clearinghouse report to the Superintendent.

(c) All schools shall employ at least one licensed educator and one administrator.

(2)(a) A student who is enrolled in a program is considered a member of a public school.

(b) The Superintendent may not require programs to receive separate accountability and other state-mandated reports.

(c) A student reported under an LEA's program shall be included in the LEA's WPU and student enrollment calculations of the LEA's school of enrollment.

(d) A course taught at a program shall be credited to the appropriate school of enrollment.

(3) A private school or program may not be required to submit data to the Superintendent.

(4) A private school or program may not receive annual accountability reports.

R277-419-4. Minimum School Days.

(1)(a) Except as provided in Subsection (1)(b) and Subsection 53F-2-102(7), an LEA shall conduct school for at least 990 instructional hours over a minimum of 180 school days each school year.

(b) an LEA may seek an exception to the number of school days described in Subsection (1)(a):

(i) except as provided in Subsection (1)(b)(ii), for a whole school or LEA as described in R277-121;

(ii) for a school closure due to snow, inclement weather, or other emergency as described in R277-419-12; or

(iii) for an individual student as described in Section R277-419-11.

(2)(a) An LEA may offer the required school days and hours described in Subsection (1)(a) at any time during the school year, consistent with the law.

(b) All school day calculations shall exclude lunch periods and pass time between classes but may include recess periods that include organization or instruction from school staff.

(c) Each school day that satisfies the minimum hourly instruction time described in Subsection R277-419-2(31), shall count as a school day, regardless of the number or length of class periods or whether or not particular classes meet.

(3)(a) An LEA shall plan for emergency, activity, and weather-related exigency time in its annual calendaring.

(b) If school is closed for any reason, the school shall make up the instructional time missed under the emergency or activity time as part of the minimum required time to qualify for

full Minimum School Program funding.

(4) Minimum standards apply to all public schools in all settings unless Utah law or this rule provides for a specific exception.

(5) An LEA's governing board shall provide adequate contingency school days and hours in the LEA's yearly calendar to avoid the necessity of requesting a waiver except in the most extreme circumstances.

(6)(a) In addition to the allowance to use up to 32 instructional hours or four school days for professional learning described in Subsection 53F-2-102(6), to provide planning and professional development time for staff, an LEA may hold school longer some days of the week and shorter other days so long as minimum school day requirements, as provided for in this R277-419-4 and Subsection R277-419-2(32), are satisfied.

(b) A school may conduct parent-teacher and student Plan for College and Career Readiness conferences during the school day.

(c) Parent-teacher and college and career readiness conferences may only be held for a total of the equivalent of three full school days or a maximum of 16.5 hours for the school year.

(d) Student membership for professional development or parent-teacher conference days shall be counted as that of the previous school day.

(e) An LEA may designate no more than a total of 12 instructional days at the beginning of the school year, at the end of the school year, or both for the assessment of students entering or completing kindergarten.

(f) If instruction days are designated for kindergarten assessment:

(i) an LEA shall designate the days in an open meeting;

(ii) an LEA shall provide adequate notice and explanation to kindergarten parents well in advance of the assessment period;

(iii) qualified school employees shall conduct the assessment consistent with Section 53F-4-205; and

(iv) assessment time per student shall be adequate to justify the forfeited instruction time.

(g) The final decision and approval regarding planning time, parent-teacher and SEP conferences rests with an LEA, consistent with Utah law and Board administrative rules.

(h) Total instructional time and school calendars shall be approved by an LEA in an open meeting.

R277-419-5. Student Membership Eligibility and Continuing Enrollment Measurements.

(1) A student may enroll in two or more LEAs at the discretion of the LEAs.

(2) A kindergarten student may only enroll in one LEA at a time.

(3) In order to generate membership for funding through the Minimum School Program for any clock hour of instruction on any school day, an LEA shall ensure that a student being counted by the LEA in membership:

(a) has not previously earned a basic high school diploma or certificate of completion;

(b) has not been enrolled in a YIC program with a YIC time code other than ISI-1 or ISI-2;

(c) does not have unexcused absences, which are determined using one of the continuing enrollment measurements described in Subsection (4);

(d) is a resident of Utah as defined under Section 53G-6-302;

(e) is of qualifying school age or is a retained senior;

(f)(i) is expected to attend a regular learning facility operated or recognized by an LEA on each regularly scheduled school day, if enrolled in a face-to-face learning program;

(ii) has direct instructional contact with a licensed educator provided by an LEA at:

(A) an LEA-sponsored center for tutorial assistance; or

(B) the student's place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended period of time, due to:

(i) injury;

(II) illness;

(III) surgery;

(IV) suspension;

(V) pregnancy;

(VI) pending court investigation or action; or

(VII) an LEA determination that home instruction is necessary;

(iii) is enrolled in an approved CTE course(s) on the campus of another state funded institution where such a course is:

(A) not offered at the student's school of membership;

(B) being used to meet Board-approved CTE graduation requirements under Subsection R277-700-6(14); and

(C) a course consistent with the student's SEOP/Plan for College and Career Readiness; or

(iv) is enrolled in a nontraditional program under the direction of an LEA that:

(A) is consistent with the student's SEOP/Plan for College and Career Readiness;

(B) has been approved by the student's counselor; and

(C) includes regular instruction or facilitation by a

designated employee of an LEA.

(4) An LEA shall use one of the following continuing enrollment measures:

(a) For a student primarily enrolled in a face-to-face learning program, the LEA may not count a student as an eligible student if the eligible student has unexcused absences during all of the prior ten consecutive school days.

(b) For a student enrolled in a nontraditional program, an LEA shall:

(i) adopt a written policy that designates a continuing enrollment measurement to document the continuing membership or enrollment status for each student enrolled in the nontraditional program consistent with Subsection (3)(c);

(ii) document each student's continued enrollment status in compliance with the continuing enrollment policy at least once every ten consecutive school days; and

(iii) appropriately adjust and update student membership records in the student information system for students that did not meet the continuing enrollment measurement, consistent with Subsection (3)(c).

(5) The continuing enrollment measurement described in Subsection (4)(b) may include some or all of the following components, in addition to other components, as determined by an LEA:

(a) a minimum student login or teacher contact requirement;

(b) required periodic contact with a licensed educator;

(c) a minimum hourly requirement, per day or week, when students are engaged in course work; or

(d) required timelines for a student to provide or demonstrate completed assignments, coursework or progress toward academic goals.

(6) For a student enrolled in both face-to-face and nontraditional programs, an LEA shall measure a student's continuing enrollment status using the methodology for the program in which the student earns the majority of their membership days.

(7)(a) An LEA desiring to generate membership for student enrollment in courses outlined in Subsection (3)(f)(iii), or to seek a waiver from a requirement(s) in Subsection (3)(f)(iii), shall submit an application for course approval by April 1 of the year prior to which the membership will be counted.

(b) An LEA shall be notified within 30 days of the application deadline if courses have been approved.

R277-419-6. Student Membership Calculations.

(1)(a) Except as provided in Subsection (1)(b) or (1)(c), a student enrolled in only one LEA during a school year is eligible for no more than 180 days of regular membership per school year.

(b) An early graduation student may be counted for more than 180 days of regular membership in accordance with the student's early graduation student education plan.

(c) A student transferring within an LEA to or from a year-round school is eligible for no more than 205 days of regular membership per school year.

(2)(a) Except as provided in Subsection (2)(b), (2)(c), or (2)(d), a student enrolled in two or more LEAs during a school year is eligible for no more than 180 days of regular membership per school year.

(b) A student transferring to or from an LEA with a schedule approved under Subsection R277-419-4(1)(b) is eligible for no more than 220 days of regular membership per school year.

(c) A student transferring to or from an LEA where the student attended or will attend a year-round school is eligible for no more than 205 days of regular membership per school year.

(d) If the exceptions in Subsections (2)(b) and (2)(c) do not apply but a student transfers from one LEA to another at least one time during the school year, the student is eligible for regular membership in an amount not to exceed the sum of:

(i) 170 days; plus

(ii) 10 days multiplied by the number of LEAs the student attended during the school year.

(3) If a student is enrolled in two or more LEAs during a school year and the aggregate regular membership generated for the student between all LEAs exceeds the amount allowed under Subsection (2), the Superintendent shall apportion the days of regular membership allowed between the LEAs.

(4) If a student was enrolled for only part of the school day or only part of the school year, an LEA shall prorate the student's membership according to the number of hours, periods or credits for which the student actually was enrolled in relation to the number of hours, periods or credits for which a full-time student normally would have been enrolled. For example:

(a) If the student was enrolled for 4 periods each day in a 7 period school day for all 180 school days, the student's aggregate membership would be 4/7 of 180 days or 103 days.

(b) If the student was enrolled for 7 periods each day in a 7 period school day for 103 school days, the student's membership would also be 103 days.

(5) For students in grades 2 through 12, an LEA shall calculate the days in membership using a method equivalent to the following: total clock hours of instruction for which the student was enrolled during the school year divided by 990 hours and then multiplied by 180 days and finally rounded up to the nearest whole day. For example, if a student was enrolled for only 900 hours during the school year, the student's aggregate membership would

be (900/990)*180, and the LEA would report 164 days.

(6) For students in grade 1, an LEA shall adjust the first term of the formula to use 810 hours as the denominator.

(7) For students in kindergarten, an LEA shall adjust the first term of the formula to use 450 hours as the denominator.

(8) The sum of regular plus self-contained special education and self-contained YIC membership days may not exceed 180 days.

(9) The sum of regular and resource special education membership days may not exceed 360 days.

(10) The sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed 360 days.

(11) An LEA may also count a student in membership for the equivalent in hours of up to:

(a) one period each school day, if the student has been:

(i) released by the school, upon a parent or guardian's request, during the school day for religious instruction or individual learning activity consistent with the student's SEOP/Plan for College and Career Readiness; or

(ii) participating in one or more extracurricular activities under Rule R277-438, but has otherwise been exempted from school attendance under Section 53G-6-204 for home schooling;

(b) two periods each school day per student for time spent in bus travel during the regular school day to and from another state-funded institution, if the student is enrolled in CTE instruction consistent with the student's SEOP/Plan for College and Career Readiness;

(c) all periods each school day, if the student is enrolled in:

(i) a concurrent enrollment program that satisfies all the criteria of Rule R277-713;

(ii) a private school without religious affiliation under a contract initiated by an LEA to provide special education services which directs that the instruction be paid by public funds if the contract with the private school is approved by an LEA board in an open meeting;

(iii) a foreign exchange student program under Subsection 53G-6-707(7); or

(iv) a school operated by an LEA under a Utah Schools for the Deaf and the Blind IEP provided that:

(A) the student may only be counted in S1 membership and may not have an S2 record; and

(B) the S2 record for the student is submitted by the Utah Schools for the Deaf and the Blind.

R277-419-7. Calculations for a First Year Charter School.

(1) For the first operational year of a charter school or a new satellite campus, the Superintendent shall determine the

charter school's WPU funding based on October 1 counts.

(2) For the second operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on Section 53F-2-302.

R277-419-8. Reporting Requirements, LEA Records, and Audits.

(1) An LEA shall report aggregate membership for each student via the School Membership field in the S1 record and special education membership in the SCRAM Membership field in the S2 record and YIC membership in the S3 record of the Year End upload of the Data Clearinghouse file.

(2) In the Data Clearinghouse, aggregate membership is calculated in days of membership.

(3) To determine student membership, an LEA shall ensure that records of daily student attendance are maintained in each school which clearly and accurately show for each student the:

(a) entry date;

(b) exit date;

(c) exit or high school completion status;

(d) whether or not an absence was excused;

(e) disability status (resource or self-contained, if applicable); and

(f) YIC status (ISI-1, ISI-2 or self-contained, if applicable).

(4) An LEA shall ensure that:

(a) computerized or manually produced records for CTE programs are kept by teacher, class, and classification of instructional program (CIP) code; and

(b) the records described in Subsection (4)(a) clearly and accurately show for each student in a CTE class the:

(i) entry date;

(ii) exit date; and

(iii) excused or unexcused status of absence.

(5) An LEA shall ensure that each school within the LEA completes a minimum of one attendance check each school day.

(6) Due to school activities requiring schedule and program modification during the first days and last days of the school year:

(a) for the first five school days, an LEA may report aggregate days of membership equal to the number recorded for the second five-day period of the school year;

(b) for the last five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding five-day period; and

(c) schools shall continue instructional activities throughout required calendared instruction days.

(7) An LEA shall employ an independent auditor, under

contract, to:

(a) annually audit student accounting records; and

(b) report the findings of the audit to:

(i) the LEA board; and

(ii) the Financial Operations Section of the Board.

(8) Reporting dates, forms, and procedures are found in the State of Utah Legal Compliance Audit Guide, provided to LEAs by the Superintendent in cooperation with the State Auditor's Office.

(9) The Superintendent:

(a) shall review each LEA's student membership and fall enrollment audits as they relate to the allocation of state funds in accordance with the policies and procedures established in Sections R277-484-7 and 8; and

(b) may periodically or for cause review LEA records and practices for compliance with the laws and this rule.

R277-419-9. High School Completion Status.

(1) An LEA shall account for the final status of all students who enter high school (grades 9-12) whether they graduate or leave high school for other reasons, using the following decision rules to indicate the high school completion or exit status of each student who leaves the Utah public education system:

(a) graduates are students who earn a basic high school diploma by satisfying one of the options consistent with Subsection R277-705-4(2) or out-of-school youths of school age who complete adult education secondary diploma requirements consistent with R277-733;

(b) completers are students who have not satisfied Utah's requirements for graduation but who:

(i) are in membership in twelfth grade on the last day of the school year; and

(ii)(A) meet any additional criteria established by an LEA consistent with its authority under Section R277-705-4;

(B) meet any criteria established for special education students under Utah State Board of Education Special Education Rules, Revised, June 2016, and available at: http://www.schools.utah.gov/sars/Laws.aspx and the Utah State Board of Education;

(C) meet any criteria established for special education students under Subsection R277-700-8(5); or

(D) pass a General Educational Development (GED) test with a designated score;

(c) continuing students are students who:

(i) transfer to higher education, without first obtaining a diploma;

(ii) transfer to the Utah Center for Assistive Technology

without first obtaining a diploma; or

(iii) age out of special education;

(d) dropouts are students who:

(i) leave school with no legitimate reason for departure or absence;

(ii) withdraw due to a situation so serious that educational services cannot be continued even under the conditions of Subsection R277-419-5(3)(f)(ii);

(iii) are expelled and do not re-enroll in another public education institution; or

(iv) transfer to adult education;

(e) an LEA shall exclude a student from the cohort calculation if the student:

(i) transfers out of state, out of the country, to a private school, or to home schooling;

(ii) is a U.S. citizen who enrolls in another country as a foreign exchange student;

(iii) is a non-U.S. citizen who enrolls in a Utah public school as a foreign exchange student under Section 53G-6-707 in which case the student shall be identified by resident status (J for those with a J-1 visa, F for all others), not by an exit code;

(iv) dies; or

(v) beginning with the 2015-2016 school year, is attending an LEA that is not the student's school of enrollment.

(2)(a) An LEA shall report the high school completion status or exit code of each student to the Superintendent as specified in Data Clearinghouse documentation.

(b) High School completion status or exit codes for each student are due to the Superintendent by year end upload for processing and auditing.

(c) Except as provided in Subsection (2)(d), an LEA shall submit any further updates of completion status or exit codes by October 1 following the end of a student's graduating cohort pursuant to Section R277-484-3.

(d) An LEA with an alternative school year schedule where all of the students have an extended break in a season other than summer, shall submit the LEA's data by the next complete data submission update, following the LEA's extended break, as defined in Section R277-484-3.

(3)(a) The Superintendent shall report a graduation rate for each school, LEA, and the state.

(b) The Superintendent shall calculate the graduation rates in accordance with applicable federal law.

(c) The Superintendent shall include a student in a school's graduation rate if:

(i) the school was the last school the student attended before the student's expected graduation date; and

(ii) the student does not meet any exclusion rules as stated in Subsection (1)(e).

(d) The last school a student attended will be determined by the student's exit dates as reported to the Data Clearinghouse.

(e) A student's graduation status will be attributed to the school attended in their final cohort year.

(f) If a student attended two or more schools during the student's final cohort year, a tie-breaking logic to select the single school will be used in the following hierarchical order of sequence:

(i) school with an attached graduation status for the final cohort year;

(ii) school with the latest exit date;

(iii) school with the earliest entry date;

(iv) school with the highest total membership;

(v) school of choice;

(vi) school with highest attendance; or

(vii) school with highest cumulative GPA.

(g) The Superintendent shall report the four-year cohort rate on the annual state reports.

R277-419-10. Student Identification and Tracking.

(1)(a) Pursuant to Section 53E-4-308, an LEA shall:

(i) use the SSID system maintained by the Superintendent to assign every student enrolled in a program under the direction of the Board or in a program or a school that is supported by public school funding a unique student identifier; and

(ii) display the SSID on student transcripts exchanged with LEAs and Utah public institutions of higher education.

(b) The unique student identifier:

(i) shall be assigned to a student upon enrollment into a public school program or a public school-funded program;

(ii) may not be the student's social security number or contain any personally identifiable information about the student.

(2) An LEA shall require all students to provide their legal first, middle, and last names at the time of registration to ensure that the correct SSID follows students who transfer among LEAs.

(a) A school shall transcribe the names from the student's birth certificate or other reliable proof of the student's identity and age, consistent with Section 53G-6-603;

(b) The direct transcription of student names from birth certificates or other reliable proof of student identity and age shall be the student's legal name for purposes of maintaining school records; and

(c) An LEA may modify the order of student names, provide for nicknames, or allow for different surnames, consistent with

court documents or parent preferences, so long as legal names are maintained on student records and used in transmitting student information to the Superintendent.

(3) The Superintendent and LEAs shall track students and maintain data using students' legal names.

(4) If there is a compelling need to protect a student by using an alias, an LEA should exercise discretion in recording the name of the student.

(5) An LEA is responsible to verify the accuracy and validity of enrollment verification data, prior to enrolling students in the LEA, and provide students and their parents with notification of enrollment in a public school.

(6) An LEA shall ensure enrollment verification data is collected, transmitted, and stored consistent with sound data policies, established by the LEA as required in Rule R277-487.

R277-419-11. Exceptions.

(1)(a) An LEA may, at its discretion, make an exception for school attendance for a public school student, in the length of the school day or year, for a student with compelling circumstances.

(b) The time an excepted student is required to attend school shall be established by the student's IEP or Plan for College and Career Readiness.

(2) A school using a modified 45-day/15-day year round schedule initiated prior to July 1, 1995 shall be considered to be in compliance with this rule if the school's schedule includes a minimum of 990 hours of instruction time in a minimum of 172 days.

R277-419-12. Snow, Inclement Weather, or Other Emergency School Closure Days.

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

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

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

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

(3) If the Superintendent denies an LEA's request described in Subsection (1), the LEA may appeal the Superintendent's decision by making the request of the full Board.

(4) If an LEA seeks a waiver for two or more school days due to excessive snow, inclement weather, or other emergency, the LEA shall seek the waiver pursuant to the procedures described in R277-121.

(5)(a) An LEA may request the Board to waive the school day and hour requirement pursuant to a directive from the Utah State Health Department or a local health department, that results in the closure of a school in the event of a pandemic or other public health emergency.

(b) A waiver described in this Subsection (5) may be for a designated time period, for a specific area, or for a specific LEA in the state, as determined by the health department directive.

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

(d) A waiver granted by the Board or Superintendent as described in this Subsection (5) shall direct an LEA to provide as much notice to students and parents of the suspension of school services, as is reasonably possible.

(e) A waiver granted shall direct an LEA to comply with health department directives, but to continue to provide any services to students that are not inconsistent with the directive.

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

KEY: education finance, school enrollment, pupil accounting
Date of Enactment or Last Substantive Amendment: October 16, 2018
Notice of Continuation: August 14, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-102(7); 53E-3-501(1)(e); 53E-3-602(2); 53E-3-301(3)(d); 53G-4-404

R277. Education, Administration.
R277-420. Aiding Financially Distressed School Districts.
R277-420-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53G-7-306(5), which requires the Board to develop standards for defining and aiding financially distressed school districts.

(2) The purpose of this rule is to specify eligibility requirements and procedures for nonrecurring or nonroutine interfund transfers for financially distressed school districts.

R277-420-2. Definitions.

(1)(a) "Interfund transfer" means a transaction which withdraws money from one fund and places it in another without recourse.

(b) An interfund transfer is regulated by statute and Board rules.

(c) "Interfund transfers" do not include interfund loans in which money is temporarily withdrawn from a fund with full obligation for repayment during the fiscal year.

(2) "Without recourse" means there is no obligation to return withdrawn money to the fund from which it was transferred.

R277-420-3. Eligibility.

(1) A school district may qualify as financially distressed if the district:

(a) has a deficit of three percent or more in its year end unappropriated maintenance and operation fund balance following a reduction for any amount in an undistributed reserve;

(b) is unable to meet its financial obligations in a timely manner;

(c) is unable to reduce the maintenance and operation deficit by 25 percent in its budget for the next year;

(d) can demonstrate that it has made reasonable, local efforts to eliminate the deficit;

(e) is financially incapable of meeting statewide educational standards adopted by the Board; and

(f) has a deficit resulting from circumstances not subject to administrative decisions.

(2) The Superintendent shall evaluate the criteria outlined in Subsection (1) and make a determination on whether a district

is financially distressed following an on-site visit and consultation with the school district and local school board.

R277-420-4. Procedures for Making Interfund Transfers.

(1) A local school board may apply for an interfund transfer under this rule by filing a request with the Superintendent, which shall include:

(a) evidence that the district meets the criteria set forth in Section R277-420-3; and

(b) a plan to eliminate the district's budget deficit.

(2) As part of a district application under Subsection (1)(a), the Superintendent shall:

(a) visit the school district; and

(b) conduct a financial analysis.

(3) The Superintendent may only approve an interfund transfer under this rule if the Superintendent determines that:

(a) the district meets the eligibility requirements of Section R277-420-3; and

(b) the district's request does not conflict with Subsection 53G-7-306(6)(d).

(4) The Superintendent shall advise the Board of any transfers approved under this rule at the next regularly scheduled Board meeting.

(5) A school district designated as financially distressed may make nonrecurring or nonroutine interfund transfers to the district's maintenance and operation fund upon the approval of the Superintendent and in accordance with the plan submitted by the district under Subsection (1)(b).

(6) An interfund transfer shall be established by a school district under the direction of the local school board in an undistributed reserve account consistent with Section 53G-7-304.

KEY: education finance
Date of Enactment or Last Substantive Amendment: November 7, 2017
Notice of Continuation: September 13, 2017
Authorizing, and Implemented or Interpreted Law: 53G-7-306; 53E-3-401(4); 53G-7-304

R277. Education, Administration.
R277-421. Out-of-State Tuition Reimbursement.
R277-421-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53G-6-305, which outlines when a school district may pay out-of-state tuition for a resident student to attend a school district out of state.

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

(a) obtaining Board approval for reimbursement of out-of-state tuition expenses;

(b) calculating reimbursement costs; and

(c) recording out of state students in district records.

R277-421-2. Definitions.

(1) "ADM" means average daily membership.

(2) "Minimum school program" or "MSP" means the same as that term is defined in Section 53F-2-102.

(3) "NESS" means the Necessarily Existent Small Schools Fund.

(4) "Utah eTranscript and Records Exchange" or "UTREx" means a system that allows individual detailed student records to be exchanged electronically between public education districts and the Superintendent, and allows electronic transcripts to be sent to any post-secondary institution, private or public, in-state or out-of-state, that participates in the e-transcript service.

(5) "WPU" means the weighted pupil unit.

R277-421-3. Board Review of Out-of-State Tuition Agreements.

(1) A district shall submit to the Superintendent an agreement to pay tuition to an out-of-state district in accordance with Subsection 53G-6-305(1) by June 30.

(2) A district requesting reimbursement for excess tuition costs under Subsection 53G-6-305(3) shall submit a request to the Superintendent by June 30 including:

(a) an estimate of ADM for out of state students for the upcoming school year; and

(b) an estimate of tuition payment amounts for the upcoming school year.

(3)(a) The Board shall review a request submitted under Subsection (2) no later than August 30.

(b) The Board may deny a request submitted under Subsection

(2) if there are insufficient funds to cover the reimbursement.

R277-421-4. Calculation of Out-of-State Tuition Reimbursement.

(1) The Superintendent shall calculate out-of-state reimbursement to a district by subtracting state funds that are calculated based on the WPU generated by an out-of-state resident student's ADM from the total tuition payment per student:

(a) Kindergarten WPU;
(b) Grade 1-12 WPU;
(c) Professional Staff Costs;
(d) NESS;
(e) District Administrative Costs;
(fi) Class-Size Reduction;
(g) Flexible Allocation;
(h) Gifted and Talented program;
(i) K-3 Reading Improvement program;
(j) Voted and Board Local Levy Guarantee programs; and
(k) Applicable Special Education programs.

(2) A district shall not include out-of-state tuition payments in any other MSP formula.

(3) The Superintendent may include in a calculation under Subsection (1) mileage costs reimbursed by a district to parents for transporting students to the nearest bus stop in accordance with Section R277-600-7.

(4) The Superintendent shall reserve the estimated funds identified by a district under Subsection R277-421-3(2)(a) from the new year NESS appropriation, and pay Board-authorized reimbursement payments from reserved funds.

R277-421-5. Recording Student Membership for Out-of-State Students.

(1) A district shall record student membership for students receiving out-of-state tuition reimbursement in accordance with District enrollment and membership policies.

(2) A district shall report students in UTREx for whom they are paying out-of-state tuition using codes identified by the Superintendent.

(3) A district shall report ADM for students attending school out-of-state pursuant to a tuition agreement under Section 53G-6-305 in the same manner as the district calculates ADM for students attending the district's schools.

KEY: out-of-state, tuition, reimbursements
Date of Enactment or Last Substantive Amendment: October 11, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-6-305

R277. Education, Administration.
R277-422. State Supported Voted Local Levy, Board Local Levy and Reading Improvement Program.
R277-422-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-3-501(1)(e), which directs the Board to establish rules for:

(i) school productivity and cost effectiveness measures;

(ii) federal programs;

(iii) school budget formats; and

(iv) financial, statistical, and student accounting requirements.

(2) The purpose of this rule is to specify requirements, timelines, and clarifications for:

(a) the state-supported voted local levy;

(b) the board local levy; and

(c) the reading improvement program.

R277-422-2. Definitions.

(1) "Ad valorem property tax" means a tax based on the assessed value of real estate or personal property.

(2) "Board local levy" means a tax levied by a local board in accordance with Section 53F-2-602 to support a district's general fund.

(3) "Free or reduced meal applications" means the applications received by a school district or charter school under the Board-supervised federal Child Nutrition Program.

(4) "Local board" means the school board members elected to govern a school district.

(5) "State-supported" means a formula-based state contribution of funds to the voted local levy program and the board local levy program as defined in Section 53F-2-601 and Section 53F-2-602.

(6) "Voted local levy" means a state-supported program in which a voter-approved property tax levy under Section 53F-2-601 is authorized to cover a portion of the costs within the general fund of the state-supported minimum school program in a district.

(7) "Weighted pupil unit " or "WPU" has the same meaning as set forth in Subsection 53F-2-102(8).

R277-422-3. Requirements and Timelines for State-Supported Voted Local Levy and Board Local Levy.

(1) A local board may establish a state-supported voted local levy program following an election process in accordance with Section 53F-2-601.

(2) A local board which has approved voted local levy or voted leeway programs since 1965 may set an annual fiscal year fixed tax rate levy for the voted local levy equal to or less than the levy authorized by the election.

(3) A district may budget and expend state and local funds received under the voted local levy or board local levy program within the school district's general fund as unrestricted revenue.

(4) In order to receive state support for an initial voted local levy tax rate, a local board shall receive voter approval no later than December 1 prior to the commencement of the fiscal year of implementation of that initial voted local levy tax rate.

(5) If a school district qualifies for state support the year prior to an increase in its existing voted local levy; and:

(a) does not receive voter approval for an increase after June 30 of the previous fiscal year and before December 2 of the previous fiscal year; and

(b) intends to levy the additional rate for the fiscal year starting the following July 1; then

(c) the district may only receive state support for the existing voted local levy tax rate and not the additional voter-approved tax rate for the fiscal year commencing the following July 1; and

(d) shall receive state support for the existing and additional voter-approved tax rate for each year thereafter, as long as the district qualifies to receive state support.

R277-422-4. K-3 Reading Achievement Program.

(1) A district may participate in the K-3 Reading Achievement Program by submitting a plan in accordance with Section 53F-2-503 and Rule R277-406.

(2) A school district shall calculate funding under the K-3 Reading Achievement Program using the following data:

(a) the most current numbers of final adjusted assessed valuations received from the Utah State Tax Commission;

(b) the year's tax collection rate, that corresponds to the year provided under Subsection (2)(a);

(c) the previous fiscal year's number of free and reduced price meal applications; and

(d) the current fiscal year total number of WPUs received by each school district for the basic school program.

KEY: education, finance
Date of Enactment or Last Substantive Amendment: November 7, 2017
Notice of Continuation: September 13, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(e); 53E-3-401(4); 53F-2-601; 53F-2-602; 53F-2-503

R277. Education, Administration.
R277-424. Indirect Costs for State Programs.
R277-424-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Article X, Section 3 of the Utah Constitution, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-501(1)(e), which directs the Board to adopt rules for financial, statistical, and student accounting requirements.

(2) The purpose of this rule is to establish Board standards for claiming indirect costs for state programs.

R277-424-2. Definitions.

(1) "Direct costs" mean costs that can be easily, obviously, and conveniently identified by the Superintendent with a specific program.

(2) "Indirect costs" mean the costs of providing indirect services.

(3) "Indirect Services" mean services that cannot be identified with a specific program.

(4) "Restricted indirect cost rate" means a rate assigned to each LEA annually based on the ratio of restricted indirect costs to direct costs as reported in the annual financial report for the specific LEA.

(5) "Unallowable costs" mean expenditures directly attributable to governance, including:

(a) salaries;

(b) expenditures of the office of the district superintendent, the governing board, and election expenses; and

(c) expenditures for fringe benefits, which are associated with unallowable salary expenditures.

(6) "Unrestricted indirect cost rate" means a rate assigned to each LEA annually, based on the ratio of unrestricted indirect costs to direct costs as reported in the annual financial report for the specific LEA.

R277-424-3. Standards.

(1) An LEA may charge indirect costs to state funded programs.

(2) The Superintendent may not authorize or pay indirect costs to higher education institutions for state funded contractual work.

(3)(a) Prior to the beginning of each fiscal year, the

Superintendent shall publish a schedule of the indirect cost rates for state programs.

(b) The Superintendent shall develop the schedule from information contained in the annual financial reports and specifically identified items submitted by LEAs.

(c) Each program schedule shall include:

(i) whether or not the restricted or unrestricted indirect cost rate applies; and

(ii) whether or not indirect costs are allowable or applicable.

(4)(a) An LEA may recover indirect costs if funds are available.

(b) If a combination of direct and indirect costs exceeds funds available, then the LEA may not recover the total cost of the project or program.

(c) Recovery of indirect costs is not optional for state programs.

(d) If an LEA elects to recover indirect costs, the LEA shall use the annual rates negotiated by the Superintendent for all applicable federal and state programs.

(5)(a) An LEA may only recover indirect costs for state programs to the extent that direct costs were incurred.

(b) The Superintendent shall apply the indirect cost rate to the amount expended, not to the total grant, in order to determine the amount for indirect costs.

KEY: education finance
Date of Enactment or Last Substantive Amendment: November 7, 2017
Notice of Continuation: September 13, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(e); 53E-3-401(4)

R277. Education, Administration.
R277-433. Disposal of Textbooks in the Public Schools.
R277-433-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53G-7-606, which requires the Board to make rules providing for the disposal or reuse of useable textbooks in the public schools.

(2) The purpose of this rule is to provide procedures for LEA policies for the reuse or disposal of textbooks in the public schools.

R277-433-2. Definitions.

(1) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(2) "Textbook" means:

(a) any printed book that is required for participation in a course of instruction;

(b) printed texts approved for pilot or trial use by the State Instructional Materials Commission; or

(c) books used in classes for which textbooks are generally not adopted at the state level.

(3) "Useable textbooks" means a set of at least 25 textbooks that are not badly damaged, worn out, or outdated.

R277-433-3. LEA Policies on Disposal of Textbooks.

(1) Each LEA shall develop policies regarding the reuse or disposal of textbooks.

(2) An LEA's policies shall provide procedures for notification to other LEAs of available textbooks and timelines for disposal of textbooks.

(3) An LEA's policies shall provide procedures for negotiating the exchange of the textbooks.

KEY: textbooks
Date of Enactment or Last Substantive Amendment: September 21, 2017
Notice of Continuation: July 19, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-7-606

R277. Education, Administration.
R277-436. Gang Prevention and Intervention Programs in the Schools.
R277-436-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-2-410(1)(b), which appropriates funds to be used for Gang Prevention and Intervention Programs in the schools.

(2) The purpose of this rule is to establish standards and procedures for distributing funding for gang prevention and intervention programs in public schools.

R277-436-2. Definitions.

(1) "At-risk student" means any student who because of the student's individual needs requires some kind of uniquely designed intervention in order to achieve literacy, graduate and be prepared for transition from school to post-school options.

(2)(a) "Gang" means a group of three or more people who form an allegiance and engage in criminal activity, which uses violence or intimidation to further its criminal objectives.

(b) A gang may have a name, turf, colors, symbols, distinct dress, or any combination of the preceding characteristics.

(3)(a) "Gang prevention" means instructional and support strategies, activities, programs, or curricula designed and implemented to provide successful experiences for youth and families.

(b) Gang prevention activities shall promote cultural and social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationship skills required for school completion and full participation in society.

(4) "Gang intervention" means specially designed services required by an individual student experiencing difficulty in cultural and social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationships, within or outside of the school, which may impact the individual's susceptibility to gang membership or gang-like activities.

(4) "Gang Prevention and Intervention Program" means specifically designed projects and activities to help at-risk students stay in school and enhance their cultural and social

competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationship skills required for school completion and full participation in society.

R277-436-3. Application, Distribution of Funds, and Administrative Support.

(1) An LEA may apply for gang intervention funds by submitting a proposal on a form approved by the Superintendent.

(a) An school district may submit:

(i) a proposal for a single school; or

(ii) a single district-wide proposal.

(b) A charter school may apply individually or jointly with other charter schools.

(2) A proposal submitted in accordance with Subsection (1) shall:

(a) provide for distribution of funds to individuals schools;

(b) explain prevention and intervention activities and strategies planned for individual schools;

(c) identify the school's at-risk student population and demonstrate how the prevention and intervention strategies will benefit at-risk students; and

(d) demonstrate interagency collaboration between the LEA and other service providers.

(3) The Superintendent shall award gang intervention funds based on proposals submitted in accordance with Subsection (1), and subject to the annual legislative appropriation.

(4) The Superintendent shall give priority in awarding funds to:

(a) schools that demonstrate multiple risk factors for gang involvement; and

(b) schools with outcome data that show successful reduction of gang involvement.

(5) The Superintendent shall notify successful applicants of their awards by July 1 annually.

(6) An LEA or charter consortia may use up to ten percent of its funding awarded in accordance with this rule for:

(a) administrative oversight;

(b) professional development for licensed and non-licensed employees who directly in gang prevention or intervention activities; and

(c) professional and technical services.

R277-436-4. Evaluation and Reports.

(1) An LEA or charter school consortia shall provide the Superintendent a year-end evaluation report by June 30 for the

previous fiscal year.

(2) A year-end report shall include:

(a) an expenditure report;

(b) a narrative description of all activities funded;

(c) copies of any and all products developed;

(d) an effectiveness report detailing evidence of individual and overall program impact on gang and gang-related activities and involvement; and

(e) any other information or data required by the Superintendent.

(3) The Superintendent may require additional evaluation or audit procedures from the grant recipient to demonstrate use of funds consistent with the law and Board rules.

R277-436-5. Waivers.

Notwithstanding Rule R277-121, the Superintendent may grant a written request for a waiver of a requirement or deadline contained in this rule, which a district or school finds unduly restrictive.

KEY: public schools, disciplinary problems, students at risk, gangs
Date of Enactment or Last Substantive Amendment: July 9, 2018
Notice of Continuation: May 11, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-17a-166(1)(b); 53A-1-401(3)

R277. Education, Administration.
R277-437. Open Enrollment.
R277-437-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53G-6-405, which directs the Board to provide a formula by rule for resident students to attend school districts under 53G-6-401.

(2) The purpose of this rule is:

(a) to establish necessary definitions;

(b) to establish a formula for the residual per pupil expenditure for school districts to reimburse each other for full and part-time nonresident students;

(c) to summarize school, school district, and state responsibilities under Section 53G-6-401; and

(d) to provide a standard statewide open enrollment form required under Subsection 53G-6-402(4)(b)(ii).

R277-437-2. Definitions.

(1) "Available school or program" means a school or program currently designated under the law and this rule by a district as open to nonresident students.

(2) "Nonresident student" means a student attending or seeking to attend a school other than the designated school of residence.

(3) "Resident district" means a student's school district of residence under Section 53G-6-302.

(4) "Resident district's per student expenditure" means the expenditure based on the most recent State Superintendent's Annual Report according to the following formula calculated by the Superintendent:

(a) take total expenditures before interfund transfer for:

(i) maintenance and operation;

(ii) tort liability; and

(iii) capital projects;

(b) subtract the following from the sum of (4)(a), above:

(i) resident district's taxes collected under the Minimum School Program;

(ii) state revenue;

(iii) federal revenue; and

(iv) expenditures for site acquisition or new facility construction, which includes remodeling that increases building

square footage or other major remodeling; and

(c) divide the remainder of (4)(a) and (4)(b) above by the total student membership of the district as reported in the most recent annual year-end Membership Report.

(5) "School of residence" means the school which a student would normally attend in the student's district of residence.

(6) "School into which the school's students feed" for purposes of this rule means school boundaries and feeder systems as determined by the local board of education which may change over time.

(7) "Split enrollment" means a student that is enrolled in two or more LEAs simultaneously during a school year.

R277-437-3. Local School Board and District Responsibilities.

(1) A local school board shall have policies describing procedures for a student to follow in applying to attend school other than the student's respective schools of residence.

(2) A Local school board shall designate which schools and programs will be available for open enrollment during the coming school year consistent with the definitions and timelines of Title 53G, Chapter 6, Part 4, School District Enrollment.

(3) The school district shall adjust timelines for open enrollment applications if the district is developing a district-wide reconfiguration of the district's schools consistent with Subsection 53G-6-401(1).

(4) A school district may establish longer or broader timelines for enrollment than required by law.

(5) If construction, remodeling, or other circumstances beyond the control of the local school board do not reasonably permit the local school board to make sufficiently accurate enrollment projections for a given school to determine whether the school should be designated as available for open enrollment for the coming year, the local board shall designate delays and procedures consistent with Subsection 53G-6-402(4)(c).

(6)(a) As required under Subsection 53G-6-405(2), a resident district shall pay to a nonresident district one-half of the resident district's per student expenditure for each resident student properly registered in the nonresident district.

(b) A resident district may pay a nonresident district any additional amount if agreed upon by both districts.

(c) No payments shall be made pursuant to this rule for split enrollment of a student.

(d) Funding for students who are split enrolled shall be provided to the participating LEAs in accordance with Section R277-419-6.

(7) An agreement between the resident district and a nonresident district may be made prior to the acceptance of a

requesting student and shall be done outside of the Statewide Online Education Program process described in R277-726.

(8) A local school board shall establish a procedure to consider appeals of a student's denial of initial or continued enrollment of a nonresident student under Subsection 53G-6-404(1).

(9) A local school board may deny a student's request for enrollment for a reason identified in Title 53G, Chapter 6, Part 4, School District Enrollment.

(10) This rule does not govern eligibility for nonresident students to participate in activities supervised by the Utah High School Activities Association (UHSAA).

R277-437-4. Special Education Open Enrollment Requirements.

(1) When considering an open enrollment request for a student who qualifies for special education services, a nonresident district shall:

(a) consider the individual needs of the student and whether the nonresident district can meet the student's needs when determining whether there is capacity to accept the student; and

(b) establish policies and procedures for open enrollment that do not have the effect of discriminating against a student who qualifies for special education services.

(2) The policies and procedures described in Subsection (1), as applied or implemented, may not lead to the categorical denial of accepting a nonresident student who qualifies for special education services.

(3) The Superintendent may provide model policies that meet the requirements of this section.

R277-437-5. Transportation.

(1) A school resident district may transport the district's students to schools in other districts under Subsection 53G-6-405(3)(b)(i).

KEY: public education, enrollment options
Date of Enactment or Last Substantive Amendment: January 9, 2019
Notice of Continuation: October 5, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(1)(b); 53G-6-405; 53G-6-401 et seq.; 53E-3-401(4)

R277. Education, Administration.
R277-438. Dual Enrollment.
R277-438-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-501(1)(b)(i), which directs the Board to establish rules and minimum standards for access to programs;

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(d) Section 53G-6-702, which governs dual enrollment.

(2) The purpose of this rule is to provide consistent statewide procedures and criteria for a home school and private school student's participation in a public school course, co-curricular activity, or program.

R277-438-2. Definitions.

(1) "Co-curricular activity" means a school district or school activity, course, or experience, outside of school hours, that also includes a required regular school day component.

(2) "Dual enrollment student" means a student who is enrolled simultaneously in:

(a) a private school or home school; and

(b) a public school.

(3) "Eligibility" means a student's fitness and availability to participate in a school course, activity, or program governed by this rule that is determined by a number of factors, including:

(a) residency;

(b) scholarship;

(c) age; and

(d) the number of semesters of participation in a particular course, activity, or program.

(4) "Full-time student" means a student earning the school district designated number and type of credits required for participation in a course, activity, or program in the school district in which the student's parent resides.

(5) "Home school" means a school in the state comprised of one or more students officially excused from compulsory public school attendance under Section 53G-6-204.

(6) "Private school" means a school in the state that:

(a) is maintained by a private individual or corporation;

(b) is maintained and operated not at public expense;

(c) is generally supported, in part at least, by tuition fees or charges;

(d) operates as a substitute for, and gives the equivalent

of, instruction required in a public school;

(e) employs a teacher able to provide the same quality of education as a public school teacher;

(f) is established to operate indefinitely and independently, not dependent upon age of the students available or upon individual family situations; and

(g) is licensed as a business by the Department of Commerce.

(7)(a) "Resident school" means a public school:

(i) that is under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards; and

(ii) within whose boundaries a student's custodial parent resides.

(b) "Resident school" does not mean a charter school or online school.

(8) "Student participation fee" means a fee charged to all participating students by the resident school for enrollment in a course, program, or co-curricular school activity consistent with Rule R277-407.

R277-438-3. Private and Home School Student Participation in a Public School Course, Co-curricular Activity, or Program.

(1) A student who is exempt from compulsory public school education by a local school board for instruction in a private or home school may enroll in the student's resident school as a dual enrollment student and participate in a course, co-curricular activity, or program at the student's resident school if the student:

(a) takes courses comparable to resident school courses or earns credit under options outlined in Section R277-700-6 in at least as many of the designated courses as required by the local school board of a student for participation in the course, co-curricular activity, or program; or

(b) demonstrates competency to the satisfaction of the LEA in the subject matter taught in the courses required by the local school board of a student for participation the course, co-curricular activity or program.

(2) A public school that is not the student's resident school may allow a private or home school student to enroll in the public school, including in a single course or program, as a dual enrollment student, at the discretion of the public school, and in accordance with Subsection 53G-6-703(2)(d).

(3)(a) A private school dual enrollment student is eligible to participate in a course, co-curricular activity, or program consistent with the eligibility standards for a full-time student, including providing a report card to the resident school or other school described in Subsection (2) upon request.

(b) A home school dual enrollment student is eligible to participate in a course, co-curricular activity, or program if eligibility standards are met consistent with Subsections 53G-6-703(5) through 53G-6-703(14).

R277-438-4. Fees for Private and Home School Students.

A school or school district shall waive a student participation fee for a dual enrollment private or home school student if:

(1) the student is eligible; and

(2) the parent provides required documentation under Section 53G-7-504 and Rule R277-407, School Fees.

R277-438-5. Miscellaneous Issues.

(1) A dual enrollment student attending an activity or a portion of a school day under Section 53G-6-702 is subject to the same behavior and discipline rights and requirements of a full-time student.

(2) A dual enrollment student who attends an activity or a portion of the school day is subject to the administrative scheduling and teacher discretion of the public school.

(3)(a) A dual enrollment student with a disability may participate as a dual enrollment student consistent with law, this rule and 34 CFR 300.450 through 300.455.

(b) A public school that enrolls a dual enrollment student shall prepare an IEP for a student described in Subsection (3)(a) prior to the student's participation in dual enrollment using comparable procedures to those required for identifying and evaluating public school students.

(c) A student with a disability seeking dual enrollment is entitled to services for the time, or for the number of courses, the student is enrolled in the public school, based on the decision of the student's IEP team.

(d) Decisions about the scheduling and manner of services provided is the responsibility of the enrolling public school and school district personnel.

(e) A school or a school district is not prohibited from providing a service to a student who is not enrolled full time in excess of those required by this section.

KEY: public education, dual enrollment
Date of Enactment or Last Substantive Amendment: December 8, 2016
Notice of Continuation: October 14, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(b)(i); 53E-3-401(401); 53G-6-702

R277. Education, Administration.
R277-444. Distribution of Money to Arts and Science Organizations.
R277-444-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system with the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and

(c) Section 53E-3-501, which directs the Board to establish rules and standards for the public schools, including curriculum and instruction requirements.

(2) The purpose of this rule is to provide for the distribution of money appropriated by the state to an arts or science organization that:

(a) provides an educational service to a student or teacher; and

(b) facilitates a student developing and using the knowledge, skills, and appreciation defined in an arts or science core standard.

R277-444-2. Definitions.

(1) "Arts organization" means a professional artistic organization that provides an educational service related to dance, music, drama, art, visual art, or media art in the state.

(2) "City" has the same meaning as that term is defined in Subsection 10-1-104(1).

(3) "Community" means the group of persons that have an interest or involvement in the education of a person in kindergarten through grade 12, including:

(a) a student, parent, teacher, and administrator; and

(b) an association or council that represents a person described in Subsection (2)(a).

(4) "Core standard" means a standard:

(a) established by the Board in Rule R277-700 as required by Section 53E-3-501; and

(b) that defines the knowledge and skills a student should have in kindergarten through grade 12 to enable a student to be prepared for college or workforce training.

(5) "Cost effectiveness" means:

(a) maximization of the educational potential of the resources available through the organization; and

(b) not using money received through a program for the necessary maintenance and operational costs of the organization.

(6)(a) "Educational service" means an in-depth instructional workshop, demonstration, presentation, performance, residency,

tour, exhibit, teacher professional development, side-by-side mentoring, or hands-on activity that:

(i) relates to an arts or science core standard;

(ii) except as provided in Subsection (6)(b), takes place in a public school, charter school, professional venue, or a facility;

(b) "Educational service" may include a distance experience that is provided from a remote location if done in addition to the requirements of Subsection (6)(a) as a follow-up experience.

(7) "Educational soundness" means an educational service that:

(a) is designed for the community and grade level being served, including a suggested preparatory activity and a follow-up activity that are relevant to a core standard;

(b) features literal interaction of a student or teacher with an artist or scientist;

(c) focuses on a specific core standard; and

(d) shows continuous improvement guided by analysis of an evaluative tool.

(8) "Fiscal agent" means a city that:

(a) is designated by an organization as described in Subsection R277-444-4(5); and

(b) acts on behalf of an organization to perform financial or compliance duties.

(9) "Hands-on activity" means an activity that includes active involvement of a student with an artist or scientist, ideally with material provided by the organization.

(10) "Informal Science Education Enhancement program" or "iSEE program" means a program described in Section R277-444-7 for which a science organization may apply to receive money appropriated by the state.

(11) "Organization" means:

(a) a nonprofit corporation organized under:

(i) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act; or

(ii) Section 501(c)(3), Internal Revenue Code; and

(b)(i) an arts organization; or

(ii) a science organization.

(12) "Procedural efficiency" means the organization delivers the educational service at the lowest cost possible.

(13) "Professional excellence" means the organization:

(a) has been juried or reviewed, based on criteria for artistic or scientific excellence, by a panel of recognized and qualified critics in the appropriate discipline;

(b) has received a recognition of excellence through an award, a prize, a grant, a commission, or an invitation to participate in a recognized series of presentations in a well-

known venue;

(c) includes a recognized and qualified professional in the appropriate discipline who has created an artistic or scientific project or composition specifically for the organization to present; or

(d) any combination of criteria described in Subsections (13)(a) through (c).

(14) "Professional outreach programs in the schools program" or "POPS program" means a program described in Section R277-444-7 for which an arts organization may apply to receive money appropriated by the state.

(15)(a) "Program" means the system through which the Board grants money appropriated by the state to an organization to enable the organization to provide its expertise and resources through an educational service in the teaching of a core standard.

(b) "Program" includes:

(i) the Provisional program;

(ii) the POPS program;

(iii) the iSEE program;

(iv) the Science Enhancement program;

(v) the Integrated Student and New Facility Learning program; and

(vi) the Subsidy program.

(16) "Science organization" means a professional science organization that provides a science-related educational service in the state.

R277-444-3. Program Application.

(1) If the state appropriates money for a program, an organization may apply to receive money from a program:

(a) on an application form provided by the Superintendent; and

(b) during the fiscal year immediately prior to the fiscal year in which the organization is to receive the money.

(2) The application shall include:

(a) documentation that the organization is:

(i) a non-profit corporation that has existed at least three consecutive years prior to the date of the application;

(ii) an arts organization or a science organization that has attained professional excellence in the discipline; and

(iii) fiscally responsible;

(b) a description of the matching funds required by Subsection R277-444-4(3); and

(c) an educational service plan, which describes:

(i) the educational service that the organization will use the program money to provide; and

(ii) a plan to creatively and effectively provide the

educational service.

(3)(a) The Superintendent shall evaluate an application with community representatives and make a recommendation on the application to the Board.

(b) The Board shall approve or deny an application based on:

(i) whether the organization meets the requirements of this rule; and

(ii) how well the organization's educational service plan meets the purpose of this rule.

R277-444-4. Grant General Provisions and Disbursement.

(1)(a) The Superintendent shall make a recommendation to the Board regarding the grant amount for an organization based on:

(i) the annual appropriation for a program;

(ii) the grant amount an organization received in a previous fiscal year, if any;

(iii) an organization's year-end report, if any; and

(iv) how well the organization's educational service plan meets the purpose of this rule relative to the other organizations participating in the program.

(b) If the state reduces the amount of money appropriated for a program from the previous fiscal year, the Board may use its discretion to allocate the money among the organizations participating in the program.

(2)(a) The Superintendent shall notify an organization of the grant amount within 30 days of the Board meeting in which it is approved, but no earlier than July 1.

(b)(i) The Superintendent shall disburse the money to an organization after an organization submits a request for reimbursement.

(ii) An organization shall submit a reimbursement request for education service plan implementation expenses:

(A) by the annual deadline specified by the Superintendent; and

(B) in a form prescribed by the Superintendent.

(3) An organization that receives money from a program shall have equal matching money from another source to support its delivery of an educational service.

(4)(a) Except as provided by Subsection (4)(b), an organization may not charge the school, teacher, or student a fee for the educational service for which the organization receives program money.

(b) An organization that receives money from the Subsidy program may charge a fee for an educational service.

(5)(a) An organization may designate a city as the organization's fiscal agent if:

(i) the city's governing body oversees and monitors the

organization and fiscal agent's compliance with program requirements;

(ii) the city complies with board rules;

(iii) the city and the organization use program money for required purposes described in this rule; and

(iv) the city and the organization have an agreement or contract in place regarding the designation of the city as the organization's fiscal agent.

(b) A city fiscal agent may not use program money:

(i) for the city's general administrative purposes; or

(ii) to fund administrative costs to act as the organization's fiscal agent.

(6) A scientist, artist, or entity hired or sponsored by an organization to provide an educational service shall comply with the procedures and requirements of this rule.

R277-444-5. Year-end Report - Evaluation -- Accountability -- Variations.

(1)(a) An organization that receives money from a program shall submit a year-end report to the Superintendent by the required annual deadline.

(b) The year-end report shall include:

(i) documentation of the organization's non-profit status;

(ii) a budget expenditure report and income source report using a form provided by the Superintendent, including a report and accounting of matching funds and a fee charged, if any, for an educational service;

(iii) a record of the dates and places of all educational services rendered, the number of hours of educational service per LEA, school, and classroom, as applicable, with the number of students and teachers served, including:

(A) documentation of the schools that have been offered an opportunity to receive an educational service over a three year period, to the extent possible and consistent with the organization's plan;

(B) documentation of collaboration with the Superintendent and the community in planning the educational service, including the content, a preparatory activity, and a follow-up activity that are relevant to a core standard;

(C) a brief description of the educational service provided through the program, and if requested, copies of any material developed; and

(D) a description of how the educational service contributed to a student developing and using the knowledge, skills, and appreciation defined in an arts or science core standard;

(iv) a summary of the organization's evaluation of:

(A) cost-effectiveness;

(B) procedural efficiency;
(C) collaborative practices;
(D) educational soundness; and
(E) professional excellence; and
(v) a description of the resultant goal or plan for continued evaluation and improvement.
(2) The Superintendent may visit an organization to evaluate the effectiveness and preparation of the organization:
(a) before the Board approves an application;
(b) before disbursing money; and
(c) during an educational service.
(3)(a) In addition to the year-end report required by Subsection (1), the Superintendent may require an evaluation or an audit procedure from an organization demonstrating use of money consistent with state law and this rule.
(b) If the Board finds that an organization did not use money received from a program consistent with state law and this rule, the Board may:
(i) reduce or eliminate the grant to the organization in the current fiscal year;
(ii) deny an organization's participation in a program in a future fiscal year; or
(iii) impose any other consequence the Board deems necessary to ensure the proper use of public funds.
(4)(a) An organization may not deviate from the approved educational service plan for which the organization receives money unless:
(i) the organization submits a written request for variation to the Superintendent;
(ii) the organization receives approval from the Superintendent for the variation; and
(iii) the variation is consistent with state law and this rule.
(b) An organization shall describe the nature and justification for a variation approved under Subsection (4)(a) in a year-end report.
(5) The Superintendent shall ensure that participating LEAs receive educational services in a balanced and comprehensive manner over a three year period.

R277-444-6. Provisional Program Requirements.
(1) Through the Provisional program, and pending legislative funding, the Board may grant an organization money to enable the organization to:
(a) further develop an educational service that is sound;
(b) increase the number of students or teachers who receive an educational service; or

(c) expand the geographical location in which the educational service is delivered.

(2) The Board may grant money from the Provisional program to an organization for one year.

(3) An organization may apply for a grant each year for up to five years if the organization demonstrates an increase in the educational service between the year-end report and the proposed educational service plan described in the application.

R277-444-7. POPS and iSEE Program Requirements.

(1)(a) Through the POPS program, the Board may grant money to an arts organization to provide an educational service state-wide.

(b) Through the iSEE program, the Board may grant money to a science organization to provide an educational service state-wide.

(c) A grant from the POPS program or iSEE program is on-going, subject to the review required by Subsection (4).

(2)(a) An arts organization may apply for the POPS program and a science organization may apply for the iSEE program if the organization:

(i) has successfully participated in the Provisional program for three consecutive years in which the state appropriates money to the Provisional program;

(ii) has educational staff and the capacity to deliver an educational service state-wide; and

(iii) demonstrates during participation in the Provisional program:

(A) the quality and improvement of an educational service; and

(B) fiscal responsibility.

(b) An organization shall submit a letter of intent to transition from the Provisional program to the POPS program or the iSEE program to the Superintendent by October 1 of the calendar year immediately before the calendar year in which the organization submits the application for the POPS program or the iSEE program.

(3) An organization that receives money from the POPS program or iSEE program may not receive money from the Provisional program or the Subsidy program in the same fiscal year.

(4)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the POPS program and the iSEE program, which may include:

(i) evaluation of an educational service plan, year-end report, reimbursement form, or audit; and

(ii) attendance at an educational service or a site visit.

(b) The Superintendent shall:

(i) report to the Board the results of the review and

evaluation; and

(ii) make a recommendation to the Board regarding an organization's continued participation in the program based on how well the organization fulfills the purpose of this rule.

R277-444-8. Subsidy Program Requirements.

(1)(a) Through the Subsidy program, the Board may grant money to an organization that provides a valuable education service but does not qualify for participation in another program.

(b) A grant from the Subsidy program is on-going, subject to the review required by Subsection (5).

(2)(a) An organization may apply to receive money through the Subsidy program if the organization has successfully participated in the Provisional program for three consecutive years in which the state appropriated money to the Provisional program.

(b) An organization shall submit a letter of intent to transition from the Provisional program to the Subsidy program to the Superintendent:

(A) within the calendar year immediately before the calendar year in which the organization will submit an application for the Subsidy program; and

(B) by the deadline set by the Superintendent.

(3) The Board may approve an application to participate in the Subsidy program if the Board finds the organization:

(a) has successfully provided a valuable educational service during its participation in the Provisional program; and

(b) does not meet the requirements to participate in the POPS program or iSEE program because the organization:

(i) delivers an educational service regionally instead of state-wide; or

(ii) charges a fee for an educational service.

(4) An organization that receives money from the Subsidy program may not receive money from the another program in the same fiscal year.

(5)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the Subsidy program, which may include:

(i) evaluation of an educational service plan, year-end report, reimbursement form, or audit; and

(ii) attendance at an educational service or a site visit.

(b) The Superintendent shall:

(i) report to the Board the results of the review and evaluation; and

(ii) make a recommendation to the Board regarding an organization's continued participation in the Subsidy program based on how well the organization fulfills the purpose of this

rule.

KEY: arts, science, core standards
Date of Enactment or Last Substantive Amendment: December 10, 2018
Notice of Continuation: August 13, 2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501

R277. Education, Administration.
R277-445. Classifying Small Schools as Necessarily Existent.
R277-445-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Article X, Section 3 of the Utah Constitution, which vests general control and supervision over public education in the Board;

(b) Subsection 53F-2-304(3), which requires the Board to adopt rules that:

(i) govern the approval of necessarily existent small schools consistent with state law; and

(ii) ensure that districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2)(a) The purpose of this rule is to specify the standards by which the Board classifies schools as necessarily existent, which qualifies the schools for additional funding.

R277-445-2. Definitions.

(1) "ADM" means average daily membership derived from end-of-year data.

(2) "Weighted Pupil Unit" or "WPU" means the basic unit used to calculate the amount of state funds a school district may receive.

R277-445-3. Standards.

(1) A school may be classified as necessarily existent if the school's ADM does not exceed:

(a) 160 for elementary schools, including kindergarten at a weighting of .55 per average daily membership;

(b) 300 for one or two-year secondary schools;

(c) 450 for three-year secondary schools;

(d) 500 for four-year secondary schools; or

(e) 600 for six-year secondary schools.

(2) In addition to the requirements of Subsection (1), one-way bus travel over Board approved bus routes for any student from the assigned school to the nearest school within the district of the same type shall require:

(a) students in kindergarten through grade six to travel more than 45 minutes; or

(b) students in grades seven through twelve to travel more than one hour and 15 minutes.

(3) Notwithstanding Subsection (2), the Superintendent may

classify a school that meets the criteria of Subsection (1), as necessarily existent if:

(a) the school is in a district which has been consolidated to the maximum extent possible, and activities in cooperation with neighboring districts within or across county boundaries are appropriately combined;

(b) there is evidence acceptable to the Superintendent of increased growth in the school sufficient to take it out of the small school classification within a period of three years, provided that.

(i) the Superintendent may only classify the school as necessarily existent until its ADM surpasses the size standard for small schools of the same type;

(ii) the Superintendent shall annually compare the school's ADM to the school's projected ADM to determine increases or decreases in enrollment;

(iii) if the assessment for the first or second year shows the increase in the school's ADM is less than 80 percent of the projected annual increase, the school shall no longer be classified as necessarily existent;

(c) the Superintendent determines that consolidation may result in undesirable social, cultural, and economic changes in the community, and:

(i) the school has a safe and educationally adequate school facility with a life expectancy of at least ten years, as judged, at least every five years, by the Superintendent after consultation with the district; or

(ii)(A) the district would incur construction costs by combining a school seeking necessarily existent small school status with an existing school and such construction and land costs would exceed the insurance replacement value of the exiting school by 30 percent;

(B) the existing school has a life expectancy of at least ten years; but

(C) In the event that the ADM from the school seeking necessarily existent small school status under Subsection (3)(c)(ii), when combined with the ADM at the existing school exceed criteria in Subsection (1), the Superintendent may not classify the existing school as necessarily existent; or

(d) the school does not qualify under Subsections (3)(a) through (c), and removal of the necessarily existent status would result in capital costs that the school district cannot meet within three years when utilizing all funds available from local, state, or federal sources.

(4) The Superintendent may not recognize a school with less than six grades as a necessarily existent small school if its is feasible in terms of school plant to consolidate the school into a

larger school, which, if consolidated, would meet the criteria of Subsection (1) and (2).

(5) If the Superintendent determines that a secondary complex or attendance area meets the criteria of necessarily existent when analyzed on a 7-12 grade basis, the Superintendent shall not invalidate the qualifying status as a result of a reorganization pattern by a district.

(6)(a) In accordance with Subsection 53G-6-305(3)(b)(ii), the Superintendent shall use Necessarily Existent Small Schools Program funds to cover out-of-state tuition reimbursements under Rule R277-421.

(b) Any prior year funding balance in the Necessarily Existent Small Schools Program shall be distributed by the Superintendent in the current year using a formula that considers the tax effort of a local board of education.

(7)(a) A school district shall utilize additional WPU funds allocated for necessarily existent small schools for programs at the school for which the units were allocated.

(b) Funds allocated under this rule shall supplement and not supplant other funds allocated to schools by the local board of education.

(8) The Superintendent shall classify a school after consultation with the district and in accordance with applicable state statutes and Board rules.

KEY: school enrollment, educational facilities
Date of Enactment or Last Substantive Amendment: September 21, 2017
Notice of Continuation: July 19, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-304(1)

R277. Education, Administration.
R277-454. Construction Management of School Building Projects.
R277-454-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "CM" means an individual designated as a construction manager. The CM may be an architect, engineer, general contractor, or other professional consultant. It may also be an entity which is referred to as a construction management firm. The CM works as the agent of the owner of the construction project. The CM, at the discretion of the owner, may assist in the development and implementation of any or all of the predesign, design, bidding, construction, and occupancy stages of the construction project. The CM is responsible for the effective, orderly, and acceptable completion of the construction project.

C. "Construction management" means a contractual and professional working relationship between the owner of a construction project and a CM.

D. "LEA" means a local education agency, including local school boards/public school districts and charter schools.

R277-454-2. Authority and Purpose.

A. This rule is authorized by Article X, Section 3 of the Utah Constitution which vests general control and supervision of public education in the Board, Subsection 53E-3-401(4) which allows the Board to adopt rules in accordance with its responsibilities and Section 53E-3-705 which requires the Board to prepare an annual school plant capital outlay report of all LEAs, which includes information on the number and size of building projects completed and under construction.

B. The purpose of this rule is to specify the standards local boards of education shall follow in using construction management for school construction projects.

R277-454-3. Standards.

A. A construction management contract shall clearly specify the duties of the CM with respect to the building project.

B. An LEA shall bid each component part of the building project in accordance with advertising, public opening, performance bond, payment bond, and other statutory requirements.

KEY: educational facilities, education finance
Date of Enactment or Last Substantive Amendment: November 8, 2012
Notice of Continuation: September 13, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-705

R277. Education, Administration.
R277-459. Teacher Supplies and Materials Appropriation.
R277-459-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Classroom teacher" definition criteria:

(1) Eligible teachers shall be in a permanent teacher position filled by one teacher or two or more job-sharing teachers employed by a school district, the Utah Schools for the Deaf and the Blind, or charter schools.

(2) Eligible teachers are licensed personnel, and paid on a school district's salary schedule or a charter school's salary schedule.

(3) Teachers shall be employed for an entire contract period.

(4) The teacher's primary responsibility shall be to provide instructional or a combination of instructional and counseling services to students in public schools.

C. "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file maintained on all licensed Utah educators. The file includes such as:

(1) personal directory information;

(2) educational background;

(3) endorsements;

(4) employment history;

(5) professional development information; and

(6) a record of disciplinary action taken against the educator. All information contained in an individual's CACTUS file is available to the individual, but is classified private or protected under Section 63G-2-302 or 305 and is accessible only to specific designated individuals.

D. "Field trip" means a district, or school authorized excursion for educational purposes.

E. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

F. "Teaching supplies and materials" means both consumable and nonconsumable items that are used for educational purposes by teachers in classroom activities and may include such items as:

(1) paper, pencils, workbooks, notebooks, supplementary books and resources;

(2) laboratory supplies, e.g. photography materials, chemicals, paints, bulbs (both light and flower), thread, needles, bobbins, wood, glue, sandpaper, nails and automobile parts;

(3) laminating supplies, chart paper, art supplies, and mounting or framing materials;

(4) The definition of teaching supplies and materials should

be broadly construed in so far as the materials are used by the teacher for instructional purposes or to protect the health of teachers in instructional or lab settings, or in conjunction with field trips.

G. "USOE" means the Utah State Office of Education.

R277-459-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which gives general control and supervision of the public school system to the Board, by Subsection 53E-3-501(1)(b) which directs the Board to establish rules and minimum standards for school programs, and by state legislation which provides a designated appropriation for teacher supplies and materials.

B. The purpose of this rule is to distribute money through LEAs to classroom teachers for school materials, supplies, field trips, and purposes or equipment that protect the health of teachers in instructional or lab settings or in conjunction with field trips.

R277-459-3. Distribution of Funds.

A. The Board may distribute funds to LEAs based on data submitted to the CACTUS database.

B. LEAs shall distribute funds for classroom supplies consistent with the amounts for salary schedule steps and teaching assignments as appropriated.

C. Individual teachers shall designate the uses for their allocations consistent with the criteria of this rule. LEAs and other eligible schools may develop policies, procedures and timelines to facilitate the intent of the appropriation.

D. Each LEA shall ensure that each eligible individual has the opportunity to receive the proportionate share of the appropriation. If the appropriation is not sufficient to provide each teacher the full amount allowed by law, teachers on salary steps one through three shall receive the full amount allowed with the remaining money apportioned to all other teachers.

E. If a teacher has not spent or committed to spend the individual allocation by April 1, the school or LEA may make the excess funds available to other teachers or may reserve the money for use by eligible teachers the following year.

F. These funds shall supplement, not supplant, existing funds for identified purposes.

G. These funds shall be accounted for by the LEA or eligible school using state and school district procurement and accounting policies.

H. The funds and supplies purchased with the funds are the property of the LEA.

(1) Employees do not personally own materials purchased with

designated public funds.

(2) An LEA may by policy allow individual teachers to use supply funds to protect teacher health with consumable materials that may not be able to be reused by the school.

R277-459-4. Other Provisions.

A. LEAs shall allow, but not require, teachers to jointly use their allocations.

B. LEAs may carry over these funds, if necessary.

KEY: teachers, supplies
Date of Enactment or Last Substantive Amendment: June 8, 2015
Notice of Continuation: May 1, 2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(b)

R277. Education, Administration.
R277-460. Distribution of Substance Abuse Prevention Account.
R277-460-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53G-10-405, which directs the Board to adopt rules providing for instruction on the harmful effects of controlled substances;

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(d) Section 51-9-405, which provides for funds from the Substance Abuse Prevention Account to be allocated to the Board for:

(i) substance abuse prevention and education;

(ii) substance abuse prevention training for teachers and administrators; and

(iii) LEA programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

(2) The purpose of this rule is to provide for the distribution of the Board's share of the money from the Substance Abuse Prevention Account.

R277-460-2. Definitions.

(1) "Educational materials" means visual and auditory media, curricula, textbooks, and other disposable or non-disposable items that enhance student understanding of the subject matter.

(2) "Local substance abuse authority" means the person or group designated by the Legislature as the county authority to receive public funds for substance abuse prevention and treatment.

(3) "Substance abuse prevention education activities and intervention" means proactive educational activities designed to eliminate any illegal use of controlled substances.

R277-460-3. Fund Allocations.

(1) Before making the distributions described in Subsections (2) and (3), the Superintendent shall retain sufficient substance abuse prevention funds to pay for the salary, benefits, and indirect costs of a program administrator at a salary level to be determined by the Superintendent and support staff costs for the program administrator.

(2) After the allocation of substance abuse prevention funds is retained as described in Subsection (1), the Superintendent may use up to 45% to:

(a) purchase educational materials to support and supplement existing substance abuse prevention efforts;

(b) encourage and support statewide substance abuse prevention training for school district and charter school teachers and administrators; and

(c) promote substance abuse prevention in the classroom.

(3) At least 55% of the substance abuse prevention funds remaining after the allocation described in Subsection (1) shall be distributed to LEAs for use by the LEAs or individual schools within the LEA based on application.

R277-460-4. Applications.

(1) The Superintendent shall develop an application for LEAs that are interested in applying for substance abuse prevention funds available as described in this R277-460.

(2) An LEA shall submit the LEA's application to the specialist designated by the Superintendent.

(3)(a) Substance abuse prevention funds shall be distributed to LEAs based on funds available from the Substance Abuse Prevention Account.

(b) The Superintendent shall describe the available funding amounts in the Board application described in Subsection (1).

(4) An LEA's application for substance abuse prevention funds shall include the following:

(a) the applicant's intention to collaborate with the local substance abuse authority and community groups, including shared plans and strategies for substance abuse prevention education, activities, and intervention;

(b) the applicant's plan for professional development on substance abuse;

(c) the use of funds to implement applicant's plan;

(d) teacher reports of classroom implementation and plans for classroom monitoring visits;

(e) applicant's enhancement of substance abuse curriculum with additional substance abuse activities and strategies; and

(f) applicant's implementation of substance abuse curriculum with school-based behavioral/health or coordinated school health initiatives.

R277-460-5. Limitations on Funds.

(1) The Superintendent and LEAs shall use substance abuse prevention funds exclusively for purposes set forth in Section 51-9-405.

(2) Transfer of funds between line items or the extension of project completion dates may be made only with prior written approval of the Superintendent.

(3) An LEA may not use funds received under this R277-460 to

supplant:

(a) funds currently available to the LEA; or

(b) funds available from other state or local sources.

R277-460-6. Evaluation and Reports.

(1) An applicant that receives substance abuse prevention funds shall provide the Superintendent with a year-end report on or before July 1 of the fiscal year in which the award was made.

(2) The year-end report described in Subsection (1) shall include:

(a) an expenditure report;

(b) a narrative description of activities funded; and

(c) an action research or data project report.

(3) The Superintendent may require additional evaluation or audit procedures from an award recipient to demonstrate the use of funds consistent with the law and Board rules.

(4) The Superintendent shall annually report the following information to the Board's Finance Committee:

(a) the number of LEAs receiving substance abuse prevention funds;

(b) a summary of the LEAs' use of program funds; and

(c) a description of how the Superintendent is using the funds described in Subsections R277-460-3(1) and (2).

KEY: public schools, substance abuse prevention
Date of Enactment or Last Substantive Amendment: August 7, 2017
Notice of Continuation: June 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-10-405; 51-9-405

R277. Education, Administration.
R277-461. Elementary School Counselor Grant Program.
R277-461-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53F-5-209, which directs the Board to make rules to administer the Elementary School Counselor Grant Program; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

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

(a) an application procedure;

(b) criteria and procedures for awarding grants; and

(c) requirements for grant recipients.

R277-461-2. Definitions.

(1) "Grant" means funding awarded by the Board to an LEA to hire qualifying personnel for purposes of supporting school-based mental health, in accordance with Section 53F-5-209.

(2) "Qualifying personnel" means:

(a) a school counselor or school social worker, as defined in Section 53F-5-209(1)(e); or

(b) a Board-licensed school psychologist who is assigned to a school and funded by grant funds to carry out work described in Subsection 53F-5-209(1)(e)(ii).

R277-461-3. Grant Applications.

(1) The Superintendent shall develop and make available a grant application for LEAs, consistent with the requirements in Subsection 53F-5-209(4)(a).

(2) The grant application shall require the LEA to report how it intends to provide the matching funds required in Subsection 53F-5-209(4)(b), including the source of funding the LEA intends to use.

(3) For each grant cycle that the Superintendent is authorized to solicit grant applications, the Superintendent shall publish a timeline on the Board's website by March 30, including a date for the application release, and due dates for an LEA to submit required materials.

R277-461-4. Procedures and Criteria for Awarding a Grant.

(1) An LEA applying for a grant shall commit to establishing, at a minimum, a 3-year plan and program for using the grant funds.

(2) In accordance with Subsection 53F-5-209(3), the

Superintendent shall prioritize LEA applications that propose to target funds as outlined in statute.

(3) For purposes of prioritizing grants under this Rule, the Superintendent shall examine behaviors and indicators in schools for childhood trauma, including:

(a) office referrals or discipline reports;

(b) absenteeism;

(c) free or reduced-price lunch;

(d) homelessness;

(e) school-reported referrals to the Utah Division of Child and Family Services (DCFS);

(f) foster care;

(g) intergenerational poverty; and

(h) grade 3 reading proficiency.

R277-461-5. Grant Recipient Requirements, Accountability, and Reporting.

(1) A grant recipient shall engage in systemic leadership and planning to align efforts in supporting school improvement and school-based mental health, based on the Utah School Counseling Program Model.

(2) Grant funds may only be used to pay for salaries and benefits for qualified personnel.

(3) A full-time equivalent (FTE) position who is a qualifying personnel funded by grant funds may not be assigned to more than two schools.

(4) Qualifying personnel funded by these grant funds shall:

(a) implement a systemic school-based mental health program;

(b) participate in USBE trainings;

(c) participate in quarterly collaboration meetings with USBE;

(d) in accordance with Subsection 53F-5-209(8), participate in trauma-informed modules; and

(e) implement data projects.

(5) A data project is a process in which qualifying personnel and others:

(a) identify a school's needs based on analysis of school data;

(b) establish one or more interventions to address the needs or problems identified from the data;

(c) design and implement, through a systemic approach, the intervention; and

(d) examine and evaluate the effectiveness of the intervention, based on the school data.

(6) The Superintendent shall establish a process and accompanying forms for grant recipients to document grant requirements, which may include an initial implementation report

and a year-end accountability report.

(7) A grant recipient shall report its findings and outcomes from a data project to:

(a) the school personnel;

(b) the local school board or charter governing board; and

(c) the Superintendent.

(8)(a) If a grant recipient plans to discontinue its program for any reason at any time in the three-year period, the grant recipient shall notify the Superintendent, or the Superintendent's designee, in writing.

(b) The written notification shall include a detailed explanation of why the grant recipient is discontinuing the program before the end of its three-year commitment.

KEY: grant program, school counselor, mental health, trauma-informed practice
Date of Enactment or Last Substantive Amendment: July 9, 2018
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-401

R277. Education, Administration.
R277-462. School Counseling Program.
R277-462-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-2-304(2)(b) which directs local boards to develop policies for the implementation of student Plan for College and Career Readiness.

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

(a) standards and procedures for an LEA applying for funds appropriated for the School Counseling Program;

(b) the minimum counselor to student ratios within an LEA; and

(c) provisions for an LEA not meeting the minimum counselor to student ratios;

R277-462-2. Definitions.

(1) "LEA" means, for purposes of this rule, an LEA that serves students any of in grades 7-12.

(2) "Program" means an LEA's school counseling program that shall be consistent with the program model described in Section R277-462-3.

(3) "School Counselor" means an educator licensed as a school counselor consistent with R277-506 and assigned to provide direct and indirect services to students consistent with the program.

(4) "Student" means, for purposes of this rule, only students in grades 7-12.

R277-462-3. Incorporation of College and Career Readiness School Counseling Program Model.

(1) This rule incorporates by reference the College and Career Readiness School Counseling Model Second Edition, 2016.

(2) A copy of the current College and Career Readiness School Counseling Program Model is located at:

(a) https://schools.utah.gov/file/5ff1f145-c2c4-4fe5-b8bc-61c744a27f51

(b) the Utah State Board of Education -- 250 East 500 South, Salt Lake City, Utah 84111.

R277-462-4. School Counseling Program Approval and Qualifying Criteria.

(1) To qualify for a funding distribution outlined in subsection (2), an LEA shall:

(a) have a plan for college and career readiness consistent with Section 53E-2-304 and R277-462-5;

(b) have an approved student success framework described in Section 53G-7-1304;

(c) participate in an on-site program review conducted by the Superintendent which shall:

(i) at least once every six years, be conducted with an LEA's accreditation review described in R277-410; and

(ii) assess the following components of the program:

(A) collaborative classroom instruction;

(B) implementation of the plan for college and career readiness;

(C) program contribution to achieving the student success framework;

(D) systemic dropout prevention; and

(E) overall administration of the program.

(d) at least once every three years conduct an internal on-site review consistent with elements of the on-site review conducted by the Superintendent;

(e) ensure school's program is self-evaluated annually;

(f) participate in statewide trainings provided by the Superintendent;

(g) provide adequate resources and program management to each program within the LEA;

(h) conduct a program needs assessment with relevant stakeholders at least once every three years including school-based data projects demonstrating program or intervention effectiveness;

(i) provide evidence of LEA governing board approval of the program;

(j) demonstrate parental involvement in the program including advisory committee participation;

(k) integrate collaborative classroom instruction consistent with student success framework and standards identified by the program model;

(l) maintain the required school counselor to student ratio described in Section R277-462-6;

(m) design a program that includes the needs of diverse students; and

(n) provide assistance for students in career literacy and future decision-making skills.

(2) An LEA that meets the requirements in subsection (1) may receive a funding distribution as follows:

(a) a WPU base for the first 400 students; and

(b) a per student distribution for each additional student

beyond 400 students, up to 1200 students.

(3) An LEA shall use the October 1 enrollment count of the previous fiscal year when determining the distribution amount to request.

R277-462-5. Plan for College and Career Readiness.

(1) To qualify for funding described in Section R277-462-4 an LEA shall ensure each student within the LEA has a plan for college and career readiness.

(2) A student, student's parent, and school counselor shall collaboratively develop the student's plan for college and career readiness.

(3) A plan for college and career readiness shall:

(a) be a four-year plan and completed either:

(i) initiated at the beginning of a student's seventh grade year; or

(ii) within the first year the student is enrolled in grades 7-12;

(b) include parents in the individual planning meetings with a student;

(c) be maintained by the counseling department in each school;

(d) follow a student as the student progresses through each grade; and

(e) when applicable, transfer with a student between LEAs.

(4) An LEA shall ensure that a student's course registration and class schedule is consistent with the student's plan for college and career readiness.

(5) An LEA shall require all schools with the LEA to document parental involvement and participation in a student's planning meetings.

(5) An LEA shall ensure the implementation for a plan for college and career readiness in consistent with the LEA's program goals and includes the following conference meetings:

(a) at least one individual and one group conference meeting with a parent, school counselor and student during the student's:

(i) grades 7 and 8;

(ii) grades 9 and 10; and

(iii) grades 11 and 12.

(b) other meetings as needed.

R277-462-6. School Counselor to Student Ratios.

(1) To qualify for funding described in Section R277-462-4 an LEA shall have at least one school counselor for every 350 students.

(2) For purposes of counting toward fulfillment of this ratio, a school counselor shall be:

(a) a full-time equivalent within an LEA; and

(b) Board certified and licensed.

(3) An LEA may be considered compliant with subsection (1) if less than .25 school counselors would be needed for the LEA to meet the required ratio.

(4) No later than October 1 of each year an LEA shall certify to the Superintendent the school counselor to student ratio.

(5) No later than June 1 from submitting the LEA's certified ratio, an LEA that does not meet the required ratio in subsection (1) shall submit to the Board a plan outlining a reasonable timeline and method for achieving compliance.

(6) If an LEA fails to fulfill the plan described in subsection (5), the LEA may be placed on a corrective action plan described in R277-114.

(7) If an LEA fails to complete the corrective action plan described in subsection (6), the LEA shall be referred to the Board for further corrective action including loss of distributed funds.

R277-462-7. Allowable Use of Distributed Funds.

(1) An LEA shall ensure all funds distributed are used for any of the following purposes:

(a) a school collaborative classroom curriculum;

(b) personnel costs including clerical positions that support the plan for college and career readiness process;

(c) career center equipment or materials such as computers, media equipment, computer software, or occupational information;

(d) professional development for personnel involved in the program;

(e) expenses of extended hours which are required to run the program; and

(f) membership in the American School Counselor Association (ASCA) for one or more school counselors per school per year.

(2) An LEA may not use funds to supplant currently existing personnel or programs.

R277-462-8. Variances, Accountability, and Reporting.

(1) A new LEA or existing LEA with a new program, may receive funding under R277-462 if the new LEA:

(a) has received accreditation pursuant to R277-410; and

(b) has an approved program pursuant to R277-462.

(2) A new LEA or existing LEA with a new program, that does not meet the school counselor to student ratio described in Section R277-462-6 may receive a funding distribution after two years of planning, training and program implementation.

(3) No later than October 1, an LEA shall certify annually

all previously qualified schools continue to meet the program criteria.

(4) An LEA shall provide data and information about the LEA's program as requested by the Superintendent.

KEY: public education, counselors
Date of Enactment or Last Substantive Amendment: July 31, 2019
Notice of Continuation: May 23, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-2-304(2)(b); 53E-3-401(4)

R277. Education, Administration.
R277-463. Class Size Average and Pupil-Teacher Ratio Reporting.
R277-463-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which places general control and supervision of the public school system under the Board;

(b) Section 53E-3-301, which directs the Board to report average class sizes and pupil-teacher ratios; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to establish uniform class size and pupil-teacher ratio reporting procedures, including definitions and codes.

R277-463-2. Definitions.

(1) "Course" means the subject matter taught to students.

(a) Elementary courses are designated by grade level.

(b) Secondary courses are determined by course content.

(2) "EL" means English Learner.

(3)(a) "Individual class" means a group of students organized for instruction and assigned to one or more teachers or other staff members for a designated time period.

(b) A class may include:

(i) students from multiple grades; or

(ii) students taking multiple courses.

(c) The Superintendent shall determine an individual class from course data submitted to the Superintendent using a combination of course elements, such as:

(i) CACTUS identification number;

(ii) teacher of record;

(iii) class period;

(iv) term of student enrollment; and

(v) course cycle.

(4) "Pupil" means a student enrolled in a public school as of October 1 of the reported school year.

(5) "Teacher" means a full-time equivalent licensed educator, such as:

(a) a regular classroom teacher;

(b) a school-based specialist; or

(c) a special education teacher.

R277-463-3. Class Size Average for Elementary Classes.

(1)(a) An LEA shall report student level course data providing sufficient course information to determine the number of students in individual classes.

(b) An LEA shall calculate a class with students in multiple grades as one class.

(c) An LEA shall calculate an extended day classes in which one portion of the class arrives early and the other portion stays late as one class.

(2)(a) The Superintendent shall calculate average class size by grade.

(b) The Superintendent shall exclude special education, EL, online, and other non-traditional classes from class size average calculations.

(3) The Superintendent shall derive state and district-level class sizes from the median of school-level class sizes.

R277-463-4. Class Size Average for Secondary Classes.

(1)(a) An LEA shall report student level course data providing sufficient course information to determine the number of students in individual classes.

(b) An LEA shall calculate classes including students enrolled in multiple courses as one class.

(2)(a) The Superintendent shall calculate average class size for core language arts, mathematics, and science courses.

(b) The Superintendent shall exclude special education, EL, online, and other non-traditional classes from class size averages.

(3) The Superintendent shall derive state and district-level class sizes from taking the median of school-level class sizes.

R277-463-5. Pupil-Teacher Ratio Calculation.

(1)(a) The Superintendent shall calculate pupil-teacher ratios by school.

(b) The Superintendent shall calculate the pupil-teacher ratio for each school by dividing the number of enrolled pupils by the number of full-time equivalent teachers assigned to the school.

(2) The Superintendent shall derive district-level ratios by taking the median of school-level ratios.

(3) The Superintendent shall derive state-level ratios for charter schools and traditional schools by taking the median of school-level data.

R277-463-6. Reporting Format and Timeline.

The Superintendent shall report school, district and state-level ratios and class size averages to the public as required under Section 53E-3-301.

KEY: public schools, enrollment reporting, class size average reporting, pupil-teacher ratio reporting

Date of Enactment or Last Substantive Amendment: July 2, 2019
Notice of Continuation: April 8, 2019
Authorizing, and Implemented or Interpreted Law: Art. X, Sec 3; 53E-3-301; 53E-3-401(4)

R277. Education, Administration.
R277-468. Parent/Guardian Review of Public Education Curriculum and Review of Complaint Process.
R277-468-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Instructional materials" means systematically arranged content in text or digital format which may be used within the state curriculum framework for grade levels or courses of study by students in public schools including text books, workbooks, computer software, online or Internet courses, CDs or DVDs and multiple forms of communication media. Such materials may be used by students or teachers or both as principal sources of study to cover any portion of the grade level or course. These materials:

(1) shall be designed for student use;

(2) may be accompanied by or contain teaching guides and study helps;

(3) shall include all text books, workbooks and student materials and supplements necessary for a student to fully participate in coursework; and

(4) shall be high quality, research-based and prove to be effective in supporting student learning.

C. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

D. "Parent or guardian" means the individual that establishes the residency of the child under Sections 53G-6-302, 53G-6-303, or 53G-6-402 or another applicable Utah guardianship provision.

E. "Primary instructional materials" means comprehensive or basal Core textbook or integrated instructional program for which a publisher seeks a recommendation for Core subjects as outlined in Sections R277-700-4, 5 or 6.

R277-468-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Subsections 53E-3-401(1)(b) and (c) which require the Board to establish rules regarding competency levels, graduation requirements, school accreditation, curriculum and instruction requirements, and school libraries, and Subsection 53E-3-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to direct LEAs, consistent with the Board's responsibility to involve parents in the adoption and review of LEA primary instructional materials to support Utah Core Standards, and to include parents in reviewing complaints

specific to primary curriculum materials.

R277-468-3. LEA Board Responsibilities.

A. Each LEA shall involve parents who have students who attend LEA schools and instructional staff in the consideration of LEA-purchased instructional materials.

B. Each LEA shall include parents in reviewing complaints specific to primary curriculum materials.

C. LEAs may seek assistance from parent organizations or associations or other groups to recruit and select parent members for materials and complaint reviews.

R277-468-4. USOE Responsibilities.

A. The USOE shall develop and make readily available to LEAs suggestions for effective parent participation in the instructional materials review process and the complaint review process.

B. The USOE shall assist LEAs in policy development, upon request and to the extent of resources available.

KEY: parent/guardian, committees, curriculum, complaints
Date of Enactment or Last Substantive Amendment: March 10, 2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(1)(b); 53E-3-401(1)(c); 53E-3-401(3)

R277. Education, Administration.
R277-469. Instructional Materials Commission Operating Procedures.
R277-469-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitutional Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Section 53E-4-401, which directs the Board to appoint an Instructional Materials Commission and directs the Commission to evaluate instructional materials for recommendation by the Board; and

(d) Section 53E-4-408, which directs the Board to make rules that establish the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials and requirements for the detailed summary of the evaluation.

(2) The purpose of this rule is to:

(a) provide definitions, operating procedures and criteria for recommending instructional materials for use in Utah public schools;

(b) provide for mapping and alignment of primary instructional materials to the Core consistent with Utah law; and

(c) provide rules for purchase and distribution of instructional materials within the state.

R277-469-2. Definitions.

(1) "Commission" means the Instructional Materials Commission established in accordance with Section 53E-4-401.

(2) "Core" means the core standards adopted by the Board in R277-700.

(3) "Curriculum alignment" means the assurance that the material taught in a course or grade level matches the standards, and assessments set by the state for specific courses or grade levels.

(4) "Depository" means a business dedicated to storing and distributing resources or materials in sufficient quantities to insure rapid and efficient delivery to LEAs.

(5)(a) "Instructional materials" means systematically arranged content in text, digital, Braille and large print, or audio format which may be used within the state curriculum framework for courses of study by students in public schools.

(b) "Instructional materials" include:

(i) textbooks;

(ii) workbooks;
(iii) computer software;
(iv) online or internet courses;
(v) CDs or DVDs; and
(vi) multiple forms of communication media.
(c) "Instructional materials" may be used by students or teachers or both as principal sources of study to cover any portion of a course.
(d) "Instructional materials":
(i) are designed for student use;
(ii) may be accompanied by or contain teaching guides and study helps;
(iii) shall include all textbooks, workbooks, student materials, supplements, and online and digital materials necessary for a student to fully participate in coursework; and
(iv) shall be high quality, research-based materials for supporting student learning.
(6) "Independent party" means an entity that is not part of or related to:
(a) the Board;
(b) Board staff;
(c) an employee or governing board member of an LEA;
(d) the creator or publisher of instructional materials under review; or
(e) anyone with a financial interest, however minimal, in instructional materials under review.
(7) "Instructional Materials Commission" or "Commission" means the commission appointed by the Board in accordance with Section 53E-4-401.
(8) "Integrated instructional program" means any combination of instructional materials for students, including:
(a) textbooks;
(b) workbooks;
(c) software;
(d) videos;
(e) electronic devices; or
(f) similar resources.
(9) "Instructional materials provider" means a publisher or author and self-publisher who sells or provides instructional materials for use in Utah public schools.
(10) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
(11) "Mapping" means creating a visual representation listing topics in instructional materials in correlation to the standards of the Utah core.
(12) "National Instructional Materials Access Center" or "NIMAC" means the same as that term is defined in Subsection R277-

800-2(14).

(13) "National Instructional Materials Accessibility Standard" or "NIMAS" means the same as that term is defined in Subsection R277-800-2(15).

(14) "Not sampled" means instructional materials that were included in a publisher bid for evaluation by the Instructional Materials Commission, but which were not sampled to the Superintendent or the Commission.

(15) "Primary instructional material" means a comprehensive basal or Core textbook or integrated instructional program for which a publisher seeks a recommendation for Core subjects designated in Sections R277-700-4 through R277-700-6.

(16) "Recommended instructional materials" or "RIMs" means the recommended instructional materials searchable database provided as a free service by the Board for the posting of evaluations and alignments to the Core of instructional materials submitted by publishers for review by the Commission and approval of the Board.

(17) "Recommended limited" means instructional materials that are in limited alignment with the Core requirements or are narrow or restricted in their scope and sequence.

(18) "Recommended primary" means instructional materials that:

(a) are in alignment with content, philosophy, and instructional strategies of the Core;

(b) have been mapped and aligned to the Core, consistent with Section 53E-4-408;

(c) are appropriate for use by students as principal sources of study; and

(d) support Core requirements.

(19) "Recommended student resource" means instructional materials aligned to the Core that are developmentally appropriate, but not intended to be the primary instructional resource, which may provided valuable content information for students.

(20) "Recommended teacher resource" means instructional materials that are appropriate as resource materials for use by teachers.

(21) "Reviewed, but not recommended" means instructional materials that an LEA is strongly cautioned against using because the materials:

(a) do not align with the Core;

(b) are inaccurate in content;

(c) include misleading connotations;

(d) contain undesirable presentation; or

(e) are in conflict with existing law or rule.

(22) "Utah State Instructional Materials Access Center" or

"USIMAC" means the same as that term is defined in Subsection R277-800-2(21).

R277-469-3. Use of State Funds for Instructional Materials.

(1) An LEA may use state funds for any primary supplemental or supportive instructional materials that support Core requirements.

(2) An LEA may select and approve instructional materials consistent with:

(a) the standards of this R277-469;

(b) established local board procedures and timelines;

(c) Subsection 53G-10-402(1)(c)(iii); and

(d) Subsection 53E-4-403(4).

(3) A school or school district that uses any funding source to purchase materials that have not been recommended or selected consistent with state law, may have funds withheld to the extent of the actual costs of those materials pursuant to Subsection 53E-3-401(8)(a)(ii).

(3)(a) An LEA may use free instructional materials that are used as primary instructional materials or that are part of primary integrated instructional programs subject to the same independent party evaluation and Core mapping as basal or Core material.

(b) If an LEA receives free materials as part of a supplemental program, the LEA may use the materials as student instructional materials only consistent with the law and this R277-469.

(4) An LEA shall include a requirement in all publisher contracts for instructional materials that the publisher shall:

(a) prepare and provide electronic files of all instructional materials in the NIMAS format to NIMAC on or before delivery of print instructional materials; or

(b) provide instructional materials that are produced in, or may be rendered in, specialized formats.

(5)(a) An LEA shall provide timely notice to all publishers with whom the LEA contracts for instructional materials that all materials shall be provided consistent with Subsection (4).

(b) An LEA's notice shall include a copy of this R277-469.

R277-469-4. Instructional Materials Commission Members Terms of Service.

(1) The Board shall appoint members of the Instructional Materials Commission in accordance with Section 53E-4-401.

(2)(a) A member appointed in accordance with Subsection (1) shall serve four year terms, staggered to ensure continuity in the efficient operation of the Commission.

(b) A member may apply for reappointment to one additional

term.

(3) The Commission may establish subcommittees as needed.

R277-469-5. Commission Review of Materials.

(1) The Instructional Materials Commission shall primarily focus on reviewing materials used in subjects aligned with Core requirements to include reading, language arts, mathematics through geometry, science, in grades 4 through 12, and effectiveness of written expression, and other Core subject areas as assigned by the Board.

(2) The Commission shall determine subject areas and timelines for review based on school district and charter school needs and requests, using forms and procedures provided by the Superintendent.

(3) The Commission shall meet to review materials at least semi-annually.

(4) Following its evaluation of a submitted item, the Commission shall recommend that the Board classify materials in one of the following categories:

(a) Recommended primary;

(b) Recommended limited;

(c) Recommended teacher resource;

(d) Recommended student resource;

(e) Reviewed, but not recommended; or

(f) Not sampled.

R277-469-6. Criteria for Recommendation of Instructional Materials Following Mid-Party Evaluation of Core Curriculum.

(1) The Instructional Materials Commission and the Board, in reviewing whether to recommend instructional materials, may consider whether the instructional materials:

(a) are consistent with Core requirements;

(b) are mapped and aligned to the Core and state adopted assessments if planned for use as primary materials;

(c) are high quality, research-based, and proven to be effective in supporting student learning;

(d) provide an objective and balanced viewpoint on issues;

(e) include enrichment and extension possibilities;

(f) are appropriate to varying levels of learning;

(g) are accurate and factual;

(h) are arranged chronologically or systematically, or both;

(i) reflect the pluralistic character and culture of the American people and provide accurate representation of diverse ethnic groups;

(j) are free from sexual, ethnic, age, gender or disability bias and stereotyping; and

(k) are of acceptable technical quality.

(2) A publisher, when submitting new primary material to be evaluated by the Superintendent, shall submit an electronic version of that material in NIMAS file format to NIMAC for use in conversion into Braille, large print, and other formats for students with print disabilities.

(3) The Superintendent may require an LEA to provide a report of instructional materials purchased by the LEA or a school in the previous five years.

(4) The Superintendent may initiate a formal or informal audit of instructional materials purchased to determine purchase or use of instructional materials consistent with the law or this rule.

R277-469-7. Agreements and Procedures for LEAs.

(1) A local board shall establish a policy for selection and purchase of instructional materials.

(2) As part of any materials adoption process or procurement contract for the purpose of purchasing instructional materials, an LEA shall provide instructional materials to all students, including blind students and other students with disabilities, in a timely manner.

(a) A publisher may provide materials in electronic files to NIMAC to make materials available to eligible students.

(b) An LEA shall include NIMAS contract language in all contracts with publishers for Core materials.

(c) An LEA may purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats for eligible students.

(3) An LEA shall require a detailed Core curriculum alignment prior to the purchase of primary instructional materials.

R277-469-8. Qualifications for Core Curriculum Alignment Independent Parties.

(1) A primary instructional materials provider shall contract with an independent party in accordance with Subsection 53E-4-408(1)(a).

(2) An independent party may only employ or contract with a reviewer who has a degree or an endorsement specific to the subject area of the primary instructional materials.

(3) A publisher shall provide proof of an independent party's credentials to the Superintendent upon request.

R277-469-9. Detailed Summary Requirements.

(1) An independent party shall submit a summary required under Subsection 53E-4-408(1)(b) in a searchable, software database format designated by the Superintendent.

(2) A summary required under Subsection 53E-4-408(1)(b) shall:

(a) include detailed alignment information that includes, at a minimum:

(i) the title of the material;

(ii) the ISBN number;

(iii) the publisher's name;

(iv) the name and grade of the Core document used to align the material;

(v) the overall percentage of coverage of the Core;

(vi) the overall percentage of coverage in ancillary resources of the material to the Core;

(vii) the percentage of coverage of the Core in the material for each standard, objective and indicator in the Core with corresponding page numbers;

(viii) percentage of coverage of the Core not covered in the material but covered in the ancillary resources for each standard; and

(ix) objective and indicator in the Core with corresponding page numbers or URLs; and

(b) provide the detailed alignment information listed in Subsection (a)(iv) for the student text for all editions of the text that are used in Utah public schools;

(c) provide the detailed alignment information listed in Subsection (a)(iv) for a teacher edition of text, if a teacher edition is used in Utah public schools; and

(d) provide an assurance, including a personal signature, that the work was completed personally and as required by the licensed and endorsed reviewer.

R277-469-10. Agreements and Procedures for Publishers.

(1) A publisher desiring to sell primary instructional materials to Utah school districts shall comply with the requirements of Section 53E-4-408 and this R277-469.

(2)(a) A publisher seeking to sell recommended materials to Utah schools or school districts shall have 10 books and tangible adopted materials or such other amount as required by a depository based on anticipated need on deposit within the state at an instructional materials depository in the business of selling instructional materials to schools or school districts in Utah.

(b) A publisher shall submit verification of compliance with Subsection (2)(a) to the Superintendent through the publisher's contracted depository prior to the Superintendent posting a review of the materials on RIMs.

(3) A publisher may make a depository agreement with one or more depository.

(4) Notwithstanding the provisions of Subsection (2), a

publisher may sell instructional materials to schools or school districts in Utah directly or through means other than a designated depository.

(5) A publisher need not store digital and online resources within the state, but shall guarantee timely resource availability of a placed order and shall provide digital and online resource orders without shipping charges.

(6) If a revised edition of recommended materials retains the original title and authorship, the publisher may request its substitution for the edition currently recommended providing that:

(a) the original contract price and contract date do not change and the original contract price applies for the substituted materials;

(b) the revised edition is compatible with the earlier edition, permitting use of either or both in the same classroom;

(c) a sample copy of the revised edition is provided to the Superintendent for examination purposes; and

(d) the publisher submits a revised electronic edition in NIMAS file format to the NIMAC if the Superintendent approves the substitution request.

(7) The Commission shall make the final determination about the substitution of a new edition for a previously recommended edition with assistance from the Superintendent.

(8) A publisher's contract price for materials recommended by the Commission and the Board shall apply for five years from the contract date.

R277-469-11. Request for Reconsideration of Recommendation.

(1) The Superintendent shall provide a school district, school or publisher with the evaluations and recommendations resulting from the initial review of the Commission.

(2) A school district, school or publisher may, within 30 days of the Commission's initial recommendation, request to have materials reviewed again during the Commission's next review cycle.

(3)(a) During the period of the reconsideration request, the Superintendent shall classify materials only tentatively.

(b) The Superintendent shall not post tentatively classified materials to RIMs until recommended through the official Commission process.

(4) A school district, school or publisher may be asked to send a second set of sample materials to the Superintendent as part of a reconsideration request.

(5) Any written information provided by a school district, school or publisher shall be available to the advisory committees during the second review.

(6) After the second review by the subject area advisory

committee, the Commission shall vote on the advisory committee's recommendation at the next scheduled meeting.

(7) If the Commission votes to change the recommendation, the Superintendent shall notify the Board of the action at the next scheduled Board meeting.

(8) The Superintendent shall send a school district, school or publisher written notification of the final recommendation and new evaluation.

(9) If the Commission and Board approve materials following a request for reconsideration, the Superintendent shall post the evaluation to RIMs.

KEY: instructional materials
Date of Enactment or Last Substantive Amendment: January 9, 2018
Notice of Continuation: November 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-4-401; 53E-4-408; 53E-3-401(4)

R277. Education, Administration.
R277-471. School Construction Oversight, Inspections, Training and Reporting.
R277-471-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Certified plans examiner" means a professional who has current applicable commercial certification through the International Code Council (ICC).

C. "Charter schools" means schools acknowledged as charter schools by charter school authorizers consistent with Sections 53G-5-305, 53G-5-306, and this rule or by the Board under Section 53G-5-304.

D. "Charter school responsible person or local charter school board building officer or designee (CSBBO)" means the individual or authority designated by the charter school board who has direct administrative and operational control of charter school construction/renovation and has responsibility for the charter school's compliance with Utah law and the Resource Manual on behalf of the charter school board.

E. "Certificate of inspection verification" means a form certifying that the entity responsible for providing inspection services has complied with the provisions of Sections 53E-3-706, 53E-3-708, 10-9a-305, 17-27a-305, 58-56, Section 15A, State Construction and Fire Code Act, as well as the provisions of R156-56 and this rule. The form is available on the USOE School Finance Section website.

F. "Certificate of occupancy" means the document issued upon receipt of the final inspection from the inspector of record and the 'Certificate of Fire Clearance' issued by the Utah State Fire Marshal, verifying compliance with all minimum requirements to safeguard the public health, safety and general welfare of occupants, which authorizes permanent usage or occupancy of any new building, occupiable structure or existing occupiable building or structure alteration (remodeling) or change of occupancy in an existing structure or building or space.

G. "Division" means the Division of Finance with technical assistance from the Department of Technology Services.

H. "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality, consistent with Section 10-9a-103(13).

I. "Inspector" means a professional who holds current applicable commercial certification through the International Code Council (ICC) and is currently licensed in the state of Utah in the applicable trades the inspector is performing inspections.

J. "LEA" means local education agency, including local school boards/public school districts and charter schools.

K. "New school building project" means the construction of a school that did not previously exist in an LEA.

L. "Public school construction" means construction work on a new or existing public school building.

M. "School Building Construction and Inspection Resource Manual, April 30, 2013, (Resource Manual)" means a manual which identifies the processes and procedures an LEA shall follow when constructing a new public school building, maintenance, or renovating existing buildings. The Resource Manual was developed by the USOE consistent with Section 53E-3-707, is available on the USOE School Finance website, and is hereby incorporated by reference consistent with Section 63G-3-201(7).

N. "School District Building Official (SDBO)" means the individual or authority designated by the public school district who has direct administrative and operational control of school district construction/renovation and is responsible for the school district's compliance with Utah law and the Resource Manual.

O. "Significant school remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution or replacement of an existing school in an LEA with a project cost equal to or in excess of $2,000,000.

P. "Superintendent" means the State Superintendent of Public Instruction.

Q. "Temporary certificate of occupancy" means the document issued upon receipt of the temporary final inspection report from the inspector of record and the 'Temporary Certificate of Fire Clearance' issued by the Utah State Fire Marshal, verifying minimum requirements to safeguard the public health, safety and general welfare of occupants, which authorizes temporary usage or occupancy of any new building, occupiable structure or existing occupiable building or structure alteration (remodeling) or change of occupancy in an existing structure or building or space, valid for a specific time period.

R. "USOE" means the Utah State Office of Education.

R277-471-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Sections 53E-3-706 and 53E-3-707 which direct the Superintendent to enforce requirements and provisions about public school building and alteration, verify inspections of school buildings, and provide information annually to LEAs about the construction and inspection of public school buildings, and Subsection 53E-3-401(3) which permits the Board to adopt rules in accordance with its responsibilities and permits the Board to interrupt disbursements of state aid to any school district or charter school which fails to comply with rules adopted by the

Board.

B. The purpose of this rule is to provide specific provisions for the oversight of permanent or temporary public school construction/renovation inspections and to identify LEA board responsibilities and accountability to the Board.

R277-471-3. LEA Responsible Person.

A. LEA boards shall be accountable to ensure that all school district and charter school permanent or temporary construction, renovation, and inspections are conducted in accordance with the law to provide minimum requirements to safeguard the public health, safety and general welfare of occupants while using the most comprehensive, cost effective and efficient design means and methods.

(1) Local school boards shall appoint a SDBO who has direct administrative and operational control of all construction, renovation, and inspection of public school district facilities within the school district and shall provide in writing the name of the SDBO to the USOE.

(2) Charter school boards shall be accountable to the State Charter School Board and the Board to ensure that all charter school permanent or temporary construction, renovation, and inspections are conducted in accordance with Utah law and the Resource Manual. Each local charter school board shall appoint a CSBBO who has direct operational responsibility for construction, renovation, and inspection of the charter school. The CSBBO shall report regularly to the local charter school board.

(a) The local charter school board shall provide the name of this officer in writing to the Superintendent.

(b) The local charter school board shall promptly notify the Superintendent in writing of any changes of this individual.

B. The SDBO shall monitor school district building construction to ensure compliance with the provisions of Utah law and the Resource Manual.

C. The CSBBO shall monitor all charter school building construction to ensure compliance with the provisions of Utah law and the Resource Manual.

D. The SDBO and CSBBO shall ensure that public school construction conforms with the intent and purpose of Utah law and the Resource Manual.

E. The SDBO and CSBBO may adopt and enforce supplemental LEA policies under appropriate LEA policies to clarify the application of the provisions of Utah law and the Resource Manual for LEA personnel.

R277-471-4. School Construction Inspectors.

A. LEAs shall employ inspectors for school construction

inspection who are currently ICC commercially certified and licensed in Utah, in the trade specific to the inspection, consistent with Utah law and the Resource Manual requirements.

B. LEAs shall choose one of three methods for inspections:

(1) Independent inspectors:

(a) shall be approved by the local jurisdiction in which the construction activity occurs;

(b) may include inspectors working outside the municipality, county, or school district in which they are employed; and

(c) shall not be any of the following, nor an employee of: the architect, developer, contractor, a subcontractor working on the project, any management company or other agency hired by the LEA to perform construction or construction administrative services.

(2) School district inspectors shall be employed by and perform school construction inspections within the boundaries of the school district.

(3) Inspectors employed by municipalities and counties may perform school construction inspections within the boundaries of the municipality or county where they are employed.

R277-471-5. School Construction Inspections.

A. Before any school construction project begins, the SDBO or CSBBO shall obtain a construction project number from the USOE by completing and submitting construction project identification forms provided by the USOE and other required submittals for all projects consistent with Title 53E, Chapter 3, Part 7 and the Resource Manual.

B. The appropriate currently certified plans examiner shall approve all LEA school plans and specifications before any LEA construction project begins.

C. If an LEA is unable to provide appropriate and proper school construction inspection and plan review services, the Superintendent may procure inspection services and charge the LEA for those services. The approved inspector shall establish fees in advance of inspection services.

D. LEA construction projects shall comply with Title 53E, Chapter 3, Part 7 and the Resource Manual to:

(1) ensure that each inspector is adequately and appropriately credentialed;

(2) identify and provide to the USOE and local government entity building official reports of all inspections with the name, state license number, and disciplines of each inspector performing the project inspections;

(3) submit inspection certificates and all related submittals to the USOE and appropriate local government entity building official;

(4) submit inspection summary reports monthly to the appropriate local government entity building official and the USOE;

(5) sign the final certificate of inspection and verification form, certifying all inspections were completed in compliance with all applicable laws and rules, and the Resource Manual to safeguard the public health, safety and general welfare of occupants;

(6) send the final inspection certification, inspection verification, and provide all other related project closeout submittals to the USOE and to the appropriate local government entity building official upon completion of the project; and

(7) maintain all submitted documentation at a designated LEA location for auditing or monitoring.

E. The SDBO/CSBBO may submit paper or electronic reports to satisfy this section.

R277-471-6. Coordination with Local Governments, Utility Providers and State Fire Marshal.

A. Prior to developing plans and specifications for a public school construction project, LEAs shall coordinate with affected local government land use authorities and utility providers to:

(1) ensure that the siting or expansion of a school in the intended location will comply with applicable local general plans and land use laws and will not conflict with entitled land uses;

(2) ensure that all local government services and utilities required by the school construction activities can be provided in a logical and cost-effective manner;

(3) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the public school construction and future roadways; and

(4) maximize school, student and site safety.

B. LEAs shall cooperate with municipalities and counties and conform to municipal and county land use ordinances consistent with Sections 10-9a-305 and 17-27a-305.

C. Prior to developing plans and specifications for a public school construction project, LEAs shall coordinate with local health departments and the State Fire Marshal.

D. A charter school shall have an open meeting to seek and secure a variance from the appropriate government entity if the LEA selects a school site in a municipality or county-designated zone for sexually oriented businesses or businesses that sell alcohol.

E. Parking requirements for a charter school may not exceed the minimum parking requirements for a traditional public school of a like size and grade levels or other institutional public use throughout the municipality or county.

F. LEAs shall maintain documentation for audit purposes of coordination, meetings, and agreements required under this section.

G. Prior to developing plans and specifications for a public school construction project, LEAs shall coordinate with local jurisdictions to comply with Federal Emergency Management Agency flood plain requirements and restrictions, including applicable mitigation measures.

R277-471-7. Superintendent's Authority to Request Additional Inspections.

A. The Superintendent may contract with any appropriately qualified entity or person(s) to provide inspection services that the Superintendent considers necessary to enable the Superintendent to issue a certificate authorizing temporary or permanent occupancy of the public school building.

B. The Superintendent may charge the LEA a fee not to exceed the actual cost of performing the inspection(s) for inspection services.

R277-471-8. Certification of Occupancy.

A. School districts:

(1) After completion of the project when a school district's appropriately credentialed inspector provides inspections, the SDBO shall sign a certificate of inspection verification form certifying that all inspections were completed in accordance with Utah law and the Resource Manual, and file the form with the USOE and the building official of the jurisdiction in which the building is located.

(2) After completion of the project when a local jurisdiction provides inspections, the school district shall seek a certificate authorizing permanent occupancy of a school building from the jurisdiction in which the building is located; a copy of the certificate of occupancy shall be filed with the USOE.

(3) After completion of the project when independent inspectors provide inspections, the SDBO shall seek a certificate authorizing temporary or permanent occupancy of the school from the Superintendent.

B. Charter schools:

(1) After completion of the project and inspection by an appropriately credentialed inspector when a charter school contracts with a school district for inspections, the CSBBO shall obtain a completed certificate of inspection verification form from the SDBO certifying that all inspections were completed in accordance with Utah law and the Resource Manual, and file the form with the USOE and the jurisdiction where the public school is located.

(2) After completion of the project when a local jurisdiction provides inspections, a charter school shall seek a certificate authorizing permanent occupancy of a school building from the jurisdiction in which the building is located; a copy of the certificate of occupancy shall be filed with the USOE.

(3) After completion of the project when independent inspectors provide inspections, the CSBBO shall seek a certificate authorizing temporary or permanent occupancy of the school from the Superintendent.

C. Within 30 days after the LEA files a request for the issuance of a certificate authorizing permanent occupancy of the school building from the USOE, the Superintendent shall:

(1) issue to the LEA a certificate authorizing permanent occupancy of the school building; or

(2) deliver to the LEA board a written notice indicating deficiencies in the LEA's compliance with the inspection findings.

D. If the Superintendent does not issue the certificate authorizing permanent occupancy, the LEA shall provide notice of the deficiency to the building official of the local government entity in which the public school building is located.

E. Upon the LEA board filing the certificate of inspection verification and requesting the issuance of a certificate authorizing permanent occupancy of the school building with the USOE, the LEA shall be entitled to temporary occupancy of the school building for a period up to 90 days, beginning on the date the request is filed, if the LEA has complied with all minimum requirements to safeguard the public health, safety and general welfare of occupants.

F. Upon the LEA remedying any deficiencies and notifying the Superintendent that the deficiencies have been remedied, following certification of the information, the Superintendent shall issue a certificate authorizing permanent occupancy of the school building.

G. Upon receipt of the certificate of occupancy, the LEA shall provide a copy of the certificate to the building official of the local governmental entity in which the school building is located authorizing permanent occupancy of the school building.

R277-471-9. School Building Construction and Inspection Resource Manual.

A. The USOE shall develop and distribute a Resource Manual, or provide an electronic version, on the USOE School Finance website, consistent with Section 53E-3-707.

B. The Resource Manual shall include process, legal requirements and resource information on school building construction, operations, maintenance, minimum requirements to safeguard the public health, safety and general welfare of

occupants, and inspections.

C. The USOE shall review and, if necessary, update the Resource Manual annually.

D. The Board and LEA boards, as well as LEA personnel, shall act consistent with the Resource Manual.

R277-471-10. School Construction Guidelines.

A. The Board shall adopt public school construction guidelines that take into consideration the factors identified in Section 53E-3-702 and other factors identified by USOE staff or the Division of Facilities Construction and Management Administration staff.

B. LEAs shall review and take into consideration the school construction guidelines when planning and prior to proceeding with public school construction.

R277-471-11. Enforcement.

A. An LEA which fails to comply with the provisions of this rule is subject to interruption of state dollars by the Board consistent with Subsections 53E-3-401(3) and 53F-2-202(4)(d).

(1) If an LEA fails to meet or satisfy a school construction inspection requirement or timeline designation under this rule, the Superintendent shall, as directed by the Board, send the school district superintendent or local charter school director notice by certified mail; and

(2) If after 30 days the requirement has not been met, the USOE may, as directed by the Board, interrupt the Minimum School Program fund transfer process to the following extent:

(a) 10 percent of the total monthly Minimum School Program transfer amount the first month;

(b) 25 percent in the second month; and

(c) 50 percent in the third and subsequent months.

B. If the USOE interrupts the Minimum School Program fund transfer process, the USOE shall:

(1) upon receipt of confirmation that the proper inspection(s) has (have) taken place or upon receipt of a late report, restart the transfer process within the month (if the confirmation or report is submitted before the tenth working day of the month) or in the following month (if the confirmation or report is submitted after 10:00 a.m. on or after the tenth working day of the month);

(2) inform the Board at its next regularly scheduled meeting; and

(3) inform the chair of the local governing board if the school district superintendent or charter school director is not responsive in correcting ongoing school construction inspection and reporting problems.

C. An LEA may be subject to a nonrefundable fine in the amount of one half of one percent of the total construction costs if an LEA fails to report a public school construction project consistent with Title 53E, Chapter 3, Part 7 and the Resource Manual to the USOE.

(1) The USOE, under the direction of the Board, shall deduct nonrefundable fine amounts from the respective LEA's Minimum School Program allotment at a rate sufficient to complete collection of the nonrefundable fine by the end of the current fiscal year.

(a) The USOE shall deposit school district nonrefundable fine amounts into the School Building Revolving Account; and

(b) The USOE shall deposit charter school nonrefundable fine amounts into the Charter School Building Subaccount within the School Building Revolving Account.

R277-471-12. Appeals Procedure for Nonrefundable Fines.

A. The Board designates the procedure outlined in R277-471-12 as an informal adjudicative proceeding, under Section 63G-4-203.

B. LEA boards may appeal a fine assessed under R277-471-11C consistent with the following:

(1) An LEA may not appeal a fine until a final administrative decision has been made to assess the fine by the USOE and the fine has been affirmed by the Board.

(2) A district superintendent on behalf of a local school board or a local charter board chair on behalf of a local charter school board may appeal an assessed fine by filing an appeal form provided on the USOE website.

(3) An LEA must file the appeal within 10 business days of final affirmation of USOE action/withholding by the Board.

(4) An LEA shall deliver or provide electronically the appeal to the USOE as provided by the appeal form.

(5) An LEA shall provide, as stated on the form, an explanation of unanticipated or compelling circumstances that resulted in the local board's or charter school's failure to report new construction or remodeling projects as required.

(6) The school district superintendent or local charter board chair shall provide a notarized statement that the information and explanation of circumstances are true and factual statements.

(7) At least three members of the Finance Committee appointed by the Board shall act as a review committee to review the written appeal.

(a) The appeal committee may request additional information from the LEA board.

(b) The appeal committee may ask the district superintendent

or local school district or charter school board chair or LEA business staff to appear personally and provide information.

(c) The fine shall be presumed appropriate and legitimate when reviewed by the appeal committee.

(d) The appeal committee shall make a written recommendation within 10 business days of receipt of the appeal request.

(e) The full Finance Committee of the Board shall review the recommendation.

(f) The Finance Committee shall make a formal recommendation to the Board to accept, modify or reject the appeal explanation and fine.

C. The Board, in a regular monthly meeting, may accept or reject the Finance Committee's final recommendation to affirm the fine, modify the fine, or grant the appeal.

D. Consistent with the Board's general control and supervision of the Utah public school system and given the significant public policy concern for safe schools and cost-effective public school building projects, a local board of education or a local charter board has no further administrative appeal opportunity.

R277-471-13. Annual Construction and Inspection Conference.

A. The USOE shall sponsor an annual school construction conference for representative(s) from each LEA and interested persons involved in the school building construction, design, operation, maintenance, safety and related industries.

B. Conference presenters and participants shall provide and discuss current information and training on public school building construction and inspection, including:

(1) the design, construction, operation and the inspection process of public school buildings;

(2) public school building site selection;

(3) best building life-cycle costing;

(4) construction inspection requirements and schedules; and

(5) information to improve the existing public school building design, construction, operation and safety inspection program.

R277-471-14. School Plant Capital Outlay Report.

A. The Board shall prepare an annual School Plant Capital Outlay Report of all school construction projects completed and under construction, including information on the number and size of buildings.

B. An LEA shall prepare and submit an annual School Plant Capital Outlay Report to the Utah Public Finance website, consistent with Section 63A-3-402, for each new school building construction project or significant school remodel, completed

between July 1, 2004 and May 13, 2014. An LEA shall submit the report no later than May 15, 2015. For new school building projects or significant remodel projects completed after May 13, 2014, the LEA shall provide the School Plant Capital Outlay Report to the Division annually, by a date designated by the Division.

C. The School Plant Capital Outlay Report shall include information required under Section 63A-3-402(6)(c).

D. The LEA shall report to the Utah Public Finance website the actual cost, fee, or other expense for any figures required to be reported under R277-471-14B.

E. The report shall be in a format, including any raw data or electronic formatting, prescribed by applicable Division policy.

F. The Division may require an LEA to provide further itemized data on information listed in Section 63A-3-402(b) or R277-471-14B.

KEY: educational facilities
Date of Enactment or Last Substantive Amendment: November 10, 2014
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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(3); 53E-3-706; 53E-3-707; 10-9a-305; 17-27-105; 53F-2-202(4)(d)

R277. Education, Administration.
R277-472. Charter School Student Enrollment and Transfers and School District Capacity Information.
R277-472-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Below capacity at the elementary and secondary level" making the grade level available for transfer students from charter schools outside of the window provided for in Subsection 53G-6-503(3) is established if the grade level or program is less than 100 percent of the district, school, or grade level average.

(1) A special program is "below capacity" or available for transfer students from charter schools if the number of assigned students is less than the designated number of students determined by valid, research-based, or federally established standards.

(2) An entire elementary or secondary school is "below capacity" if the district determines that the average class size, using calculations of classes and courses in R277-472-3, is less than 100 percent of the district elementary or secondary average class size.

C. "Elementary (K-6) class size" means the number of students with a primary assignment to a specific teacher.

(1) An extended day class in which a portion of the class arrives early and the other portion stays late shall be counted as one class.

(2) Elementary class size shall include all special education students who participate in all or part of the school day excluding those students assigned to self-contained special education classes.

D. "Secondary (7-12) class size" means the secondary school's calculation for each language arts, mathematics, and science course that is typically taught multiple times in the school day, such as 8th grade English, Algebra 1, Earth Systems.

R277-472-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Subsection 53G-6-503(2), which directs the Board to make rules for students transferring between charter schools and district schools and enrolling and withdrawing from charter schools, and Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide procedures for students transferring between district public schools and charter schools; to define capacity in district public schools to allow for transfers into district schools from charter schools; to provide notice to parents and students of schools that have space available.

R277-472-3. Class Size Calculations.

A. Elementary class size: Each school district (or school as determined by the school district) shall calculate an average class size for each grade level. Schools shall derive this calculation from the total number of students in a given grade divided by the number of full time licensed teachers assigned to that grade.

(1) Schools shall not count students assigned to multiple grade level classes (and their respectively assigned teachers) in determining average class size for a grade level.

(2) Schools shall calculate elementary classes that group students in programs other than by grade level, such as gifted and talented or English Learner programs, as a class if students participate for the entire instructional day.

(a) If schools count students that participate in special programs for part of the school day, schools shall count the students as part of their age-appropriate grade level (together with respective teachers) for purposes of this calculation.

(b) If multiple classes of special programs exist (including self-contained special education classes), a school shall determine an average class size for special programs consistent with state, federal and program standards.

B. Elementary school size: Each school district (or school) shall calculate a school-wide average class size by dividing the total full time teachers assigned to direct teaching situations by the total number of students receiving instruction.

(1) Schools shall not include self-contained special education students and teachers in this calculation.

(2) Schools shall include all other special education students and teachers.

C. Secondary average class size: Each school district (or secondary school as determined by the district) shall calculate an average class size for each language arts, mathematics and science course that is taught multiple times during a typical school day by dividing the total number of full time teachers assigned to direct teaching situations by the total number of students enrolled.

(1) Schools shall not include self-contained special education students and teachers in this calculation.

(2) Schools shall include all special education students, other than full-time self-contained students, in the calculation.

D. District average: Each school district shall calculate the district-wide average class size for each grade level, each elementary program that enrolls students across grade levels and for each language arts, mathematics, and science course.

(1) School districts shall derive the calculation by

dividing the total number of full time teachers (FTEs) assigned to direct teaching situations by the total number of fully enrolled students.

(2) School districts shall derive all calculations using October 1 enrollment and employment data.

E. In a school district with only one elementary or secondary school, or only one class of any subject or grade level, school districts may calculate the average class size for an entire school or the entire school district by averaging all the classes in the school or the school district. The school district may then determine that any class size less than the school district or school average class size is below capacity.

R277-472-4. School District School Capacity Information.

A. School districts shall provide and post the following information to facilitate transfer of students on school district or school websites:

(1) Elementary schools within the school district that are below capacity and available for transfer students;

(2) Grade levels and special programs within elementary schools that are below capacity and available for transfer students;

(3) Secondary schools that are below capacity and available for transfer students based on calculated capacity of language arts, science and mathematics; and

(4) Special programs within secondary schools that are below capacity and available for transfer students.

B. Below capacity standards for individual schools, grade levels, courses or programs do not apply if a school has documentation that the school community council in a public meeting has designated more than one-half of a school's school LAND trust annual allotment to reduce class size in a specific school, grade level, program or course.

R277-472-5. Application Procedures for Students Entering and Exiting Charter Schools.

A. Each charter school shall post on its website information and procedures required under Subsection 53G-6-503(2).

B. Each charter school shall develop and post admissions procedures for the charter school including:

(1) Lottery dates and procedures;

(2) Admission forms;

(3) School calendar;

(4) Non-discrimination assurances;

(5) A clear explanation, including timelines required in the law and provided in individual charter school policies, of student transfer procedures from a charter school to another charter

school or to a district school;

(6) A readily accessible transfer form; and

(7) Assurance and parent signature that student has been admitted to only one public school.

R277-472-6. Enrollment of Transferring Charter School Students in District Schools.

A. A school district shall enroll as soon as possible, but no later than two weeks after specific formal parental request, a student who is a resident of a school district, who desires to transfer from a charter school to the resident school after June 30 and who submits enrollment information consistent with all school district students in a district school that is below capacity.

B. Schools may limit students who are transferring from a charter school to a district school after June 30 for the upcoming school year to schools, grade levels, programs and courses that have space available or are below capacity at the district schools.

C. A school district shall not require enrollment procedures or forms from students moving from a charter school to a district school that differ in any way from enrollment procedures/forms required for district students if the charter school students are leaving a charter school after the final grade level offered by the charter school.

D. Parents/Students who are enrolled at charter schools and are seeking enrollment at district schools should check with the school district office (or school principal if designated by the school district) for official current capacity information about schools, grade levels, programs or courses before leaving a charter school and forfeiting a charter school enrollment right.

E. If a school changes the location of services for a student with disabilities, the new location may only be considered a change of placement as determined by the student's IEP and consistent with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400, Part B.

F. Consistent with Subsection 53G-8-205(3), schools may deny enrollment to students in a public school if they have been expelled from another public school.

G. Schools may deny students' enrollment in a public school if they leave a public school with disciplinary procedures pending at the previous Utah public school until previous allegations have been resolved.

H. Charter schools and district schools shall notify each other of student enrollment consistent with Subsection 53G-6-503(4).

KEY: charter schools, students, transfers
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Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53G-6-503(2); 53E-3-401(4)

R277. Education, Administration.
R277-474. School Instruction and Sex Education.
R277-474-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsections 53G-10-402(1) and (3), which direct the Board to adopt rules to allow local boards to adopt sex education materials or programs as described in this Rule R277-474 and provide sex education instruction as provided in Section 53G-10-402; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

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

(a) requirements for LEAs and individual educators to select instructional materials about sex education and maturation;

(b) notice to parents of proposed sex education and maturation discussions and instruction; and

(c) direction to public education employees regarding instruction and discussion of maturation and sex education with students.

R277-474-2. Definitions.

(1) "Curriculum materials review committee" or "committee" means a curriculum materials review committee formed at the school district or charter school level as described in Section R277-474-5.

(2) "Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g" or "FERPA" means a federal law designed to protect the privacy of students' education records.

(3) "Sex education instruction or instructional programs" means any course, unit, class, activity or presentation that provides instruction or information to students as outlined under Section 53G-10-403(1)(b) about sexual abstinence, human sexuality, human reproduction, reproductive anatomy, physiology, pregnancy, marriage, childbirth, parenthood, contraception, or HIV/AIDS, other sexually transmitted diseases, and refusal skills.

(4) "Instructional materials commission" means the advisory commission authorized under Section 53E-4-402.

(5) "LEA" for purposes of this rule, includes the Utah Schools for the Deaf and the Blind.

(6) "Maturation education" means instruction and materials used to provide fifth or sixth grade students with age appropriate, medically accurate information regarding the physical and emotional changes associated with puberty, to assist in

protecting students from abuse and to promote hygiene and good health practices.

(7) "Medically accurate" means verified or supported by a body of research conducted in compliance with scientific methods and published in journals that have received peer-review, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the American Medical Association.

(8) "Parental notification form" means a form developed by the Superintendent and used exclusively by LEAs or public schools for parental notification of subject matter identified in this rule.

(9) "Professional development" means training in which Utah educators may participate to renew a license, receive information or training in a specific subject area, teach in another subject area or teach at another grade level.

(10) "Utah educator" means an individual such as an administrator, teacher, counselor, teacher's assistant, or coach, who is employed by a unit of the Utah public education system and who provides teaching or counseling to students.

(11) "Utah Professional Practices Advisory Commission or "UPPAC" means a Commission established under Section 53E-6-501 and designated to review allegations against educators and recommend action against educators' licenses to the Board.

R277-474-3. General Provisions.

(1) The following may not be taught in Utah public schools through the use of instructional materials, direct instruction, or online instruction:

(a) the intricacies of intercourse, sexual stimulation or erotic behavior;

(b) the advocacy of premarital or extramarital sexual activity; or

(c) the advocacy or encouragement of the use of contraceptive methods or devices.

(2) Educators are responsible to teach the values and information identified under Subsection 53G-10-402(1)(b).

(3) Utah educators shall follow all provisions of federal and state law including the parental notification and prior written parental consent requirements described in Sections 76-7-322 and 76-7-323 when teaching any aspect of sex education.

(4) While sex education instruction and related topics are most likely to take place in such courses as health education, health occupations, human biology, physiology, parenting, adult roles, psychology, sociology, child development, and biology, this R277-474 applies to any course or class in which these topics are the focus of discussion.

R277-474-4. State Board of Education Responsibilities.

The Superintendent shall:

(1) develop and provide professional development and assistance with training for educators on law and rules specific to sex education instruction and related issues.

(2) develop, for Board approval, a parental notification form and timelines for use by LEAs.

(3) establish a review process for sex education instructional materials and programs using the instructional materials commission and requiring final Board approval of the instructional materials commission's recommendations.

(4) approve only medically accurate sex education instruction programs.

(5) receive and track parent and community complaints and comments received from LEAs related to sex education instructional materials and programs.

R277-474-5. LEA Responsibilities.

(1) An LEA shall require all newly hired or newly assigned Utah educators with responsibility for any aspect of sex education instruction to attend professional development outlining the sex education curriculum and the criteria for sex education instruction in any courses offered in the public education system.

(2) An LEA governing board shall provide training consistent with Subsection R277-474-5(1) at least once during every three years of employment for Utah educators.

(3) An LEA governing board shall form a curriculum materials review committee at the school district or charter school level as described in Subsection (4).

(4)(a) An LEA governing board shall annually appoint and review members of the LEA's curriculum materials review committee on or before August 1.

(b) An LEA's curriculum materials review committee shall include parents, health professionals, school health educators, and administrators, with at least as many parents as school employees.

(c) The members of an LEA's committee shall:

(i) meet on a regular basis, as determined by the membership;

(ii) select officers; and

(iii) comply with Title 52, Chapter 4, Open and Public Meetings Act.

(5) An LEA's curriculum materials review committee shall:

(a) be organized consistent with Subsection R277-474-2(1);

(b) designate a chair and procedures; and

(c) review and approve all guest speakers and guest

presenters and their respective materials relating to sex education instruction in any course and maturation education prior to their presentation.

(6) The committee may not authorize the use of any sex education instructional program or maturation education program not previously:

(a) approved by the Board;

(b) approved consistent with R277-474-6; or

(c) approved under Subsection 53G-10-402(1)(c)(ii).

(7) The district superintendent or charter school administrator shall report educators who willfully violate the provisions of this rule to the Utah Professional Practices Advisory Commission for investigation and possible discipline.

(8)(a) Students may not participate in sex education instruction, maturation education, or other instructional programs without prior affirmative parent consent, as evidenced by a completed parental notification form, on file.

(b) An LEA shall obtain parental consent from a student's parent using the common parental notification form or a form that satisfies all criteria of the law and Board rules and comply with timelines approved by the Board.

(9) The parental notification form shall:

(a) explain a parent's right to review proposed curriculum materials in a timely manner;

(b) request the parent's permission to instruct the parent's student in identified course material related to sex education or maturation education;

(c) allow the parent to exempt the parent's student from attendance for a class period where identified course material related to sex education instruction or maturation education is presented and discussed;

(d) be specific enough to give parents fair notice of topics to be covered;

(e) include a brief explanation of the topics and materials to be presented and provide a time, place and contact person for review of the identified curricular materials;

(f) be retained on file with affirmative parental consent for each student prior to the student's participation in discussion of issues protected under Section 53G-10-402; and

(g) be maintained at the student's school for a reasonable period of time.

(10) An LEA shall develop a logging and tracking system of parental and community complaints and comments resulting from student participation in sex education instruction, to include the disposition of the complaints, and provide that information to the Superintendent upon request.

(11) If a student is exempted from course material required

by the Board-approved Core Standards consistent with Section 53G-10-205(1), (2) and (3), the school shall:

(a) waive the participation requirement; or

(b) provide a reasonable alternative to the requirement.

R277-474-6. Local School Board or Charter School Governing Board Adoption of Sex Education and Maturation Education Instructional Materials.

(1) An LEA governing board may adopt the LEA's instructional materials if the instructional materials meet the requirements of Subsection 53G-10-402.

(2) Instructional materials adopted as described in Subsection (1) shall:

(a) comply with the criteria of Subsection 53G-10-402(1)(c)(iii) and:

(b) be medically accurate;

(c) be approved by a majority vote of the LEA governing board present at a public meeting of the LEA governing board;

(d) be available for reasonable review opportunities to residents of the school district or parents of charter school students prior to consideration for adoption; and

(e) comply with the county data review requirements as outlined in Subsection 53G-10-402(8).

(3) An LEA shall comply with the reporting requirements of Subsection 53G-10-402(1)(c)(iii)(D).

(4) A report to the Board shall include:

(a) a copy of sex education instructional materials or maturation education materials not approved by the Instructional Materials Commission that the local board or local charter board seeks to adopt;

(b) documentation of the materials' adoption in a public board meeting;

(c) documentation that the materials or program meets the medically accurate criteria as defined in Subsection R277-474-2(7);

(d) documentation of the recommendation of the materials by the committee; and

(e) a statement of the local board's or local charter board's rationale for selecting materials not approved by the instructional materials commission.

(5) An LEA governing board's adoption process for sex education instructional materials and maturation education materials shall include a process for annual review of the LEA governing board's decision.

R277-474-7. Utah Educator Responsibilities.

(1) Utah educators shall participate in training provided

under Subsections R277-474-5(1) and (2).

(2) Utah educators shall use the common parental notification form or a form approved by the educator's LEA, and follow timelines approved by the Board.

(3) Utah educators shall individually record parent and community complaints, comments, and the educators' responses regarding sex education instructional programs.

(4) Utah educators may respond to spontaneous student questions for the purposes of providing accurate data or correcting inaccurate or misleading information or comments made by students in class regarding sex education.

KEY: health education, sex education, schools
Date of Enactment or Last Substantive Amendment: November 7, 2018
Notice of Continuation: September 13, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-10-402(1) and (3); 53E-3-401(4)

R277. Education, Administration.
R277-475. Patriotic, Civic and Character Education.
R277-475-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

C. "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

D. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

E. "Patriotic" means having love of and dedication to one's country.

F. "Patriotic education" means the educational and systematic process to help students identify, acquire, and act upon a dedication to one's country.

R277-475-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board, by Section 53G-10-304, which directs the Board to provide a rule for a program of instruction within the public schools relating to the flag of the United States, and by Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide direction for patriotic education programs in the public schools.

R277-475-3. Patriotic Education.

An LEA shall teach patriotic education in the social studies curricula of kindergarten through grade twelve. All educators shall have responsibility for patriotic, civic and character education taught in an integrated school curriculum and in the regular course of school work.

R277-475-4. School Responsibilities and Required Instruction.

A. Patriotic, civic and character education programs shall meet the requirements of Sections 53G-10-302, 53G-10-304, and 53G-10-204.

B. An LEA shall teach students the history of the flag, etiquette, customs pertaining to the display and use of the flag, and other patriotic exercises consistent with Subsection 53G-10-304(2).

C. The school shall provide the setting and opportunities to teach by example and role modeling patriotic values associated with the flag of the United States.

D. The USOE shall, under the direction of the Board, provide guidelines for both elementary age students and secondary students about the flag and patriotic exercises.

E. Instruction in United States history and government shall include:

(1) a study of forms of government including:

(a) a republic;

(b) a pure democracy;

(c) a monarchy; and

(d) an oligarchy.

(2) political philosophies and economic systems including:

(a) socialism;

(b) individualism; and

(c) free market capitalism.

(3) the United States' form of government, a compound constitutional republic.

R277-475-5. Requirements.

A. Education about the flag and the Pledge of Allegiance to the Flag shall be taught and modeled following the plan of the social studies Core Curriculum in grades kindergarten through six.

B. The Pledge of Allegiance to the Flag shall be recited by students at the beginning of each school day in each public school classroom in the state, consistent with Subsection 53G-10-304(3).

C. At least once a year students shall be instructed that:

(1) participation in the Pledge of Allegiance is voluntary and not compulsory;

(2) it is acceptable for an individual to choose not to participate in the Pledge of Allegiance for religious or other reasons; and

(3) students should show respect for individuals who participate and individuals who choose not to participate.

D. A public school teacher shall strive to maintain an atmosphere among students in the classroom that is consistent with the principles described in R277-475-5C.

R277-475-6. Parental Responsibilities.

A. An LEA shall adequately notify students and parents of lawful exemptions to the requirement to participate in reciting the Pledge.

B. A school may require an annual written request from a student's parent or legal guardian if a student or the student's parent or legal guardian requests that the student be excused from reciting the Pledge.

R277-475-7. Civic Engagement.

A. A public school shall display IN GOD WE TRUST, the national motto of the United States, in one or more prominent places in each school building, consistent with Subsection 53G-10-302(6).

B. Civic and character education shall be achieved through an integrated school curriculum and in the regular course of school work.

C. Instruction in United States history and government shall be taught consistent with the Utah social studies core curriculum and Section 53G-10-302.

D. An LEA shall make information about the flag, respect for the flag and civility toward all during patriotic activities available on the LEA's website.

R277-475-8. Reporting Requirements.

A. The Board shall submit a report to the Education Interim Committee consistent with Subsection 53G-10-204(7).

B. Each school district and the State Charter School Board shall submit a report to the Lieutenant Governor and the Commission on Civic and Character Education consistent with Subsection 53G-10-204(6).

KEY: curricula, patriotic education, civic education, character education
Date of Enactment or Last Substantive Amendment: June 8, 2015
Notice of Continuation: September 11, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-10-304; 53E-3-401(4)

R277. Education, Administration.
R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program.
R277-477-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53F-2-404(2)(d), which allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) In accordance with Section 53D-2-202, through representation on the Land Trusts Protection and Advocacy Committee, the Board exercises trust oversight of:

(a) the Common School Trust;

(b) the School for the Deaf Trust; and

(c) the School for the Blind Trust.

(3) The Board implements the School LAND Trust Program and provides oversight, support, and training for school community councils and Charter Trust Land Councils consistent with Subsection 53G-7-1206(2), Rule R277-491, and this Rule R277-477.

(4) The purpose of this rule is to:

(a) provide financial resources to a public school to implement a component of a school's Teacher and Student Success Plan in order to enhance and improve student academic achievement;

(b) provide a means to involve a parent of a school's student in decision-making regarding the expenditure of School LAND Trust Program funds allocated to the school;

(c) provide direction in the distribution of funds from the Trust Distribution Account, as funded in Section 53F-2-404;

(d) provide for appropriate and adequate oversight of the expenditure and use of funds by a designated local board of education, an approving entity, and the Board;

(e) provide for proper allocation of funds as stated in Section 53F-2-404, and the appropriate and timely distribution of the funds;

(f) enforce compliance with statutory and rule requirements, including the responsibility for a school community council to notify school community members regarding the use of funds; and

(g) define the roles, duties, and responsibilities of the Superintendent with regards to the School Children's Trust.

R277-477-2. Definitions.

(1) "Approving entity" means an LEA governing board,

university, or other legally authorized entity that may approve or reject a plan for a district or charter school.

(2)(a) "Charter trust land council" means a council comprised of a two person majority of elected parents of students attending the charter school convened to act in lieu of the school community council for the charter school.

(b) "Charter trust land council" includes a charter school governing board if:

(i) the charter governing board meets the two-parent majority requirement; and

(ii) the charter school governing board chooses to serve as the charter trust land council.

(3) "Council" means a school community council or a charter trust land council.

(4) "Digital citizenship" means the same as that term is defined in Section 53G-7-1202.

(5) "Fall enrollment report" means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report of the previous year.

(6) "Funds" means School LAND Trust program funding as defined in Section 53F-2-404.

(7) "Most critical academic need" means an academic need identified in a school's Teacher and Student Success Plan.

(8) "Parent," for a charter school, includes a grandparent of a student currently enrolled at the school.

(9)(a) "Principal" means an administrator licensed as a principal in the state and employed in that capacity at a school.

(b) "Principal" includes the director of a charter school.

(10) "Satellite charter school" has the same meaning as that term is defined in Section R277-482-2.

(11) "School safety principles" has the same meaning as described in Section 53G-7-1202.

(12) "Student" means a child in public school grades kindergarten through 12 counted on the fall enrollment report of an LEA.

(13) "Trust Distribution Account" means the restricted account within the Uniform School Fund created under Subsection 53F-9-201(2).

R277-477-3. Distribution of Funds - Local Board or Local Charter Board Approval of School LAND Trust Plans.

(1) A public school receiving School LAND Trust Program funds shall have:

(a) a school community council as required by Section 53G-7-1202 and Rule R277-491;

(b) a charter school trust land council as required by Section 53G-7-1205; or

(c) an approved exemption under this rule.

(2) A public school receiving School LAND Trust Program funds shall submit a principal assurance form, as described in Section R277-491-4 and Subsection 53G-7-1206(3)(c), prior to the public school receiving a distribution of School LAND Trust Program funds.

(3) A charter school that elects to receive School LAND Trust funds shall:

(a) have a charter trust land council;

(b) be subject to Section 53G-7-1203 if the charter trust land council is not a charter school governing board; and

(c) receive training about Section 53G-7-1206.

(4) A charter school that is a small or special school may receive an exemption from the charter land trust council composition requirements contained in Subsection 53G-7-1205(9) upon application to the school's authorizer if the small or special school demonstrates and documents a good faith effort to recruit members to the charter trust land council.

(5) The principal of a charter school that elects to receive School LAND Trust funds shall submit a plan, approved by the school's governing board, to the School Children's Trust Section on the School LAND Trust website:

(a) no later than April 1; or

(b) for a newly opening charter school, no later than November 1 in the school's first year in order to receive funding in the year the newly opening charter school opens.

(6)(a) An approving entity:

(i) shall consider a plan annually; and

(ii) may approve or disapprove a school plan.

(b) If an approving entity does not approve a plan, the approving entity shall:

(i) provide a written explanation why the approving entity did not approve the plan; and

(ii) request that the school revise the plan, consistent with Subsection 53G-7-1206(4)(d).

(7)(a) To receive funds, the principal of a public school shall submit a School LAND Trust plan to the School Children's Trust Section annually through the School LAND Trust website using the form provided.

(b) The Board may grant an exemption from a school using the Superintendent-provided form, described in Subsection (7)(a), on a case-by-case basis.

(8) In addition to the requirements of Subsection (6), the School LAND Trust plan described in Subsection (7)(a) shall include the date the council voted to approve the plan.

(9)(a) The principal of a school shall ensure that a council member has an opportunity to provide a signature indicating the

member's involvement in implementing the current School LAND Trust plan and developing the school plan for the upcoming year.

(b) The principal shall collect a council member's signature, as described in Subsection (9)(a), digitally or through a paper form created by the Membership Form on the website and uploaded to the database.

(c) An LEA or district school, upon the permission of the LEA's governing board, may design the LEA or district school's own form to collect the information required by this Subsection (9).

(10)(a) An approving entity for a school district shall establish a timeline, including a deadline, for a school to submit a school's School LAND Trust plan.

(b) A timeline described in Subsection (10)(a) shall:

(i) require a school's School LAND Trust plan to be submitted to the approving entity with sufficient time so that the approving entity may approve the school's School LAND Trust plan no later than May 15 of each year; and

(ii) allow sufficient time for a council to reconsider and amend the council's School LAND Trust plan if the approving entity rejects the school's plan and still allow the school to meet the May 15 approving entity's approval deadline.

(c) After an approving entity has completed the approving entity's review, the approving entity shall notify the School Children's Trust Section that the review is complete.

(11)(a) Prior to approving a plan, an approving entity shall review a School LAND Trust plan under the approving entity's purview to confirm that a School LAND Trust plan contains:

(i) academic goals;

(ii) specific steps to meet the academic goals described in Subsection (11)(a)(i);

(iii) measurements to assess improvement; and

(iv) specific expenditures focused on student academic improvement needed to implement plan goals.

(b) The approving entity shall determine whether a School LAND Trust plan is consistent with the approving entity's pedagogy, programs, and curriculum.

(c) Prior to approving a School LAND Trust plan, the president or chair of the approving entity shall provide training annually on the requirements of Section 53G-7-1206 to the members of the approving entity.

(12)(a) After receiving the notice described in Subsection (10)(c), the School Children's Trust Section shall review each School LAND Trust plan for compliance with the law governing School LAND Trust plans.

(b) The School Children's Trust Section shall report back to the approving entity concerning which School LAND Trust plans were found to be out of compliance with the law.

(c) An approving entity shall ensure that a School LAND Trust plan that is found to be out of compliance with the law by the School Children's Trust Section is amended or revised by the council to bring the school's School LAND Trust plan into compliance with the law.

(13) If an approving entity fails to comply with Subsection (12)(c), the Superintendent may report the failure to the Audit Committee of the Board as described in Section R277-477-9.

R277-477-4. Appropriate Use of School LAND Trust Program Funds.

(1) Parents, teachers, and the principal, in collaboration with an approving entity, shall review school-wide assessment data annually and use School LAND Trust Program funds in data-driven and evidence-based ways to improve educational outcomes, including:

(a) strategies that are measurable and show academic outcomes with multi-tiered systems of support; and

(b) counselors and educators working with students and families on academic and behavioral issues when a direct impact on academic achievement can be measured.

(2) School LAND Trust Program expenditures are required to have a direct impact on the instruction of students in the particular school's areas of most critical academic need.

(3) A school may not use School LAND Trust Program funds for the following:

(a) to cover the fixed costs of doing business;

(b) for construction, maintenance, facilities, overhead, security, or athletics; or

(c) to pay for non-academic in-school, co-curricular, or extracurricular activities.

(4) A school district or local school board may not require a council or school to spend the school's School LAND Trust Program funds on a specific use or set of uses.

(5)(a) A council may budget and spend no more than $7,000 for in-school civic and character education, including student leadership skills training, digital citizenship training, and implementing school safety principles.

(b) A school may designate School LAND Trust Program funds to implement school safety principles or for an in-school civic or character education program or activity only if the plan clearly describes how the program or activity has a direct impact of the instruction of students in a school's areas of most critical academic need.

(6) Notwithstanding other provisions in this rule, a school may use funds as needed to implement a student's Individualized Education Plan.

(7) Student incentives implemented as part of an academic

goal in the School LAND Trust Program may not exceed $2 per awarded student in an academic school year.

R277-477-5. Distribution of Funds - Determination of Proportionate Share.

(1)(a) A local school board or charter school governing board shall report the prior year expenditure of distributions for each school.

(b) The total expenditures each year described in Subsection (1)(a) may not be greater than the total available funds for any school or school district.

(c) A school district shall adjust the current year distribution of funds received from the School LAND Trust Program as described in Section 53F-2-404, as necessary to maintain an equal per student distribution within a school district based on school openings and closings, boundary changes, and other enrollment changes occurring after the fall enrollment report.

(2) A charter school and each of the charter school's satellite charter schools are a single LEA for purposes of public school funding.

(3)(a) For purposes of this Subsection (3) and Subsection (4), "qualifying charter school" means a charter school that:

(i) would receive more funds from a per pupil distribution than the charter school receives from the base payment described in Subsection (3)(c); and

(ii) is not a newly opening charter school as described in Subsection (4).

(b) The Superintendent shall distribute the funds allocated to charter schools as described in this Subsection (3).

(c) The Superintendent shall first distribute a base payment to each charter school that is equal to the product of:

(i) an amount equal to the total funds available for all charter schools; and

(ii) at least 0.4%.

(d) After the Superintendent distributes the amount described in Subsection (3)(c), the Superintendent shall distribute the remaining funds to qualifying charter schools on a per pupil basis.

(4)(a) The Superintendent shall distribute an amount of funds to a newly opening charter school that is equal to the greater of:

(i) the base payment described in Subsection (2)(c); or

(ii) a per pupil amount based on the newly opened charter school's projected October 1 enrollment count.

(b) The Superintendent shall increase or decrease a newly opening charter school's first year distribution of funds in the school's second year to reflect the newly opening charter school's

actual first year October 1 enrollment.

(5) If a school chooses not to apply for funds or does not meet the requirements for receiving funds, the Superintendent shall deposit the unused balance in the Trust Distribution Account.

R277-477-6. School LAND Trust Program - Implementation of Plans and Required Reporting.

(1) A school shall implement a plan as approved.

(2)(a) The principal shall submit a plan amendment authorized by Subsection 53G-7-1206(4)(d)(iii) through the School LAND Trust website for approval, including the date the council approved the amendment and the number of votes for, against, and absent.

(b) The approving entity shall:

(i) consider the amendment for approval; and

(ii) approve an amendment before the school uses funds according to the amendment.

(c) The School Children's Trust Section shall review an amendment for compliance with statute and rule before the school uses funds according to the amendment.

(3)(a) A school shall provide an explanation for any carryover that exceeds one-tenth of the school's allocation in a given year in the School LAND Trust Plan or final report.

(b) The Superintendent shall recommend a district or school with a consistently large carryover balance over multiple years for corrective action for not making adequate and appropriate progress on an approved plan.

(c) The Superintendent may take corrective action to remedy excessive carryover balances consistent with Rule R277-114.

(4) By approving a plan on the School LAND Trust website, the approving entity affirms that:

(a) the entity has reviewed the plan; and

(b) the plan meets the requirements of statute and rule.

(5)(a) A district or charter school business official shall enter prior year audited expenditures by specific category on the School LAND Trust website on or before October 1.

(b) The expenditure data shall appear in the final report submitted online by a principal, as required by Subsection 53G-7-1206(5)(b).

(6) A principal shall submit a final report on the School LAND Trust website by October 20 annually.

R277-477-7. School LAND Trust Program - School Children's Trust Section to Review Compliance.

(1)(a) The School Children's Trust Section shall review each school's final report for consistency with the approved school

plan.

(b) The School Children's Trust Section shall create a list of all schools whose final reports indicate that funds from the School LAND Trust Program were expended inconsistent with the statute, rule, or the school's approved plan.

(c) The School Children's Trust Section shall annually report a school described in Subsection (1)(b) to the school district contact person, district superintendent, and president of the local board of education or charter board, as applicable.

(2) The School Children's Trust Section may visit a school receiving funds from the School LAND Trust Program to discuss the program, receive information and suggestions, provide training, and answer questions.

(3)(a) The Superintendent shall supervise annual compliance reviews to review expenditure of funds consistent with the approved plan, allowable expenses, and the law.

(b) The Superintendent shall report annually to the Board Audit Committee on compliance review findings and other compliance issues.

R277-477-8. Superintendent Responsibilities.

The Superintendent shall:

(1) represent the Board on the Land Trusts Protection and Advocacy Committee in accordance with Section 53D-2-202;

(2) review and approve a charter school plan on behalf of the State Charter School Board;

(3) provide notice as necessary to the State Charter School Board of changes required of charter schools for compliance with statute and rule;

(4) review and approve a plan submitted by the USDB school community council as necessary;

(5) prepare the annual distribution of funds to implement the School LAND Trust Program pursuant to Section 53F-2-404;

(6) report the total distribution amount for the following fiscal year to the Legislative Fiscal Analyst before December 31 annually;

(7) provide training to entities involved with the School LAND Trust Program consistent with Subsection 53G-7-1206(8); and

(8) implement corrective action, if appropriate, consistent with Rule R277-114 if an LEA or its council fails to comply with the provisions of this rule.

KEY: schools, school community councils, trust lands funds
Date of Enactment or Last Substantive Amendment: August 19, 2019
Notice of Continuation: August 13, 2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-16-101.5(4); 53A-1-401

R277. Education, Administration.
R277-479. Funding for Charter School Students With Disabilities on an IEP.
R277-479-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Constitution and state law;

(c) Subsection 53E-3-501(1)(c)(vi)(A), which directs the Board to adopt rules regarding services for persons with disabilities; and

(d) Section 53E-7-202, which directs the Board to set standards for state funds appropriated for students with disabilities.

(2) The purpose of this rule is to specify standards and procedures for funding of charter school students with disabilities on an IEP.

R277-479-2. Definitions.

(1) "Base" means prior year special education add-on WPU.

(2) "Charter school" means a school authorized by a charter school authorizer under:

(a) Section 53G-5-305;

(b) Section 53G-5-306; or

(c) Section 53G-5-304.

(3) "Charter school authorizer" or "authorizer" has the same meaning as that term is defined in Subsection 53G-5-102(4).

(4) "Estimated enrollment" means a charter school's projected student enrollment in the school's first year of operation as approved by the Superintendent.

(5) "Foundation" means the average of self-contained and resource special education students average daily membership over the previous five years.

(6) "Negative growth adjustment" means prior year special education add-on WPU minus weighted negative growth.

(7) "New charter school" means a charter school with less than five years of operation.

(8) "Positive growth adjustment" means prior year special education add-on WPU plus weighted growth.

(9) "Prevalence rate" means the percentage of students with disabilities within the total student enrollment.

(10) "Previous five years" means the five year span between the seventh and second prior fiscal year.

(11) "Significant expansion" means a substantial increase in

the number of students attending a charter school due to a significant event, such as the addition of new grade levels or additions of sites, that is unlikely to occur on a regular basis.

(12) "Special education" means specially designed instruction and related services to meet the unique needs of a student with a disability in accordance with R277-750.

(13) "State Charter School Board" or "SCSB" means the charter school authorizer created in accordance with Section 53G-5-201.

(14) "Student with a disability" means a student, evaluated in accordance with Utah State Board of Education Special Education Rules, and determined to be eligible for special education and related services.

(15) "Total enrollment" means the total number of all students enrolled in all campuses of a school as of the October 1 UTREx update.

(14) "Utah eTranscript and Record Exchange" or "UTREx" means a system that allows:

(a) individual detailed student records to be exchanged electronically among public education LEAs and the Superintendent; and

(b) electronic transcripts to be sent to any post-secondary institution that participates in the e-transcript service.

R277-479-3. Charter School Special Education Add-On Funding.

(1) For existing charter schools, the Superintendent shall calculate the foundation based on the average ADM of students with disabilities for the previous five years.

(2)(a) For new charter schools, the Superintendent shall calculate the foundation based on the average special education ADM for the number of years the new charter school has been in operation beyond the first year.

(b) In its first operational year, a new charter school shall receive special education funding based on estimated enrollment.

(c) Unless a new charter school identifies a purpose and target population in its application focusing on students with disabilities, the estimate of students with disabilities for a new charter school shall be 10 percent of the estimated enrollment.

(3) The foundation is the minimum amount a charter school may receive for special education-add on funding.

(4)(a) The Superintendent shall apply a positive growth adjustment to a charter school's foundation for weighted growth.

(b) Weighted growth is determined by comparing special education ADM and total ADM from the third and second prior fiscal years.

(c) The rate of growth in special education ADM may not

exceed the rate of growth in total ADM.

(d) The Superintendent shall multiply positive weighted growth by a factor of 1.53 and add the result to a charter school's foundation.

(e) The Superintendent may not impose a funding cap based on the charter prevalence rate because a charter school is designed and authorized specifically to serve students with disabilities.

(f) When there is no growth, either because a charter school is new or because the same number of students are enrolled, the Superintendent may not apply a positive growth adjustment.

(5)(a) The Superintendent shall apply a negative growth adjustment to a charter school's base for decline in special education ADM.

(b) The negative growth adjustment is the base multiplied by the percentage of enrollment decline.

(c) The Superintendent shall subtract the result calculated under Subsection (5)(b) from the base to determine WPU.

(d) When there is no decline in a charter school's enrollment of students with disabilities, either because the charter school is new or because the same number of students are enrolled, the Superintendent may not apply a negative growth adjustment to the charter school's allotment.

(e) If a negative growth adjustment brings the WPU below the foundation, the charter school shall receive the foundation WPU.

(6)(a) If an authorizer approves a significant expansion for a charter school, during the first and second years of expansion, the Superintendent shall apply an additional funding adjustment after the entire add-on WPU formula is calculated.

(b) After the first and second years of a charter school's expansion, the special education formula provided in this R277-479-3 shall account for the expansion.

(c) The Superintendent shall calculate a significant expansion adjustment by estimating the number of students with disabilities who will enroll as part of the expansion, and providing funding for these anticipated students.

(d)(i) The Superintendent shall base the estimate under Subsection (6)(c) on a projected expansion adjustment calculated by the Superintendent accounting for expansion information provided by a charter school's authorizer.

(ii) The Superintendent shall multiply the projection by the prevalence rate of students with disabilities for the charter school for the most recent year calculated in the add-on formula.

(iii) The Superintendent shall allocate the resulting significant expansion adjustment WPU as an expansion supplement to the charter school's add-on WPU.

KEY: charter schools, students with disabilities

Date of Enactment or Last Substantive Amendment: August 7, 2017
Notice of Continuation: March 15, 2017
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-501(1)(c)(vi)(A); 53E-7-202; 53E-3-401(4)

R277. Education, Administration.
R277-480. Charter School Revolving Account.
R277-480-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-9-203(2)(b), which requires the Board to administer the Charter School Revolving Account.

(2) The purpose of this rule is to:

(a) establish procedures for administering the Charter School Revolving Account;

(b) determine membership of the Charter School Revolving Account Committee; and

(c) determine loan amounts and loan repayment conditions.

R277-480-2. Definitions.

(1) "Charter school" means a public school created in accordance with the provisions of Title 53G, Chapter 5, Charter Schools.

(2) "Charter School Revolving Account" means a restricted account created within the Uniform School fund to provide assistance to charter schools to:

(a) meet school building construction and renovation needs; and

(b) pay for expenses related to the start up of a new charter school or the expansion of an existing charter school.

(3) "Charter School Revolving Account Committee" means the committee established by the Board under Subsection 53F-9-203(6).

(4) "Executive Director" means the Executive Directors of the State Charter School Board or the Executive Director's designee.

(4)(a) "Urgent facility need" means an unexpected exigency at a charter school that is entitled to priority under Subsection 53F-9-203(5) because it affects the health and safety of students.

(b) An "urgent facility need" may include:

(i) an unforeseen condition that precludes a school's qualification for an occupancy permit; or

(ii) an unforeseen circumstance that keeps the school from satisfying provisions of public safety, public health, or public school laws or Board rules.

R277-480-3. Charter School Revolving Account Committee.

(1) The Board shall establish a Charter School Revolving

Account Committee in accordance with Subsection 53F-9-203(6).

(2) The State Charter School Board shall submit a list of at least three nominees per vacancy who meet the requirements of Subsection 53F-9-203(6)(b) for appointment by the Board consistent with timelines established by the Board.

(3) The Board shall annually accept nominations of individuals provided by the State Charter School Board who meet the qualifications of Subsection 53F-9-203(6)(b).

(4) The Board may only select Charter School Revolving Account Committee members who satisfy conditions of Subsection 53F-9-203(6).

(5) Charter School Revolving Account Committee members shall serve two year terms.

(6) The Executive Director shall be a non-voting Charter School Revolving Account Committee member.

R277-480-4. Charter School Revolving Account Application and Conditions.

(1) The Charter School Revolving Account Committee shall develop a loan application that is consistent with Section 53F-9-203, including criteria for urgent facility needs.

(2) The Charter School Revolving Account Committee may request any criteria or information from an applicant that the committee finds necessary and helpful in making final recommendations to the State Charter School Board and the Board.

(3)(a) The Charter School Revolving Account Committee shall accept applications for loans annually by April 30, subject to eligibility criteria and availability of funds.

(b) If the Charter School Revolving Account Committee does not distribute all available funds during its initial application process, the committee may set deadlines to review additional applications.

(4) To apply for a loan, a charter school shall submit the information requested on the Board's most current loan application form together with the requested supporting documentation.

(5) A charter school's application shall include a resolution from the governing board of the charter school that the governing board, at a minimum:

(a) agrees to enter into the loan as provided in the application materials;

(b) agrees to the interest established by the Charter School Revolving Account Committee and repayment schedule of the loan designated by the Charter School Revolving Account Committee and the Board;

(c) agrees that loan funds shall only be used consistent with the purposes of Section 53F-9-203 and the approved charter;

(d) agrees to any and all inspections, audits or financial

reviews ordered by the Charter School Revolving Account Committee or the Board; and

(e) agrees to all terms required for the loan by the State Division of Finance, including:

(i) servicing by the State Division of Finance;

(ii) payment of an annual servicing fee;

(iii) agreement to execute an electronic funds transfer agreement for monthly payments by the school; and

(iv) in the case of default, agreement to terms established by the State Division of Finance for collection.

(6) The Charter School Revolving Account Committee shall establish terms and conditions for loan repayment, consistent with Section 53F-9-203. Terms shall include:

(7) The terms established under Subsection (6) shall include a tiered schedule of loan fund distribution as follows:

(a) 50 percent (up to $150,000) disbursed no more than 12 months prior to August 15 in the school's first year of operations;

(b) 25 percent (up to $75,000) disbursed no more than six months prior to August 15 in the school's first year of operation;

(c) the balance of loan funds disbursed no more than three months prior to August 15 in the school's first year of operations.

(8) The loan amount to a charter school board awarded under Section 53F-9-203 may not exceed:

(a) $1,000 per pupil based on the most recent October 1 enrollment count for operational schools; or

(b) $1,000 per pupil based on approved enrollment capacity of the first year of operation for pre-operational schools; or

(c) $300,000 of the total of all current loan awards by the Board to a charter school board.

R277-480-5. Charter School Revolving Account Committee Recommendations and Board Approval.

(1) The Charter School Revolving Account Committee shall make recommendations to the State Charter School Board and the Board only upon receipt of complete and satisfactory information from the applicant and upon a majority recommendation from the Charter School Revolving Account Committee.

(2) The submission of intentionally false, incomplete or inaccurate information from a loan applicant may result in:

(a) immediate cancellation of any previous loan;

(b) the requirement for immediate repayment of any funds received;

(c) denial of subsequent applications for a 12 month period from the date of the initial application; and

(d) a recommendation to a school's authorizer to consider

revocation of the school's charter.

(3) The Superintendent and Executive Director shall review recommendations from the Charter School Revolving Account Committee.

(4) The Charter School Revolving Account Committee shall submit recommendations for loan funding to the State Charter School Board for review.

(5) The State Charter School Board shall submit final recommendations to the Board no more than 90 days after submission of all information and materials from the loan applicant to the Charter School Revolving Account Committee.

(6) Either the State Charter School Board or the Board may request additional information from loan applicants or a reconsideration of a recommendation by the Charter School Revolving Account Committee.

(7) The Board's approval or denial of a loan application constitutes the final administrative action in the charter school building revolving loan process.

KEY: charter schools, revolving account
Date of Enactment or Last Substantive Amendment: July 2, 2019
Notice of Continuation: May 13, 2019
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53F-9-203(2)(b); 53E-3-401(4)

R277. Education, Administration.
R277-483. LEA Reporting and Accounting Requirements.
R277-483-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-5-202, which directs the Board to adopt rules to implement a statewide accountability system; and

(d) the federal ESSA, which requires states to revise and redesign school accountability systems.

(2) The purpose of this rule is to establish reporting and accounting requirements for LEAs to enable the Board to comply with ESSA.

R277-483-2. Definitions.

(1) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(2) "N-size" means the minimum size necessary to disclose or display data to ensure maximum student group visibility while protecting student privacy.

R277-483-3. Reporting of School Level Expenditures.

(1) In accordance with ESSA, the Superintendent shall make public required expenditure reporting elements, including school level expenditures.

(a) The Superintendent shall calculate school level expenditures for all schools, by LEA.

(b) The Superintendent shall calculate expenditures for the prior fiscal year.

(2) The Superintendent's school level report for each school shall include:

(a) average daily membership for the fiscal year covered by the report;

(b) an indicator if the school is:

(i) a Title I School; or

(ii) a Necessarily Existent Small School;

(c) grade levels served by each school;

(d) student demographics;

(e) expenditures recorded at the school level and central expenditures allocated to each school by:

(i) federal program expenditures; and

(ii) state and local combined expenditures;

(f) calculated per pupil expenditures; and

(g) average teacher salary.

(3) The Superintendent shall exclude the following expenditures from per pupil school expenditure calculations and present them in total for each LEA:

(a) capital acquisitions;

(b) debt service; and

(c) internal service funds.

(4) The Superintendent may not report expenditure data for a school with an n-size of less than 10.

R277-483-4. LEA Accounting Requirements.

(1) Each LEA shall:

(a) record expenditures in compliance with the Board approved chart of accounts;

(b) record expenditures using school location codes that can be mapped to official school location codes used in Board system of record;

(c) record expenditures using approved district and school codes in the Board system of record;

(d) submit expenditures using location codes in the UPEFS system; and

(e) perform program accounting.

(2) Each LEA shall record and report the following expenditures for each school annually:

(a) salaries;

(b) benefits;

(c) supplies;

(d) contracted services; and

(e) equipment.

(3) If an LEA pays for contracted services that occur at the school level, the LEA shall record the payments to the contractors in the appropriate function and object codes established under Subsection (2) at the school level.

(4)(a) An LEA shall record centralized administrative costs to the administrative location code.

(b) The Superintendent shall allocate such costs to each school based on school enrollment.

(5)(a) An LEA shall report transportation costs by function at the LEA level.

(b) The Superintendent shall allocate transportation costs to individual school based on enrollment of each school.

(6)(a) An LEA shall report child nutrition costs by function at the LEA level.

(b) The Superintendent shall allocate child nutrition costs to individual school based on enrollment of each school.

(7) The Superintendent shall present one expenditure report for a school receiving more than one report card under Subsection

R277-497-4(8).

(8) If an LEA reports expenditures in programs, the LEA shall report the expenditures to one or more schools.

KEY: reporting, ESSA, accounting
Date of Enactment or Last Substantive Amendment: April 8, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401

R277. Education, Administration.
R277-484. Data Standards.
R277-484-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53A-1-401(8)(a), which allows the Board to take corrective action against an education entity that fails to comply with Board rules; and

(d) Subsection 53A-1-413(8), which requires the Board to ensure LEA inclusion of data in an LEA's Student Information System.

(2) The Superintendent is required to perform certain data collection related duties essential to the operation of statewide educational accountability and financial systems as mandated in state and federal law.

(3) The purpose of this rule is to support the operation of required educational accountability and financial systems by ensuring timely submission of data by LEAs.

R277-484-2. Definitions.

(1) "Annual Financial Report" means an account of LEA revenue and expenditures by source and fund sufficient to meet the reporting requirements specified in Subsections 53A-1-301(3)(d) and (e).

(2) "Annual Program Report" means an account of LEA revenue and expenditures by source and program sufficient to meet the reporting requirements specified in Subsections 53A-1-301(3)(d) and (e).

(3) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the same as that term is defined in Subsection R277-512(1)(a).

(4) "Data Warehouse" means the database of demographic information, course taking, and test results maintained by the USOE on all students enrolled in Utah schools.

(5) "EDEN" means the Education Data Exchange Network, the mechanism by which state education agencies are mandated to submit data to the U.S. Department of Education.

(6) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(7) "MSP" means Minimum School Program, the set of state supported K-12 public school funding programs.

(8) "Schools interoperability framework" or "SIF" means an

open global standard for seamless, real time data transfer and usage for Utah public schools.

(9) "Student achievement backpack" has the same meaning as that term is defined in Subsection 53A-1-413(1)(d).

(10) "Student information system" or "SIS" means a student data collection system used for Utah public schools.

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

(12) "Utah Student Record Store" has the same meaning as that term is defined in Subsection 53A-1-413(1)(e).

(13) "Year" means both the school year and the fiscal year for a Utah LEA, which runs from July 1 through June 30.

R277-484-3. Deadlines for Data Submission.

(1) An LEA shall submit student level data to the Board through UTREx.

(2) An LEA shall by 5:00 p.m. Mountain Standard Time on the date specified in Table 1 submit reports in the format specified by the Superintendent.

(3) If a deadline in Table 1 falls on a weekend or state holiday in a given year, an LEA shall submit the report on the next business day following the date specified in Table 1.

TABLE 1

Reporting Deadlines

Report	Deadline
Adult Education - Final Report - Prior Year	July 15
Adult Education - Final Audit Report - Prior Year	September 15
Annual Assurance Letter - R277-108	October 1
Annual Financial Report - Prior Year	October 1
Annual Program Report - Prior Year	October 1
Bus Driver Credentials Report - Current Year	December 15
Bus Inventory Report	July 15
CACTUS - Final Update - Current Year	June 29
CACTUS - Midyear Update - Current Year	November 15
Charter School Projections	September 15
Classified Personnel Report - Prior Year	July 15
Community Development and	

Renewal Agency Representative List February 28
Driver Education Report - Prior Year July 15
Emergency Preparedness Compliance Statement - Prior Year July 1
Emergency Response Plan - Prior Year July 1
Enrollment and Transfer Student Documentation Audit - Current Year November 1
ESEA Choice and Supplemental Services Report - Prior Year July 15
Financial Audit Report - Prior Year November 30
Fire Drill Compliance Statement - Prior Year July 1
Free and Reduced Price Lunch October 31 Enrollment Survey - Current Year November 15
Home Schooled Students Report - Prior Year July 15
Immunization Status Report (to Utah Department of Health) - Final June 15
Immunization Status Report - Current Year November 1
LEA Budget - Next Fiscal Year July 15
LEA Budget - Next Fiscal Year - Planned Truth in Taxation Process August 15
Membership Audit Report - Prior Year September 15
Negotiations Report - Current Year November 1
Other Emergency (Earthquake and School Violence) Drills Compliance Statement - Prior Year July 1
Pupil Transportation - Schedule A1 (Miles, Minutes, Students Report) - Current Year Projected November 1
Pupil Transportation Schedule B (Miscellaneous Expenditure Report) - Prior Year November 1
Pupil Transportation Statistics Year End Report- Prior Year July 15
Redevelopment Agency Taxing Entity Committee Representative List February 28
UTREx - Complete December 1 Update - Current Year December 10
UTREx - Complete October 1 Update - Current Year October 10
UTREx - Revised December 1 Update - Current Year - Significant Errors Identified by the Superintendent or LEA December 15
UTREx - Revised October 1 Update - Current Year Significant Errors Identified by the Superintendent or LEA October 15
UTREx - Final Comprehensive Update -

Prior Year	July 7

R277-484-4. Adjustments to Deadlines.

(1) An LEA may seek an extension of a deadline to ensure continuation of funding and provide more accurate information to allocation formulas by submitting a written request to the Superintendent no later than 24 hours before the specified deadline in Table 1.

(2) An extension request shall include:

(a) The reasons for the extension request;

(b) The signatures of the LEA business administrator and superintendent or director; and

(c) The date by which the LEA proposes to submit the report.

(3) If an LEA requests an extension under Subsection (1), the Superintendent may do any of the following after taking into consideration the pattern of LEA compliance with reporting deadlines and the urgency of the need for the data to be submitted:

(a) Approve the request and allow the MSP fund transfer process to continue; or

(b) Deny the request and stop the MSP fund transfer process; or

(c) Recommend corrective action to the Board in accordance with Rule R277-114.

(4) If, after receiving an extension, an LEA fails to submit the report by the designated date, the MSP fund transfer process shall be stopped and the procedures described in Section R277-484-7 shall apply.

(5) An extension shall apply only to the specific reports and dates for which an extension was requested.

(6) The Superintendent may not extend deadlines for the following reports:

(a) AFR;

(b) APR;

(c) Mid-year or Final CACTUS updates;

(d) a Financial Audit Report; or

(e) any UTREx updates.

R277-484-5. Official Data Source and Required LEA Compatibility.

(1) The Superintendent shall load operational data collections into the Data Warehouse as of the submission deadlines specified.

(2) The Data Warehouse shall be the sole official source of data for annual:

(a) school performance reports required under Section 53A-3-602.5;

(b) determination of state and federal accountability

reports; and

(c) submission of data files to the U.S. Department of Education via EDEN.

(3)(a) An LEA shall use an SIS approved by the Superintendent to ensure compatibility with Board data collection systems.

(b) The Superintendent shall maintain a list of approved student information systems.

(4) Prior to the Superintendent granting approval for an LEA to initiate or replace a student information system that was not previously approved, the LEA shall:

(a) send written request for approval to the Superintendent no later than November 15 of the year prior to the year the LEA proposes to use the SIS for production software;

(b) submit documentation to the Superintendent that the new or modified student information system is SIF certified;

(c) submit documentation to the Superintendent that an SIF agent can meet the UTREx specifications profile for Vertical Reporting Framework (VRF) and eTranscripts;

(d) ensure that a new student information system can generate valid data collection by submitting an actual file to the Superintendent for review;

(e) ensure that the new student information system can generate the Statewide Student Identifier (SSID) request file by submitting an actual file to the Superintendent for review.

(5)(a) The Superintendent shall review documentation and grant or deny an LEA submission under Subsection (4) within 30 calendar days.

(b) An approved replacement system shall run in parallel to a state-approved system for a period of at least three months and be able to generate duplicate reports to previously generated information.

(6) An LEA shall submit daily updates to the Board Clearinghouse using all School Interoperability Framework (SIF) objects defined in the UTREx Clearinghouse specification.

(7) An LEA shall electronically submit all public high school transcripts requested by a public education post-secondary school if the post-secondary school is capable of receiving transcripts through the electronic transcript service designated by the Superintendent.

(8) No later than June 30, 2017, an LEA shall ensure that data collected in the Utah Student Record Store for a Student Achievement Backpack is integrated into the LEA's SIS and is made available to a student's parent or guardian and an authorized LEA user in an easily accessible viewing format.

(9) Failure to comply with any of the requirements of this Section R277-484-5 may result in a recommendation for corrective

action in accordance with Rule R277-114.

R277-484-6. Adjustments to Summary Statistics Based on Compliance Audits.

(1) For the purpose of allocating MSP funds and projecting enrollment, the Superintendent may modify LEA level aggregate membership and fall enrollment counts on the basis of the values in the Membership and Enrollment audit reports, respectively, when an audit report review team agrees that an adjustment is warranted by the evidence of an audit.

(2) An audit report review team shall make a determination under Subsection (1) within 60 working days of the authorized audit report deadline.

(3) The Superintendent may only adjust values downward if an audit report is received after an authorized deadline.

R277-484-7. Financial Consequences of Failure to Submit Reports on Time.

(1) If an LEA fails to submit a report by its deadline as specified in Table 1, consistent with procedures outlined in R277-114, the Superintendent may recommend corrective action, including stopping the LEA's MSP funds transfer process, unless the LEA has obtained an extension of the deadline in accordance with the procedure described in Section R277-484-4.

(2) The Superintendent may recommend loss of up to 1.0 WPU from Kindergarten or Grades 1-12 programs, depending on the grade level and aggregate membership of the student, in the current year Mid Year Update for each student whose prior year immunization status was not accounted for in accordance with Utah Code 53A-11-301 as of June 15.

KEY: data standards, reports, deadlines
Date of Enactment or Last Substantive Amendment: August 7, 2017
Notice of Continuation: June 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-301(3)(d) and (e); 53A-1-401; 53A-1-401(8)(a); 53A-1-413(8)

R277. Education, Administration.
R277-485. Loss of Enrollment.
R277-485-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-2-207, which allows the Board to increase funds for a school district in order to avoid penalizing it for an excessive loss in student enrollment due to factors beyond its control.

(2) The purpose of this rule is to establish guidelines for funding under Section 53F-2-207.

R277-485-2. Definitions.

(1) "ADM" means average daily membership derived from end-of-year data.

(2) "Carryforward balance" means the unobligated amount of MSP basic program education funds from the previous fiscal year.

(3) "Historical Mean ADM" means the mean of the two highest ADMs in the three years preceding the prior year.

(4) "Local Effort" means the prior year sum of tax rates imposed by the local school board.

(5) "Lost ADM" means the difference between prior year ADM and Historical Mean ADM.

(6) "Mid-year update" means the annual Minimum School Program allocation report prepared by the Superintendent by January 1 annually.

(7) "Minimum School Program" or "MSP" means the state supported Minimum School Program as defined in Title 53F, Chapter 2.

(8) "Weighted Pupil Unit" or "WPU" means the unit of measure of factors that is computed in accordance with the MSP for the purpose of determining the costs of a program on a uniform basis for each district.

R277-485-3. Eligibility.

(1) A school district may receive funding under this rule if the district's lost ADM is at least four percent less than the district's historical mean ADM.

(2) A school district that seeks funding under this rule shall file a petition with the Superintendent no later than September 15 that demonstrates that a loss of enrollment occurred due to unpredictable factors beyond the district's control.

(3) The Superintendent shall refer a petition filed in accordance with Subsection (2) to the Finance Committee to review and make a recommendation to the Board.

(4) A charter school may not receive funding under this rule.

R277-485-4. Funding.

(1) The Superintendent shall allocate funding to an eligible district under Subsection R277-485-3(1) using the unencumbered MSP carryforward balance.

(2) The Superintendent may only award funds to a district under this rule after all other authorized uses of the carryforward balance have been carried out.

(3) The total amount of funds made available for distribution shall be equal to the lesser of:

(a) the sum of lost ADM in eligible districts multiplied by 25 percent of the current year value of the WPU; or

(b) 25 percent of the current unencumbered MSP carryforward balance.

(4) The Superintendent shall distribute available funds in proportion to lost ADM (90 percent) and prior year local effort (10 percent) among eligible districts.

(5) The Superintendent may not fund an eligible district if there are not any current year unencumbered MSP funds.

(6) The Superintendent shall distribute funds annually in one lump sum with the mid-year update of the current year MSP.

KEY: students, enrollment
Date of Enactment or Last Substantive Amendment: August 7, 2017
Notice of Continuation: June 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-207

R277. Education, Administration.
R277-486. Professional Staff Cost Program.
R277-486-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-2-305(2), which authorizes the Board to make a rule requiring a certain percentage of a LEA's professional staff to be licensed in the area the teacher teaches to receive full funding under the state statutory formula.

(2) The purpose of this rule is to outline the eligibility requirements for an LEA to receive WPUs for professional staff including the acceptable experience and training an LEA's staff should have.

R277-486-2. Definitions.

(1) "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file maintained on all licensed Utah educators that includes:

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history;

(e) professional development information; and

(f) a record of any disciplinary action taken against the educator.

(3) "FTE" means full time equivalent.

(2) "National Board certified educator" means an educator who has been certified by the National Board for Professional Teaching Standards (NBPTS).

(3) "Weighted Pupil Unit (WPU)" means the same as that term is defined in Subsection 53F-2-102(7).

R277-486-3. Eligibility to Receive WPUs for Professional Staff.

(1)(a) An LEA shall only receive WPUs in accordance with the formula provided in Subsection 53F-2-305(1)(a):

(i) for an educator who holds at least a bachelor's degree; and

(ii) to the extent an educator is qualified to work in the area the educator is assigned consistent with R277-520.

(b) A full time educator who is appropriately qualified in only 75% of the educator's assignments would count as 0.75 FTEs in the calculation of an LEA's WPU.

(c) An LEA shall have an appropriately qualified educator in

every assignment to receive full funding.

(2) An LEA may not receive WPUs for interns or paraprofessionals in any assignment.

R277-486-4. Acceptable Experience.

(1) Educator experience for purposes of this rule shall be measured in one-year increments.

(2) For purposes of the professional staff cost calculation, an educator shall be credited by the Superintendent with one year of experience for every school year in which the educator is employed:

(a) at least half-time (0.5 FTE) in a position that requires a Utah Educator License as described in R277-520; and

(b) in a public school in the State of Utah or in a regionally accredited:

(i) public school outside of the State of Utah;

(ii) private school; or

(iii) institution of higher education; or

(iv) regional service center.

(3) To obtain credit under Subsection (2), the LEA which employs the educator shall submit acceptable documentation verifying such experience to the Superintendent, including documentation of the school's or institution's regional accreditation.

(4) An educator who is employed in a prekindergarten position may not be counted for the purposes of determining an LEA's professional staff WPUS, unless the educator is or was employed in a special education position in an accredited school.

(5) None of the following experiences are considered acceptable for purposes of determining an educator's experience under this rule:

(a) unpaid volunteer service;

(b) paid consulting;

(c) employment in non-instructional or non-administrative positions in a school setting; or

(d) a school internship.

(6) The Superintendent may require an educator or LEA to provide documentation of an educator's experience in a private school, institution of higher education, or a regional service center to determine relevance of experience.

R277-486-5. Acceptable Training.

Acceptable training under this rule may include:

(1) Any degree at the bachelor's level or above or credit beyond the current degree from a regionally accredited institution of higher education.

(2) Any professional development activity consistent with

R277-500 and approved in writing by the Superintendent.

R277-486-6. Mapping Degree Summary Data to Statutory Formula.

(1) For purposes of inputting degree summary data, an LEA shall use the coding provided by the Superintendent in correspondence with the Professional Staff Cost formula table in Subsection 53F-2-305(1)(a):

(2) In addition to credit received for degree categories corresponding with the Professional Staff Cost formula table in Subsection 53F-2-305(1)(a), an LEA shall be credited for an individual with National Board certification at the doctorate level.

R277-486-7. Data Sources.

(1) For an LEA that was in operation in the prior year, data shall be used from the June 29th update of CACTUS as required by Section R277-484-3.

(2) For an LEA that was not in operation in the prior year, data shall be used from the November 15th update of CACTUS as required by Section R277-484-3.

KEY: professional staff
Date of Enactment or Last Substantive Amendment: April 8, 2019
Notice of Continuation: February 8, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-2-305(2); 53E-3-401(4)

R277. Education, Administration.
R277-487. Public School Data Confidentiality and Disclosure.
R277-487-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-9-302(1), which directs that the Board may make rules to establish student data protection standards for public education employees, student aides, and volunteers; and

(d) Subsection 53G-11-511(4), which directs that the Board may make rules to ensure the privacy and protection of individual evaluation data.

(2) The purpose of this rule is to:

(a) provide for appropriate review and disclosure of student performance data on state administered assessments as required by law;

(b) provide for adequate and appropriate review of student performance data on state administered assessments to professional education staff and parents of students;

(c) ensure the privacy of student performance data and personally identifiable student data, as directed by law;

(d) provide an online education survey conducted with public funds for Board review and approval; and

(e) provide for appropriate protection and maintenance of educator licensing data.

R277-487-2. Definitions.

(1) "Association" has the same meaning as that term is defined in Subsection 53G-7-1101(3).

(2) "Chief Privacy Officer" means a Board employee designated by the Board as primarily responsible to:

(a) oversee and carry out the responsibilities of this rule; and

(b) direct the development of materials and training about student and public education employee privacy standards for the Board and LEAs, including:

(i) FERPA; and

(ii) the Utah Student Data Protection Act, Title 53E, Chapter 9, Part 3.

(3) "Classroom-level assessment data" means student scores on state-required tests, aggregated in groups of more than 10 students at the classroom level or, if appropriate, at the course level, without individual student identifiers of any kind.

(4) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the electronic file maintained and owned by the Board on all licensed Utah educators, which includes information such as:

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history; and

(e) a record of disciplinary action taken against the educator.

(5) "Confidentiality" refers to an obligation not to disclose or transmit information to unauthorized parties.

(6) "Cyber security framework" means:

(a) the cyber security framework developed by the Center for Internet Security found at http://www.cisecurity.org/controls/; or

(b) a IT security framework that is comparable to the cyber security framework described in Subsection (6)(a).

(7) "Data governance plan" has the same meaning as defined in Subsection 53E-9-301(7).

(8) "Data security protections" means protections developed and initiated by the Superintendent that protect, monitor and secure student, public educator and public education employee data as outlined and identified in FERPA and Sections 63G-2-302 through 63G-2-305.

(9) "Destroy" means to remove data or a record:

(a) in accordance with current industry best practices; and

(b) rendering the data or record irretrievable in the normal course of business of an LEA or a third-party contractor.

(10) "Disclosure" includes permitting access to, revealing, releasing, transferring, disseminating, or otherwise communicating all or any part of any individual record orally, in writing, electronically, or by any other communication method.

(11) "Expunge" means to seal a record so as to limit its availability to all except authorized individuals.

(12) "Enrollment verification data" includes:

(a) a student's birth certificate or other verification of age;

(b) verification of immunization or exemption from immunization form;

(c) proof of Utah public school residency;

(d) family income verification; or

(e) special education program information, including:

(i) an individualized education program;

(ii) a Section 504 accommodation plan; or

(iii) an English language learner plan.

(13) "FERPA" means the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, and its implementing regulations

found at 34 C.F.R., Part 99.

(14) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(15) "Metadata dictionary" has the same meaning as defined in Subsection 53E-9-301(14).

(16) "Personally identifiable student data" has the same meaning as defined in Subsection 53E-9-301(14).

(17) "Significant data breach" means a data breach where:

(a) an intentional data breach successfully compromises student records;

(b) a large number of student records are compromised;

(c) sensitive records are compromised, regardless of number; or

(d) a data breach an LEA deems to be significant based on the surrounding circumstances.

(18) "Student data advisory groups" has the same meaning as described in Subsection 53E-9-302(3).

(19) "Student data manager" means the individual at the LEA level who:

(a) is designated as the student data manager by an LEA under Section 53E-9-303;

(b) authorizes and manages the sharing of student data;

(c) acts as the primary contact for the Chief Privacy Officer;

(d) maintains a list of persons with access to personally identifiable student data; and

(e) is in charge of providing annual LEA staff and volunteer training on data privacy.

(20) "Student performance data" means data relating to student performance, including:

(a) data on state, local and national assessments;

(b) course-taking and completion;

(c) grade-point average;

(d) remediation;

(e) retention;

(f) degree, diploma, or credential attainment; and

(g) enrollment and demographic data.

(20) "Third party contractor" has the same meaning as defined in Subsection 53E-9-301(23).

R277-487-3. Data Privacy and Security Policies.

(1) The Superintendent shall develop resource materials for LEAs to train employees, aides, and volunteers of an LEA regarding confidentiality of personally identifiable student data and student performance data.

(2) The Superintendent shall make the materials developed in accordance with Subsection (1) available to each LEA.

(3) An LEA or public school may not be a member of or pay dues to an association that is not in compliance with:

(a) FERPA;

(b) Title 53E, Chapter 9, Part 3, Student Data Protection Act;

(c) Title 53E, Chapter 9, Part 2, Utah Family Educational Rights and Privacy Act; and

(d) this Rule R277-487.

(4) An LEA shall comply with Title 53E, Chapter 9, Part 3, Student Data Protection Act.

(5) An LEA shall comply with Section 53E-9-204.

(6) An LEA is responsible for the collection, maintenance, and transmission of student data.

(7) An LEA shall ensure that school enrollment verification data, student performance data, and personally identifiable student data are collected, maintained, and transmitted:

(a) in a secure manner; and

(b) consistent with sound data collection and storage procedures, established by the LEA.

(8) An LEA may contract with a third party contractor to collect, maintain, and have access to school enrollment verification data or other student data if:

(a) the third party contractor meets the definition of a school official under 34 C.F.R. 99.31(a)(1)(i)(B); and

(b) the contract between the LEA and the third party contractor includes the provisions required by Subsection 53E-9-309(2).

(9) An LEA shall publicly post the LEA's definition of directory information, as defined in FERPA, and describe how a student data manager may share personally identifiable information that is directory information.

(10) An LEA shall provide the Superintendent with a copy or link to the LEA's directory information definition by October 1 annually.

(11) By October 1 annually, an LEA shall enter all student data elements shared with third parties into the Board's metadata dictionary.

(12) An LEA shall report all significant data breaches of student data either by the LEA or by third parties to the Superintendent within ten business days of the initial discovery of the significant data breach.

(13) An LEA shall provide the Superintendent with a copy or link to the LEA's data governance plan by October 1 annually.

(14) An LEA shall provide the Superintendent with the following information by October 1 annually:

(a) evidence that the LEA has implemented a cyber security framework; and

(b) the name and contacted information for the LEA's designated Information Security Officer.

(15) All public education employees, aides, and volunteers in public schools shall become familiar with federal, state, and local laws regarding the confidentiality of student performance data and personally identifiable student data.

(16) All public education employees, aides, and volunteers shall maintain appropriate confidentiality pursuant to federal, state, local laws, and LEA policies created in accordance with this section, with regard to student performance data and personally identifiable student data.

(17) An employee, aide, or volunteer may not share, disclose, or disseminate passwords for electronic maintenance of:

(a) student performance data; or

(b) personally identifiable student data.

(18) A public education employee licensed under Section 53E-6-201 may only access or use student information and records if the public education employee accesses the student information or records consistent with the educator's obligations under Rule R277-515.

(19) The Board may discipline a licensed educator in accordance with licensing discipline procedures if the educator violates this Rule R277-487.

(20) An LEA shall annually provide a training regarding the confidentiality of student data to any employee with access to education records as defined in FERPA.

R277-487-4. Retention of Student Data.

(1) An LEA shall classify all student data collected in accordance with Section 63G-2-604.

(2) An LEA shall retain and dispose of all student data in accordance with an approved retention schedule.

(3) If no existing retention schedule governs student disciplinary records collected by an LEA:

(a) An LEA may propose to the State Records Committee a retention schedule of up to one year if collection of the data is not required by federal or state law or Board rule; or

(b) An LEA may propose to the State Records Committee a retention schedule of up to three years if collection of the data is required by federal or state law or Board rule, unless a longer retention period is prescribed by federal or state law or Board rule.

(4) An LEA's retention schedules shall take into account the LEA's administrative need for the data.

(5) Unless the data requires permanent retention, an LEA's retention schedules shall require destruction or expungement of student data after the administrative need for the data has

passed.

(6) A parent or adult student may request that an LEA amend, expunge, or destroy any record not subject to a retention schedule under Section 63G-2-604, and believed to be:

(a) inaccurate;

(b) misleading; or

(c) in violation of the privacy rights of the student.

(7) An LEA shall process a request under Subsection (6) following the same procedures outlined for a request to amend a student record in 34 CFR Part 99, Subpart C.

R277-487-5. Transparency.

(1) The Superintendent shall recommend policies for Board approval and model policies for LEAs regarding student data systems.

(2) A policy prepared in accordance with Subsection (1) shall include provisions regarding:

(a) accessibility by parents, students, and the public to student performance data;

(b) authorized purposes, uses, and disclosures of data maintained by the Superintendent or an LEA;

(c) the rights of parents and students regarding their personally identifiable information under state and federal law;

(d) parent, student, and public access to information about student data privacy and the security safeguards that protect the data from unauthorized access and use; and

(e) contact information for parents and students to request student and public school information from an LEA consistent with the law.

R277-487-6. Responsibilities of Chief Privacy Officer.

(1) The Chief Privacy Officer:

(a) may recommend legislation, as approved by the Board, for additional data security protections and the regulation of use of the data;

(b) shall supervise regular privacy and security compliance audits, following initiation by the Board;

(c) shall have responsibility for identification of threats to data privacy protections;

(d) shall develop and recommend policies to the Board and model policies for LEAs for:

(i) protection of personally identifiable student data;

(ii) consistent wiping or destruction of devices when devices are discarded by public education entities; and

(iii) appropriate responses to suspected or known breaches of data security protections;

(e) shall conduct training for Board staff and LEAs on

student privacy; and

(f) shall develop and maintain a metadata dictionary as required by Section 53E-9-302.

R277-487-7. Prohibition of Public Education Data Use for Marketing.

Data maintained by the state, a school district, school, or other public education agency or institution in the state, including data provided by contractors, may not be sold or used for marketing purposes, or targeted advertising as defined in Subsection 53E-9-301(22) except with regard to authorized uses of directory information not obtained through a contract with an educational agency or institution.

R277-487-8. Public Education Research Data.

(1) The Superintendent may provide limited or extensive data sets for research and analysis purposes to qualified researchers or organizations.

(2) The Superintendent shall use reasonable methods to qualify researchers or organizations to receive data, such as evidence that a research proposal has been approved by a federally recognized Institutional Review Board or "IRB."

(3) The Superintendent may post aggregate de-identified student assessment data to the Board website.

(4) The Superintendent shall ensure that personally identifiable student data is protected.

(5) The Superintendent:

(a) is not obligated to fill every request for data and shall establish procedures to determine which requests will be filled or to assign priorities to multiple requests;

(b) may give higher priority to requests that will help improve instruction in Utah's public schools; and

(c) may charge a fee to prepare data or to deliver data, particularly if the preparation requires original work.

(6) A researcher or organization shall provide a copy of the report or publication produced using Board data to the Superintendent at least 10 business days prior to the public release.

(7) Requests for personally identifiable student data that may only be provided in accordance with Section 53E-9-308 and FERPA, and may include:

(a) student data that are de-identified, meaning that a reasonable person in the school community who does not have personal knowledge of the relevant circumstances could not identify student(s) with reasonable certainty;

(b) agreements with recipients of student data where recipients agree not to report or publish data in a manner that

discloses students' identities; or

(c) release of student data, with appropriate binding agreements, for state or federal accountability or for the purpose of improving instruction to specific student subgroups.

(8) Recipients of Board research data shall sign a confidentiality agreement, if required by the Superintendent.

(9) Either the Board or the Superintendent may commission research or may approve research requests.

(10) Request for records under Title 63G, Chapter 2, Government Records Access and Management Act, are not subject to this Section R277-487-8.

R277-487-9. CACTUS Data.

(1) The Board maintains information on all licensed Utah educators in CACTUS, including information classified as private, controlled, or protected under GRAMA.

(2) The Superintendent shall open a CACTUS file for a licensed Utah educator when the individual initiates a Board background check.

(3) Authorized Board staff may update CACTUS data as directed by the Superintendent.

(4) Authorized LEA staff may change demographic data and update data on educator assignments in CACTUS for the current school year only.

(5) A licensed individual may view his own personal data, but may not change or add data in CACTUS except under the following circumstances:

(a) A licensee may change the licensee's contact and demographic information at any time;

(b) An employing LEA may correct a current educator's assignment data on behalf of a licensee; and

(c) A licensee may petition the Board for the purpose of correcting any errors in the licensee's CACTUS file.

(6) The Superintendent shall include an individual currently employed by a public or private school under a letter of authorization or as an intern in CACTUS.

(7) The Superintendent shall include an individual working in an LEA as a student teacher in CACTUS.

(8) The Superintendent shall provide training and ongoing support to authorized CACTUS users.

(9) For employment or assignment purposes only, authorized LEA staff members may:

(a) access data on individuals employed by the LEA; or

(b) view specific limited information on job applicants if the applicant has provided the LEA with a CACTUS identification number.

(10) CACTUS information belongs solely to the Board.

(g) The Superintendent may release data within CACTUS in accordance with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

R277-487-10. Educator Evaluation Data.

(1)(a) The Superintendent may provide classroom-level assessment data to administrators and teachers in accordance with federal and state privacy laws.

(b) A school administrator shall share information requested by parents while ensuring the privacy of individual personally identifiable student data and educator evaluation data.

(2) A school, LEA, the Superintendent, and the Board shall protect individual educator evaluation data.

(3) An LEA shall designate employees who may have access to educator evaluation records.

(4) An LEA may not release or disclose student assessment information that reveals educator evaluation information or records.

(5) An LEA shall train employees in the confidential nature of employee evaluations and the importance of securing evaluations and records.

R277-487-11. Application to Third Parties.

(1) The Board and LEAs shall set policies that govern a third party contractor's access to personally identifiable student data and public school enrollment verification data consistent with Section 53E-9-301, et seq.

(2) An LEA may release personally identifiable student data and public school enrollment verification data to a third party contractor if:

(a) the release is allowed by, and released in accordance with, Section 53E-9-308, FERPA, and FERPA's implementing regulations; and

(b) the LEA complies with the requirements of Subsection R277-487-3(6).

(4) All Board contracts shall include sanctions for contractors or third party providers who violate provisions of state policies regarding unauthorized use and release of student and employee data.

(5) The Superintendent shall recommend that LEA policies include sanctions for contractors who violate provisions of federal or state privacy law and LEA policies regarding unauthorized use and release of student and employee data.

R277-487-12. Sharing Data With the Utah Registry of Autism and Developmental Disabilities.

(1) The Superintendent shall share personally identifiable

student data with the Utah Registry of Autism and Developmental Disabilities as required by Subsection 53E-9-308(6)(b) through a written agreement designating the Utah Registry of Autism and Developmental Disabilities as the authorized representative of the Board for the purpose of auditing and evaluating federal and state supported education programs that serve students with autism and other developmental disabilities.

(2) The agreement required by Subsection (1) shall include a provision that:

(a) the Utah Registry of Autism and Developmental Disabilities may not use personally identifiable student data for any purpose not specified in the agreement;

(b) the Utah Registry of Autism and Developmental Disabilities shall flag all student personally identifiable data received from the Board to:

(i) ensure that the data is not used for purposes not covered by the agreement; and

(ii) allow the Superintendent access to the data for auditing purposes;

(c) the Utah Registry of Autism and Developmental Disabilities may redisclose de-identified data if:

(i) the de-identification is in accordance with HIPPA's safe harbor standard;

(ii) the de-identification is in accordance with Board rule; and

(iii) the Utah Registry of Autism and Development Disabilities annually provides the Superintendent with a description and the results of all projects and research undertaken using de-identified student data; and

(d) the Utah Registry of Autism and Developmental Disabilities shall allow an on-site audit conducted by the Superintendent to monitor for compliance with this rule no less than once per year.

(3) The Superintendent shall maintain a record of all personally identifiable student data shared with the Utah Registry of Autism and Developmental Disabilities in accordance with 34 C.F.R. 99.32.

(4)(a) A parent of a child whose personally identifiable student data was shared with the Utah Registry of Autism and Developmental Disabilities has the right to access the exact records disclosed.

(b) A parent identified in Subsection (4)(a) has the right to contest and seek to amend, expunge, or destroy any data that is inaccurate, misleading, or otherwise in violation of the privacy rights of the student.

R277-487-13. Annual Reports by Chief Privacy Officer.

(1) The Chief Privacy Officer shall submit to the Board an annual report regarding student data.

(2) The public report shall include:

(a) information about the implementation of this rule;

(b) information about the approved research studies using personally identifiable student information and data;

(c) identification of significant threats to student data privacy and security;

(d) a summary of data system audits; and

(e) recommendations for further improvements specific to student data security and the systems that are necessary for accountability in Board rules or legislation.

R277-487-14. Data Security and Privacy Training for Educators.

(1) The Superintendent shall develop a student and data security and privacy training for educators.

(2) The Superintendent shall make the training developed in accordance with Subsection (1) available through UEN.

(3) Beginning in the 2018-19 school year, an educator shall complete the training developed in accordance with Subsection (1) as a condition of re-licensure.

KEY: students, records, confidentiality, privacy
Date of Enactment or Last Substantive Amendment: March 13, 2019
Notice of Continuation: September 9, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-9-302; 53E-3-401; 53G-11-511

R277. Education, Administration.
R277-488. Dual Language Immersion Program.
R277-488-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53F-2-502, which requires the Board to establish a Dual Language Immersion program; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) establish criteria and procedures for distributing funds to elementary and secondary schools participating in the Dual Language Immersion Program;

(b) increase the number of students who reach proficiency in world languages;

(c) build overall world language capacity in the state of Utah; and

(d) increase the number of biliterate and bilingual students.

R277-488-2. Definitions.

(1) "Dual language immersion" or "DLI" means a distinctive dual language education program in which native English speakers and active speakers of another language are integrated for academic content.

(2) "Secondary school" means grades 7-12 in whatever schools the grade levels exist.

R277-488-3. Dual Language Immersion Program Requirements.

(1) The Superintendent shall disburse DLI program funds by July 1 of each fiscal year subject to state appropriation.

(2) The DLI program shall support world languages approved by the Superintendent.

(3) The Superintendent shall annually provide an application for an LEA to receive funding for DLI programs.

(4) An LEA shall submit an application described in Subsection (3) no later than the deadline specified in the application annually to be considered for elementary school DLI program funding in the subsequent school year.

(5) An application for DLI program funds shall include a plan that includes:

(a) a world language approved by the Superintendent;

(b) a timeline that begins the instructional model in kindergarten or grade 1, adds an additional grade each year; and

(c) a plan and procedure in place to notify students and parents of the availability of at least one DLI course.

(6) The Superintendent shall give priority in DLI program funding to an LEA that:

(a) does not currently teach the requested language choice;

(b) demonstrates adequate local funding and infrastructure to begin a program or expand existing programs;

(c) demonstrates community interest and students committed and prepared to participate in a new or expanded program, including prepared instructors for the program;

(d) has adequate interest, resources, and infrastructure, but does not presently have a DLI program; and

(e) has a demonstrated community need for improved or expanded world language instruction in a specific school or community.

(7) A school receiving DLI program funds shall hire qualified world language teachers who:

(a) have a world language endorsement in the language of instruction and a DLI endorsement; and

(b) are Utah licensed elementary or secondary educators.

R277-488-4. Proficiency Assessment Requirements.

(1) The Superintendent shall select a proficiency assessment through an appropriate procurement process.

(2) The proficiency assessment described in Subsection (1) shall assess the following areas of proficiency:

(a) listening;

(b) speaking;

(c) reading; and

(d) writing.

(3) An LEA DLI program shall administer the proficiency assessment selected by the Superintendent as described in Subsection (1) for certain areas of proficiency listed in subsection (2) at each grade level starting at Grade 3 and through Grade 9.

R277-488-5. International Guest Teacher Requirements.

(1) An LEA may offer world languages through the DLI program using an international guest teacher as outlined in R277-527.

R277-488-6. Dual Language Immersion Funds.

(1) Elementary schools shall be selected for funding for the DLI program based on an evaluation of applications by the Superintendent.

(a) Secondary schools shall receive funding as recipients of DLI students through the regular school feeder system.

(2) The Superintendent shall make an award to an individual

elementary or secondary school and allocate funds to the school's LEA to be fully distributed to the school based on the annual legislative funding allocation.

(3) The Superintendent shall notify a new school eligible for funding of a funds award for the subsequent fiscal year by June 1 annually.

R277-488-7. Evaluation and Reports.

(1) Each school selected for funding shall submit an annual evaluation report to the Superintendent.

(2) The Superintendent may request additional data from a secondary or elementary school that receives funding.

KEY: critical languages, dual language immersion
Date of Enactment or Last Substantive Amendment: December 10, 2018
Notice of Continuation: June 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-2-502; 53E-3-401

R277. Education, Administration.
R277-489. Kindergarten Entry and Exit Assessment - Early Intervention Program.
R277-489-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which permits the Board to make rules to execute the Board's duties and responsibilities under the Utah constitution and state law; and

(c) Section 53F-2-507, which directs the Board to distribute funds appropriated for the early intervention program to LEAs that apply for the funds.

(2) The purpose of this rule is to require LEAs to administer a kindergarten entry and exit assessment and establish criteria and procedures to administer the early intervention program.

R277-489-2. Definitions.

(1) "Early intervention program" means a program that provides additional instruction to kindergarten age students:

(a) as an extended period before or after school, on Saturdays, or during the summer; or

(b) through other means.

(2) "Enrollment" means class enrollment of not more than the student enrollment of other kindergarten classes within the school.

(3) "LEA plan" means the early intervention program plan submitted by an LEA and approved and accepted for funding by the Superintendent.

R277-489-3. Administration of Kindergarten Entry and Exit Assessments.

(1) Except as provided in Subsection (2), an LEA shall administer:

(a) a kindergarten entry assessment, approved by the Superintendent, to each kindergarten student sometime within:

(i) three weeks before the first day of school; and

(ii) three weeks after the first day of school; and

(b) a kindergarten exit assessment, approved by the Superintendent, to each kindergarten student sometime during the four weeks before the last day of school.

(2) A charter school that does not participate in the Early Intervention Program or the K-3 Reading Software Program described in R277-496 is not required to administer the kindergarten entry and exit assessments.

(3) The days used for the assessment shall be consistent with Subsection R277-419-11(3)(e).

(4) An LEA shall submit to the Data Gateway:

(a) kindergarten entry assessment data by September 30; and

(b) kindergarten exit assessment data by June 15.

(5) In accordance with Section R277-114, the Superintendent may recommend action to the Board, including withholding of funds, if an LEA fails to provide complete, accurate, and timely reporting under Subsection (4).

R277-489-4. Use of Kindergarten Entry and Exit Assessment Data.

(1) The Superintendent or an LEA may use entry and exit assessment data obtained in accordance with Section R277-489-3 to:

(a) provide insights into current levels of academic performance upon entry and exit of kindergarten;

(b) identify students in need of early intervention instruction and promote differentiated instruction for all students;

(c) understand the effectiveness of programs, such as extended-day kindergarten and pre-school;

(d) provide opportunities for data data-informed decision making and cost-benefit analysis of early learning initiatives;

(e) identify effective instructional practices or strategies for improving student achievement outcomes in a targeted manner; and

(f) understand the influence and impact of full-day kindergarten on at-risk students in both the short- and long-term.

(2) An LEA may not use entry and exit assessment data obtained in accordance with Section R277-489-3 to:

(a) justify early enrollment of a student who is not currently eligible to enroll in kindergarten, such as a student with a birthday falling after September 1;

(b) evaluate an educator's teaching performance; or

(c) determine whether a student should be retained or promoted between grades.

R277-489-5. Early Intervention Program.

(1) The Superintendent shall accept applications from LEAs for early intervention programs delivered through enhanced kindergarten programs that satisfy the requirements of Section 53F-2-507 and the provisions of this rule.

(2) The Superintendent shall establish timelines for submission of applications.

(3) An LEA application for early intervention program funds shall include:

(a) the names of schools for which program funds must be used;

(b) a description of the delivery methods that may be used to serve eligible students, such as:

(i) full-day kindergarten;

(ii) two half-days;

(iii) extra hours;

(iv) a summer program; or

(v) other means;

(c) a description of the evidence-based early intervention model used by the LEA;

(d) a description of how the program focuses on age-appropriate literacy and numeracy skills;

(e) a description of how the program targets at-risk students;

(f) a description of the assessment procedures and tools to be used by participating schools within the LEA; and

(g) other information as requested by the Superintendent and approved by the Board.

(4) The Superintendent shall distribute funds to eligible charter schools based on a formula identifying the percentage of students in public schools and the percentage of students with the greatest need for an enhanced kindergarten program consistent with Subsection 53F-2-507(4)(a).

(5) The Superintendent shall distribute funds to eligible school districts by determining the number of students eligible to receive free lunch in the prior school year for each school district and prorating the remaining funds based on the number of students eligible to receive free lunch in each school district.

(6) The Superintendent shall establish timelines for distribution of early intervention program funds.

(7) The Superintendent shall require all funded programs to submit an annual report.

(8) An LEA may not require a student to participate in an early intervention program.

KEY: early intervention
Date of Enactment or Last Substantive Amendment: September 21, 2017
Notice of Continuation: June 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-507

R277. Education, Administration.
R277-492. Utah Science Technology and Research Initiative (USTAR) Centers Program.
R277-492-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which permits the Board to adopt rules to carry out its duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-2-505, which provides for funding to establish extended contracts for participating teachers as part of the Utah Science Technology and Research (USTAR) Centers Initiative.

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

(a) conditions for the Superintendent to manage the USTAR Program;

(b) standards and procedures for an LEA to submit a proposal for USTAR funding to develop and create USTAR Centers to enhance the LEA's ability to retain participating teachers, offer more opportunities for students, and use capital facilities more effectively by creating an extended contract; and

(c) requirements associated with receiving USTAR funding for a recipient LEA.

R277-492-2. Definitions.

(1) "Extended" means either a longer contract day or a longer contract year for participating teachers.

(2) "LEA USTAR proposal" means a written proposal, including components required by the Board, developed and submitted by a school district/charter school applying for USTAR funding.

(3) "Participating teacher" means a:

(a) licensed mathematics teacher with a secondary (7-12) mathematics teaching assignment; or

(b) licensed science teacher with a secondary (7-12) science teaching assignment.

(4) "STEM" means science, technology, engineering and mathematics.

(5) "USTAR Program" means the grant program created in Section 53F-2-505.

R277-492-3. USTAR Proposal Criteria.

(1) An LEA shall first identify the purpose or goal(s) of its USTAR proposal.

(2) Appropriate purposes may include:

(a) improvement in student test scores;

(b) satisfaction of specific academic goals for all students

or various groups of students;

(c) increased retention of licensed educators in specific areas;

(d) improved school climate;

(e) increased opportunities for students to take remedial or college preparation courses;

(f) increased student enrollment in identified courses;

(g) additional opportunities for students to learn about specific or general higher education or career opportunities in math or science fields; or

(h) other purposes consistent with Subsection 53F-2-505(1)(b).

(3) In accordance with Section 53F-2-505(1)(b)(ii), an LEA shall provide a school schedule showing how it will extend hours of the school day or days of the school year to maximize employee and facility resources in furtherance of the proposal's goals.

(4) A USTAR proposal shall:

(a) explain how employees shall be used in the extended school day or extended school year to maximize their effectiveness with students, including how various groups of employees will participate including classified employees, licensed employees, and appropriate supervisors for all groups;

(b) use USTAR grant funds only to pay for hours or days worked by participating teachers with valid, current Utah educator licenses, even though various school employee groups may be necessary or desirable to achieve the purposes of the proposal;

(c) identify the number of designated employees that will participate in the extended school year or extended school day program with the understanding that USTAR grant funds may only be used for licensed participating teachers;

(d) identify the compensation that participating teachers shall receive, including increased insurance and benefit costs, if appropriate, which may be reported by groups of employees or by individual employees;

(e)identify how participating teachers will be evaluated for the extended hours or extended days worked;

(f) include a budget section, including anticipated costs and narrative; and

(g) include an annual evaluation component that provides opportunities for student, employee and parent participation in the assessment of the proposal's effectiveness.

R277-492-4. Superintendent Responsibilities.

(1) The Superintendent shall provide statewide supervision of the USTAR program and budget, based on USTAR objectives, Board funding priorities, and available funds.

(2) The Superintendent shall solicit proposals from LEAs to

participate in the USTAR grant program.

(3) In order to qualify for funding, an LEA shall submit a proposal to the Superintendent by June 2 annually.

(a) The Superintendent shall work with applicants that submit proposals early to improve proposals, to the extent of resources and time available.

(b) The Superintendent shall deliver final charter school proposals to the State Charter School Board for review and recommendation.

(4)(a) The State Charter School Board shall submit a consolidated request to the Superintendent, consistent with Subsection 53F-2-505(4), by June 20 annually.

(b) The State Charter Board and State Charter Board staff shall work with charter school applicants that submit proposals early to improve proposals, to the extent of resources and time available.

(5) The Superintendent shall receive all proposals from school districts, consider the consolidated request submitted by the State Charter Board as a proposal from one school district, and rank them on an objective scale or rubric prepared by the Superintendent.

(6) The Superintendent may appoint an expert review panel to prioritize proposals and recommend proposals for funding.

(7) The expert review panel, the Superintendent, or both, shall consider the priorities of Subsection 53F-2-505(5) in recommending and selecting the recipients, with the following objectives:

(a) rural, urban, large, small, growing and declining school districts (considering the consolidated charter request as one school district) having unique circumstances;

(b) as many pilot programs shall be funded as possible; and

(c) funded proposals should address the objectives and benefits of Section 53F-2-505(1)(b).

(8) The Superintendent shall review recommendations, make final recommendations to the Board for funding, and notify applicants that receive funding no later than July 31 annually.

(9) The Superintendent shall provide funds to school districts/charter schools (or the consolidated charter recipient) consistent with Board distribution practices for grants.

R277-492-5. LEA and State Charter School Board Proposal Responsibilities.

(1) School districts shall submit proposals that meet the standards of Section 53F-2-505 no later than June 2 annually.

(2) The State Charter Board shall complete its work under Subsection 53F-2-505(4) and submit its consolidated request to the Superintendent no later than June 20 annually.

(3) LEA proposals shall clearly demonstrate that all participants necessary for the success of a proposal are voluntary participants and understand the requirements of their participation.

(4) LEA participants shall demonstrate parent and community notification and support of the school district/charter school proposals.

(5) Proposals shall clearly demonstrate that at least 95% of allocated funds shall be used for extended contracts for licensed participating teachers.

(6) Proposals shall clearly demonstrate that the remaining 5% of allocated funds is used only for purposes identified under Subsection 53F-2-505(6)(b).

(7) LEAs that receive USTAR funding shall provide all required evaluations to the Superintendent as identified by their proposals consistent with timelines established by the Superintendent.

(8) LEAs that receive USTAR funding shall provide information as requested by the Superintendent during the time periods identified in the proposals, including allowing for visits of Board staff and review of student work or assessments.

R277-492-6. Final Decision-making and Reporting Requirements.

(1) The Board's decisions for funding are final.

(2)(a) A grant recipient shall provide requested data or information related to its USTAR Funding to the Superintendent each year by June 30.

(b) The Superintendent may request additional information, data or budget information if annual reports or student assessments indicate that USTAR funding is being used ineffectively, for ineligible employees, or inconsistent with the LEA's proposal or the intent of the law or this rule.

(3) The USOE may interrupt USTAR funding to school districts/charter schools that do not meet timelines required by this rule or that do not provide complete information or evaluations required under this rule.

KEY: science, technology, research, USTAR
Date of Enactment or Last Substantive Amendment: August 7, 2018
Notice of Continuation: July 13, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-505

R277. Education, Administration.
R277-493. Kindergarten Supplemental Enrichment Program.
R277-493-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(c) Subsection 53F-4-205(7), which directs the Board to adopt rules to implement the kindergarten supplemental enrichment program.

(2) The purpose of this rule is to make rules to establish reporting procedures and administer the kindergarten supplemental enrichment program established in Section 53F-4-205.

R277-493-2. Definitions.

(1)(a) "Eligible school" has the same meaning as defined in Subsection 53F-4-205.

(b) "Eligible school" does not include a school that receives funds under Section 53F-2-507, Enhanced kindergarten early intervention program.

(2) "Kindergarten supplemental enrichment program" has the same meaning as defined in Subsection 53F-4-205.

R277-493-3. Program Administration.

(1) An LEA with an eligible school may apply for kindergarten supplemental enrichment program funds by filing a grant application following a form approved by the Superintendent no later than May 15 annually.

(2) An application filed in accordance with Subsection (1) shall include:

(a) evidence of an eligible school's overall need for a kindergarten supplemental enrichment program based on the results of the eligible school's current kindergarten entry assessments and programming;

(b) a description of how the eligible school will use the Board approved uniform entry assessment to determine which students to target for the kindergarten supplemental enrichment program;

(c) a description of how the eligible school's program will coordinate with the Superintendent and LEA personnel to meet the annual reporting requirements of this rule;

(d) a description of how the eligible school will use funds to meet the requirements of Subsection 53F-4-205(4);

(e) if an eligible school is applying based on their

percentage of students experiencing intergenerational poverty, a description of the learning strategies the school will employ to design and implement a program that is developed with the unique needs of students experiencing intergenerational poverty in mind; and

(f) other information as requested by the Superintendent.

(3)(a) If an eligible school has previously received funding through the kindergarten supplemental enrichment program, an application under Subsection (1) shall also include data from Board entry and exit exams to establish success in changing student outcomes in comparison to similarly situated peers who weren't able to receive the benefit of the kindergarten supplemental enrichment program.

(b) If an LEA submits a renewal application for a school that has previously been deemed eligible and received funding through the kindergarten supplemental enrichment program, the Superintendent may continue to deem the school as eligible based on the school's eligibility described in Subsection 53F-4-205(1)(b) from its initial application year.

(4) The Superintendent shall recommend distribution of funds by the Board in accordance with Subsection 53F-4-205(2).

(5) An eligible school that receives kindergarten supplement enrichment program funds shall comply with the assessment and reporting requirements of Section R277-489-3.

(6) The Superintendent shall require an eligible school that receives funds in accordance with this rule to demonstrate compliance with federal supplanting requirements.

R277-493-4. Eligibility to Apply for 2019-20 School Year Grant Funds.

(1) The Superintendent shall review data gathered from 2018-19 kindergarten entry and exit assessments to determine the following performance measures:

(a) average percentage of students state-wide with increases in literacy scores;

(b) average percentage of students state-wide with increases in numeracy scores;

(c) average percentage of students state-wide with decreases in literacy scores;

(d) average percentage of students state-wide with decreases in numeracy scores;

(2)(a) An eligible school that received program funds for the 2018-19 school year may reapply to receive program funds for the 2019-20 school year if the eligible school performs better than the state average in at least three of the four performance measures outlined in Subsection (1).

(b) An eligible school that does not meet the performance

standards outlined in Subsection (2)(a) may not apply for program funds for the 2019-20 school year.

KEY: kindergarten, supplementals, enrichments
Date of Enactment or Last Substantive Amendment: July 2, 2019
Notice of Continuation: April 8, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53F-4-205(7)

R277. Education, Administration.
R277-494. Charter, Online, Home, and Private School Student Participation in Extracurricular or Co-curricular School Activities.
R277-494-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which permits the Board to adopt rules in accordance with its responsibilities;

(c) Subsection 53G-6-704(6)(a), which directs the Board to make rules establishing fees for a charter school student's participation in extracurricular or co-curricular activities at certain public schools; and

(d) Subsection 53G-6-705(6), which directs the Board to make rules establishing fees for an online student's participation in extracurricular or co-curricular activities at certain public schools.

(2) The purpose of this rule is to inform school districts, charter and online schools, and parents of:

(a) school participation fees; and

(b) state-determined requirements for a charter school or a public online school student to participate in an extracurricular activity at a student's boundary school.

R277-494-2. Definitions.

(1) "Activity fee" means a fee that:

(a) is approved by a local school board or public school;

(b) is charged to all students to participate in an extracurricular or co-curricular activity sponsored by or through the public school; and

(c) entitles a public school student to:

(i) participate in a school activity;

(ii) try out for an extracurricular or co-curricular school activity;

(iii) receive transportation to an activity; and

(iv) attend a regularly scheduled public school activity.

(2) "Co-curricular activity" means a school district or school activity, course, or experience that includes a required regular school day component and an after school component, including a special program or activity such as a program for a gifted and talented student, a summer program, and a science or history fair.

(3) "Extracurricular activity" means an athletic program or activity sponsored by a public school and offered, competitively or otherwise, to a public school student outside of the regular school day or program.

(4) "Online school" means a formally constituted public school that offers full-time education delivered primarily over the internet.

(5) "Qualifying school" means:

(a) for purposes of a charter school student, a school described in Subsection 53G-6-704(1);

(b) for purposes of an online school student, a school described in Subsection 53G-6-705(2); and

(c) for purposes of a private or home school student, a school described in Subsection 53G-6-703(2)(c).

(6) "School of enrollment" means the public school that maintains the student's cumulative file, enrollment information and transcript for purposes of high school graduation.

(7) "School participation fee" means the fee paid by a charter or online school to a qualifying school consistent with Subsections R277-494-3(2) or R277-494-4(2) for the charter or online school student's participation in an extracurricular or co-curricular activity.

(8) "Student activity specific fee" means the activity fee charged to all participating students by a qualifying school for a designated extracurricular or co-curricular activity consistent with Rule R277-407.

R277-494-3. Charter and Online School Student Participation in Extracurricular Activities at Another Public School.

(1) A charter or online school student may participate in an extracurricular activity at a qualifying school if:

(a) the extracurricular activity is not offered by the student's charter or online school;

(b) the student satisfies:

(i) for a charter school student, the requirements of Subsection 53G-6-704(3);

(ii) for an online school student, the requirements of Subsection 53G-6-705(3); and

(iii) the requirements of this rule;

(c) the student meets the qualifying school's standards and requirements; and

(d) the student's parent agrees to provide the student transportation to the qualifying school for the extracurricular activity.

(2)(a) A charter or online school student's school of enrollment shall pay a one-time annual school participation fee of $75.00 per student to the qualifying school at which the charter or online school student desires to participate.

(b) Upon annual payment of the school participation fee, the student may participate in all extracurricular or co-curricular school activities at the school during the school year for which

the student is qualified and eligible.

(3) The school participation fee described in Subsection (2)(a) is in addition to:

(a) a student activity specific fee for a specific extracurricular activity; and

(b) the activity fee charged to all students in a qualifying school to supplement a school activity as assessed by the school consistent with this rule.

(4) Except as provided in Subsection (7), a charter or online school student who participates in an extracurricular activity at a qualifying school shall pay all required student activity specific fees to the qualifying school in accordance with deadlines set by the qualifying school.

(5) All fees, including school participation fees and student activity specific fees shall be paid prior to a charter or online school student's participation in an activity at the qualifying school.

(6) A charter or online school of enrollment shall cooperate fully with all qualifying schools:

(a) regarding students' participation in try-outs, practices, pep rallies, team fund raising efforts, scheduled games, and required travel; and

(b) by providing complete and prompt reports of student academic and citizenship progress or grades, upon request.

(7)(a) If a participating charter or online school student qualifies for a fee waiver, in accordance with Rule R277-470, the charter or online student's school of enrollment shall pay the school participation fee described in Subsection (2)(a) and any waived student activity specific fees to the qualifying school.

(b) A charter or online school that is required to pay a fee waiver student's participation fee or student activity specific fee as described in Subsection (7)(a) shall pay the student participation fee and any student activity specific fees to the qualifying school before the charter or online school student may begin to participate in the extracurricular activity at the qualifying school.

R277-494-4. Charter or Online School Student Participation in Co-Curricular Activities.

(1)(a) A charter or online school student may participate in a co-curricular activity at a qualifying school if:

(i) the co-curricular activity is not offered by the student's charter or online school;

(ii) the student satisfies:

(A) for a charter school student, the requirements of Subsection 53G-6-704(3);

(B) for an online school student, the requirements of

Subsection 53G-6-705(3); and

(C) the requirements of this rule;

(iii) the student meets the qualifying school's standards and requirements; and

(iv) the student's parent agrees to provide the student transportation to the qualifying school for the co-curricular activity.

(b) A charter or online school may negotiate with a public school other than a school described in Subsection (1) to participate in a co-curricular activity at the other public school, including:

(i) a debate, drama, or choral program;

(ii) a specialized course or program offered during the regular school day; and

(iii) a school's sponsored enrichment program or activity.

(c) A student who participates in a co-curricular activity described in Subsection (1)(b) shall meet:

(i) the same attendance, discipline, and course requirements expected of the public school's full-time students;

(ii) for a charter school student, the requirements of Subsection 53G-6-704(3); and

(iii) for an online school student, the requirements of Subsection 53G-6-705(3).

(2)(a) A charter or online school of enrollment shall determine if the school will allow students to participate in co-curricular school activities at qualifying schools.

(b) If a charter or online school allows one student to participate in a co-curricular activity at a qualifying school, the charter or online school shall allow all interested students to participate.

(3)(a) A charter or online school student's school of enrollment shall pay a one-time annual school participation fee of $75.00 per student to the qualifying school at which the charter or online school student desires to participate.

(b) If a charter or online school of enrollment pays a $75.00 school participation fee to a qualifying school as described in Subsection R277-494-3(2)(a), the charter or online school of enrollment is not required to pay an additional $75.00 school participation fee described in Subsection (3)(a) to the qualifying school in the same year.

(4) A charter or online school student participating under this rule shall:

(a) pay the required student activity specific fees for each co-curricular activity; and

(b) meet all eligibility requirements and timelines of the public school.

(5)(a) If a participating charter or online school student

qualifies for a fee waiver, in accordance with Rule R277-407, the charter or online student's school of enrollment shall pay any waived student activity specific fees to the qualifying school.

(b) A charter or online school that is required to pay a fee waiver student's activity specific fees as described in Subsection (5)(a), shall pay the student activity specific fees to the qualifying school before the charter or online school student may begin to participate in the co-curricular activity at the qualifying school.

R277-494-5. Private or Home School Student Participation in Extracurricular Activities.

(1) In accordance with Section 53G-6-703, a private or home school student may participate in an extracurricular activity at a qualifying school if:

(a) for a private school student, the extracurricular activity is not offered by the student's private school;

(b) the student satisfies the requirements of:

(i) Section 53G-6-703; and

(ii) this rule; and

(c) the student meets the qualifying school's standards and requirements.

(2) Except as provided in Subsection (3), a private or home school student shall pay the required student activity specific fees for each extracurricular activity to the qualifying school:

(a) before the student may participate in the extracurricular activity at the qualifying school; and

(b) in accordance with deadlines set by the qualifying school.

(3) If a private or home school student qualifies for a fee waiver in accordance with Rule R277-407, the qualifying school shall waive any required student activity specific fees in accordance with the requirements of Rule R277-407, School Fees.

R277-494-6. Private or Home School Student Participation in Co-curricular Activities.

A private or home school student may participate in a co-curricular activity at a public school in accordance with the dual enrollment provisions of rule R277-438.

KEY: extracurricular, co-curricular, activities, student participation

Date of Enactment or Last Substantive Amendment: March 9, 2016

Notice of Continuation: October 15, 2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-6-704(5); 53G-6-705(6)

R277. Education, Administration.
R277-495. Electronic Devices in Public Schools.
R277-495-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53G-8-202(2)(c)(i), which directs the Superintendent to develop a conduct and discipline policy model for elementary and secondary public schools; and

(d) 47 CFR, Part 54, Children's Internet Protection Act, which requires schools and libraries that have computers with internet access to certify they have internet safety policies and technology protection measures in place to receive discounted internet access and services.

(2) The purpose of this rule is to direct all LEAs and public schools to adopt policies, individually or collectively as school districts or consortia of charter schools, governing the possession and use of electronic devices including:

(a) both LEA-owned and privately-owned, while on public school premises or during participation in school activities; and

(b) for LEA-owned devices, wherever the LEA-owned devices are used.

R277-495-2. Definitions.

(1) "Acceptable use policy" means a document stipulating constraints and practices that a user shall accept prior to a user accessing an LEA's, or any school within an LEA's, network or the Internet.

(2) "Electronic device" means a device that is used for audio, video, or text communication or any other type of computer or computer-like instrument including:

(a) a smart phone;

(b) a smart or electronic watch;

(c) a tablet; or

(d) a virtual reality device.

(3) "Guest" means an individual:

(a) who is not a student, employee, or designated volunteer of a public school; and

(b) who is on school property or at the site of a school-sponsored activity or event.

(4) "Inappropriate matter" means pornographic or indecent material as defined in Subsection 76-10-1253(1)(a).

(5) "LEA" includes for purposes of this rule, the Utah

Schools for the Deaf and the Blind.

(6) "LEA-owned electronic device" means a device that is used for audio, video, text communication, or other type of computer or computer-like instrument that is identified as being owned, provided, issued or lent by the LEA to a student or employee.

(7) "Policy" means an electronic device use policy as required by this rule that contains:

(a) permissible uses of an electronic device under certain circumstances; or

(b) restricted uses of an electronic devices under certain circumstances.

(8) "Privately-owned electronic device" means a device, including an electronic device that is used for audio, video, text communication, or other type of computer or computer-like instrument that is not owned or issued by the LEA to a student, or employee.

(9) "Public school" means a school or public school program, grades kindergarten through 12, that is part of the Utah public school system, including a school with a distance learning program or alternative program.

(10) "Student," for purposes of this rule, means an individual enrolled as a student at an LEA regardless of the part-time nature of the enrollment or the age of the individual.

(11)(a) "The Children's Internet Protection Act (CIPA)" means federal regulations enacted by the Federal Communications Commission (FCC) and administrated by the Schools and Libraries Division of the FCC.

(b) CIPA and companion laws, the Neighborhood Children's Internet Protection Act (NCIPA) and the Protecting Children in the 21st Century Act, require recipients of federal technology funds to comply with certain Internet filtering and policy requirements.

(12) "Utah Education Telehealth Network or UETN" means the Utah Education and Telehealth Network created in Section 53B-17-105.

R277-495-3. Requirement of Electronic Device Use Policy, Creation, and Access.

(1) An LEA shall require all schools under the LEA's supervision to have a policy or policies for students, employees and, where appropriate, for guests, governing the use of electronic devices on school premises and at school sponsored activities.

(2) An LEA shall review and approve policies regularly.

(3) An LEA shall encourage schools to involve teachers, parents, students, school employees, school community councils, and community members in developing the local policies.

(4) An LEA shall provide copies of the LEA's policies or clear electronic links to policies at LEA offices, in schools and on the LEA's website in the same location as the LEA's data governance plan required in R277-487.

(5) An LEA and all schools within the LEA shall cooperate to ensure that all policies within a school or school district are consistent and accessible to parents and community members.

(6) An LEA shall provide reasonable public notice and at least one public hearing or meeting to address a proposed or revised acceptable use policy.

(7) An LEA shall retain documentation of the policy review and adoption actions.

R277-495-4. LEA Electronic Device Policy Requirements.

(1) An LEA's policy shall include at least the following:

(a) definitions of electronic devices covered by policy;

(b) prohibitions on the use of electronic devices in ways that:

(i) bully, humiliate, harass, or intimidate school-related individuals, including students, employees, and guests, consistent with R277-609 and R277-613; or

(ii) violate local, state, or federal laws;

(c) the prohibition of access by students, LEA employees and guests to inappropriate matter on the internet and world wide web while using LEA equipment, services, or connectivity whether on or off school property;

(e) directives on the safety and security of students when using social media and other forms of electronic communications;

(f) directives on unauthorized access, including hacking and other unlawful activities by a user of an LEA electronic device; and

(g) directives on unauthorized disclosure, use and dissemination of personal student information under R277-487 and the Family Educational Rights and Privacy Act (FERPA)34 CFR, Part 99.

(2) In addition to the requirements of Subsection (1), an LEA's policies for student use of electronic devices shall include directives regarding the following:

(a) the use of privately-owned electronic devices during standardized assessments;

(b) administrative penalties for misuse of electronic devices during school hours or at a school-sponsored;

(c) violations of an LEA's acceptable use policies that may result in confiscation of LEA-owned electronic devices or restricted access on the LEA's;

(d) a student's personal responsibility for devices assigned or provided to a student by the LEA, both for loss or damage of

electronic devices and use of electronic devices consistent with the LEA's directives;

(e) use of electronic devices in violation of an LEA's or teacher's instructional policies may result in the confiscation of privately-owned electronic devices for a designated period; and

(f) uses of privately-owned electronic devices to bully or harass other students or employees during school hours or at school-sponsored activities that may result in the student being subject to LEA disciplinary action.

(3) In addition to the provisions of Subsections (1) and (2), directives for employee use of electronic devices shall include:

(a) notice that use of electronic devices to access inappropriate matter on LEA-owned electronic devices or privately-owned electronic devices on school property, at school-sponsored events or using school connectivity may have criminal, employment or student disciplinary consequences, and if appropriate, may be reported to law enforcement;

(b) notice that an employee is responsible for LEA-issued electronic devices at all times and misuse of an electronic device may have employment consequences, regardless of the user; and

(c) required staff responsibilities in educating minors on appropriate online activities, as required by Section 53G-7-1202, and in supervising such activities.

(4) An LEA's policies shall also include the following:

(a) prohibitions or restrictions on unauthorized use that would cause invasions of reasonable expectations of student and employee privacy;

(b) procedures to report the misuse of electronic devices; and

(c) potential disciplinary actions toward students or employees for violation of local policies regarding the use of electronic devices; and

(d) exceptions to the policy for special circumstances, health-related reasons and emergencies, if any.

(5) An LEA shall certify annually through UETN, and as required by the FCC, that the LEA has a CIPA-compliant acceptable use policy.

R277-495-5. Required School Level Training.

(1) A school shall provide, within the first 45 days of each school year, a school-wide or in-classroom training to employees and students that covers:

(a) the contents of the school's policy;

(b) the importance of digital citizenship;

(c) the LEA's conduct and discipline related consequences as related to a violation of the school's policy;

(d) the LEA's general conduct and discipline policies as described in Section 53G-8-202; and

(e) the benefits of connecting to the Internet and utilizing the school's Internet filters, while on school premises.

(2) A school that adopts a permissible use policy shall:

(a) within the first 45 days of each school-year, provide school-wide or in-classroom training to employees and students that covers:

(i) the elements described in Subsections (1)(a) through (e); and

(ii) specific rules governing the permissible and restricted uses of personal electronic devices while in a classroom; and

(b) require that each educator who allows the use of a personal electronic device in the classroom clearly communicates to parents and students the conditions under which the use of a personal electronic device is allowed.

R277-495-6. Resources and Required Assurances.

(1) The Superintendent may provide resources, upon request, for an LEA regarding electronic device policies, including:

(a) sample acceptable use policies;

(b) general best practices for electronic device use as outlined in R277-922; and

(c) materials for digital citizenship as outlined in Section 53G-7-1202.

(2) An LEA shall post the LEA's electronic device use policy on the LEA's website and provide a link to the Board through the annual assurances document described in R277-108.

R277-495-7. LEA Requirement to Notify Parents of Filtering Options.

An LEA shall provide an annual notice to all parents of the location of information for in-home network filtering options as provided for in Section 76-10-1231.

KEY: electronic devices, policy
Date of Enactment or Last Substantive Amendment: April 8, 2019
Notice of Continuation: December 7, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-8-202(2)(c)(i)

R277. Education, Administration.
R277-496. K-3 Reading Software Licenses.
R277-496-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah constitution and state law; and

(c) Subsection 53F-4-203(2), which directs the Board to distribute software licenses for the early interactive reading software program to LEAs that apply for the licenses.

(2) The purpose of this rule is to establish criteria and procedures to administer the K-3 reading software program.

R277-496-2. Definitions.

(1) "Aggregate student population" means the total number of students within a school who are using a technology provider's early interactive reading software licenses.

(2) "Dosage" means amount of instruction time.

(3) "Early interactive reading software" or "K-3 reading software license" means technology tools and software that adjust the presentation of educational material according to a student's weaknesses and strengths, as indicated by the student's responses to questions.

(4) "Personalized fidelity" means local measures for fidelity to a software product based on three or more data points that demonstrate successful student outcomes at or above the level of student outcomes achieved by the technology provider's dosage recommendations.

(5) "Use early interactive reading software in accordance with a technology provider's dosage recommendations" means when at least 80% of the aggregate student population of a school, by provider:

(a) uses a technology provider's K-3 reading software for at least 80% of:

(i) the minimum number of weeks of use recommended by the technology provider for the K-3 reading software program;

(ii) the average number of minutes of use recommended by the technology provider for the K-3 reading software program or

(b) demonstrates personalized fidelity per programmatic requirements.

R277-496-3. K-3 Reading Software Licenses.

(1) The Superintendent shall select one or more technology providers through an RFP to provide early interactive reading

software for students in kindergarten through grade 3.

(2) A school may apply for early interactive reading software for students in kindergarten through grade 3.

(3) The Superintendent shall accept applications from LEAs for early interactive reading software licenses that satisfy the requirements of Section 53F-4-203 and the provisions of this rule.

(4) If the number of requests for K-3 reading software licenses exceeds the number of licenses available, the Superintendent shall give priority to:

(a) requests for licenses to be used in Kindergarten or grade 1; or

(b) a school that:

(i) received a K-3 reading license in a previous school year; and

(ii) used the K-3 reading license in accordance with the technology provider's dosage recommendations.

(5) The Superintendent shall establish timelines for submission of applications.

(6) A school may not require a student to participate in the K-3 reading software license program.

R277-496-4. School Probationary Re-entry Into the Program.

(1) If a school does not use the early interactive reading software licenses in accordance with the technology provider's dosage recommendations, the school may not receive K-3 reading software licenses for one year.

(2) A school described in Subsection (1) may reapply to re-enter the program on a probationary basis and receive K-3 reading software licenses if the school meets the probation requirements of this Section R277-496-4.

(3) A school is on probation if the school:

(a) previously received K-3 reading software licenses;

(b) lost eligibility to participate in the program, which includes failure to use the early interactive software per the technology provider's dosage recommendations for two consecutive years; and

(c) receives K-3 reading software licenses after re-entering the program.

(4)(a) The school principal, instructional leaders, and teachers of a school on probation shall engage in all of the available technology provider support structures and interventions for probationary software programs, including:

(i) data dives;

(ii) professional learning; and

(iii) usage and fidelity updates.

(b) A technology provider shall establish the specific support structure requirements and interventions described in

Subsection (4)(a) for the technology provider's software program.

(5) If a technology provider does not offer support structure requirements and interventions as described in Subsection (4), the Superintendent may not make the technology provider's software available for a school that is on probation.

(6) If a school on probation does not use the early interactive reading software licenses in accordance with a technology provider's dosage recommendations during the probationary year, the school may not receive an early interactive reading license for the following year unless the school on probation pays for 50% of the costs of the K-3 reading license software license.

R277-496-5. Reporting.

(1) An LEA that receives K-3 reading software licenses shall provide information that is requested by the Superintendent or external evaluator selected by the Board in conducting the evaluation required in Subsection 53F-4-203(3) and (4).

(2) The Superintendent may recommend action to the Board, including withholding of funds, in accordance with Rule R277-114 for an LEA that fails to provide complete, accurate, and timely reporting as required by this rule.

KEY: reading, software, licenses
Date of Enactment or Last Substantive Amendment: December 10, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-4-203

R277. Education, Administration.
R277-497. School Accountability System.
R277-497-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Section 53E-5-202, which directs the Board to adopt rules to implement a statewide accountability system; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and State law.

(2) The purpose of this rule is to set performance thresholds for the purpose of assigning overall ratings to schools, establish provisions for the methodology of calculating points, and address exclusions from the school accountability system.

R277-497-2. Assignment of Overall Rating for a School.

(1) The Superintendent shall assign an overall school rating in accordance with the indicators described in Section 53E-5-205 for elementary and middle schools and Section 53E-5-206 for high schools.

(2) The Board establishes the following performance thresholds for the Superintendent to assign overall ratings to schools.

(3) For an elementary or middle school:

(a) an "A" rating represents an exemplary school, where the school has earned 63.25% of the total points possible;

(b) a "B" rating represents a commendable school, where the school has earned 55% of the total points possible;

(c) a "C" rating represents a typical school, where the school has earned 43.5% of the total points possible;

(d) a "D" rating represents a developing school, where the school has earned 35.5% of the total points possible; and

(e) an "F" rating represents a critical needs school, where the school has earned less than 35.5% of the total points possible.

(4) For a high school:

(a) an "A" rating represents an exemplary school, where the school has earned 64% of the total points possible;

(b) a "B" rating represents a commendable school, where the school has earned 57% of the total points possible;

(c) a "C" rating represents a typical school, where the school has earned 46% of the total points possible;

(d) a "D" rating represents a developing school, where the school has earned 38% of the total points possible; and

(e) an "F" rating represents a critical needs school, where

the school has earned less than 38% of the total points possible.

(5) In accordance with Section 53E-5-204(3)(b), for the 2017-18 school year, the Superintendent may not assign an overall rating to a school.

R277-497-3. Indexing of Points for Calculating Academic Growth.

(1) For the purposes of calculating academic growth, the Superintendent shall assign each student a student growth percentile (SGP) and a student growth target (SGT).

(2) The Superintendent shall assign points to a school for student growth relative to the percentage of students who meet their SGT as follows:

(a) if a student's SGP is greater than or equal to the student's SGT, and the student meets the SGT goal for a subject area, the student is awarded a weight based on the student's SGP using the following index:

(i) if the student's SGP is greater than 65, the weight is 1.0;

(ii) if the student's SGP is between 50 and 65, the weight is 0.75;

(iii) if the student's SGP is between 40 and 49, the weight is 0.50; and

(iv) if the student's SGP is less than 40, the weight is 0.25; or

(b) if a student's SGP is less than the student's SGT and the student does not meet the SGT goal for a subject area, the student is awarded a weight based on the student's SGP using the following index:

(i) if the student's SGP is greater than 65, the weight is 0.75;

(ii) if the student's SGP is between 50 and 65, the weight is 0.50;

(iii) if the student's SGP is between 40 and 49, the weight is 0.25; and

(iv) if the student's SGP is less than 40, the weight is 0.

(3) To determine the total growth points allocated to a school, the Superintendent shall:

(a) add all the weights and divide by the total number of tests to establish a percentage; and

(b) multiply the percentage by the total growth points possible.

R277-497-4. Specific Provisions on Calculation of Points.

(1)(a) In accordance with Section 53E-5-207(4)(c)(ii), the Superintendent shall award 10% of the points allocated for high school graduation based on a school's five-year graduation rate.

(b) A school may not earn more than the total number of

points possible for the graduation rate indicator.

(2)(a) In accordance with Section 53E-5-210, the Superintendent shall determine that an ELL student meets adequate progress if the ELL student has an increase in proficiency level by 0.4 on an English language proficiency assessment approved by the Board and designated in Rule R277-404.

(3)(a) For a school that chooses to include additional quality indicators on its school report card, the school may choose up to two additional self-reported indicators.

(b) The Superintendent shall approve a list of indicators that a school may use for purposes of Subsection (4)(a), and may also approve other indicators that an LEA may submit for consideration.

(c) The Superintendent shall publish the pre-approved self-reported indicators list on the Assessment and Accountability section of the USBE website.

(d) If a school elects to include the additional self-reported indicators, the school shall notify the Superintendent by established due dates, which are published on the Assessment and Accountability section of the USBE website by July 1.

(5) When calculating postsecondary readiness points for a high school student's performance on a college readiness assessment, the Superintendent shall use the student's ACT score obtained during the statewide administration of ACT.

(6) The Superintendent shall publish the Utah Accountability Technical Manual, which includes:

(a) additional technical details on the calculation of points;

(b) business rules;

(c) detailed explanations on the methodologies for the calculation of achievement, student growth, equitable education opportunity, and postsecondary readiness and;

(d) other indicators to appropriately assess the educational impact of a school that serves a special student population.

(6) A copy of the Utah Accountability Technical Manual is located at:

(a) https://schools.utah.gov/assessment/resources; and

(b) the offices of the Utah State Board of Education.

R277-497-5. Exclusions From the Accountability System and Indicators for Schools Serving a Special Student Population.

(1)(a) In determining schools to exempt from the school accountability system, in accordance with Section 53E-5-203, the Superintendent shall exempt a school in which the number of students tested on a statewide assessment is less than 10.

(b) The Superintendent may not report any school indicator for which the student group size for that indicator is less than

10.

(2) The Superintendent shall publish other indicators, in addition to indicators described in Sections 53E-5-205 and 53E-5-206, to appropriately assess the educational impact of a school that serves a special student population.

KEY: school reports, school grading accountability
Date of Enactment or Last Substantive Amendment: August 7, 2018
Notice of Continuation: August 13, 2015
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-5-202; 53E-3-401(4)

R277. Education, Administration.
R277-498. Grant for Math Teaching Training.
R277-498-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and

(c) Subsection 53F-5-205(2), which directs the Board to make rules to provide criteria to award a grant related to mathematics education.

(2) The purpose of this rule is to establish criteria to award a grant to:

(a) support and encourage prospective educators to earn mathematics endorsements; and

(b) assist an experienced mathematics teacher in becoming a teacher leader.

R277-498-2. Definitions.

(1) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the electronic file maintained on all licensed Utah educators that includes:

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history; and

(e) a record of disciplinary action taken against the educator.

(2) "Endorsements in mathematics" means one or more endorsements in the mathematics teaching field that:

(a) qualify an educator or prospective educator to teach a specific or specific level of mathematics course; and

(b) is indicated by a notation on the educator's CACTUS record.

(3) "Grantee" or "prospective grantee" means:

(a) an institution of higher education; or

(b) a nonprofit educational organization.

(4) "Matching funds" means funds provided by the grant recipient in order to receive state funds under Section 53F-5-205.

R277-498-3. Board Procedures for Distributing Funds.

(1) The Superintendent shall select a grantee that meets the criteria of Section 53F-5-205 and the criteria of this rule from requests submitted by a prospective grantee.

(2) The Superintendent shall notify a selected grantee of its eligibility to receive funds under this program following:

(a) review of the request; and

(b) the assurance of matching funds.

(3) The Superintendent may identify one eligible and qualified grantee and establish a funding schedule to distribute funds or allow a prospective grantee to submit an application until March 30.

(4) The Superintendent, under the direction of the Board, shall distribute the appropriation provided for in Section 53F-5-205 by June 30.

R277-498-4. Criteria for Awarding Grants.

(1) The Superintendent shall consider the amount or percent of matching funds that a prospective grantee offers.

(2) The Superintendent shall determine that the prospective grantee requesting funds under Section 53F-5-205 shall use the funds consistent with Section 53F-5-205.

R277-498-5. Accountability and Documentation.

(1) The Superintendent shall maintain records of the distribution of funds to a grantee that requests funds provided under Section 53F-5-205 and this rule.

(2) The recipient of funds under Section 53F-5-205 shall maintain documentation of the matching funds offered by the grantee that established the grantee's eligibility.

(3) Both the Superintendent and the eligible grantee shall maintain documentation of:

(a) the number of prospective educators and the relevant training received from funding provided by Section 53F-5-205; or

(b) the number of experienced mathematics teachers and the relevant training received from funding provided by Section 53F-5-205.

KEY: grants, educators, math teaching training
Date of Enactment or Last Substantive Amendment: October 8, 2015
Notice of Continuation: August 13, 2015
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-401(3); 53F-5-205(2)

R277. Education, Administration.
R277-499. Seal of Biliteracy.
R277-499-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-501(1)(b), which allows the Board to establish rules and minimum standards for graduation requirements.

(2) The purpose of this rule is to establish rules and procedures for a student to earn a Seal of Biliteracy in conjunction with a high school diploma.

R277-499-2. Definitions.

(1) "Intermediate-Mid" level means a level of language proficiency in terms of speaking, writing, listening, and reading in real-world situations in a spontaneous and non-rehearsed context, as established by the American Council on the Teaching of Foreign Languages or tribal education directors.

(2) "Seal of Biliteracy " means a recognition, awarded in conjunction with a student's high school diploma, which certifies that a student is proficient in English and at Intermediate-Mid level or higher in one or more world languages.

(3) "World language" means a language other than English and includes:

(a) American Sign Language;

(b) American Native Languages, such as Navajo or Ute; and

(c) classical languages, such as Latin.

R277-499-3. Procedures for Award of Seal of Biliteracy.

(1)(a) An LEA may develop a local application process for a student who wishes to earn the Seal of Biliteracy.

(b) An LEA application process shall include procedures for:

(i) advertising the criteria for the Seal of Biliteracy;

(ii) tracking students who may qualify for the Seal of Biliteracy; and

(iii) documenting student progress.

(c) An LEA shall train counselors and world language coordinators to provide information on the application process to interested students.

(d) The Superintendent shall provide an application template which an LEA may use in the application process.

(2) An LEA may award the Seal of Biliteracy to a student who:

(a) demonstrates proficiency in an English assessment; and

(b) demonstrates a minimum of Intermediate Mid-level proficiency in a world language assessment.

(3)(a) The Superintendent shall maintain a list of acceptable national and international tests with qualifying scores to demonstrate proficiency as required by this rule.

(b) The Superintendent shall review and update the list provided by Subsection (3)(a) on a regular basis and publish the information on the Board's website.

(4) If a student meets the requirements of Subsection (2):

(a) the Superintendent shall place the Seal of Biliteracy electronically on the student's transcript; and

(b) an LEA may place a seal on the student's paper diploma.

KEY: biliteracy, seal, world languages
Date of Enactment or Last Substantive Amendment: January 10, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(b)

R277. Education, Administration.
R277-500. Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks.
R277-500-1. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53E-6-201 which requires the Board to make rules requiring participation in professional learning activities in order for educators to retain Utah licensure, and Subsection 53E-3-401(4) which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide definitions and requirements for an educator to renew a Utah educator license. This rule requires verification of employment, development of a professional learning plan, and documentation of activities consistent with Title 53E, Chapter 6, Education Professional Licensure.

R277-500-2. Definitions.

A. "Acceptable alternative professional learning activity" means an activity that may not fall within a specific category under R277-500-5 but is consistent with this rule.

B. "Accredited" means a teacher preparation program accredited by the National Council for Accreditation of Teacher Education (NCATE), the Teacher Education Accreditation Council (TEAC), or the Council for the Accreditation of Educator Preparation (CAEP).

C. "Accredited school," for purposes of this rule, means a public or private school that has met standards considered to be essential for the operation of a quality school program and has received formal approval by the Northwest Accreditation Commission.

D. "Active educator," for purposes of this rule, means an individual holding a valid license issued by the Board who is employed by a Utah public LEA, accredited private school, or USOE, or who was employed by a Utah public LEA or accredited private school in a role covered by the license for at least three years in the individual's renewal period.

E. "Active educator license" means a license that is currently valid for employment in a position requiring an educator license.

F. "Board" means the Utah State Board of Education.

G. "College/university course" means a course taken through an institution approved under Section 53E-6-303.

H. "Course work successfully completed" for purposes of this rule means the student earns a grade C or better in approved university or university level course work or USOE professional

learning credit.

I. "Documentation of professional learning activities" means:

(1) an original student transcript of university/college courses;

(2) an LEA or USOE-sponsored electronic record of professional learning activities;

(3) a summary, explanation, or copy of the product of a professional learning activity signed by the educator's supervisor or a licensed administrator ;

(4) a certificate of completion for an approved professional learning conference, workshop, institute, symposium, educational travel experience or staff development; or

(5) an agenda or conference program demonstrating sessions and duration of professional learning activities.

J. "Educational research" means conducting research on education issues or investigating education innovations.

K. "Inactive educator" means an individual:

(1) who holds a valid license issued by the Board;

(2) who is not currently employed by a Utah public LEA or accredited private school; and

(3) who was employed by a Utah public LEA or accredited private school in a role covered by the license for less than three years in the individual's renewal period.

L. "Inactive educator license" means a license issued by the Board, other than a suspended or revoked license, that is currently not valid due to the holder's failure to complete requirements for license renewal.

M. "LEA" or "local education agency" means a school district or a charter school.

N. "Level 1 license" means a Utah professional educator license issued:

(1) to an applicant upon completion of an approved preparation program or an alternative preparation program; or

(2) to an applicant that holds an educator license issued by another state or country that has also met all ancillary requirements established by law or rule.

O. "Level 2 license" means a Utah professional educator license issued to an applicant after the applicant meets the following:

(1) completion of all requirements for a Level 1 license;

(2) satisfaction of requirements under R277-522 for a teacher whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public LEA or accredited private school;

(3) completion of:

(a) at least three years of successful education experience

in a Utah public LEA or accredited private school; or

(b)(i) one year of successful education experience in a Utah public LEA or accredited private school; and

(ii) at least three years of successful education experience in a public LEA or accredited private school outside of Utah; and

(4) completion of any additional requirements established by law or rule.

P. "Level 3 license" means a Utah professional educator license issued to an educator who:

(1) holds a current Utah Level 2 license; and

(2)(a) received National Board Certification;

(b) received a doctorate in education or in a field related to a content area in a unit of:

(i) the public education system; or

(ii) an accredited private school; or

(c) holds a Speech-Language Pathology area of concentration and has obtained American Speech-Language Hearing Association (ASHA) certification.

Q. "License" means an authorization which permits the license holder to serve in a professional capacity in a public LEA or accredited private school.

R. "Licensed administrator" means:

(1) an individual holding an active educator license that is valid for employment in a public school administrative position; or

(2) an individual currently employed by a Utah charter school in an administrative position.

S. "License renewal points" means the points accumulated by a Utah license holder through activities approved under this rule for the purpose of satisfying requirements of Section 53E-6-201.

T. "National Board Certification" means the successful completion of the National Board for Professional Teaching Standards (NBTPS) process, a three-year process, that may include:

(1) national content-area assessment;

(2) an extensive portfolio; and

(3) assessment of video-taped classroom teaching experience.

U. "Professional growth plan" means a plan created and reviewed annually by an active educator and the educator's direct supervisor that details the professional goals of the educator based on the Utah Effective Teaching and Educational Leadership Standards consistent with R277-520 and related to the educator's self-assessment and formal evaluation required under Section 53G-11-504.

V. "Professional learning" means engaging in activities that improve or enhance an educator's practice.

W. "Professional learning plan" means a document prepared by a Utah educator consistent with this rule.

X. "Superintendent" means the State Superintendent of Public Instruction or the Superintendent's designee.

Y. "University level course" means a course:

(1) that has the same academic rigor and requirements of a university or college course;

(2) taught by appropriately trained individuals; and

(3) designated as a university level course by the Superintendent.

Z. "UPPAC" means the Utah Professional Practices Advisory Commission under Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission.

AA. "USOE" means the Utah State Office of Education.

BB. "USOE professional learning credit" means a course, approved by the Superintendent under R277-519-3, that educators may participate in to:

(1) renew a license;

(2) teach in another subject area; or

(3) teach at another grade level.

CC. "Verification of employment" means official documentation of employment as an educator listing the educator's assignment and years of service, signed by the supervising administrator.

R277-500-3. Educator License Renewal Requirements.

A. Professional Learning Plan for Active Educators

(1) An active educator, in collaboration with the active educator's supervisor, shall develop and maintain a professional learning plan as a subset of the active educator's professional growth plan.

(2) The professional learning plan shall outline the professional learning activities in which the educator will participate during the educator's current license renewal cycle;

(3) The professional learning plan shall be developed by taking into account:

(a) the educator's professional goals;

(b) curriculum relevant to the educator's current or anticipated assignment;

(c) goals and priorities of the LEA and school;

(d) available student data relevant to the educator's current or anticipated assignment;

(e) feedback from the educator's yearly evaluation required under Section 53G-11-504;

(f) the requirements under R277-522 if the educator is a Level 1 licensed educator.

(4) The professional learning plan for active educators shall include two hours of professional learning on youth suicide prevention consistent with Section 53G-9-704.

(5) The professional learning plan shall be reviewed and signed annually by the educator and supervisor and may be adjusted as appropriate.

(6) The educator is responsible for creation of the professional learning plan in collaboration with the designated supervisor.

(7) The educator is responsible for maintaining documentation associated with the plan and the annual review of the plan.

(8) The LEA may create tools or policies or both to assist educators in meeting this responsibility.

B. Professional Learning Plan for Inactive Educators

(1) All inactive educators intending to renew an educator license shall, in collaboration with a licensed administrator, develop and maintain a professional learning plan.

(2) The professional learning plan shall outline the professional learning activities in which the educator will participate during the educator's current license renewal cycle.

(3) The plan shall take into account:

(a) the educator's professional goals;

(b) current license areas of concentration and endorsements;

(c) current trends relevant to the educator's current license areas of concentration and endorsements;

(d) the Utah Core Standards relevant to the educator's current license areas of concentration and endorsements;

(4) The professional learning plan shall be reviewed and signed by the educator and a licensed administrator at the beginning of the license renewal cycle and again at the end of the license renewal cycle.

(5) The educator shall develop the professional learning plan and maintain documentation of the plan.

C. License Renewal Points

(1) To be valid for renewal, the professional learning plan shall document that the educator has earned the appropriate number of license renewal points as defined in R277-500-3.

(2) License holders may accrue license renewal points beginning with the date of each new license renewal.

(3) A Level 1 license holder shall earn at least 100 license renewal points in each three year period. A Level 1 license may only be renewed consistent with R277-504-3D.

(4) A Level 2 license holder shall earn at least 200 license renewal points in each 5 year period.

(5) A Level 3 license holder shall earn at least 200 license renewal points in each 7 year period.

D. Documentation

(1) Each Utah license holder shall be responsible for maintaining documentation supporting completion of the

professional learning plan.

(2) It is the educator's responsibility to retain documentation of professional learning activities with appropriate signatures.

(3) All documentation relevant to the professional learning plan shall be retained by the educator for a minimum of two years from the designated renewal date.

E. Educator Ethics Review

(1) Completion of the USOE Educator Ethics Review shall be required for the renewal of a Utah educator license beginning January 1, 2011.

(2) No license may be renewed prior to the completion of the USOE Educator Ethics Review.

(3) The Ethics Review shall be completed within one calendar year prior to license renewal.

F. The Superintendent may renew an educator's license if:

(1) the educator's background check is complete; and

(2) the educator is currently enrolled in ongoing monitoring through registration with the systems described in Section 53G-11-404.

R277-500-4. Educator License Renewal Procedures.

A. An active educator license holder shall satisfy the final review and obtain the appropriate signatures regarding completion of the professional learning plan between January 1 and June 30 of the educator's assigned renewal year.

(1) A Level 2 or 3 educator license holder who has completed all additional requirements for renewal shall complete the online renewal provided by USOE between January 1 and June 30 of the educator's assigned renewal year.

(2) A Level 1 educator license holder who has completed all additional requirements for renewal shall submit the Professional Learning Plan Completion Form to the USOE between January 1 and June 30 of the educator's assigned renewal year. Forms that are not complete or do not bear original signatures shall not be processed.

(3) An educator's failure to complete the online process or submit the completion form consistent with deadlines in this rule shall result in beginning anew the administrative licensure process, including all attendant fees and criminal background checks.

B. An inactive educator license holder shall satisfy the final review and obtain the appropriate signatures regarding completion of the professional learning plan within one calendar year prior to the date on which the inactive educator license holder is directed/scheduled to renew the license.

(1) A Level 2 or 3 educator license holder who has completed

all additional requirements for renewal shall complete the online renewal process provided by USOE between January 1 and June 30 of the educator's assigned renewal year.

(2) A Level 1 educator license holder who has completed all additional requirements for renewal shall submit the Professional Learning Plan Completion Form to the USOE between January 1 and June 30 of the educator's assigned renewal year. Forms that are not complete or do not bear original signatures shall not be processed.

(3) An educator's failure to complete the online process or submit the completion form consistent with deadlines shall result in beginning anew the licensure process, including all attendant fees and criminal background checks.

C.(1) An educator shall obtain the signature of the educator's direct administrative supervisor on the educator's renewal form.

(2) The educator's direct administrative supervisor described in R277-500-4C(1) shall be a licensed administrator.

(3) If an educator's supervisor is not a licensed administrator then the form shall be signed by the next highest administrative supervisor who is a licensed administrator.

(4) If the educator is the highest administrative authority in the LEA then the form shall be signed by the president or chairperson of the LEA's governing board.

D. An educator who is seeking a license renewal shall obtain the signature of a licensed administrator on the educator's license renewal form.

E.(1) The Superintendent shall charge a fee, set by the Superintendent, to an educator seeking renewal from an inactive status or requesting level changes.

(2) The Superintendent shall charge an educator with an active license renewal fee consistent with R277-502

F. The Superintendent shall audit a random sample of approximately ten percent of the annual online renewals.

G. An educator selected for an audit described in R277-500-4F:

(1) shall submit the Professional Learning Plan Completion Form with the appropriate signatures to the USOE in a timely manner.

(2) shall receive a warning letter and may be referred to UPPAC if documentation is not submitted as requested.

(3) shall be referred to UPPAC for possible license discipline if the documentation reveals fraudulent or unprofessional actions.

H. The Superintendent may review or audit renewal transactions including the professional learning plan, signatures, and documentation of professional learning activities.

R277-500-5. Categories of Acceptable Activities for License Renewal.

A(1) An educator may earn licensure renewal points based on the educator's employment in a position requiring a Utah educator license during the educator's license cycle.

(2) An educator may only count years of employment with satisfactory performance evaluations for license renewal points.

(3) A Level 1 license holder may earn 25 license renewal points per year of employment to a maximum of 50 points per license cycle.

(4) A Level 2 or 3 license holder may earn 35 license renewal points per year of employment to a maximum of 105 points per license cycle.

B(1) An educator shall complete a college or university course with a C or better, or a pass, to have the course apply to the educator's license.

(2) Each semester hour of university or college credit, as recorded on an official transcript, equals 18 license renewal points.

C(1) USOE professional learning credit:

(a) shall be approved as described in R277-519-3; and

(b) shall be successfully completed through attendance and through completion of required project(s).

(2) Each semester credit hour equals 15 license renewal points.

(3) An LEA may request approval of USOE professional learning credit by submitting a request to the Superintendent through the USOE-sponsored online professional learning tracking system.

(4) An LEA shall request approval from the Superintendent at least four weeks prior to the beginning date of the scheduled professional learning activity.

(5) The professional learning credit may be denied if the LEA does not seek approval from the Superintendent in advance.

D. An LEA-sponsored or approved professional learning activity:

(1) shall be approved by the LEA at least four weeks prior to the scheduled activity; and

(2) may include LEA or school based professional learning such as:

(a) participating in professional learning communities;

(b) development of LEA or school curriculum;

(c) planning and implementation of a school improvement plan;

(d) mentoring a Level 1 teacher;

(e) engaging in instructional coaching;

(f) conducting action research;

(g) studying student work with colleagues to inform instruction.

E. Each clock hour of scheduled professional learning activity time equals one license renewal point, not to exceed 25 points per activity per year.

F(1) Acceptable alternative professional learning activities for an educator include activities that enhance or improve education, yet may not fall into a specific category if the activities are approved by:

(a) the educator's supervisor;

(b) by a licensed administrator if the educator is an inactive educator; or

(c) the Superintendent, with prior written approval by the Superintendent.

(2) Each clock hour of participation equals one license renewal point, not to exceed 25 points per activity.

G. Conferences, workshops, institutes, symposia, or staff-development programs:

(1) Acceptable workshops and programs shall be approved by the educator's supervisor, by a licensed administrator if the educator is an inactive educator, or with prior written approval by the Superintendent.

(2) Each clock hour of participation equals one license renewal point, not to exceed 25 points per activity.

G. Content and pedagogy testing:

(1) Acceptable tests include those approved by the Board.

(2) Each Board-approved test score report submitted, with a passing score, equals 25 license renewal points.

(3) Each test must be related to the educator's current or potential license area(s) or endorsement(s).

(4) No more than two test score reports may be submitted in a license cycle.

H. Utah university sponsored cooperating teachers:

(1) An educator working as a cooperating teacher with one or more student teachers may earn license renewal points.

(2) Each clock hour spent supervising, collaborating with, and mentoring assigned student teachers equals one license renewal point not to exceed 25 points per license renewal cycle.

I. Service in a leadership role in a national, state-wide, or LEA-recognized professional education organization:

(1) Acceptable service shall be approved by the educator's supervisor or by a licensed administrator if the educator is an inactive educator.

(2) Each clock hour of participation equals one license renewal point, not to exceed 10 points per year.

J. Educational research and innovation that results in a

final, demonstrable product:

(1) Acceptable activities shall be approved by the educator's supervisor or by a licensed administrator if the educator is an inactive educator.

(2) The research activity shall be consistent with school and LEA policy.

(3) Each clock hour of participation equals one license renewal point, not to exceed 35 points per activity.

K. Substituting in a Utah public LEA or accredited private school:

(1) shall be considered an acceptable professional learning activity only for inactive educators paid and authorized as substitutes.

(2) Two hours of documented substitute time equals one license renewal point, not to exceed 25 points per year or 50 points per license cycle.

(3) Verification of hours shall be documented on LEA or school letterhead, list dates of employment, and signed by the supervising administrator.

L. Paraprofessional or volunteer service in a Utah public LEA or accredited private school:

(1) shall be considered an acceptable professional learning activity only for inactive educators.

(2) Three hours of documented paraprofessional or volunteer service equals one license renewal point, not to exceed 25 points per year or 50 points per license cycle.

(3) Verification of hours shall be documented on LEA or school letterhead, list dates of service, and signed by the supervising administrator.

M. Credit for LEA lane change or other purposes is determined by the LEA and is awarded at the LEA's discretion. USOE professional learning credit should not be assumed to be credit for LEA purposes, such as salary or lane change credit.

R277-500-6. Board Directive to Educator License Holders for Fingerprint Background Check.

A(1) The Superintendent shall require a licensed educator or license applicant to submit to a fingerprint background check and ongoing monitoring by the Superintendent through registration with the systems described in Section 53G-11-404 as a condition of licensure in Utah.

(2) A licensed educator shall submit a new fingerprint background check for ongoing monitoring within one calendar year prior to the date of the educator's next license renewal after July 1, 2015.

(3) A license applicant shall submit a new fingerprint background check for ongoing monitoring by the Superintendent.

(a) If a license applicant submits a new fingerprint background check on or after July 1, 2015, the Superintendent shall require the license applicant to be enrolled in ongoing monitoring before the Superintendent may issue a new license to the license applicant.

(b) The Superintendent may issue a new license to a license applicant without enrolling the license applicant in ongoing monitoring if the license applicant's background check was cleared:

(i) less than three years prior to the issue date of the license; and

(ii) prior to July 1, 2015,

(4) The Superintendent shall discontinue monitoring an individual through the systems described in Section 53G-11-404:

(a) for a licensed educator, one year after the expiration of the most recently issued license; or

(b) for a license applicant, five years after the submission of the background check.

(5) If the fingerprint background check for a licensed educator or a license applicant is incomplete or under review by the Utah Professional Practices Advisory Commission (UPPAC), the individual's CACTUS file will direct the reviewer of the file to the Superintendent for further information.

B. The Superintendent may direct a Utah educator license holder to have a criminal fingerprint background check under Section 53E-6-401 for good cause shown.

C. If an educator license holder fails to comply with the directive in a reasonable time, following reasonable notice, and adequate due process, the educator license holder's license may be put into a pending status in the educator's CACTUS file subject to the educator license holder's compliance with the directive.

D. The Board or its designee may review an educator license holder's compliance with the directive prior to the final decision about the educator license holder's license status.

R277-500-7. Exceptions or Waivers to this Rule.

A. The Superintendent may make exceptions to the provisions of this rule for unique and compelling circumstances if the exception is granted consistent with the purposes of this rule and the authorizing statutes.

B. An educator may request an exception described in R277-500-7A.

C. An educator shall submit a request to the Superintendent for an exception described in R277-500-7C in writing at least 30 days prior to the license holder's renewal date.

D. The Superintendent shall approve or deny a request for an exception described in R277-500-7C in a timely manner.

E. A denial of a request described in R277-500-7D is not subject to administrative appeal.

KEY: educator license renewal, professional learning, fingerprint background check
Date of Enactment or Last Substantive Amendment: August 26, 2015
Notice of Continuation: July 1, 2015
Authorizing, and Implemented or Interpreted Law: 53E-6-201; 53E-3-401(4)

R277. Education, Administration.
R277-502. Educator Licensing and Data Retention.
R277-502-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-6-201, which gives the Board power to issue licenses.

(2) This rule specifies the types of license levels and license areas of concentration available and procedures for obtaining a license, required for employment as a licensed educator in the public schools of Utah.

(3) This rule also provides a process and criteria for educators whose licenses have lapsed to return to the teaching profession.

R277-502-2. Definitions.

(1) "Accredited school" means a public or private school that:

(a) meets standards essential for the operation of a quality school program; and

(b) has received formal approval through a regional accrediting association.

(2) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the electronic file maintained on all licensed Utah educators including information such as:

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history; and

(e) a record of disciplinary action taken against the educator.

(3) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(4) "Letter of Authorization" means a designation given to an individual employed by an LEA for one year authorizing the individual to teach in a public school, such as:

(a) an out-of-state candidate; or

(b) an individual pursuing an alternative license, who has not completed the requirements for a Level 1, 2, or 3 license; or

(c) an individual who has not completed necessary endorsement requirements.

(5)(a) "License areas of concentration" means designations to licenses obtained by completing a Board-approved educator preparation program or an alternative preparation program in a specific area of educational studies to include the following:

(i) Early Childhood (k-3);

(ii) Elementary (k-6);

(iii) Elementary (1-8);

(iv) Middle (5-9), only for licenses issued before 1988;

(v) Secondary (6-12);

(vi) Administrative/Supervisory (k-12);

(vii) Career and Technical Education;

(viii) School Counselor;

(ix) School Psychologist;

(x) School Social Worker;

(xi) Special Education (k-12);

(xii) Deaf Education

(xiii) Preschool Special Education (Birth-Age 5);

(xiv) Communication Disorders;

(xv) Speech-Language Pathologist; and

(xvi) Speech-Language Technician.

(b) License areas of concentration may also bear endorsements relating to subjects or specific assignments.

(6)(a) "License endorsement" or "endorsement" means a specialty field or area earned through completing required course work established by the Superintendent or through demonstrated competency approved by the Superintendent.

(b) An endorsement shall be listed on a professional educator license indicating the specific qualifications of the holder.

(7) "Licensing Jurisdiction" means the designated educator licensing authority in any foreign country or state of the United States of America and the Department of Defense Education Activity (DoDEA).

(8) "Professional learning plan" means a plan developed by an educator in collaboration with the educator's supervisor, consistent with R277-500, which details appropriate professional learning activities for the purpose of renewing the educator's license.

(9) "Renewal" means reissuing or extending the length of a license consistent with R277-500.

(10) "State Approved Endorsement Program" or "SAEP" means a plan developed between the Superintendent and a licensed educator to direct the completion of endorsement requirements by the educator consistent with Section R277-520-11.

R277-502-3. Program Approval and Requirements.

(1) The Superintendent shall accept educator license

recommendations from educator preparation programs that have applied for Board approval and have met the requirements described in this Rule R277-502 and the Standards for Program Approval established in:

(a) Rule R277-504;

(b) Rule R277-505; or

(c) Rule R277-506.

(2) The Superintendent may establish deadlines and uniform forms and procedures for all aspects of program approval.

(3) To be approved for license recommendation an educator preparation program shall:

(a) have a physical location in Utah where students attend classes or if the program provides only online instruction:

(i) have the program's primary headquarters located in Utah; and

(ii) be licensed to do business in Utah through the Utah Department of Commerce;

(b) include requirements designed to ensure that the educator meets the Utah Effective Educator Standards established in R277-530;

(c) include requirements, if the program offers content endorsement preparation, that are, at minimum, equivalent to the competency requirements for the endorsement as established by the Superintendent;

(d) establish entry requirements, approved by the Superintendent, that are designed to ensure that only high quality individuals enter the licensure program, which include measures of:

(i) previous academic success;

(ii) disposition for employment in an educational setting; and

(iii) basic skills in reading, writing, and mathematics; and

(e) include a student teaching or intern experience that meets the requirements detailed in Rules R277-504, R277-505, and R277-506.

(4) The Superintendent shall work with Board-approved educator preparation programs, LEAs, and other stakeholders to establish standards for pedagogical performance assessments that will be required under Rule R277-301 no later than January 1, 2019.

(5) The Superintendent shall lead the approval review for any Board-approved educator preparation program seeking to maintain or receive program approval.

(6) The Superintendent shall be responsible for:

(a) observing and monitoring the approval review process;

(b) reviewing subject specific programs to determine if the program meets state standards for licensure in specific areas;

(c) reviewing program procedures to ensure that Board requirements for licensure are followed; and

(d) reviewing licensure candidate files to determine if the program followed Board requirements for licensure.

(7) After completion of the approval review site visit, a Board-approved educator preparation program, working with the Superintendent, shall prepare and submit a program approval request for consideration by the Board that includes:

(a) a program summary;

(b) approval review findings;

(c) program areas of distinction;

(d) program enrollment; and

(e) program goals and direction.

(8) If the program approval request is approved by the Board, the program shall be considered Board-approved until the next scheduled approval review visit.

(9)(a) Notwithstanding Subsection 8, the Superintendent may place a program on probation for:

(i) failure to meet program requirements detailed in applicable Board rules; and

(ii) submission of inadequate or incomplete information in a report required under this R277-502.

(b) The Board may revoke its approval of a probationary program that fails to meet probationary requirements with at least one year's notice.

(10) If a new educator preparation program seeks Board approval or a previously Board-approved educator preparation program seeks approval for additional license area preparation and endorsements, the program shall submit an application to the Superintendent including:

(a) information detailing the exact license areas of concentration and endorsements that the program intends to award;

(b) detailed requirement information, including required course lists, course descriptions, and course syllabi for all courses that will be required as part of a program;

(c) detailed information showing how the program will ensure that the educator satisfies all standards in the Utah Effective Educator Standards established in Rule R277-530 and Professional Educator Standards established in Rule R277-515;

(d) information about program timelines and anticipated enrollment.

(11) The Board shall approve or deny applications for new educator preparation programs.

(12)(a) The Superintendent shall review and approve or deny applications from previously Board-approved educator preparation programs desiring Board approval for additional license areas and endorsements.

(b) The Superintendent may grant preliminary approval pending Utah State Board of Regents approval of a new program if the program is within a public institution.

(13) An educator preparation program seeking Board approval may apply to the Board for probationary approval for a maximum of three years contingent on the completion of the approval process.

(14) A Board-approved educator preparation program shall submit an annual report to the Superintendent by July 1 of each year, which shall include the following:

(a) student enrollment counts designated by anticipated license area of concentration and endorsement and disaggregated by gender and ethnicity;

(b) information explaining any significant changes to program requirements or content;

(c) the program's response to areas of concern or areas of focus identified by the Superintendent; and

(d) information regarding any program-determined areas of concern or areas of focus and the program's planned response.

(15) The Superintendent shall provide reporting criteria to Board-approved educator preparation programs regarding the annual report and designated areas of concern or focus by January 31 annually.

(16) An individual that completes a Board-approved educator preparation program may be recommended for licensure within five years of program completion if the individual meets current licensing requirements.

(17)(a) If five years have passed since an individual completed a Board-approved preparation program, the individual may be recommended for licensure following review by the individual program.

(b) The preparation program officials shall determine whether any content or pedagogy requirement previously met meets current program standards and if additional requirements are necessary to recommend licensure.

(c) The individual shall complete all requirements established by program officials before receiving a license recommendation from the program.

R277-502-4. License Levels, Procedures, and Periods of Validity.

(1)(a) The Superintendent shall recommend an individual to the Board for a Level 1 license if the individual:

(i) is recommended by a Board-approved educator preparation program or approved alternative preparation program; or

(ii) possesses a valid professional educator license from another state.

(b) An LEA and Board-approved educator preparation program shall cooperate in preparing candidates for a Level 1 license and

may use joint resources to assist candidates in preparation for licensing.

(c) A Board-approved educator preparation program may only issue a recommendation if the individual has satisfactorily completed the programs of study required for the preparation of educators and has met licensing standards in the license areas of concentration for which the individual is recommended.

(2) A Level 1 license is valid for three years unless suspended or revoked for cause by the Board.

(3) A license applicant who has received or completed license preparation activities or coursework inconsistent with this rule may present compelling information and documentation for review and approval by the Superintendent to satisfy the licensing requirements.

(4) If an educator has taught for three years in a K-12 public education system in Utah, the Superintendent may only recommend renewal of a Level 1 license if:

(a) the employing LEA has requested a one year extension consistent with Section R277-522-4; or

(b) the individual has continuous experience as a speech language pathologist in a clinical setting.

(5) The Superintendent shall recommend a Level 1 licensee to the Board for a Level 2 license upon:

(a) satisfaction of all Board requirements for the Level 2 license; and

(b) the recommendation of the employing LEA.

(6) An LEA shall make a recommendation under Subsection (5)(b), prior to the expiration of the educator's Level 1 license and following:

(a) the completion of three years of successful, professional growth and educator experience;

(b) satisfaction of all requirements of Rule R277-522; and

(c) any additional requirements imposed by the employing LEA.

(7) A Level 2 license shall be valid for five years unless suspended or revoked for cause by the Board.

(8) A Level 2 license may be renewed for successive five year periods consistent with Rule R277-500.

(9) The Superintendent shall recommend a Level 2 licensee to the Board for a Level 3 license who:

(a) has current National Board Certification;

(b) has a doctorate in education or in a field related to a content area in a unit of the public education system or an accredited private school; or

(c) holds a Speech-Language Pathology area of concentration and has a current American Speech-Language Hearing Association certification.

(10) A Level 3 license is valid for seven years unless suspended or revoked for cause by the Board.

(11) A Level 3 license may be renewed for successive seven year periods consistent with Rule R277-500.

(12) The Superintendent may establish deadlines and uniform forms and procedures for all aspects of licensing.

(13)(a) All licenses expire on June 30 of the year of expiration and may be renewed any time after January of the same year.

(b) Responsibility for license renewal rests solely with the licensee.

R277-502-5. Professional Educator License Areas of Concentration, and Endorsements and Under-Qualified Employees.

(1) Unless excepted under rules of the Board, to be employed in a public school in a capacity covered by a license area of concentration set forth in Subsection R277-502-2(6)(a), a person shall hold a valid license issued by the Board in the respective license area of concentration.

(2) An educator who is licensed and holds the appropriate license area of concentration but who is working out of the educator's endorsement area, shall:

(a) submit an SAEP to complete the requirements of an endorsement to the Superintendent; or

(b) request, along with the educator's employing LEA, a letter of authorization from the Board if the educator has not completed requirements for an area of concentration or endorsement.

(3)(a) A letter of authorization issued under Subsection (2)(b) is valid for one year.

(b) An educator may receive no more than three Letters of Authorization throughout the educator's employment in Utah schools.

(c) The Superintendent may recommend an exception to the limitation in Subsection (3)(b) on a case by case basis following specific approval of the request by the educator's employing LEA governing board.

(d) A letters of authorization approved prior to the 2000-2001 school year shall not be counted towards the limit in Subsection (3)(b).

(e) If an educator's letter of authorization expires before the individual is approved for licensing, the educator falls into under-qualified status.

(4) A licensed educator may receive an endorsement to indicate qualification in a subject or content area.

(a) An LEA shall recognize a STEM endorsement as a minimum of 16 semester hours of university credit toward lane change on

the LEA's salary schedule.

(b) The Superintendent shall determine the courses and experiences necessary for a STEM endorsement.

(c) The Superintendent shall determine which content area endorsements qualify as STEM endorsements.

(5) An endorsement is not valid for employment purposes without a current license and license area of concentration.

R277-502-6. Returning Educator Relicensure.

(1) A previously licensed educator with an expired license may renew an expired license upon satisfaction of the following:

(a) Completion of a criminal background check including review of any criminal offenses and clearance in accordance with Rule R277-214;

(b) Employment by an LEA;

(c) Completion of a one-year professional learning plan developed jointly by the educator's school principal or charter school director and the returning educator consistent with R277-500 that also considers the following:

(i) previous successful public school teaching experience;

(ii) formal educational preparation;

(iii) period of time between last public teaching experience and the present;

(iv) school goals for student achievement within the employing school and the educator's role in accomplishing those goals;

(v) returning educator's professional abilities, as determined by a formal discussion and observation process completed within the first 30 days of employment; and

(vi) completion of additional necessary professional development for the educator.

(d) Filing of the professional learning plan within 30 days of hire;

(e) Successful completion of required Board-approved exams for licensure;

(f) Satisfactory experience as determined by the LEA with a trained mentor; and

(g) Submission to the Superintendent of the completed and signed Return to Original License Level Application, available on the Board website prior to June 30 of the school year in which the educator seeks to return.

(2) A returning educator is eligible for renewal of an educator license following completion of a professional learning plan notwithstanding the license renewal point requirements of Section R277-500-3.

(3)(a) A returning educator who previously held a Level 2 or Level 3 license under this rule shall receive a Level 1 license

during the first year of employment following renewal of an expired license.

(b) Upon completion of the requirements listed in Subsection (1) and a satisfactory LEA evaluation, the employing LEA may recommend the educator's return to Level 2 or Level 3 licensure.

(4) A returning educator who taught less than three consecutive years in a public or accredited private school shall complete the requirements of Rule R277-522 before being recommended by an LEA to move from a Level 1 to Level 2 license.

R277-502-7. Professional Educator Licenses Issued by Licensing Jurisdictions Outside of Utah.

(1) The Superintendent shall review applications for a Utah educator license for individuals holding educator licenses issued by licensing jurisdictions outside of Utah to determine if the applicant has met the requirements for a Utah license under this rule and Rule R277-503.

(2) The Superintendent shall accept scores from an applicant that meet the Utah standard for passing on assessments from licensing jurisdictions outside of Utah that utilize the same assessment as Utah as meeting the assessment requirements of Rule R277-503.

(3) The Superintendent shall accept scores from an applicant on reasonably equivalent content knowledge or pedagogical assessments utilized by licensing jurisdictions outside of Utah that meet the passing standard of that jurisdiction as meeting the requirements of Rules R277-503 and R277-522.

(4) The Superintendent shall accept demonstrations of content knowledge and pedagogical competencies for specific license areas or endorsements from an applicant that are utilized by licensing jurisdictions outside of Utah and reasonably equivalent to Utah competencies.

(5) Individuals with 4 or more years of successful experience in a public or accredited private school under a standard license issued by a licensing jurisdiction outside of Utah shall be considered to have met both the content knowledge and pedagogical assessment requirements for a Utah license under this rule, Rule R277-503, and Rule R277-522.

KEY: professional competency, educator licensing
Date of Enactment or Last Substantive Amendment: May 8, 2018
Notice of Continuation: July 19, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-201; 53E-3-401

R277. Education, Administration.
R277-503. Licensing Routes.
R277-503-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-3-501, which directs the Board to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) provide minimum eligibility requirements for applicants for teacher licenses;

(b) provide explanation and criteria of various teacher licensing routes;

(c) provide criteria and procedures for licensed teachers to earn endorsements; and

(d) require all applicants for licenses to submit to a criminal background check.

R277-503-2. Definitions.

(1) "Alternative Routes to Licensure advisors" or "ARL advisors" means:

(a) a specialist designated by the Superintendent with specific professional development and educator licensing expertise; and

(b) a curriculum specialist designated by the Superintendent.

(2)(a) "Career and technical education" or "CTE" means organized educational programs that:

(i) prepare individuals for a wide range of high-skill, high-demand careers;

(ii) provide all students with a seamless education system from public education to post-secondary education, driven by a Plan for College and Career Readiness; and

(iii) provide students competency-based instruction, hands-on experiences, and certified occupational skills, culminating in further education and meaningful employment.

(b) CTE areas of study include:

(i) agriculture;

(ii) business and marketing;

(iii) family and consumer sciences;

(iv) health science;

(v) information technology;

(vi) skilled and technical sciences; and

(vii) technology and engineering education.

(3) "Competency-based" means a teacher training approach structured for an individual to master and demonstrate content and teaching skills and knowledge at the individual's own pace and sometimes in alternative settings.

(4) "Core academic subject" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

(5) "Council for Accreditation of Educator Preparation" or "CAEP" means the nationally-recognized organization that provides accreditation of professional teacher education programs in institutions offering baccalaureate and graduate degrees for the preparation of k-12 teachers.

(6) "Endorsement" means a supplemental qualification to a teaching license that is based on content area mastery obtained through a higher education major or minor or through a state-approved endorsement program.

(7) "LEA," for purposes of this rule, includes the Utah Schools for the Deaf and the Blind.

(8) "Letter of authorization" means a formal approval given to an individual, such as an out-of-state candidate or a first year ARL candidate who:

(a) is employed by an LEA in a position requiring a professional educator license;

(b) has not completed the requirements for an ARL license or a Level 1, 2, or 3 license; or

(c) has not completed necessary endorsement requirements.

(9) "Level 1 license" means a Utah professional educator license issued by the Board to an applicant who has met all ancillary requirements established by law or rule, and:

(a) completed an approved preparation program;

(b) completed an alternative preparation program;

(c) is approved pursuant to an agreement under the NASDTEC Interstate Contract; or

(d) completed the requirements of R277-511.

(10) "Level 2 license" means a Utah professional educator license issued by the Board after satisfaction of all requirements for a Level 1 license and:

(1) satisfaction of requirements under R277-522 for teachers whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public LEA or accredited private school;

(2) at least three years of successful education experience in a Utah public LEA or accredited private school or one year of successful education experience in a Utah public LEA or accredited private school and at least three years of successful education

experience in a public LEA or accredited private school outside of Utah;

(3) additional requirements established by law or rule.

(11) "Level 3 license" means a Utah professional educator license issued by the Board to an educator who holds a current Utah Level 2 license and has also received:

(a) National Board Certification;

(b) a doctorate in education or in a field related to a content area in a unit of the public education system or an accredited private school; or

(i) holds a Speech-Language Pathology area of concentration; and

(ii) has obtained American Speech-Language Hearing Association (ASHA) certification.

(12) "National Association of State Directors of Teacher Education and Certification" or "NASDTEC" means the educator information clearinghouse that maintains an interstate reciprocity agreement and database for its members regarding educators whose licenses have been suspended or revoked.

(13) "National Council for Accreditation of Teacher Education" or "NCATE" means the nationally-recognized organization that accredits the education units providing baccalaureate and graduate degree programs for the preparation of teachers and other professional personnel for elementary and secondary schools.

(14) "Pedagogical knowledge" means practices and strategies of teaching, classroom management, preparation and planning that are in addition to an educator's content knowledge of an academic discipline.

(15) "Regional accreditation" means formal approval of a school that has met standards considered to be essential for the operation of a quality school program by the following organizations:

(a) Middle States Commission on Higher Education;

(b) New England Association of Schools and Colleges;

(c) North Central Association Commission on Accreditation and School Improvement;

(d) Northwest Accreditation Commission;

(e) Southern Association of Colleges and Schools; and

(f) Western Association of Schools and colleges: Senior College Commission.

(16) "Restricted endorsement" means a qualification available only to teachers in necessarily existent small school settings based on content area knowledge obtained through a Board-approved program of study or demonstrated through passage of a Board-designated test.

(17) "State-approved Endorsement Plan" or "SAEP" means a plan in place developed between the Superintendent and a licensed

educator to direct the completion of endorsement requirements by the educator.

(18) "Teacher Education Accreditation Council" or "TEAC" means the nationally recognized organization which provides accreditation of professional teacher education programs in institutions offering baccalaureate and graduate degrees for the preparation of K-12 teachers.

R277-503-3. Licensing Eligibility.

(1) For a license applicant following the traditional college or university license, the license applicant shall:

(a) complete a Board approved college or university teacher preparation program;

(b) be recommended for licensing; and

(c) satisfy all other requirements for educator licensing required by law; or

(2) For a license applicant following an alternative licensing route, the license applicant shall:

(a) have a bachelors degree or higher from an accredited higher education institution in an area related to the position the applicant is seeking;

(b) have skills, talents or abilities, as evaluated by the employing entity, making the applicant appropriate for a licensed teaching position and eligible to participate in an ARL program; and

(c) while participating in an alternative licensing program, be approved for employment under an ARL license.

(3) An ARL program may not exceed three school years.

(4) A license applicant seeking a Level 1 Utah educator license, or an area of concentration, or an endorsement in a core academic subject area shall submit passing scores on a Board-designated content test, where tests are available, prior to the issuance of a renewable license or endorsement.

(5) For each endorsement in a core academic area to be posted on the license, a teacher shall submit passing scores on a Board-designated content tests, where tests are available.

(6) A licensure candidate recommended for a Utah Level 1 license who does not submit a passing score on the test designated in Subsection(4) is not eligible for licensure until achieving a passing score.

(7) All educators licensed under this rule shall also:

(a) complete the background check required under Section 53A-6-401;

(b) satisfy the professional development requirements of R277-500; and

(c) be subject to all Utah licensing requirements and professional standards.

R277-503-4. Licensing Routes - Traditional and Alternative Routes.

(1) An applicant seeking a Utah educator license shall successfully complete the accredited program or legislatively-mandated program consistent with this rule.

(2) To be recognized by the Board, an institution of higher education teacher preparation program shall be:

(a) Nationally accredited by:

(i) CAEP;

(ii) NCATE; or

(iii) TEAC; and

(b) approved by the Board to recommend for licensure in the license area, or endorsements, or both in designated areas.

(3)(a) An applicant who meets the eligibility requirements in Section R277-503-3, and is assigned to teach exclusively in an online setting, is eligible to begin the ARL program.

(b) Upon completion of the ARL program, the applicant shall earn a license area of concentration that is restricted to providing instruction in an online setting.

R277-503-5. Alternative Routes to Licensure (ARL).

(1) To be eligible to begin the ARL program, an applicant for a school position requiring an elementary license area of concentration shall have a bachelors degree and at least 27 semester hours of applicable content courses distributed among elementary curriculum areas provided under R277-700-4.

(2) To be eligible to begin the ARL program, an applicant for a school position requiring a secondary license area of concentration shall hold at least a bachelors degree and:

(a) a degree major or major equivalent directly related to the assignment; or

(b) have completed all Board-designated content coursework required for the relevant endorsement.

(3) To be eligible to begin the ARL program, an applicant for a CTE school position who does not meet the requirements in R277-503-4(2) shall meet the requirements for a CTE license area of concentration as provided in R277-518.

(4) To be eligible for acceptance in the ARL program, an applicant shall be employed in a position at a Utah public or accredited private school where the applicant:

(a) receives a teaching assignment where the applicant has primary instruction responsibility for the assigned students;

(b) is designated the teacher of record for assigned courses for all school accountability and educator evaluation purposes;

(c) is responsible for the instructional planning of the courses including developing, adapting, and implementing the

curriculum to meet student needs;

(d) analyzes and assesses student progress and adjusts instruction, materials, and delivery strategies to meet the students' needs;

(e) has final responsibility for determining student grades and credit for the courses taught by the applicant;

(f) is assigned in:

(i) a 7-12 secondary setting and employed at least 0.5 FTE in the applicant's eligible content areas; or

(ii) a K-6 elementary setting and employed at least 0.5 FTE and is responsible to teach language arts and reading, mathematics, science, and social studies or is employed in a state-sponsored dual immersion program; and

(g) shall be formally evaluated twice each school year consistent with R277-531, Public Educator Evaluation Requirements (PEER).

R277-503-6. Licensing by Agreement.

(1) An individual employed by an LEA shall satisfy the minimum requirements of R277-503-3 as a teacher with appropriate skills, training or ability for an identified licensed teaching position in the LEA.

(2) An applicant shall obtain an ARL application for licensing from the Board's web site.

(3) After evaluation of a candidate's transcripts and Board-designated content test score, the ARL advisors and the candidate shall determine the specific content knowledge and pedagogical knowledge required of the license applicant to satisfy the requirements for licensing.

(4) The ARL advisors may identify higher education courses, district sponsored coursework, Board-approved professional development, or Board-approved competency tests to prepare or indicate content, content-specific, and developmentally-appropriate pedagogical knowledge required for licensing.

(5) An applicant who has been employed as an educator under a competency-based license or as a full-time instructional paraeducator may offer that experience in lieu of one or more pedagogy courses as follows:

(a) The applicant has had at least three years of experience as an educator or paraeducator;

(b) The applicant's experience has been successful based on documentation from the LEA; and

(c) The Superintendent and employing LEA have approved the applicant's experience in lieu of pedagogy courses.

(6) An employing LEA shall assign a trained mentor to work with an applicant for licensing by agreement.

(7)(a) An LEA shall supervise and assess a license

applicant's classroom performance for a minimum of one school year if the applicant teaches full-time or a minimum of two school years if the applicant teaches part-time.

(b) An LEA may request assistance from an institution of higher education or the ARL advisors in monitoring and assessing an applicant.

(8)(a) An LEA shall assess a license applicant's disposition as a teacher following a minimum of one school year full-time teaching experience.

(b) An LEA may request assistance in assessment under Subsection (8)(a).

(9) The ARL advisors shall annually review and evaluate a license applicant following training, assessments or course work, and the full-time teaching experience and evaluation by the LEA.

(10) Consistent with evidence and documentation received, the ARL advisors may recommend a license applicant to the Board for a Level 1 educator license.

R277-503-7. Licensing by Competency.

(1) An LEA may employ an individual as a teacher if the individual:

(a) has appropriate skills, training, or ability for an identified licensed teaching position in the LEA; and

(b) satisfies the minimum requirements of Section R277-503-3.

(2)(a) An employing LEA, in consultation with the applicant and the ARL advisors, shall identify Board-approved content knowledge and pedagogical knowledge examinations.

(b) The applicant shall pass designated examinations demonstrating the applicant's adequate preparation and readiness for licensing.

(3) An employing LEA shall assign a trained mentor to work with an applicant for licensing by competency.

(4) An LEA shall monitor and assess a license applicant's classroom performance during a minimum of one-year full-time or two-years part-time teaching experience.

(5) An LEA shall assess a license applicant's disposition for teaching following a minimum of one-year full-time teaching experience.

(6) An LEA may request assistance in the monitoring or assessment of a license applicant's classroom performance or disposition for teaching.

(7) Following the one-year training period, an LEA and the Superintendent shall verify all aspects of preparation including content knowledge, pedagogical knowledge, classroom performance skills, and disposition for teaching to the ARL advisors.

(8) If all evidence/documentation is complete and

satisfactory, the Superintendent shall recommend an applicant for a Level 1 educator license.

(9) An ARL candidate under Section R277-503-5 shall be issued an ARL license or license area as appropriate that is presumed to expire at the end of the school year.

(10) An ARL license may be extended annually for two subsequent school years with the following documentation of progress in the ARL program:

(a) a copy of the supervisor's successful end-of-year evaluation;

(b) copies of transcripts and test results, or both, showing completion of required coursework;

(c) verification of working with a trained mentor; and

(d) satisfaction of the full-time full year experience.

R277-503-8. LEA Specific Competency-based Licenses.

(1)(a) An LEA may apply to the Board for a Level 1 competency-based license for an applicant to fill a position in the LEA.

(b) The application shall demonstrate that other licensing routes for the applicant are untenable or unreasonable.

(2) An employing LEA shall request a Level 1 competency-based license no later than 60 days after the date of the individual's first day of employment.

(3) An application for a Level 1 competency-based license from the LEA for an individual to teach one or more core academic subjects shall provide documentation of:

(a) the individual's bachelors degree; and

(b)(i) for a K-6 grade teacher, the satisfactory results of the state test including subject knowledge and teaching skills in the required core academic subjects under Subsection 53E-6-306(3)(a)(ii) as approved by the Board; or

(ii) for a teacher in grades 7-12, demonstration of a high level of competency in each of the core academic subjects in which the teacher teaches by passing the state core academic subject test required under Subsection R277-503-3(4), in each of the core academic subjects in which the teacher teaches at the Superintendent-established passing score.

(4) An application for a Level 1 competency-based license from an LEA for non-core teachers in grades K-12 shall provide documentation of:

(a) a bachelors degree, associates degree or skill certification; and

(b) skills, talents or abilities specific to the teaching assignment, as determined by the LEA.

(5) Following receipt of documentation and consistent with Subsection 53E-6-306(2), the Superintendent shall approve a Level

1 competency-based license.

(6) If an individual with a Level 1 competency-based license leaves the LEA before the end of the employment period, the LEA shall notify the Superintendent regarding the end-of-employment date.

(7) An individual's Level 1 competency-based license shall be valid only in the LEA that originally requested the competency-based license.

(8) A written copy of a Level 1 competency-based license shall prominently state the name of the LEA followed by LEVEL 1 - LEA SPECIFIC - COMPETENCY-BASED LICENSE.

(9)(a) An LEA may change the assignment of a competency-based license holder and provide notice to the Superintendent;

(b) The Superintendent may require additional competency-based documentation for the teacher to remain qualified.

(10) A Level 1 competency-based license is equivalent to the Level 1 license as described in R277-500 and R277-502 as to length and professional development expectations, and subject to the same renewal procedures except that an individual may renew a Level 1 competency-based license.

(11) A Level 2 competency-based license may be issued to a Level 1 competency-based license holder if that individual successfully completes the Entry years Enhancement program as detailed in R277-522.

(12) A Level 2 competency-based license is equivalent to the Level 2 license as described in R277-500 and R277-502 as to length and professional development expectations.

(13) A Level 3 competency-based license may be issued to a Level 2 competency-based license holder if that individual holds a doctorate in education or in a field related to a content unit of the public education system from an accredited institution.

(14) A Level 3 competency-based license is equivalent to the Level 3 license as described in R277-500 and R277-502 as to length and professional development expectations.

(15) If an individual holds a Utah license, an application for an LEA specific competency-based license shall be subject to additional Superintendent review based upon the following criteria:

(a) license level;

(b) current license status;

(c) area of concentration and endorsements on Utah license; and

(d) circumstances justifying the LEA specific license.

(16)(a) If an application is not approved based on the Superintendent's review of the criteria provided in Section R277-503-4, appropriate licensure procedures shall be recommended to the requesting LEA.

(b) An applicant may be required to:
(i) renew an expired license;
(ii) apply for an endorsement;
(iii) pass appropriate Board approved tests consistent with Subsection R277-503-3(4);
(iv) obtain an additional area of concentration;
(v) apply to Alternative Route to Licensure; or
(vi) satisfy other reasonable standards.

R277-503-9. Endorsement Routes.

(1)(a) An applicant shall successfully complete one of the following programs for an endorsement:
(i) a Board-approved institution of higher education educator preparation program with endorsements;
(ii) assessment, approval, and recommendation by a designated and subject-appropriate Board specialist; or
(iii) a Board-approved Utah institution of higher education or Utah LEA-sponsored endorsement program that includes content knowledge and content-specific pedagogical knowledge approved by the Superintendent.
(b)(i) The Superintendent shall be responsible for final recommendation and approval for programs described in Subsections (1)(a)(i) and (ii).
(ii) A university or LEA shall be responsible for final review and recommendation of programs described in Subsection (1)(a)(iii), and the Superintendent shall be responsible for final approval.
(2)(a) A restricted endorsement shall be available and limited to teachers in necessarily existent small schools as determined under R277-445.
(b) Teacher qualifications shall include at least nine semester hours of Superintendent-approved university-level courses in each course taught by the teacher holding a restricted endorsement.
(3) All provisions that directly affect the health and safety of students required for endorsements, such as prerequisites for drivers education teachers or coaches, shall apply to applicants seeking endorsements through all routes under this rule.
(4) Prior to an individual taking courses, exams or seeking a recommendation in the ARL licensing program, the individual shall have LEA and Superintendent authorization.

R277-503-10. Sunset Clause.

(1) This rule will sunset on June 30, 2020.
(2) Notwithstanding, Subsection (1), the Superintendent shall grant an Associate Educator license to an ARL candidate in

good standing with the candidate's ARL program prior to June 30, 2020.

(3) An educator who receives an Associate Educator license under Subsection (2) may receive a Professional Educator license by completing the candidate's approved ARL program.

(4) The Superintendent may not accept new applications for the ARL program after November 1, 2019.

KEY: teachers, alternative licensing
Date of Enactment or Last Substantive Amendment: July 31, 2019
Notice of Continuation: November 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a); 53E-3-401(4)

R277. Education, Administration.
R277-504. Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure.
R277-504-1. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of the public schools in the State Board of Education and by Subsection 53E-3-501(1)(a), which directs the Board to make rules regarding the licensing of educators, and Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to:

(1) specify the requirements for Early Childhood (K-3), Elementary (K-6), Elementary (1-8), Secondary (6-12), Special Education (K-12), and Preschool Special Education (Birth-Age 5) licensing; and

(2) specify the standards which the Board expects a teacher preparation institution to meet in specific areas for the institution to receive Board approval of the program.

R277-504-2. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Council for Exceptional Children" is an international professional organization dedicated to improving the educational success of both individuals with disabilities and individuals with gifts and talents. CEC advocates for appropriate governmental policies, sets professional standards, provides professional development, advocates for individuals with exceptionalities, and helps professionals obtain conditions and resources necessary for effective professional practice.

C. "Early Childhood license area of concentration" means an Early Childhood Education teaching license required for teaching kindergarten and permitting assignment in kindergarten through grade three. It is recommended for those teaching in formal public school programs below kindergarten level.

D. "Early intervention credential" is the highest qualified personnel standard established by the Department of Health that persons shall meet in able to provide services to infants and toddlers with disabilities age 0-3 in early intervention settings. In order to provide services to infants and toddlers with disabilities age 0-3 in early intervention settings, an individual shall have an Early Intervention Credential or a Preschool Special Education (Birth-Age 5) license.

E. "Elementary (1-8) license area of concentration" means an Elementary teaching license required for teaching grades one through eight.

F. "Elementary (K-6) license area of concentration" means an Elementary teaching license required for teaching grades kindergarten through six.

G. "Endorsement" means a specialty field or area listed on the teaching license which indicates the specific qualification of the holder.

H. "Highest requirements in the State applicable to a specific profession or discipline" means the highest entry-level academic degree needed for any State-approved or State-recognized certification, license, registration, or other comparable requirement that applies to that profession or discipline.

I. "IEP" means a written statement of an individualized education program by an IEP team and developed, reviewed, and revised in accordance with Utah State Board of Education Special Education Rules and the Part B of the IDEA.

J. "Internship" means the placement of a teacher education student in an advanced stage of preparation, as a culminating experience, in employment in a school setting for a period of up to one school year during which the intern shall receive salary proportionate to the service rendered as determined by the LEA. An intern is supervised primarily by the school system but with a continuing relationship with college personnel and following a planned program designed to produce a demonstrably competent professional.

K. "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to applicants who have also met all ancillary requirements established by law or rule.

L. "Level 2 license" means a Utah professional educator license issued by the Board after satisfaction of all requirements for a Level 1 license and:

(1) satisfaction of requirements under R277-522 for teachers whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public LEA or accredited private school;

(2) at least three years of successful education experience in a Utah public LEA or accredited private school or one year of successful education experience in a Utah public LEA or accredited private school and at least three years of successful education experience in a public LEA or accredited private school outside of Utah;

(3) additional requirements established by law or rule.

M. "Preschool Special Education (Birth-Age 5) license area of concentration" means a teaching license required for teaching preschool students with disabilities.

N. "Secondary license area of concentration" means a Secondary teaching license required for teaching grades six

through twelve. Secondary license areas carry endorsements for the areas in which the holder is qualified to provide instruction.

O. "Special Education license area of concentration (K-12)" means Special Education teaching license required for teaching students with disabilities in kindergarten through grade twelve. Special Education areas of concentration carry endorsements in at least one of the following areas:

(1) Mild/Moderate Endorsement which indicates that the holder's preparation focused on teaching students with mild/moderate learning and behavior problems;

(2) Severe Endorsement which indicates that the holder's preparation focused on teaching students with severe learning and behavior problems;

(3) Deaf and Hard of Hearing Endorsement which indicates that the holder's preparation focused on teaching students who are deaf or other hearing impaired;

(4) Blind and Visually Impaired Endorsement which indicates that the holder's preparation focused on teaching students who are blind or other visually impaired; and

(5) Deafblind Endorsement which indicates that the holder's preparation focused on teaching students who are both blind or other visually impaired and deaf or other hearing impaired.

P. "Student teaching" means the placement of a teacher education student in an advanced stage of preparation for a period of guided teaching in a school setting during which the student assumes increasing responsibility for directing the learning of a group or groups of students over a period of time.

Q. "USOE" means the Utah State Office of Education.

R277-504-3. General Standards for Approval of Programs for the Preparation of Teachers.

A. The Board may approve the educator preparation program of an institution if the institution:

(1) prepares candidates to meet the Utah Effective Teaching Standards in R277-530;

(2) prepares candidates to teach the Utah Core Standards, the Utah Early Childhood Core Standards, and the Essential Elements as appropriate to the area of licensure as established by the Board;

(3) requires candidates to maintain a cumulative university GPA of 3.0 and receive a C or better in all education related courses and major required content courses:

(a) This requirement applies to candidates admitted to the program after January 1, 2015.

(b) A candidate admitted to the program with a GPA below 3.0 under the 10 percent waiver provided in R277-502-3D shall maintain an overall GPA of 3.0 for all coursework completed after the

candidate's admission to the program;

(4) requires the study of:

(a) content and content-specific pedagogy appropriate for the area of licensure;

(b) knowledge and skills designed to assist in the identification of students with disabilities and to meet the needs of students with disabilities in the regular classroom. Knowledge and skills shall include the following domains:

(i) knowledge of disabilities under IDEA and Section 504 of the Rehabilitation Act;

(ii) knowledge of the role of non-special-education teachers in the education of students with disabilities;

(iii) skills in providing tier one instruction on the Utah Core Standards and positive behavior supports to students with disabilities within a multi-tiered system of supports including:

(A) assessing and monitoring the education needs and progress of students with disabilities;

(B) implementing and assessing the results of interventions; and

(C) skills in the implementation of an educational program with accommodations and modifications established by an IEP or 504 plan for students with disabilities in the regular classroom; and

(c) knowledge and skills designed to meet the needs of diverse student populations in the regular classroom. These skills for diverse student populations shall include the skills to:

(i) allow teachers to create an environment using a teaching model that is sensitive to multiple experiences and diversity;

(ii) design, adapt, and deliver instruction to address each student's diverse learning strengths and needs; and

(iii) incorporate tools of language development into planning and instruction for English language learners and support development of English proficiency; and

(5) requires a student teaching culminating experience that:

(a) requires a minimum of 400 clock hours with at least 200 clock hours in a single placement;

(b) requires that student teachers meet the same contract hours as licensed teachers in the same LEA;

(c) requires that the student teacher not be employed in any capacity by the LEA where he is placed except as provided in R277-504-7B;

(d) includes placement in all content or licensure areas in which the candidate shall be licensed unless:

(i) no viable student teaching placement in one or more of the candidate's endorsement areas is available; or

(ii) the candidate is seeking a license in Elementary (1-8) and is completing an elementary student teaching placement, but

has also completed the USOE course requirements for an endorsement;

(e) includes intermittent supervision and evaluation by institution personnel;

(f) includes direct supervision of the candidate by a classroom teacher that:

(i) has been jointly selected by the institution student teaching placement officer and the LEA-designated authority over student teaching placement;

(ii) has been deemed effective by an evaluation system meeting the standards of R277-531 or the LEA's equivalent; and

(iii) has received training from the institution on the role and responsibilities of a classroom mentor teacher for student teachers, including the standards of R277-515;

(g) include meaningful self-reflection with review and feedback from both the classroom mentor teacher and institution personnel; or

(6) Requires an internship culminating experience that:

(a) consists of full-time employment as an educator for one school year with a minimum of 1260 clock hours at a single school site;

(b) requires that interns meet the same contract teaching hours as licensed teachers in the same LEA;

(c) includes placement in the major content or licensure area in which the candidate shall be licensed;

(d) where possible, includes placement in all content or licensure areas in which the candidate shall be licensed unless:

(i) no viable internship in one or more of the candidate's non-major endorsement areas could be found; or

(ii) the candidate is seeking licensure in Elementary (1-8) and is completing an elementary internship, but has also completed the USOE course requirements for an endorsement;

(e) includes intermittent supervision and evaluation by institution personnel;

(f) includes an LEA assigned mentor that:

(i) has been jointly selected by the institution internship placement officer and the LEA-designated authority over internship placement;

(ii) has been deemed effective by an evaluation system meeting the standards of R277-531 or the LEA's equivalent; and

(iii) provides direct support and supervision to the intern during the regular school day in addition to the standard LEA supports of new teachers.

(g) includes meaningful self-reflection with review and feedback from both the assigned mentor and institution personnel;

B. The Board may accept the following for an individual candidate as completely or partially satisfying the student

teaching/internship requirement:

(1) one year of full-time contract teaching experience in a teaching position as defined in R277-503-4(C)(4) in a public or accredited private school in the candidate's proposed licensure content areas may completely satisfy the requirement;

(2) teaching in a preschool or Headstart program may be accepted for up to one-half of the student teaching requirement;

(3) teaching experience in business or industry may be accepted for up to one-half of the student teaching requirement; and

(4) other experience accepted by the Board and designated as totally or partially fulfilling the requirement.

R277-504-4. Early Childhood Education (K-3) and Elementary (K-6) License Areas.

A. The Board may approve the Early Childhood Education (K-3), Elementary (K-6), Elementary (1-8) teacher preparation program of an institution if the program:

(1) is aligned with the 2010 National Association for the Education of Young Children Standards for Initial and Advanced Early Childhood Professional Preparation Programs or the 2007 Association for Childhood Education International Standards for Elementary Level Teacher Preparation, as appropriate; and

(2) requires study and experiences which provide appropriate content knowledge needed to teach:

(a) literacy including listening, speaking, writing, and reading;

(b) mathematics;

(c) physical and life science;

(d) health and physical education;

(e) social studies; and

(f) fine arts; and

(3) includes coursework specifically designed to prepare teachers:

(a) in the science of reading instruction including phonemic awareness, phonics, fluency, vocabulary and comprehension;

(b) in the science of mathematics instruction including quantitative reasoning, problem solving, representation, and numeracy;

(c) with the technical skills to utilize common education technology;

(d) to integrate technology to support and meaningfully supplement the learning of students;

(e) to facilitate student use of software for personalized learning;

(f) to teach effectively in traditional, online-only, and blended classrooms;

(g) to design, administer, and review educational assessments in a meaningful and ethical manner;

(h) in early childhood development and learning, if it is an Early Childhood Education (K-3), or Elementary (K-6); and

(i) in a specific content area resulting in an endorsement added to the license area, if it is an Elementary (1-8) program.

B. The standards shall be applied to the specific age group or grade level for which the program of preparation is designed.

(1) An Early Childhood Education (K-3) program shall focus primarily on early childhood development and learning.

(2) An Elementary (K-6) shall include both early childhood development and learning and elementary content and pedagogy.

(3) An Elementary (1-8) shall focus primarily on elementary content and pedagogy.

C. A teacher holding an Elementary (1-8) license area may earn an Early Childhood (K-3) license area by completing specific coursework requirements established by USOE.

D. An Elementary (1-8) license permits the teacher to teach in any academic area in self-contained classes in grades 1-8.

E. An Elementary (1-8) license permits the teacher to teach specific content courses at the 7th or 8th grade level only if the teacher's license includes the appropriate endorsement.

R277-504-5. Secondary (6-12) License Area.

A. A Secondary (6-12) license area with endorsement(s) is valid in grades six through twelve.

B. A Secondary (6-12) license area requires a major or major equivalent in a content area, but the teacher cannot teach in an elementary self-contained class.

C. The Board may approve the secondary educator preparation program of an institution if the program:

(1) is an undergraduate level program and requires candidates to have completed:

(a) an approved content area or teaching major consistent with subjects taught in Utah secondary schools; and

(b) content coursework reasonably equivalent to that required for individuals completing a non-teaching degree in the subject; or

(2) Is a graduate level program and requires candidates to have completed:

(a) a bachelor's degree or higher from an accredited university; and

(b) coursework equivalent to the minimum requirements for an endorsement as established by USOE, including the appropriate content knowledge assessment; and

(3) includes coursework specifically designed to prepare candidates:

(a) with the technical skills necessary to utilize common education technology;

(b) to integrate technology to support and meaningfully supplement the learning of students;

(c) to facilitate student use of software for personalized learning;

(d) to teach effectively in traditional, online-only, and blended classrooms;

(e) to design, administer, and review educational assessments in a meaningful and ethical manner; and

(f) to include literacy and quantitative learning objectives in content specific classes in alignment with the Utah Core Standards.

D. After completing a Board-approved Secondary (6-12) educator preparation program, the license area shall be endorsed for all subjects in which the candidate has met the course requirements for the endorsement as established by USOE.

(1) A content area or teaching major requires not fewer than 30 semester hours of credit in one content area.

(2) An endorsement requires not fewer than 16 semester hours of credit in one content area.

R277-504-6. Special Education (K-12+) and Preschool Special Education (Birth-Age 5).

A. The Board may approve an institution's special education teacher preparation program if the program is aligned with the 2011 Council for Exceptional Children Special Education Standards for Professional Practice and is focused in one or more of the following special education areas:

(1) Mild/Moderate Disabilities

(2) Severe Disabilities

(3) Deaf and Hard of Hearing;

(4) Blind and Visually Impaired;

(5) Deafblind; or

(6) Preschool Special Education (Birth-Age 5).

B. The Board may issue teachers who hold Special Education (K-12+) license areas additional endorsements if all endorsement requirements are met. Teachers who hold only a Special Education (K-12+) license area may only be assigned as a teacher of record of students with disabilities.

C. The Board may approve a special education preparation program of an institution if the program includes coursework specifically designed to train candidates to:

(1) understand the legal and ethical issues surrounding special education;

(2) comply with IDEA and Utah State Board of Education Special Education Rules;

(3) work with other school personnel to implement and evaluate academic and positive behavior supports and interventions for students with disabilities within a multi-tiered system of supports;

(4) train and monitor education teachers, related service providers, and paraeducators in providing services and supports to students with disabilities;

(5) provide the necessary specialized instruction, as per IEPs, to students with disabilities, including

(a) core content from the Utah Early Childhood Core Standards and the Essential Elements and content specific pedagogy;

(b) skills in assessing and addressing the educational needs and progress of students with disabilities;

(c) skills in implementing and assessing the results of research and evidence-based interventions for students with disabilities; and

(d) skills in the implementation of an educational program with accommodations and modifications established by an IEP for students with disabilities.

D. The Board may issue Blind and Visually Impaired/Deaf and Hard of Hearing Endorsements required under this rule to meet the highest requirements in the State applicable to a specific profession or discipline required by the Individuals with Disabilities Education Act of 2004 (IDEA), Pub. L. No. 108-446, hereby incorporated by reference.

E. Preschool Special Education (Birth-Age 5) license holders who teach children who are hearing impaired (Birth-Age 5) or vision impaired (Birth-Age 5) or both, in self-contained, categorical classrooms shall hold an endorsement for Deaf and Hard of Hearing (Birth-Age 5) or Blind and Visually Impaired (Birth-Age 5) or both.

R277-504-7. Miscellaneous.

A. Beginning with the 2015-2016 school year, an LEA that employs intern teachers shall have a policy that includes the following:

(1) the maximum number of interns that may be supported by each LEA assigned mentor, and

(2) a specific resource commitment to significant and quality LEA support services to interns.

B. The Middle Level license (5-9) continues to be valid; however, the Board has not issued a middle level license (5-9) since April 1, 1989 and it is no longer required of teachers or issued to teachers assigned to the middle school.

C. Consistent with LEA and university policy and R277-508-5E, a student teacher may work as a paid substitute in the

classroom of the student teacher's classroom mentor teacher for no more than five days and no more than three consecutive days per university semester.

D. On the days a student teacher is working as a substitute teacher, the candidate's legal status as a substitute teacher/district employee will take precedence over the legal status as a teacher candidate.

E. A student teaching placement may be changed to an internship placement upon agreement of the student teacher, the university program, and the LEA.

KEY: teacher licensing, professional education
Date of Enactment or Last Substantive Amendment: May 8, 2015
Notice of Continuation: August 6, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a); 53E-3-401(4)

R277. Education, Administration.
R277-505. Education Leadership License Areas of Concentration and Programs.
R277-505-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Section 53E-6-201, which permits the Board to issue certificates for educators; and

(c) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.

(2) The purpose of this rule is to:

(a) specify the requirements for education leadership license areas of concentration;

(b) provide standards and procedures for district-specific and charter school-specific education leadership license areas of concentration; and

(c) specify the requirements for an education leadership preparation program that must be met to receive Board approval of the program.

R277-505-2. Definitions.

(1) "Education leadership license area of concentration" means the initial credential issued by the Board that authorizes a holder to be employed in a position that requires the license holder to administer educational programs or supervise educators in improving educational practices and outcomes within the public education system, including the administration and supervision of a school.

(2) "Internship" means an on-site supervised experience in an accredited public or private school or other approved location.

(3) "Level 2 license" means a Utah professional educator license issued to an applicant after the Level 2 applicant:

(a) completes all requirements for a Level 1 license;

(b) completes the requirements under R277-522 for a teacher whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public or accredited private school;

(c) completes:

(i) at least three years of successful education experience in a Utah public LEA or accredited private school; or

(ii)(A) one year of successful education experience in a Utah public LEA or accredited private school; and

(B) at least three years of successful education experience in a public LEA or accredited private school outside of Utah; and

(d) completes additional requirements established by law or rule;

(4) "Level 3 license" means a Utah professional educator

license issued to an educator who:

(a) holds a current Utah Level 2 license; and

(b) receives:

(i) National Board Certification;

(ii) a doctorate in:

(A) education; or

(B) a field related to a content area in a unit of the public education system or an accredited private school; or

(iii)(A) a Speech-Language Pathology area of concentration; and

(B) currently holds American Speech-Language Hearing Association (ASHA) certification.

(5) "LEA governing board" means:

(a) for a school district, the school district's local school board; or

(b) for a charter school, the charter school's charter school governing board.

R277-505-3. Education Leadership License Area of Concentration Positions.

(1) An LEA shall determine the various positions and settings in which an individual must hold an Education Leadership license area of concentration in accordance with the requirements of Sections:

(a) 53G-5-405;

(b) 53G-4-301;

(c) 53E-6-306;

(d) 53E-6-304; and

(e) this Board rule.

(2) An LEA's governing board shall adopt a policy, in an open and public meeting, that describes the required licenses or credentials for administrators in the LEA's schools.

R277-505-4. Education Leadership License Area of Concentration Requirements.

(1) Except as provided in Subsection (2), an applicant for an education leadership license area of concentration may be granted an education leadership license area of concentration if the applicant:

(a) holds a master's degree or more advanced degree;

(b) passes a Board-approved education leadership test; and

(c)(i) completes a Board-approved education leadership licensure program; or

(ii) subject to Subsection (3), holds an education leadership license valid in another state under the NASDTEC interstate agreement.

(2) The Board may grant an education leadership license area

of concentration to an applicant for:

(a) exceptional professional experience, including non-education experience;

(b) exceptional education accomplishments; or

(c) other noteworthy experiences or circumstances.

(3) An applicant that holds an education leadership license valid in another state under the NASDTEC interstate agreement as described in Subsection (1)(c)(ii) shall complete:

(a) at least one year of education leadership experience in that state; or

(b) an education leadership internship substantially equivalent to the internship required for Board-approved education leadership licensure programs as described in this rule.

R277-505-5. Standards for the Approval of Programs for Education Leadership Licensure.

(1) The Board may approve the education leadership licensure preparation program of an institution of higher education if the program:

(a) prepares candidates to meet the Utah educational leadership Standards described in R277-530;

(b) subject to Subsection (2), establishes entry requirements designed to ensure that only high quality individuals enter the licensure program;

(c) includes coursework specifically designed to prepare candidates to:

(i) properly utilize data, including student performance data, to evaluate educator and school performance and provide actionable information to educators to improve instruction;

(ii) facilitate educator use of technology to support and meaningfully supplement the learning of students in traditional, online-only, and blended classrooms

(iii) collaborate with all stakeholder groups to create a shared vision, mission, and goals for a school;

(iv) communicate effectively with parents, community groups, staff, and students;

(v) recognize effective and ineffective instructional practice in order to ensure authentic learning and assessment experiences for all students;

(vi) counsel educators in relation to the educator's evaluation, professional learning, and student performance to improve the educator's practice;

(vii) ensure a safe, secure, emotionally protective and healthy school environment, including the prevention of bullying and youth suicide; and

(viii) connect management operations, policies, and resources to the vision and values of the school; and

(d) includes a minimum of 50 hours of clinical experience in elementary and secondary schools throughout program coursework.

(2) Beginning on January 1, 2017, the entry requirements described in Subsection (1)(b) shall require an individual entering a Board-approved education leadership licensure program to:

(a) clear a USOE fingerprint background check;

(b) hold a Level 2 or 3 Utah educator license;

(c) have been deemed effective or higher by:

(i) an evaluation system meeting the standards of R277-531; or

(ii) the LEA's equivalent on the applicant's most recent evaluation;

(d) have a recommendation from:

(i) the individual's immediate administrative supervisor; or

(ii) an LEA-level administrator with knowledge regarding the individual's potential as an education leader; and

(e) pass an interview conducted by the program to measure the potential of the individual as an education leader.

(3) A Board-approved education leadership licensure program may waive the entrance requirements described in Subsections (2)(b) through (e) based on program established guidelines for no more than ten percent of an incoming cohort.

(4) A Board-approved education leadership licensure program shall ensure that each incoming cohort after January 1, 2017 has a mean post-secondary G.P.A. of 3.0 or higher.

(5) A Board-approved education leadership licensure program is exempt from the entrance requirements in R277-502-3(C)(6).

(6) For a program applicant accepted on or after January 1, 2017, a Board-approved education leadership licensure program shall require the following opportunities for a program applicant to demonstrate application of knowledge and skills gained through the program in a culminating experience:

(a) analyzing school assessment data from common formative assessments, summative assessments, standardized assessments, and interim or benchmark assessments with school staff and with individual teachers;

(b) participating in all aspects of at least two teacher evaluations using an evaluation system that meets the requirements of:

(i) R277-531; or

(ii) the LEAs equivalent;

(c) participating in all aspects of at least one evaluation of a classified employee;

(d) planning, or participating in the planning of, organizing, conducting, and evaluating the effectiveness of a professional development activity for school staff;

(e) participating in multiple meetings of more than one school-based learning team;

(f) participating in School Community Council meetings including the annual development and evaluation of the School Improvement Plan or the School LAND Trust plan;

(g) participating in multiple classroom observations and walk-throughs;

(h) participating in multiple IEP and 504 accommodation plan meetings in support of or as the LEA representative;

(i) handling multiple cases of student discipline referred to the school office for more than one type of misconduct;

(j) supervising a variety of after school activities and monitoring the process for collecting and handling fees and gate receipts;

(k) participating in the school's screening process, including interviews and the notification of successful and unsuccessful applicants; and

(l) any additional specific experiences as defined by the program.

(7) A program applicant shall complete the competencies described in Subsection (6) by participating in one of the following culminating experiences:

(a) employment in an education leadership position where the educator:

(i) supervises other educators and that meets the following requirements:

(ii) is employed half-time or more in the position for a full school year;

(iii) is mentored by a licensed education leader that has been deemed effective or higher by:

(A) an evaluation meeting the standards of R277-531; or

(B) the LEA's equivalent on the educator's most recent evaluation;

(iv) works a minimum of 100 hours in a minimum of two hour blocks during the regular school day and the regular school year in an elementary school where the educator is not employed if the educator is not employed as an elementary principal or vice-principal; and

(v) works a minimum of 100 hours in a minimum of two hour blocks during the regular school day and the regular school year in a secondary school where the educator is not employed if the educator is not employed as a secondary principal or vice-principal; or

(b) an internship where the educator:

(i) works a minimum of 400 hours of supervised clinical experiences, excluding additional hours required by a university for seminars or discussion sessions within the required hours;

(ii) works a minimum of 300 of the required hours in a school setting which offers the opportunity of working with:

(A) students, faculty, classified employees, parents, and patrons; and

(B) a licensed principal that has been deemed effective or higher by:

(I) an evaluation system meeting the standards of R277-531; or

(II) the LEA's equivalent on the principal's most recent evaluation;

(iii) works the remainder of the required internship hours in a school district office; at the USOE; with a Board-approved agency; or in another Board-approved program or school setting;

(iv) works the majority of the school-level supervised experience completed during the regular school day and in concentrated blocks of a minimum of two hours each when students are present;

(v) works a minimum of 150 hours in an elementary school;

(vi) works a minimum of 150 hours in a secondary school; and

(vii) works a minimum of 32 hours in concentrated blocks of a minimum of eight hours each during the regular school day and the regular school year in a school in which the intern is not employed as a teacher.

(8) The Superintendent may approve a culminating experience proposal that does not meet the requirements of Subsection (6) to pilot innovative or alternative practice if:

(a) a Board-approved education leadership licensure program and a partner LEA submit a joint proposal to the Superintendent; and

(b) the proposal is for a maximum of two years.

(9) The Superintendent shall report the results of a pilot described in Subsection (8)(a) to the Board after completion.

R277-505-6. LEA-specific Competency-based License for Education Leadership Area of Concentration.

An LEA may request an LEA-specific competency-based license for an education leadership area of concentration under Subsection R277-503-4D for an individual if the individual has successfully completed:

(1) a master's degree or more advanced degree; and

(2) a Board-approved education leadership test.

R277-505-7. Education Leadership Tier Two Credentials.

(1) The Superintendent shall work with LEAs and Board-approved licensure programs to create a tier two principal credential that may be earned by an individual employed as a principal or vice-principal.

(2) In the first year of employment as an education leader, an individual shall complete a one school year mentoring experience established and supervised by the employing LEA in consultation with a Board-approved education leadership program that includes criteria identified in R277-522-3A and B, as applied to education leaders.

(3) An individual employed for the first time as a Utah school principal or vice-principal after June 30, 2019 in a school district shall complete the tier two principal credential within the first three years of employment as a principal or vice-principal.

(4) An individual holding a Utah Administrative/Supervisory (K-12) license area of concentration shall be considered to hold an education leadership license area of concentration and the tier two principal credential for all licensure purposes.

(5) The Superintendent shall work with LEAs and Board-approved licensure programs to develop additional tier two leadership credentials intended to provide specialized skills for individuals holding an education leadership license area of concentration.

KEY: professional competency, teacher certification, accreditation
Date of Enactment or Last Substantive Amendment: May 23, 2016
Notice of Continuation: March 30, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6; 53E-3-401

R277. Education, Administration.
R277-507. Driver Education Endorsement.
R277-507-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-501(1)(a), which directs the Board to make rules regarding the certification of educators;

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(d) Section 53G-10-507, which directs the Board to establish procedures and standards to certify teachers of driver education classes as driver license examiners.

(2) The purpose of this rule is to establish standards and procedures for secondary teachers to qualify for a driver education endorsement.

R277-507-2. Definitions.

(1) "Driver License Division" or "DLD" means the Driver License Division of the Department of Public Safety.

(2) "Endorsement" means a stipulation appended to a license setting forth the areas of practice to which the license applies.

(3) "Level 1 License" means a license issued:

(a) upon completion of an approved educator preparation program;

(b) upon completion of an alternative preparation program;

(c) pursuant to an agreement under the NASDTEC Interstate Contract to candidates who have also met all ancillary requirements established by law or rule; or

(d) in accordance with the requirements of Rule R277-511.

(4) "Level 2 License" means a license issued after satisfaction of all requirements for a Level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience.

(5) "Level 3 License" means a license issued to an educator who holds a current Utah Level 2 license and has also received, in the educator's field of practice, National Board certification or a doctorate from an accredited institution.

(6) "NASDTEC Interstate Contract" means the contract implementing Title 53E, Chapter 6, Part 10, Compact for Interstate Qualification of Educational Personnel, which is administered through the National Association of State Directors of Teacher Education and Certification, and which provides for reciprocity of educator licenses among states.

(7)(a) "Utah Driver Handbook" means a manual, prepared and

periodically updated by the DLD, containing the rules which should be followed when operating a motor vehicle in Utah.

(b) The updated Utah Driver Handbook is available at http://dld.utah.gov/handbooksprintableforms/.

R277-507-3. Endorsement Requirements.

(1) A driver education endorsement shall be added to an educator's Level 1, 2, or 3 license if the educator:

(a) has a valid and current Level 1, 2, or 3 license with an area of concentration in one or more of the following:

(i) Secondary Education;

(ii) Special Education;

(iii) School Counselor; or

(iv) Career and Technical Education;

(b) has a valid Utah automobile operator's license;

(c) has not had an automobile operator's license suspended or revoked during the two year period immediately prior to applying for the endorsement; and

(d) has completed the professional preparation requirements set forth in Subsection (2).

(2) A high school driver education teacher shall complete professional preparation which includes sixteen (16) semester hours in the area of driver and safety education, as follows:

(a) a minimum of twelve (12) semester hours shall be in the area of driver and safety education, including a practicum covering classroom, on-street, simulator, and driving range instruction;

(b) a minimum of two (2) semester hours of Driver Education State Law and Policy through Utah Education Network;

(c) a minimum of one (1) semester hour of current/valid first aid and CPR training; and

(d) a minimum of one (1) semester hour of DLD online examiners training.

(3) In order for a high school driver education teacher to be certified as a driver license examiner by the DLD, the teacher shall first be licensed and endorsed as provided in this Section R277-507-3 by the Board.

(4) After meeting the criteria of Subsection(1), a high school driver education teacher shall obtain a valid and current certificate from the DLD to administer written and driving tests, in accordance with Section 53G-10-507.

R277-507-4. Driver Education Program Standards.

A teacher preparation program of an institution may be approved by the Board if it requires demonstrated competency by the teacher in:

(1) structuring, implementing, identifying and developing

support materials related to:

(a) regular classroom instruction;

(b) multimedia instruction;

(c) driving simulation;

(d) off-street multiple car driving range experiences; and

(e) on-street driving experiences;

(2) assisting students in examining and clarifying their attitudes and values about safety;

(3) understanding and explaining the basic principles of motor vehicle systems, dynamics, and maintenance;

(4) understanding and explaining the interaction of all highway transportation system elements;

(5) initiating emergency procedures under varying circumstances;

(6) motor vehicle operation and on-street instruction;

(7) understanding and explaining the physiological and psychological influences of alcohol and other drugs especially as they relate to driving;

(8) understanding and explaining seat belt safety;

(9) understanding and explaining the consequences of distracted driving;

(10) understanding and explaining due process in the legal system;

(11) communicating effectively with federal, state, and local agencies concerning safety issues;

(12) understanding and explaining the frequency, severity, nature and prevention of accidents related to driving which occur in various age groups in various life activities; and

(13) understanding and explaining the Utah Driver Handbook.

R277-507-5. Endorsement Suspension.

(1) A driver education endorsement shall be immediately suspended and the previously-endorsed individual may not be allowed to teach driver education following the suspension or revocation of the individual's automobile operator's license.

(2) Once an individual's endorsement to teach has been suspended, the individual shall maintain a driving record free of convictions for moving violations or chargeable accidents for a period of two years before the endorsement to teach may be reinstated.

KEY: professional education, driver education, educator licensure
Date of Enactment or Last Substantive Amendment: March 14, 2017
Notice of Continuation: November 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-5501(1)(a); 53E-3-401(4); 53G-10-507

R277. Education, Administration.
R277-508. Employment of Substitute Teachers.
R277-508-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-501(1)(a), which directs the Board to make rules regarding the qualifications of educators and ancillary personnel providing direct student services.

(2) The purpose of this rule is to establish eligibility requirements and employment procedures for substitute teachers.

R277-508-2. Definitions.

(1) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the electronic file maintained on all licensed Utah educators, which includes:

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history;

(e) professional development information; and

(f) a record of disciplinary action taken against the educator.

(2) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(3) "License" means an authorization issued by the Board which permits the holder to serve in a professional capacity in a Utah public school.

(4) "Substitute teacher" means an individual employed to take the place of a regular teacher who is temporarily absent.

R277-508-3. Hiring Priorities and Eligibility.

(1) An LEA shall give first priority in hiring substitute teachers to those who hold a valid license in the subject matter they will be teaching as a substitute.

(2) An LEA shall give second priority in hiring substitute teachers to persons who have a valid license in a field commonly taught in public schools.

(3) An LEA shall give third priority in hiring substitute teachers to persons with a college degree.

(3) An LEA shall evaluate prospective substitute teachers to ensure that they are capable of managing a class and carrying out the instructional program.

(4) A person seeking employment as a substitute teacher

shall furnish evidence as requested from the hiring LEA that the person is physically and mentally fit to work.

(5)(a) An LEA may not employ any individual as a substitute teacher whose license has been revoked or is currently suspended by the Board or the licensing entity of another jurisdiction.

R277-508-4. Employment Procedures.

(1) An LEA shall establish policies for hiring substitute teachers, which shall include a requirement:

(a) that the LEA's staff obtain verification from CACTUS that an applicant's license has not been revoked or suspended; and

(b) for substitute teachers to have criminal background checks consistent with Rule R277-516.

(2) An LEA shall have a policy, which includes:

(a) periodic evaluation of substitute teachers; and

(b) a salary schedule to pay substitute teachers according to their training, experience, and competency.

(3) A regular teacher shall have lesson plans immediately available for use by substitute teachers.

(4) A student teacher may substitute in a class consistent with the instructions and policies from the higher education institution which the student attends.

A paraprofessional may substitute in a class consistent with LEA policies.

KEY: teachers, professional competency, school personnel
Date of Enactment or Last Substantive Amendment: May 8, 2018
Notice of Continuation: April 2, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a); 53E-3-401

R277. Education, Administration.
R277-509. Licensure of Student Teachers and Interns.
R277-509-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-6-201(1), which permits the Board to issue licenses for educators; and

(d) Subsection 53E-6-402(1), which directs the Board to establish a procedure for obtaining and evaluating relevant information about license applicants.

(2) The purpose of this rule is to specify the procedure under which the Board issues licenses to student teachers and interns.

R277-509-2. Definitions.

(1) "Cooperating teacher" means a licensed teacher employed by an LEA who is qualified to directly supervise a student teacher or intern during the period the student teacher or intern is assigned to the LEA.

(2)(a) "Intern" means a teacher education student, who, in an advanced stage of preparation, usually as a culminating experience, may be employed in a school setting for a period of up to one year and receive salary proportionate to the service rendered.

(b) An intern is supervised primarily by the school system while maintaining a continuing relationship with college personnel as part of a planned program designed to produce a demonstrably competent professional.

(3) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(4) "Student teacher" means a college student preparing to teach who is assigned a period of guided teaching during which the student assumes increasing responsibility for directing the learning of a group or groups of students over a period of time.

R277-509-3. Issuing Licenses.

(1) The Superintendent shall recommend applicants enrolled in teacher preparation programs for student teacher or intern licenses.

(2) The Utah Professional Practices Advisory Commission shall review background check information and make recommendations to the Board regarding student teacher and intern license

applicants in accordance with Rule R277-214.

(3)(a) An LEA may not give a student teacher or intern an unsupervised classroom assignment prior to issuance of a license in accordance with this Rule R277-509.

(b) If an LEA assigns a student teacher or intern to a position in violation of Subsection (3)(a), the Superintendent shall not recognize the service as fulfilling the student teacher's or intern's requirements for Level 1 licensure.

(c) An LEA is responsible to verify with the Board that a student teacher or intern has appropriate licensure.

(4) A teacher preparation programs may allow an unlicensed student teacher or intern to complete student teaching or intern hours only if the university provides a constant supervisor for the student teacher's or intern's work in the public schools.

(5)(a) The Superintendent may only recommend for licensure a student teacher or intern assigned to elementary, middle, or secondary schools under cooperating teachers for part of their preparation program.

(b) A supervising administrator must be permanently assigned to the building to which an intern is assigned.

(6) A student teacher or intern license is valid only for the period of time indicated on the license.

R277-509-4. Effective Dates.

(1) This rule shall be effective through June 30, 2020.

(2) This rule shall sunset on July 1, 2020.

KEY: student teachers, interns, teacher preparation programs
Date of Enactment or Last Substantive Amendment: January 9, 2019
Notice of Continuation: September 13, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-201; 53E-3-401; 53E-6-402

R277. Education, Administration.
R277-511. Academic Pathway to Teaching (APT) Level 1 License.
R277-511-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-6-201(2)(a), which allows the board by rule, to rank, endorse, or otherwise to:

(i) classify licenses; and

(ii) establish the criteria for an educator to obtain or retain a license; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to provide standards and procedures:

(a) for an applicant to obtain an Academic Pathway to Teaching (APT) level 1 license; and

(b) for an APT level 1 license holder to obtain a level 2 license.

R277-511-2. Definitions.

(1)(a) "APT level 1 license" means a license obtained through the academic path to teaching process as described in this rule.

(b) "APT level 1 license" includes:

(i) an APT level 1 license with an Elementary (K-6) Concentration; and

(ii) an APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement.

(2) "LEA administrator" means a school building principal or LEA administrator who:

(i) supervises an APT level 1 licensee; and

(ii) may recommend the APT level 1 licensee for Level 2 licensure to the Superintendent as described in Section R277-511-7.

(3) "Teacher leader" means a teacher designated as a teacher leader as described in R277-513.

R277-511-3. Superintendent Responsibilities.

(1) The Superintendent shall create an application for an APT level 1 license and publish the application on the Board's website.

(2) The Superintendent shall approve an application for an APT level 1 license if the applicant meets all of the requirements of Section R277-511-4 or Section R277-511-5.

R277-511-4. Requirements for an APT Level 1 License with an Elementary (K-6) Concentration.

(1) To qualify for an APT level 1 license with an Elementary (K-6) Concentration, an applicant shall:

(a) complete the application described in Subsection R277-511-3(1);

(b) have completed a bachelor's degree or higher;

(c) submit postsecondary transcripts to the Superintendent;

(d) receive a passing score on the Elementary Education: Multiple Subjects Praxis Assessment;

(e) complete the educator ethics review on the Board's website;

(f) successfully pass a background check as described in R277-516; and

(g) pay the applicable licensing fee.

(2) An APT level 1 license with an Elementary (K-6) Concentration is:

(a) equivalent to the Level 1 license as described in R277-500 and R277-502 as to length and professional development expectations; and

(b) subject to the same renewal procedures.

R277-511-5. Requirements for an APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement.

(1) To qualify for an APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement, an applicant shall:

(a) complete the application described in Subsection R277-511-3(1);

(b) have completed a bachelor's degree or higher;

(c) submit postsecondary transcripts to the Superintendent;

(d) receive a passing score on one of the following that is related to the subject, field, or area to which they are seeking an APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement:

(i) a Praxis II Subject Assessment; or

(ii) another Board-approved content knowledge assessment;

(e) complete the educator ethics review on the Board's website;

(f) successfully pass a background check as described in R277-516; and

(g) pay the applicable licensing fee.

(2) Except as provided in Subsection (3), an APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement is:

(a) equivalent to the Level 1 license as described in R277-500 and R277-502 as to length and professional development

expectations; and

(b) subject to the same renewal procedures.

(3) An APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement holder may only seek an additional endorsement after the APT Level 1 License with a Secondary (6-12) Concentration holder obtains a level 2 license.

R277-511-6. Requirements for an LEA that Employs an APT Level 1 License Holder.

If an LEA employs an APT level 1 license holder, the LEA shall:

(1) assign a teacher leader to serve as a mentor to the APT level 1 license holder;

(2) prepare the APT level 1 license holder to meet the Utah Effective Educator Standards described in R277-530-5;

(3) prepare a mentoring plan for each APT Level 1 license holder; and

(4) provide an APT Level 1 license holder's mentoring plan to the Superintendent upon request.

R277-511-7. Requirements for an APT Level 1 License Holder to Gain a Level 2 License.

(1) To receive a Level 2 license, an APT level 1 license holder shall:

(a)(i) complete three years of teaching full-time in one LEA under supervision of the teacher leader mentor and LEA administrator; or

(ii) complete four years of at least 0.4 FTE teaching in one LEA under the supervision of a teacher leader mentor and the LEA administrator;

(b) satisfy all Entry Years Enhancement for Quality Teaching requirements designated in R277-522;

(c) complete the requirements of the APT Level 1 license holder's mentoring plan;

(d) complete any additional requirements of the recommending LEA, including coursework and professional learning that the recommending LEA requires;

(e) complete the educator ethics review on the Board's website;

(f) renew the educator's background check as required in R277-516; and

(g) obtain a recommendation from the LEA administrator; and

(h) pay applicable licensing fees.

(2)(a) An APT level 1 license holder seeking a level 2 license may request a one year extension of the APT level 1 license at the recommendation of the LEA Administrator up to a maximum of two one-year extensions.

(b) Unless required by the recommending LEA, the years of teaching in Subsection (1)(a) do not need to be consecutive.

R277-511-8. Sunset Clause.

(1) This rule will sunset on June 30, 2020.

(2) Notwithstanding Subsection (1), the Superintendent shall convert the license of an educator with an APT Level 1 License prior to June 30, 2020, with a current teaching position in a Utah LEA, to an Associate Educator license.

(3) An educator with a converted license under Subsection (2) may receive a Professional Educator license by completing the requirements of Section R277-511-7.

(4)(a) The Superintendent may not accept new applications for APT licenses after September 1, 2019.

(b) Notwithstanding Subsection (4)(a), the Superintendent may accept an application for an APT license, for an applicant with a position in a Utah LEA through November 1, 2019.

KEY: Academic Pathway to Teaching, educator licensure
Date of Enactment or Last Substantive Amendment: July 2, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-201; 53E-3-401(4)

R277. Education, Administration.
R277-512. Online Licensure.
R277-512-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-501(1)(a), which directs the Board to make rules regarding the certification of educators; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to provide procedures to ensure that consistency, quality, and fairness are maintained for online license transaction processes.

R277-512-2. Definitions.

(1)(a) "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file maintained on licenses and license applications, which may include:

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history;

(e) professional development information; and

(f) a record of disciplinary action taken by the Board against the educator.

(b) Information contained in an individual's CACTUS file may only be released in accordance with Title 63G, Chapter 2, Government Records Access Management Act.

(2) "LEA," for purposes of this rule, includes the Utah Schools for the Deaf and Blind.

(3) "License," for purposes of this rule, means an authorization issued by the Board which permits the holder to serve in a professional capacity in the public schools consistent with Subsection 53E-6-102(10).

(4) "License record" means the electronic record of license holder and license applicant personal information and credentials maintained by the Superintendent on the CACTUS database.

(5) "License transaction" means the interactions between a license holder or applicant and the Superintendent that result in issuance of:

(a) a license;

(b) a renewal of a license; or

(c) a modification of a license or license record.

(6) "Online license transaction" means those license

transactions that take place via the process maintained by a contracted provider, chosen by the Superintendent.

(7) "Utah Professional Practices Advisory Commission" or "UPPAC" means a Commission established to assist and advise the Board in matters relating to the professional practices of educators, consistent with Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission.

R277-512-3. Procedures.

(1) All current Board rules, statutory and Board definitions, and requirements established by statute and Board rules shall apply to all license transactions, regardless of whether the transactions occur online or by other means.

(2)(a) Educators may receive an electronic or paper verification of a licensure transaction.

(b) A verification provided under Subsection (2)(a) is not an educator license.

(3) CACTUS shall be the final repository of educator information and credentials for LEAs and other authorized CACTUS users.

(4) Timelines, electronic processes and procedures, payment procedures, formats, and other elements of online licensure transactions shall meet standards of quality, ease of use, and accessibility consistent with those generally found in other wide-spread online processes.

(5) The Superintendent shall conduct educator licensing transactions electronically.

(6) Approved Utah educator preparation institutions, LEAs, and other CACTUS users shall cooperate with the Superintendent by using the online tools and procedures provided by the Superintendent for transmission of information related to licensing.

R277-512-4. Audits.

(1) The Superintendent shall establish an auditing program that provides for review of online licensure transactions for:

(a) accuracy;

(b) reliability; and

(c) completeness.

(2) The Superintendent may subject any licensure transaction to audit:

(a) within one year without cause; or

(b) at any time with cause.

(3) An LEA may designate individuals, subject to approval by the Superintendent, to have the opportunity to access and review licenses acquired or renewed online to verify licensure of employees.

(4)(a) An audit conducted under Subsection (2) may include a review of license holder documentation to verify the statements made by the license holder as part of the online license transaction.

(b) In order to verify that the assertions made by a license holder were accurate, a license holder may be required to submit:

(i) transcripts;

(ii) records of participation in professional development activities;

(iii) supervisor letters or endorsements; and

(iv) other documentation requested by the Superintendent.

(5) If an audit finds that a license applicant or license holder intentionally provided false, misleading, or otherwise inaccurate information in a license transaction, the audit findings shall be forwarded to UPPAC.

(6) A license transaction that was completed on the basis of inaccurate information may be voided at any time with notice to the license holder.

R277-512-5. License Applicant and License Holder Responsibilities.

(1) A license applicant or license holder shall supply accurate and complete information in all license transactions.

(2) A license applicant or license holder shall maintain files and documentation of the information provided in a license transaction for a period of one year after the completion of the license transaction.

(3) A license applicant or license holder that supplies inaccurate, misleading, false, or otherwise unreliable information in any license transaction shall be subject to the full range of disciplinary actions that may be applied by UPPAC and the Board.

R277-512-6. Licensing Costs.

(1) The licensing process shall be automated and self-sustaining.

(2) The Superintendent shall incorporate current and emerging electronic and information technologies to better meet the needs of applicants for new licenses, for current license holders, for recommending institutions, for LEAs and the general public.

(3) The Superintendent shall determine and assess licensing fees to license applicants that cover the actual and complete costs of licensing.

(4) The Board's Licensing Section shall maintain accurate records and documentation of:

(a) fees assessed;

(b) costs of online licensing; and

(c) any Superintendent review responsibilities.

R277-512-7. Licensing Records.

(1) The Superintendent shall record documentation of online licensure transactions in CACTUS.

(2)(a) License applicants shall be required to submit a social security number in order to be licensed.

(b) A license applicant's social security number shall be classified as private in accordance with Subsection 63G-2-302(2)(d).

(3) A license applicant or license holder shall update personal CACTUS information in a timely manner.

(4) CACTUS records may be used by the Superintendent for research and other valid educational purposes.

(5) The following records shall be classified as public pursuant to Title 63G, Chapter 2, Government Records Access and Management Act:

(a) licenses issued by the Board;

(b) endorsements on an educator's license;

(c) an educator's current assignment;

(d) an educator's assignment history in Utah public schools;

(e) an educator's education background; and

(f) Board disciplinary action against an educator's license, which resulted in:

(i) letter of reprimand;

(ii) suspension;

(iii) revocation; or

(iv) reinstatement.

(6) The Superintendent shall provide an online licensing database where the general public may access the information classified as public in Subsection (5).

KEY: online, licensure
Date of Enactment or Last Substantive Amendment: January 10, 2017
Notice of Continuation: November 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a); 53E-3-401(4)

R277. Education, Administration.
R277-513. Teacher Leader.
R277-513-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-6-902, which requires the Board to:

(i) define the role of a teacher leader; and

(ii) establish the minimum criteria for a teacher to qualify as a teacher leader; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) define the role of a teacher leader; and

(b) establish the minimum criteria for a teacher to qualify as a teacher leader.

R277-513-2. Definitions.

As used in this section, "teacher" has the same meaning as that term is defined in Section 53E-6-902.

R277-513-3. Minimum Criteria for a Teacher Leader.

An LEA may designate a teacher as a teacher leader if the teacher:

(1) is a level 2 or level 3 licensed teacher;

(2) has an educator evaluation effectiveness rating of effective or highly effective for at least two years prior to being designated as a teacher leader;

(3) demonstrates competence in working with adult learners and peers;

(4) demonstrates consistent leadership, focused collaboration, distinguished teaching, and continued professional growth; and

(5) is recommended by the building administrator to be designated as a teacher leader.

R277-513-4. Roles of a Teacher Leader.

A teacher leader's role may include:

(1) generally supporting school-based professional learning;

(2) training, supervising, and mentoring student teachers and new teachers;

(3) modeling effective instructional strategies for other teachers;

(4) serving as an instructional coach to develop effective instruction;

(5) guiding other educators in collecting, understanding, analyzing, and interpreting student-achievement data and using those findings to improve instruction;

(6) leading specific school improvement initiatives;

(7) leading efforts to modify or improve curriculum;

(8) acting as a liaison for community projects;

(9) serving as a learning facilitator for professional learning activities; and

(10) facilitating and coordinating professional learning communities.

R277-513-5. LEA Teacher Leader Compensation and Accommodations.

An LEA should:

(1) provide a bonus, pay increase, or other monetary incentive to compensate a teacher leader for the teacher leader's time performing duties described in Section R277-513-4; and

(2) reduce a teacher leader's classroom workload to provide the teacher leader time to perform the duties described in Section R277-513-4.

KEY: teachers, leaders, qualifications
Date of Enactment or Last Substantive Amendment: November 7, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-902; 53E-3-401(4)

R277. Education, Administration.
R277-514. Deaf Education in Public Schools.
R277-514-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-501(1)(a), which requires the Board to establish the qualification and certification of educators.

(2) The purpose of this rule is to specify the requirements for Deaf Education licensing.

R277-514-2. Deaf Education (Birth to Age 22) License Area of Concentration.

(1) A deaf education (birth to age 22) license area of concentration permits an educator to teach a class composed of deaf and hard of hearing students from birth to age 22 if the educator holds the appropriate endorsement as described in R277-520-4.

(2) The Board may approve an application for a Deaf Education license area of concentration if the applicant:

(a)(i) completes a deaf education teacher preparation program approved by the Board as described in Section R277-514-3; or

(ii) holds a valid deaf education license issued by a state other than Utah under the National Association of State Directors of Teacher Education and Certification Interstate Agreement;

(b) passes a deaf education competency exam approved by the Board;

(c) has met the requirements of at least one of the following endorsements:

(i) Listening and Spoken Language endorsement, which indicates that the endorsement holder's preparation focused on teaching deaf and hard of hearing students with listening and spoken language strategies; or

(ii) ASL/English-bilingual/bicultural endorsement, which indicates that the endorsement holder's preparation focused on strategies that promote the development of American Sign Language and English literacy across the curriculum; and

(d) if the applicant intends to teach in grades six through twelve, has met the requirements of at least one content specific area endorsement.

R277-514-3. Deaf Education Program.

The Board may approve an institution of higher education's deaf education teacher preparation program if the program includes course work specifically designed to train candidates to:

(1) understand the legal and ethical issues surrounding deaf education;

(2) comply with:

(a) the Individuals with Disabilities Education Act of 2004, Pub. L. No. 108-446; and

(b) Board rule;

(3) address specific linguistic and cultural needs of deaf and hard of hearing students throughout the curriculum;

(4) demonstrate techniques for incorporating language into all aspects of the curriculum;

(5) demonstrate pedagogical skills unique to teaching reading, writing, math and other content areas to deaf and hard of hearing students;

(6) demonstrate basic fluency in the use of American Sign Language;

(7) understand audiological and physiological components of audition;

(8) understand techniques for teaching speech to deaf and hard of hearing students;

(9) understand the socio-cultural and psychological implications of hearing loss; and

(10) assess and address the educational needs and educational progress of deaf and hard of hearing students.

KEY: licensing, deaf education
Date of Enactment or Last Substantive Amendment: August 7, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(a)

R277. Education, Administration.
R277-515. Utah Educator Professional Standards.
R277-515-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests the general control and supervision of the public schools in the Board;

(b) Subsection 53E-3-501(1)(a), which directs the Board to make rules regarding the certification of educators;

(c) Title 53E, Chapter 6, Educator Licensing and Professional Practices Act, which provides all laws related to educator licensing and professional practices; and

(d) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) establish statewide standards for public school educators that provide notice to educators and prospective educators and notice and protection to public school students and parents;

(b) recognize that licensed public school educators are professionals and, as such, should share common professional standards, expectations, and role model responsibilities; and

(c) distinguish behavior for which educators shall receive license discipline from behavior that all Utah educators should aspire to and for which license discipline shall be initiated only in egregious circumstances or following a pattern of offenses.

R277-515-2. Definitions.

(1)(a) "Boundary violation" means crossing verbal, physical, emotional, and social lines that an educator must maintain in order to ensure structure, security, and predictability in an educational environment.

(b) A "boundary violation" may include the following, depending on the circumstances:

(i) isolated, one-on-one interactions with students out of the line of sight of others;

(ii) meeting with students in rooms with covered or blocked windows;

(iii) telling risqué jokes to, or in the presence of a student;

(iv) employing favoritism to a student;

(v) giving gifts to individual students;

(vi) educator initiated frontal hugging or other uninvited touching;

(vii) photographing individual students for a non-educational purpose or use;

(viii) engaging in inappropriate or unprofessional contact outside of educational program activities;

(ix) exchanging personal email or phone numbers with a student for a non-educational purpose or use;

(x) interacting privately with a student through social media, computer, or handheld devices; and

(xi) discussing an educator's personal life or personal issues with a student.

(c) "Boundary violations" does not include:

(i) offering praise, encouragement, or acknowledgment;

(ii) offering rewards available to all who achieve;

(iii) asking permission to touch for necessary purposes;

(iv) giving pats on the back or a shoulder;

(v) giving side hugs;

(vi) giving handshakes or high fives;

(vii) offering warmth and kindness;

(viii) utilizing public social media alerts to groups of students and parents; or

(ix) contact permitted by an IEP or 504 plan.

(2)(a) "Conviction" means the final disposition of a judicial action for a criminal offense, except in cases of a dismissal on the merits.

(b) "Conviction" includes:

(i) a finding of guilty by a judge or jury;

(ii) a guilty or no contest plea; and

(iii) a plea in abeyance.

(3) "Core Standard" means a statement:

(a) of what a student enrolled in a public school is expected to know and be able to do at a specific grade level or following completion of an identified course; and

(b) established by the Board in Rule R277-700 as required by Section 53E-3-501.

(4) "Diversion agreement" means an agreement between a prosecutor and defendant entered into prior to a conviction delaying prosecution of a criminal charge for a specified period of time and contingent upon the defendant satisfying certain conditions.

(5)(a) "Educator" or "professional educator" means a person who currently holds a Utah educator license, held a license at the time of an alleged offense, is an applicant for a license, or is a person in training to obtain a license.

(b) "Professional educator" does not include a paraprofessional, a volunteer, or an unlicensed teacher in a classroom.

(6) "Illegal drug" means a substance included in:

(a) Schedules I, II, III, IV, or V established in Section 58-37-4;

(b) Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, Pub. L. No. 91-513; or

(c) any controlled substance analog.

(7) Grooming" means befriending and establishing an emotional connection with a child or a child's family to lower the child's inhibitions for emotional, physical, or sexual abuse.

(8) "LEA" or "local education agency" for purposes of this rule includes the Utah Schools for the Deaf and the Blind.

(9) "License applicant" means a person who is applying for:

(a) an initial license; or

(b) renewal of a license.

(10) "Licensing discipline" means a sanction, including an admonition, a letter of warning, a written reprimand, suspension of license, and revocation of license, or other appropriate disciplinary measure, for violation of a professional educator standard.

(11) "Misdemeanor offense," for purposes of this rule, does not include Class C or lower violations of Title 41, Utah Motor Vehicle Code

(12) "Plea in abeyance" means a plea of guilty or no contest that is not entered as a judgment or conviction but is held by a court in abeyance for a specified period of time.

(13) "Pornographic or indecent material" shall have the same meaning as defined in Subsection 76-10-1235(1)(a).

(14) "School-related activity" means any event, activity, or program:

(a) occurring at the school before, during, or after school hours; or

(b) that a student attends at a remote location as a representative of the school or with the school's authorization, or both.

(15) "Stalking" means the act of intentionally or knowingly engaging in a course of conduct directed at a specific person as defined in Section 76-5-106.5.

(16)(a) "Under the influence of alcohol or an illegal drug" means that a person:

(i) is under the influence of alcohol, an illegal drug, or the combined influence of alcohol and drugs to a degree that renders the person incapable of effectively working in a public school;

(ii) has sufficient alcohol in the person's body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .08 grams or greater at the time of the test; or

(iii) has a blood or breath alcohol concentration of .08 grams or greater during work hours at a public school.

(b) An educator is presumed to be "under the influence of

alcohol or an illegal drug" if the educator refuses a lawful request, made with reasonable suspicion by the educator's LEA, to submit to a drug or alcohol test.

(17) "Utah Professional Practices Advisory Commission" or "UPPAC" means an advisory commission established to assist and advise the Board in matters relating to the professional practices of educators, as established by Section 53E-6-501.

(18) "Weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury.

R277-515-3. Educator as a Role Model of Civic and Societal Responsibility.

(1) The professional educator is responsible for compliance with federal, state, and local laws.

(2) The professional educator shall familiarize himself or herself with professional ethics and is responsible for compliance with applicable professional standards.

(3) Failing to strictly adhere to Subsection (4) shall result in licensing discipline in accordance with Rule R277-215.

(4) The professional educator, upon receiving a Utah educator license:

(a) may not be convicted of any felony or misdemeanor offense that adversely affects the individual's ability to perform an assigned duty and carry out the responsibilities of the profession, including role model responsibility;

(b) may not be convicted of or commit any act of violence or abuse, including physical, sexual, or emotional abuse of any person;

(c) may not commit any act of cruelty to a child or any criminal offense involving a child;

(d) may not be convicted of a stalking crime;

(e) may not possess or distribute an illegal drug or be convicted of any crime related to an illegal drug, including a prescription drug not specifically prescribed for the individual;

(f) may not engage in conduct of a sexual nature described in Section 53E-6-603;

(g) may not be convicted of or subject to a diversion agreement for a sex-related or drug-related offense;

(h) may not provide to a student or allow a student under the educator's supervision or control to consume an alcoholic beverage or unauthorized drug;

(i) may not attend school or a school-related activity in an assigned employment-related capacity while possessing, using, or under the influence of alcohol or an illegal drug;

(j) may not intentionally exceed the prescribed dosage of a prescription medication while at school or a school-related

activity;

(k) shall cooperate in providing all relevant information and evidence to the proper authority in the course of an investigation by a law enforcement agency or by the Division of Child and Family Services regarding potential criminal activity, except that an educator may decline to give evidence against himself or herself in an investigation if the evidence may tend to incriminate the educator as that term is defined by the Fifth Amendment of the U.S. Constitution;

(l) shall report suspected child abuse or neglect to law enforcement or the Division of Child and Family Services pursuant to Sections 53E-6-701 and 62A-4a-409 and comply with rules and LEA policy regarding the reporting of suspected child abuse;

(m) shall strictly adhere to state laws regarding the possession of a firearm while on school property or at a school-sponsored activity and enforce an LEA policy related to student access to or possession of a weapon;

(n) may not solicit, encourage, or consummate an inappropriate relationship, whether written, verbal, or physical, with a student or minor;

(o) may not engage in grooming of a student or minor;

(p) may not:

(i) participate in sexual, physical, or emotional harassment towards any public school-age student or colleague; or

(ii) knowingly allow harassment toward a student or colleague;

(q) may not make inappropriate contact in any communication, including written, verbal, or electronic, with a minor, student, or colleague, regardless of age or location;

(r) may not interfere or discourage a student's or colleague's legitimate exercise of political and civil rights, acting consistent with law and LEA policy;

(s) shall provide accurate and complete information in a required evaluation of himself or herself, another educator, or student, as directed, consistent with the law;

(t) shall be forthcoming with accurate and complete information to an appropriate authority regarding known educator misconduct that could adversely impact performance of a professional responsibility, including a role model responsibility, by himself or herself, or another;

(u) shall provide accurate and complete information required for licensure, transfer, or employment purposes;

(v) shall provide accurate and complete information regarding qualifications, degrees, academic or professional awards or honors, and related employment history when applying for employment or licensure;

(w) shall notify the Superintendent at the time of

application for licensure of past license disciplinary action or license discipline from another jurisdiction;

(x) shall notify the Superintendent honestly and completely of past criminal convictions at the time of the license application and renewal of licenses;

(y) shall provide complete and accurate information during an official inquiry or investigation by LEA, state, or law enforcement personnel; and

(z) shall report an arrest, citation, charge, or conviction to the educator's LEA in accordance with Section R277-516-3.

(5) An LEA shall report violations described in Subsection (4) to UPPAC.

(6)(a) Failure to adhere to this Subsection (6) may result in licensing discipline in accordance with Rule R277-215.

(b) A penalty shall be imposed, most readily, if an educator has received a previous documented warning from the educator's employer.

(c) An educator may not:

(i) exclude a student from participating in any program or deny or grant any benefit to any student on the basis of race, color, creed, sex, national origin, marital status, political or religious belief, physical or mental condition, family, social, or cultural background, or sexual orientation; and

(ii) may not engage in conduct that would encourage a student to develop a prejudice on the grounds described in Subsection (6)(c)(i) or any other, consistent with the law.

(d) An educator shall maintain confidentiality concerning a student unless revealing confidential information to an authorized person serves the best interest of the student and serves a lawful purpose, consistent with:

(i) 53E-9-202, Utah Family Educational Rights and Privacy Act; and

(ii) the Federal Family Educational Rights and Privacy Acts, 20 U.S.C. Sec. 1232g and 34 CFR Part 99.

(e) Consistent with Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, Section 53E-3-512, and rule, a professional educator:

(i) may not accept a bonus or incentive from a vendor or potential vendor or a gift from a parent of a student, or a student where there may be the appearance of a conflict of interest or impropriety;

(ii) may not accept or give a gift to a student that would suggest or further an inappropriate relationship;

(iii) may not accept or give a gift to a colleague that is inappropriate or furthers the appearance of impropriety;

(iv) may accept a donation from a student, parent, or business donating specifically and strictly to benefit a student;

(v) may accept, but not solicit, a nominal appropriate personal gift for a birthday, holiday, or teacher appreciation occasion, consistent with LEA policy and Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(vi) may not use the educator's position or influence to:

(A) solicit a colleague, student, or parent of a student to purchase equipment, supplies, or services from the educator or participate in an activity that financially benefits the educator unless approved in writing by the LEA; or

(B) promote an athletic camp, summer league, travel opportunity, or other outside instructional opportunity from which the educator receives personal remuneration and that involve students in the educator's school system, unless approved in writing consistent with LEA policy and rule; and

(vii) may not use school property, a facility, or equipment for personal enrichment, commercial gain, or for personal uses without express supervisor permission.

R277-515-4. Educator Responsibility for Maintaining a Safe Learning Environment and Educational Standards.

(1) A professional educator maintains a positive and safe learning environment for a student and works toward meeting an educational standard required by law.

(2)(a) Failure to strictly adhere to this Subsection (2) shall result in licensing discipline in accordance with Rule R277-215.

(b) The professional educator, upon receiving a Utah educator license:

(i) shall take prompt and appropriate action to prevent harassment or discriminatory conduct toward a student or school employee that may result in a hostile, intimidating, abusive, offensive, or oppressive learning environment;

(ii) shall resolve a disciplinary problem according to law, LEA policy, and local building procedures and strictly protect student confidentiality and understand laws relating to student information and records;

(iii) shall supervise a student appropriately at school and a school-related activity, home or away, consistent with LEA policy and building procedures and the age of the students;

(iv) shall take action to protect a student from any known condition detrimental to that student's physical health, mental health, safety, or learning;

(v)(A) shall demonstrate honesty and integrity by strictly adhering to all state and LEA instructions and protocols in managing and administering a standardized test to a student consistent with Section 53E-4-312 and Rule R277-404;

(B) shall cooperate in good faith with a required student

assessment;

(C) shall submit and include all required student information and assessments, as required by statute and rule; and

(D) shall attend training and cooperate with assessment training and assessment directives at all levels;

(vi) may not use or attempt to use an LEA computer or information system in violation of the LEA's acceptable use policy for an employee or access information that may be detrimental to young people or inconsistent with the educator's role model responsibility;

(vii) may not knowingly possess, while at school or any school-related activity, any pornographic or indecent material in any form;

(viii) may not knowingly use school equipment to view, create, distribute, or store pornographic or indecent material in any form; and

(ix) may not knowingly use, view, create, distribute, or store pornographic or indecent material involving children.

(3) An LEA shall report violations of Subsection (2) to UPPAC.

(4)(a) Failure to adhere to this Subsection (4) may result in licensing discipline in accordance with Rule R277-215.

(b) A penalty shall be imposed, most readily, if an educator has received a previous documented warning from the educator's employer.

(c) A professional educator:

(i) shall demonstrate respect for a diverse perspective, idea, and opinion and encourage contributions from a broad spectrum of school and community sources, including a community whose heritage language is not English;

(ii) shall use appropriate language, eschewing profane, foul, offensive, or derogatory comments or language;

(iii) shall maintain a positive and safe learning environment for a student;

(iv) shall make appropriate use of technology by:

(A) involving students in social media responsibly, transparently, and primarily for purposes of teaching and learning per school and district policy;

(B) maintaining separate professional and personal virtual profiles;

(C) respecting student privacy on social media; and

(D) taking appropriate and reasonable measures to maintain confidentiality of student information and education records stored or transmitted through the use of electronic or computer technology;

(v) shall work toward meeting an educational standard required by law;

(vi) shall teach the objectives contained in a Core Standard;

(vii) may not distort or alter subject matter from a Core Standard in a manner inconsistent with the law;

(viii) shall use instructional time effectively consistent with LEA policy; and

(ix) shall encourage a student's best effort in an assessment.

R277-515-5. Professional Educator Responsibility for Compliance with LEA Policy.

(1)(a) Failure to strictly adhere to this Subsection (1) shall result in licensing discipline in accordance with Rule R277-215.

(b) A professional educator:

(i) understands, respects, and does not violate appropriate boundaries:

(A) established by ethical rules and school policy and directive in teaching, supervising, and interacting with a student or colleague; and

(B) described in Subsection R277-515-2(1); and

(ii) shall conduct financial business with integrity by honestly accounting for all funds committed to the educator's charge, as school responsibilities require, consistent with LEA policy.

(2) An LEA shall report violations of Subsection (1) to UPPAC.

(3)(a) Failure to adhere to this Subsection (3) may result in licensing discipline in accordance with Rule R277-215.

(b) A penalty shall be imposed most readily, if an educator has received a previous documented warning from the educator's employer.

(c) The professional educator:

(i) understands and follows a rule and LEA policy;

(ii) understands and follows a school or administrative policy, procedure, or documented directive specific to a rule or policy;

(iii) resolves a grievance with a student, colleague, school community member, and parent professionally, with civility, and in accordance with LEA policy; and

(iv) follows LEA policy for collecting money from a student, accounting for all money collected, and not commingling any school funds with personal funds.

R277-515-6. Professional Educator Conduct.

(1) A professional educator exhibits integrity and honesty in relationships with an LEA administrator or personnel.

(2)(a) Failure to adhere to this Subsection (2) may result in licensing discipline in accordance with Rule R277-215.

(b) A penalty shall be imposed most readily, if an educator has received a previous documented warning from the educator's employer.

(c) The professional educator:

(i) shall communicate professionally and with civility with a colleague, school and community specialist, administrator, and other personnel;

(ii) shall maintain a professional and appropriate relationship and demeanor with a student, colleague, school community member, and parent;

(iii) may not promote a personal opinion, personal issue, or political position as part of the instructional process in a manner inconsistent with law;

(iv) shall express a personal opinion professionally and responsibly in the community served by the school;

(v) shall comply with an LEA policy, supervisory directive, and generally-accepted professional standard regarding appropriate dress and grooming at school and at a school-related event;

(vi) shall work diligently to improve the educator's own professional understanding, judgment, and expertise;

(vii) shall honor all contracts for a professional service;

(viii) shall perform all services required or directed by the educator's contract with the LEA with professionalism consistent with LEA policy and rule; and

(ix) shall recruit another educator for employment in another position only within a LEA timeline and guideline.

R277-515-7. Violations of Professional Ethics.

(1) This rule establishes standards of ethical decorum and behavior for licensed educators in the state.

(2) Beginning in the 2018-19 school year, to obtain a license or renew a license issued by the Board, a license applicant shall review this rule and execute a form as part of the licensure or renewal process verifying that the educator:

(a) has read R277-515 and R277-516; and

(b) understands that the educator's conduct is governed by R277-515 and R277-516.

(3) An LEA shall:

(a) annually train educators employed by the LEA on the Utah Educator Professional Standards described in Rules R277-515 and R277-516; and

(b) provide written assurance of the training described in Subsection (3)(a) in accordance with R277-108.

(4) Provisions of this rule do not prevent, circumvent, replace, nor mirror criminal or potential charges that may be

issued against a professional educator.

(5) The Board and Superintendent shall adhere to the provisions of this rule in licensing and disciplining a licensed Utah educator.

(6) Reporting and employment provisions related to professional ethics are provided in:

(a) Section 53G-11-406;

(b) Section 53E-6-604;

(c) Section 53G-8-503; and

(d) Section R277-516-7.

KEY: educators, professional, standards
Date of Enactment or Last Substantive Amendment: December 1, 2017
Notice of Continuation: November 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a); 53E-6; 53E-3-401(4)

R277. Education, Administration.
R277-516. Professional Standards and Training for Non-licensed Employees and Volunteers.
R277-516-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b)(i) Subsection 53E-3-301(3), which instructs the Superintendent to perform duties assigned by the Board that include:

(ii) presenting to the Governor and the Legislature each December a report of the public school system for the preceding year that includes:

(A) investigation of all matters pertaining to the public schools; and

(B) statistical and financial information about the school system which the Superintendent considers pertinent;

(c) Subsections 53E-3-501(1)(a)(i) and (iii), which direct the Board to:

(i) establish rules and minimum standards for the public schools regarding the qualification and certification of educators and ancillary personnel who provide direct student services; and

(ii) the evaluation of instructional personnel; and

(d) Title 53G, Chapter 11, Part 4, Background Checks, which directs the Board to require educator license applicants to submit to background checks and provide ongoing monitoring of licensed educators.

(2) The purpose of this rule is to ensure that all students who are compelled by law to attend public schools, subject to release from school attendance consistent with Section 53G-6-204, are instructed and served by public school teachers and employees who have not violated laws that would endanger students in any way.

R277-516-2. Definitions.

(1) "Association" means the same as that term is defined in Subsection 53G-7-1101(3).

(2) "Charter school governing board" means a board designated by a charter school to make decisions for the operation of the charter school.

(3) "Charter school board member" means a current member of a charter school governing board.

(4) "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the database maintained on all licensed Utah educators, which includes information such as:

(a) personal directory information;
(b) educational background;
(c) endorsements;
(d) employment history;
(e) professional development information;
(f) completion of employee background checks; and
(g) a record of disciplinary action taken against the educator.

(5) "Contract employee" means an employee of a staffing service who works at a public school under a contract between the staffing service and the public school.

(6) "DPS" means the Department of Public Safety.

(7) "LEA" or "local education agency" for purposes of this rule includes the Utah Schools for the Deaf and the Blind.

(8)(a) "Licensed educator" means an individual who holds a valid Utah educator license and has satisfied all requirements to be a licensed educator in the Utah public school system (examples are traditional public school teachers, charter school teachers, school administrators, Board employees, and school district specialists).

(b) A licensed educator may or may not be employed in a position that requires an educator license.

(c) A licensed educator includes an individual who:
(i) is student teaching;
(ii) is in an alternative route to licensing program or position; or
(iii) holds an LEA-specific competency-based license.

(9) "Non-licensed public education employee" means an employee of a an LEA who:
(a) does not hold a current Utah educator license issued by the Board under Title 53E, Chapter 6, Educator Licensing and Professional Practices Act; or
(b) is a contract employee.

(10) "Public education employer" means the education entity that hires and employs an individual, including public school districts, the Utah State Office of Education, Regional Service Centers, and charter schools.

(11) "Utah Professional Practices Advisory Commission" or "UPPAC" means an advisory commission established to assist and advise the Board in matters relating to the professional practices of educators, established in Section 53E-6-501.

(12) "Volunteer" means a volunteer who may be given significant unsupervised access to children in connection with the volunteer's assignment.

R277-516-3. Licensed Public Education Employee Personal Reporting of Arrests.

(1) A licensed educator who is arrested, cited or charged with the following alleged offenses shall report the arrest, citation, or charge within 48 hours or as soon as possible to the licensed educator's district superintendent, charter school director or designee:

(a) any matters involving an alleged sex offense;

(b) any matters involving an alleged drug-related offense;

(c) any matters involving an alleged alcohol-related offense;

(d) any matters involving an alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person;

(e) any matters involving an alleged felony offense under Title 76, Chapter 6, Offenses Against Property;

(f) any matters involving an alleged crime of domestic violence under Title 77, Chapter 36, Cohabitant Abuse Procedures Act; and

(g) any matters involving an alleged crime under federal law or the laws of another state comparable to the violations listed in Subsections (a) through (f).

(2) A licensed educator shall report convictions, including pleas in abeyance and diversion agreements within 48 hours or as soon as possible upon receipt of notice of the conviction, plea in abeyance or diversion agreement.

(3) An LEA superintendent, director, or designee shall report conviction, arrest or offense information received from a licensed educator to the Superintendent within 48 hours of receipt of information from a licensed educator.

(4) The Superintendent shall develop an electronic reporting process on the Board's website.

(5) A licensed educator shall report for work following an arrest and provide notice to the licensed educator's employer unless directed not to report for work by the employer, consistent with school district or charter school policy.

R277-516-4. Non-licensed Public Education Employee, Volunteer, and Charter School Board Member Background Check Policies.

(1) An LEA shall adopt a policy for non-licensed public education employee, volunteer, and charter school board member background checks that includes at least the following components:

(a) a requirement that the individual submit to a background check and ongoing monitoring through registration with the systems described in Section 53G-11-404 as a condition of employment or appointment; and

(b) identification of the appropriate privacy risk mitigation strategy that will be used to ensure that the LEA only receives notifications for individuals with whom the LEA maintains an authorizing relationship.

(2) An LEA policy shall describe the background check process necessary based on the individual's duties.

R277-516-5. Non-licensed Public Education Employee, Volunteer, or Charter School Board Member Arrest Reporting Policy Required from LEAs.

(1) An LEA shall have a policy requiring a non-licensed public employee, a volunteer, a charter school board member, or any other employee who drives a motor vehicle as an employment responsibility, to report offenses specified in Subsection (3).

(2) An LEA shall post the policy described in Subsection (1) on the LEA's website.

(3) An LEA's policy described in Subsection (1) shall include the following minimum components:

(a) reporting of the following:

(i) convictions, including pleas in abeyance and diversion agreements;

(ii) any matters involving arrests for alleged sex offenses;

(iii) any matters involving arrests for alleged drug-related offenses;

(iv) any matters involving arrests for alleged alcohol-related offenses; and

(v) any matters involving arrests for alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

(b) a timeline for receiving reports from non-licensed public education employees;

(c) immediate suspension from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation;

(d) immediate suspension from transporting students or public education vehicle operation or maintenance for alleged offenses involving alcohol or drugs during the period of investigation;

(e) adequate due process for the accused employee consistent with Section 53G-11-405;

(f) a process to review arrest information and make employment or appointment decisions that protect both the safety of students and the confidentiality and due process rights of employees and charter school board members; and

(g) timelines and procedures for maintaining records of arrests and convictions of non-licensed public education employees and charter school board members.

(4) An LEA shall ensure that the records described in R277-516-5(3)(g):

(a) include final administrative determinations and actions

following investigation; and

(b) are maintained:

(i) only as necessary to protect the safety of students; and

(ii) with strict requirements for the protection of confidential employment information.

R277-516-6. Association Professional Standard Setting, Training, and Monitoring.

(1) Beginning with the 2017-2018 school year, a public school may not be a member of, or pay dues to an association that adopts rules or policies that are inconsistent with this R277-516-6.

(2) An association shall establish policies or rules that require:

(a) coaches and individuals who oversee interscholastic activities or work with students as part of an interscholastic activity to meet a set of professional standards that are consistent with the Utah Educator Professional Standards described in Rule R277-515; and

(b) the association or public school to annually train each coach or other individual who oversees or works with students as part of an interscholastic activity of a public school on the following:

(i) child sexual abuse prevention as described in Section 53G-9-207;

(ii) the prevention of bullying, cyber-bullying, hazing, harassment, and retaliation as described in:

(A) Title 53G, Chapter 9, Part 6, Bullying and Hazing; and

(B) R277-613; and

(iii) the professional standards described in Subsection (2)(a).

(3) An association shall establish procedures and mechanisms to:

(a) monitor LEA compliance with the association's training requirements described in Subsection (2); and

(b) track the employment history of individuals who receive a certification from the association.

R277-516-7. Public Education Employer Responsibilities Upon Receipt of Arrest Information.

(1) A public education employer that receives arrest information about a licensed public education employee shall review the arrest information and assess the employment status consistent with Section 53E-6-604, Rule R277-515, and the LEA's policy.

(2) A public education employer that receives arrest information about a non-licensed public education employee,

volunteer, or charter school board member shall review the arrest information and assess the individual's employment or appointment status:

(a) considering the individual's assignment and duties; and

(b) consistent with a local board-approved policy for ethical behavior of non-licensed employees, volunteers, and charter school board members.

(3) A local board shall provide appropriate training to non-licensed public education employees, volunteers, and charter school board members about the provisions of the local board's policy for self-reporting and ethical behavior of non-licensed public education employees, volunteers, and charter school board members.

(4) A public education employer shall cooperate with the Superintendent in investigations of licensed educators.

R277-516-8. Misconduct Notification Requirements and Procedures.

(1)(a) An educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school's employee shall immediately report that belief to:

(i) law enforcement;

(ii) the school principal; and

(iii) to any other entity to which a report is required by law.

(b) A school administrator who receives a report described in Subsection (1)(a) shall immediately submit the information to UPPAC if the employee is licensed as an educator.

(2) A local superintendent or charter school director shall notify UPPAC if an educator is determined, pursuant to an administrative or judicial action, or internal LEA investigation, to have had disciplinary action taken for, or, to have engaged in:

(a) unprofessional conduct or professional incompetence that:

(i) results in suspension for more than one week or termination;

(ii) requires mandatory licensing discipline under R277-515; or

(iii) otherwise warrants UPPAC review; or

(b) immoral behavior.

(3) An educator who fails to comply with Subsection (1) may:

(a) be found guilty of unprofessional conduct; and

(b) have disciplinary action taken against the educator.

(4) The Superintendent may withhold, reduce, or terminate funding to an LEA for failure to make a required report under this R277-516 through the process described in Rule R277-114.

KEY: background checks, school employees, self reporting

Date of Enactment or Last Substantive Amendment: September 21, 2017
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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-301(3)(a); 53E-3-301(3); 53E-3-501(1)(a)(i); 53E-3-501(1)(a)(iii)

R277. Education, Administration.
R277-518. Career and Technical Education Licenses.
R277-518-1. Authority and Purpose.

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53E-6-201 which permits the Board to issue licenses for educators, and Subsection 53E-3-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify standards for a CTE license area and endorsements. An appropriate CTE or secondary license area and appropriate endorsement(s) are required for all persons teaching CTE programs at the secondary and adult level where high school credit is earned. Specific to adult education, an appropriate CTE, elementary or secondary license area is required for all persons awarding adult education high school completion credits in multiple subjects consistent with R277-733-4L.

R277-518-2. Definitions.

A. "Adult education" means organized and structured programs or competencies which directly or indirectly prepare students for post-secondary or training opportunities, and/or entering and retaining employment opportunities. Adult education programs provide qualifying out-of-school youth and adult students with literacy skills below the collegiate/post-secondary level with a continuous education system, driven by a student education occupational plan (SEOP), through competency-based instruction, with opportunities to improve their basic literacy levels, English as a second language skills, or high school level of education consistent with R277-733.

B. "ARL Program" means the alternative licensing route as provided in R277-503-4, administered by USOE.

C. "Board" means the Utah State Board of Education.

D. "Career and technical education (CTE)" means organized educational programs or competencies which directly or indirectly prepare students for employment, or for additional preparation leading to employment, in occupations where entry requirements do not generally require a baccalaureate or advanced degree. CTE programs provide all students a continuous education system, driven by a student education occupational plan (SEOP), through competency-based instruction, culminating in essential life skills, certified occupational skills, and meaningful employment. Categories include agriculture; business; family and consumer sciences; health science; information technology; marketing; skilled and technical sciences; technology and engineering education; and work-based learning, consistent with R277-916.

E. "CTE Alternative Preparation Program (APP) license area of concentration (license area)" means the provisional license area of concentration issued prior to March 1, 2014 by the Board for a three year period which enables the holder to teach only in a specific CTE or technical field, or adult education in the public school system and may require educational coursework.

F. "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to applicants who have also met all ancillary requirements established by law or rule.

G. "Level 2 license" means a Utah professional educator license issued by the Board after satisfaction of all requirements for a Level 1 license and:

(1) satisfaction of requirements under R277-522 for teachers whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public LEA or accredited private school;

(2) at least three years of successful education experience in a Utah public LEA or accredited private school or one year of successful education experience in a Utah public LEA or accredited private school and at least three years of successful education experience in a public LEA or accredited private school outside of Utah;

(3) additional requirements established by law or rule.

H. "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received National Board Certification or a doctorate in education or in a field related to a content area in a unit of the public education system or an accredited private school, or holds a Speech-Language Pathology area of concentration and has obtained American Speech-Language Hearing Association (ASHA) certification.

I. "A license area of concentration (license area)" is obtained by completing an approved preparation program or an alternative preparation program in a specific area of educational studies such as Early Childhood (K-3), Elementary 1-8, Middle (5-9) (still valid, but not issued after 1988), Secondary (6-12), Administrative/Supervisory, CTE, School Counselor, School Psychologist, School Social Worker, Special Education (K-12), Preschool Special Education (Birth-Age 5), Communication Disorders. License areas of concentration may also bear endorsements relating to subjects or specific assignments.

J. "USOE" means the Utah State Office of Education.

R277-518-3. CTE License Required.

A CTE or secondary license area with appropriate endorsements is required for all persons teaching CTE programs at the secondary

and adult level where high school credit is earned.

R277-518-4. Career and Technical Education License Area Eligibility.

A. To be eligible to earn a CTE license area through the ARL Program, an applicant shall:

(1) have six years of documented, related occupational experience within the 10 years prior to the Program application in any of the following CTE license areas:

(a) family and consumer sciences;

(b) health sciences;

(c) information technology;

(d) skilled and technical sciences; or

(e) work-based learning; and

(2) have documentation:

(a) of an offer of a teaching assignment in a Utah public or accredited private school;

(b) that is directly related to the applicant's occupational experience; and

(c) of experience which is in an approved CTE license area.

B. Periods of employment lasting less than one month and periods of employment prior to 18 years of age are not accepted for purposes of calculating the occupational experience requirement.

C. An associate's degree in a related area may be counted for up to two years of occupational experience to satisfy the requirement in R277-518-4A(1).

D. An applicant for a CTE license area is not required to have a bachelor's degree.

E. State-approved testing:

The occupational experience requirement may be waived by the appropriate USOE Program Specialist or Coordinator if the applicant has passed a state-approved competency examination in the respective field at or above the USOE established cut-off scores. Individual applicant scores may be used for licensing purposes up to five years after completion of the respective examination(s).

F. In addition to meeting the requirements of R277-518-4A(1), an ARL Program applicant for a CTE license area shall:

(1) meet all endorsement specific standards established by the USOE; and

(2) hold the applicable license issued by the Utah State Department of Commerce, Division of Occupational and Professional Licensing in any area where such licensure or certification exists.

G. An applicant for a CTE license area shall complete pedagogical coursework or satisfy pedagogical standards consistent

with R277-503-4. An ARL Program applicant for a CTE license area shall provide evidence of mastery of the following areas of pedagogy:

(1) instruction, technology, assessment, and planning;
(2) creation of a learning environment;
(3) basic special education/IDEA requirements;
(4) teaching diverse populations; and
(5) literacy strategies in content areas.

H. An applicant for a CTE license area shall provide documentation of participation in transition to teaching orientation and participation in the CTE New Teacher Academy.

I. An ARL Program applicant for a CTE license area with an adult education endorsement is restricted to employment in an accredited adult education program.

R277-518-5. Career and Technical Education Speciality License Area.

A. If an ARL Program applicant is teaching one CTE course and is employed for less than 0.37 FTE in relation to the respective school schedule, the ARL Program applicant may earn a CTE Specialist license area with one year of teaching experience and the recommendation of the employing LEA, in lieu of the CTE license area provided in R277-518-4, in the following endorsement areas:

(1) Adult Education;
(2) Exercise Science/Sports Medicine;
(3) Pharmacy Technician;
(4) Fire Science;
(5) Law Enforcement;
(6) Nurse Assistant; and
(7) Additional areas as approved by USOE in which professionals are required to meet licensure requirements outside of educator licensure.

B. The ARL Program applicant shall:

(1) have had regular employment in the CTE license area in which he is assigned to teach;
(2) have had one year of public school teaching experience; and
(3) have the recommendation of the employing LEA.

C. A CTE specialty license area ARL applicant is not required to pay the ARL professional growth plan fee. These applicants shall not receive ongoing monitoring or program completion support from the USOE ARL office beyond the request for licensure recommendation at the completion of one year of teaching.

D. A CTE specialty license area is only valid for employment in the areas listed in R277-518-5A as long as the holder is

teaching one CTE course and is employed for less than 0.37 FTE.

E. An individual holding a CTE Specialist license area may be upgraded to a regular CTE license area or Secondary (6-12) license area upon payment of the additional license area recommendation fee, the completion of the requirements of R277-518-4F, and the recommendation of the employing LEA.

F. An individual with a CTE specialist Level 1 license area shall continue as a Level 1 license holder indefinitely despite the Level 1 limitations in R277-502-4A(6), but shall satisfy the requirements of Section 53E-6-401 and a subsequent review prior to classroom employment, consistent with LEA employment policies.

KEY: educator licensing, professional education, career and technical education
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Notice of Continuation: February 26, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-201; 53E-3-401(3)

R277. Education, Administration.
R277-519. Educator Professional Learning Procedures and USBE Credit.
R277-519-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-501(1)(a), which allows the Board to make rules regarding the qualifications of personnel providing direct student services and the certification of educators; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to establish definitions and standards for awarding USBE credit for professional learning.

R277-519-2. Definitions.

"Professional learning" has the same meaning as provided in Subsection 53G-11-303(1).

R277-519-3. Professional Learning Requirements for Course Submission.

(1) The Superintendent shall approve proposals for USBE professional learning.

(2) A professional learning proposal described in Subsection (1) shall include:

(a) a description of how the proposal provides fidelity to the professional learning standards as provided in Section 53G-11-303;

(b) a descriptive outline of the professional learning;

(c) a schedule of meeting dates and times; and

(d) professional qualifications of each instructor.

(3) An LEA or other organization approved by the Superintendent shall request approval for USBE professional learning credit through the online professional learning system connected to the online Board certification system.

(4) An LEA or other organization approved by the Superintendent shall make a request under Subsection (3) at least one week prior to the beginning of the scheduled professional learning.

R277-519-4. USBE Professional Learning Credit.

(1) The Superintendent shall award USBE credit upon completion of professional learning as follows:

(a) one-half credit for seven to thirteen contact hours plus a two hour assigned learning task or reflection;

(b) one credit for fourteen to twenty contact hours plus a four hour assigned learning task or reflection;

(2) Total credit for a professional learning course may not exceed 3 credits.

KEY: teacher certification, professional competency
Date of Enactment or Last Substantive Amendment: January 9, 2018
Notice of Continuation: February 14, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a); 53E-3-401(4)

R277. Education, Administration.
R277-520. Appropriate Licensing and Assignment of Teachers.
R277-520-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-6-201(2)(a), which authorizes the Board to rank, endorse, or classify licenses.

(2) The purpose of this rule is to provide criteria for:

(a) local school boards to employ educators in appropriate assignments;

(b) the Board to provide state funding to local school boards for appropriately qualified and assigned staff; and

(c) the Board and local school boards to satisfy the requirements of ESEA in order for local school boards to receive federal funds.

R277-520-2. Definitions.

(1) "Content specialist" means a licensed educator who provides instruction or specialized support for students and teachers in a school setting.

(2) "Core academic subjects or areas" under the Elementary and Secondary Education Act (ESEA), Title IX, Part A, 20 U.S.C. 7801, Section 9101(11) means:

(a) English;

(b) reading or language arts;

(c) mathematics;

(d) science;

(e) foreign languages;

(f) civics and government;

(g) economics;

(h) arts;

(i) history; and

(j) geography.

(3) "Demonstrated competency" means that a teacher shall demonstrate current expertise to teach a specific class or course through the use of lines of evidence which may include:

(a) completed Board approved course work;

(b) content tests; or

(c) years of successful experience including evidence of student performance.

(4) "Eminence" means distinguished ability in rank, in attainment of superior knowledge and skill in comparison with the

generally accepted standards and achievements in the area in which the authorization is sought as provided in R277-520-5.

(5) "Letter of authorization" means a designation given to an individual for one year, such as an out-of-state candidate or individual pursuing an alternative license, who has not completed the requirements for a Level 1, 2, or 3 license or who has not completed necessary endorsement requirements and who is employed by an LEA.

(6) "Level 1 license" means:

(a) a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program; or

(b) pursuant to an agreement under the NASDTEC Interstate Agreement, to candidates who have also met all ancillary requirements established by law or rule.

(7) "Level 2 license" means a Utah professional educator license issued to an applicant after the Level 2 applicant:

(a) completes all requirements for a Level 1 license;

(b) completes the requirements under R277-522 for a teacher whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public or accredited private school;

(c) completes:

(i) at least three years of successful education experience in a Utah public LEA or accredited private school; or

(ii)(A) one year of successful education experience in a Utah public LEA or accredited private school; and

(B) at least three years of successful education experience in a public LEA or accredited private school outside of Utah; and

(d) completes additional requirements established by law or rule.

(8) "Level 3 license" means a Utah professional educator license issued to an educator who:

(a) holds a current Utah Level 2 license; and

(b) receives:

(i) National Board Certification;

(ii) a doctorate in:

(A) education; or

(B) a field related to a content area in a unit of the public education system or an accredited private school; or

(iii)(A) a Speech-Language Pathology area of concentration; and

(B) currently holds American Speech-Language Hearing Association (ASHA) certification.

(9)(a) "License areas of concentration" means a designation to a license obtained by completing an approved preparation program or an alternative preparation program in a specific area of educational studies that may include:

(i) Early Childhood (k-3);
(ii) Elementary (k-6);
(iii) Elementary 1-8;
(iv) Middle (still valid, but not issued after 1988, 5-9);
(v) Secondary (6-12):
(vi) Administrative/Supervisory (k-12);
(vii) Career and Technical Education;
(viii) School Counselor;
(ix) School Psychologist;
(x) School Social Worker;
(xi) Special Education (k-12);
(xii) Preschool Special Education (birth-age 5);
(xiii) Communication Disorders;
(xiv) Speech-Language Pathologist; and
(xv) Speech-Language Technician.

(b) License areas of concentration may also bear endorsements relating to subjects or specific assignments.

(10)(a) "License endorsement" or "endorsement" means a specialty field or area earned through completing required course work established by the Board or through demonstrated competency approved by the Board;

(b) The endorsement shall be listed on the Professional Educator License indicating the specific qualification of the holder.

(11) "Professional staff cost program funds" means funding provided to school districts based on the percentage of a district's professional staff that is appropriately licensed in the areas in which staff members teach.

(12) "SAEP" means State Approved Endorsement Program. This identifies an educator working on a professional development plan to obtain an endorsement.

R277-520-3. Required Licensing.

(1) All teachers in public schools shall hold a Utah educator license along with appropriate areas of concentration and endorsements.

(2) An LEA shall receive assistance from the Superintendent to the extent of resources available to have all teachers fully licensed.

(3) An LEA is expected to hire teachers who are licensed or in the process of becoming fully licensed and endorsed.

(4) Failure to ensure that an educator has appropriate licensure may result in the Board withholding all LEA funds related to salary supplements under Section 53F-2-405 and R277-110 and educator quality under Subsection 53F-2-305(2) and R277-486 until teachers are appropriately licensed pursuant to the Board's authority under Section 53E-3-401.

R277-520-4. Appropriate Licenses with Areas of Concentration and Endorsements.

(1) An educator assigned to teach a class in kindergarten through grade 3 shall hold a current Utah Educator License with:

(a) an early childhood (k-3) license area of concentration;

(b) an elementary (k-6) license area of concentration;

(c) for an educator assigned to teach a class in grade 1 through grade 3, an elementary (1-8) license area of concentration; or

(d) for an educator assigned to teach a class composed of deaf and hard of hearing students, a deaf education (birth-age 22) license area of concentration.

(2) An educator assigned to teach a class in grade 4 through grade 8 in an elementary setting shall hold a current Utah Educator License with:

(a) an elementary (k-6) or an elementary (1-8) license area of concentration; or

(b) for an educator assigned to teach a class composed of deaf and hard of hearing students, a deaf education (birth-age 22) license area of concentration.

(3) An elementary content specialist in Fine Arts or Physical Education shall hold a current Utah Educator License with an elementary or secondary license area of concentration with the appropriate K-12 content endorsement.

(4) An elementary content specialist in reading or English as a Second Language shall hold a current Utah Educator License with an elementary or secondary license area of concentration with the appropriate subject/content endorsement.

(5) An educator assigned to teach a class in grade 6 through grade 8, including middle-level, intermediate, and junior high schools, shall hold a current Utah Educator License with:

(a) an elementary (1-8) or a secondary (6-12) license area of concentration with the appropriate subject/content endorsement for all assigned courses; or

(b) for an educator assigned to teach a class composed of deaf and hard of hearing students, a deaf education (birth-age 22) license area of concentration with the appropriate subject or content endorsement for all assigned courses.

(6) An educator assigned to teach a class in grade 9 through grade 12 shall hold a current Utah Educator License with:

(a) a secondary (6-12) or a career and technical education license area of concentration with the appropriate subject/content endorsement for all assigned courses; or

(b) for an educator assigned to teach a class composed of deaf and hard of hearing students, a deaf education (birth-age 22) license area of concentration with the appropriate subject or

content endorsement for all assigned courses.

(7) An educator assigned to serve or teach a class of students with disabilities shall hold a current Utah Educator License with a special education (k-12) license area of concentration and, if the educator is the teacher of record of secondary mathematics for students with disabilities, shall also hold the appropriate subject/content endorsement.

(8) An educator assigned to serve preschool-aged students with disabilities shall hold a current Utah Educator License with a preschool special education (birth-age 5) license area of concentration.

(9) An educator assigned to serve deaf and hard of hearing students shall hold:

(a) a current Utah Educator License with a special education (k-12) license area of concentration and deaf and hard of hearing endorsement; or

(b) a deaf education (birth-age 22) license area of concentration.

(10) An educator assigned to provide student support services as defined in Rule R277-506 shall hold a current Utah Educator License with the appropriate support service license area of concentration.

(11) An educator assigned as a school-based or LEA-based specialist shall hold a current Utah Educator License with the appropriate license area of concentration and endorsement as defined by the LEA.

(12) An educator assigned in an administrative position requiring an educator license, as defined by the district, shall hold a current Utah Educator License and an administrative/supervisory (k-12) license area of concentration.

(a) A superintendent of a school district may be licensed with a letter of authorization granted by the Board consistent with Section 53G-4-301.

(b) An educator assigned in an administrative position in a charter schools is exempt from this requirement consistent with Section 53G-5-405.

R277-520-5. Eminence.

(1) The purpose of an eminence authorization is to allow individuals with exceptional training or expertise, consistent with Subsection R277-520-2(4), to teach or work in the public schools on a limited basis.

(2) Documentation of the exceptional training, skills or expertise may be required by the Superintendent prior to the approval of the eminence authorization.

(3) Teachers with an eminence authorization may teach no more than 37% of the regular instructional load except as provided

in Subsection (4).

(4) In identified circumstances, teachers with an eminence authorization may teach more than 37% of the regular instructional load.

(5) The Board may approve an eminence authorization if the LEA can find no other qualified individual to fill the position, then:

(a) the LEA shall submit the following documented information to the Superintendent annually:

(i) description;

(ii) recruitment efforts;

(iii) the qualifications of all applicants; and

(iv) the LEA's rationale for hiring the individual;

(b) the Superintendent shall review the information within 15 days of receipt;

(c) the Superintendent shall notify the individual and the LEA if the Superintendent approves the documented information;

(d) the LEA shall submit a request for a Letter of Authorization to the Board for the individual through normal administrative procedures; or

(6) An individual has exceptional skills, expertise, and experience that make the individual the primary candidate for the position, then:

(a) the LEA shall submit the following documented information to the Superintendent annually:

(i) information about the position;

(ii) the individual's expertise, and experience; and

(iii) the LEA's rationale for hiring the individual.

(b) the Superintendent shall review the information within 15 days of receipt.

(c) the Superintendent shall notify the individual and the LEA if the Superintendent approves the documented information.

(d) the LEA shall submit a request for a Letter of Authorization to the Board for the individual through normal administrative procedures.

(7) An LEA shall require an individual teaching with an eminence authorization to have a criminal background check consistent with Section 53E-6-401 prior to employment by the LEA.

(8) An LEA that employs the teacher with an eminence authorization shall determine the amount and type of professional development required of the teacher.

(9) An LEA that employs a teacher with an eminence authorization shall apply for renewal of the authorization annually.

(10) An eminence authorization may apply to:

(a) an individual without a teaching license; or

(b) an unusual and infrequent teacher situation where a

license-holder is needed to teach in a subject area for which the license-holder is not endorsed, but in which the license-holder may be eminently qualified.

R277-520-6. Routes to Appropriate Endorsements for Teachers.

(1) An educator may add an endorsement to an existing license area of concentration by completing the endorsement requirements established by the Board.

(2) An endorsement requirement in a core academic subject area shall include passage of a Board-approved content knowledge assessment.

(3) A teacher may demonstrate competency in subject areas of the teacher's teaching assignment as approved by the Superintendent to meet specific endorsement requirements except the Board approved content knowledge assessment.

(4) An educator shall be properly endorsed consistent with Section R277-520-3 or have a Board approved SAEP. Otherwise, the Board may withhold professional staff cost program funds pursuant to the Board's authority under Subsection 53E-3-401(4).

R277-520-7. Board-Approved Endorsement Program (SAEP).

(1) An educator assigned to teach in a subject for which the educator does not hold the appropriate endorsement and who has successfully completed at least 9 semester credit hours of the endorsement requirements shall be placed on an SAEP as determined by the Superintendent.

(2) An individuals participating in an SAEP shall demonstrate progress toward completion of the required endorsements annually, as determined jointly by the LEA and the Superintendent.

(3) An SAEP may be granted for one two-year period and may be extended by the Superintendent for up to 2 additional years if the individual has made progress towards completing the SAEP.

(4) An individual currently participating in an SAEP is considered to hold the endorsement for the purposes of meeting the requirements of Section R277-520-4.

R277-520-8. Background Check Requirement and Withholding of State Funds for Non-Compliance.

(1) An educators qualified under any provision of this R277-520 shall also satisfy the criminal background requirement of Section 53E-6-401 prior to unsupervised access to students.

(2) If an LEA does not appropriately employ and assign teachers consistent with this R277-520, the LEA may have state appropriated professional staff cost program funds withheld pursuant to R277-486, Professional Staff Cost Formula, pursuant to the Board's authority under Section 53E-3-401.

KEY: educators, licenses, assignments
Date of Enactment or Last Substantive Amendment: August 7, 2017
Notice of Continuation: June 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201(2)(a)

R277. Education, Administration.
R277-521. National Board Certification Reimbursement.
R277-521-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-5-202, which requires the Board to make rules to specify procedures and timelines for reimbursing educators for the cost to attain or renew a National Board certification.

(2) The purpose of this rule is to specify procedures and timelines for reimbursing educators for the cost to attain or renew a National Board certification.

R277-521-2. Definitions.

(1) "Eligible educator" means an educator who holds a current National Board certification attained or renewed:

(a) after July 1, 2016; and

(b) while employed as an educator by an LEA in Utah.

(2) "Local education agency" or "LEA" means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

(3) "National Board certification" means the same as that term is defined in Section 53E-6-102.

R277-521-3. Application Procedures.

(1) The Superintendent shall establish and maintain an online application system for National Board certification reimbursements.

(2) To receive reimbursement for the costs an eligible educator paid to attain or renew a National Board certification, an eligible educator shall submit an application through the application system established under Subsection (1).

(3)(a) The Superintendent shall annually determine the number of eligible educators based on legislative appropriations and costs associated with obtaining national board certification.

(b) The Superintendent shall reimburse eligible educators on a first come, first served basis.

(4) The Superintendent may not reimburse an eligible educator for costs incurred in obtaining or renewing national board certification that were previously paid or reimbursed to the educator by a third party.

KEY: eligible educators, National Board certification
Date of Enactment or Last Substantive Amendment: May 8, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-5-202

R277. Education, Administration.
R277-522. Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers.
R277-522-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-6-103(2)(a)(iii), which finds that the implementation of progressive strategies regarding induction, professional development and evaluation are essential in creating successful teachers; and

(d) Section 53E-6-301, which directs the Board to establish rules for the training and experience required of educator license applicants.

(2) The purpose of this rule is to outline required entry years enhancements of professional and emotional support for Level 1 teachers to develop successful teaching skills and strategies with assistance from experienced colleagues.

R277-522-2. Definitions.

(1) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" has the same meaning as set forth in Subsection R277-512-2(1).

(2) "Entry years" means the three years a beginning teacher holds a Level 1 license.

(3) "Interstate New Teacher Assessment and Support Consortium" or "INTASC" means the organization that has established Model Standards for Beginning Teacher Licensing and Development, which include ten principles reflecting what beginning teachers should know and be able to do as a professional teacher.

(4) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(5) "Level 1 license" has the same meaning as set forth in Subsection R277-503-2(9).

(6) "Level 2 license" has the same meaning as set forth in Subsection R277-503-2(10).

(7) "Level 3 license" has the same meaning as set forth in Subsection R277-503-2(11).

(8) "Mentor" means a Level 2 or Level 3 educator, who is trained to advise and guide Level 1 teachers.

(9) "Praxis II" or "Praxis II - Principles of Learning and Teaching" is a widely-used standards-based test designed by the

Educational Testing Services to assess a beginning teacher's pedagogical knowledge.

(10) "Professional development" means locally or Board-approved education-related training or activities that enhance an educator's background consistent with Rule R277-501.

(11) "Teaching assessment or evaluation" means an observation of a Level 1 teacher's instructional skills by a school district or school administrator using an evaluation tool based on or similar to INTASC principles.

(12) "Working portfolio" means a collection of documents prepared by a Level 1 teacher and used as a tool for evaluation.

R277-522-3. Required Entry Years Enhancements Requirements for a Level 1 Teacher to Advance to a Level 2 License.

(1) Prior to advancement to a Level 2 license, a Level 1 teacher shall:

(a) satisfactorily collaborate with a trained mentor;

(b) pass a required pedagogical exam;

(c) complete three years of employment and evaluation; and

(d) compile a working portfolio.

(2) A principal shall assign a mentor to each Level 1 teacher in the first semester of teaching to supervise and act as a resource for the entry level teacher.

(3) A mentor teacher shall teach in the same school, and where feasible, in the same subject area as the Level 1 teacher.

(4) A mentor assigned in accordance with Subsection (2) shall:

(a) hold a Level 2 or 3 license; and

(b) have completed a mentor training program including continuing professional development.

(5) A mentor assigned in accordance with Subsection (2) shall:

(a) guide the Level 1 teacher to meet the procedural demands of the school and school district;

(b) provide moral and emotional support;

(c) arrange for opportunities for the Level 1 teacher to observe teachers who use various models of teaching;

(d) share personal knowledge and expertise about new materials, planning strategies, curriculum development and teaching methods;

(e) assist the Level 1 teacher with classroom management and discipline;

(f) support the Level 1 teacher on an ongoing basis;

(g) help the Level 1 teacher to understand the implications of student diversity for teaching and learning;

(h) engage the Level 1 teacher in self-assessment and reflection; and

(i) assist with development of the Level 1 teacher's portfolio.

(6) A Level 1 teacher shall pass the Praxis II with a qualifying score of at least 160 prior to advancing to Level 2 licensure.

(a) A Level 1 teacher may take the Praxis II successive times.

(b) The Superintendent shall post a Level 1 teacher's Praxis II results in CACTUS.

(7) A Level 1 teacher shall successfully complete evaluation through an LEA or accredited private school.

(a) A Level 1 teacher shall maintain full employment for three years in an LEA or accredited private school.

(b) An employing LEA or accredited private school may, following evaluation of a Level 1 teacher's experience, determine that teaching experience outside of the Utah public schools satisfies the teaching experience requirement of this rule.

(c) An LEA has discretion in determining the employment or reemployment status of individuals.

(d)(i) A Level 1 teacher's employing LEA or accredited private school is responsible for conducting the evaluations required under this rule.

(ii) An LEA may assign evaluations required under this rule to a school principal.

(e) A Level 1 teacher's evaluations shall take place at least twice during the first year of teaching and at least twice during each of the following two years with a satisfactory final evaluation.

(8) A Level 1 teacher shall compile a working portfolio during the teacher's entry years.

(a) A Level 1 teacher's employing LEA or accredited private school shall review and evaluate the portfolio.

(b) The Superintendent may review the portfolio upon request during the Level 1 teacher's second year of teaching.

(9) A portfolio required under Subsection (8) shall be based upon INTASC principles; and may:

(a) include teaching artifacts;

(b) include notations explaining the artifacts; and

(c) include a reflection and self-assessment of the teacher's own practice; or

(d) be interpreted broadly to include the employing LEA's or accredited private school's requirement of samples of the first year teaching experience.

R277-522-4. Satisfaction of Entry Years Enhancements.

(1) If a Level 1 teacher fails to complete all enhancements as enumerated in Section R277-522-3, the Level 1 teacher may

remain in a provisional employment status until the Level 1 teacher completes the enhancements.

(a) An LEA or accredited private school may make a written request to the Superintendent for a one year extension of the Level 1 license in order to provide time for the educator to satisfy entry years enhancements.

(b) A Level 1 teacher may repeat some or all of the entry years enhancements.

(c) An opportunity to repeat or appeal an incomplete or unsatisfactory entry years enhancements process shall be designed and offered by the employing LEA or accredited private school.

(2) An LEA or accredited private school shall make an annual recommendation to the Board of teachers approved in its schools to receive a Level 2 license, including documentation demonstrating completion of the enhancements.

(3) An LEA or accredited private school may also report the names of teachers who did not successfully complete entry years enhancements to the Board.

(4) The Superintendent shall prepare an annual report tracking the success of retention and the job satisfaction of Utah educators who complete the entry years enhancement program.

R277-522-5. Sunset Clause.

(1) This rule will sunset on June 30, 2023.

(2) An individual holding a current Level 1 license on January 1, 2020 may be upgraded to a Level 2 license without completing the requirements of Subsection R277-522-3(6).

KEY: mentoring, teachers
Date of Enactment or Last Substantive Amendment: August 19, 2019
Notice of Continuation: September 13, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-103(2)(a)(iii); 53E-6-301; 53E-3-401(4)

R277. Education, Administration.
R277-523. Teacher Salary Supplement Program.
R277-523-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-2-504, which directs the Board to make rules regarding the administration of the Teacher Salary Supplement Program.

(2) The purpose of this rule is to establish application and appeal procedures for administration of the Teacher Salary Supplement Program.

R277-523-2. Definitions.

(1) "Certificate teacher" means the same as that term is defined in Subsection 53F-2-504(1)(b).

(2) "Eligible teacher" means the same as that term is defined in Subsection 53F-2-504(1)(c).

(3) "Substantially equivalent" means commonly recognized by a Utah university for a degree in a specific subject.

(4) "Teacher Salary Supplement Program" or "TSSP" means the salary supplement program authorized by the Legislature in Section 53F-2-504.

R277-523-3. Program Administration.

(1) The Superintendent shall allocate funds for salary supplements to eligible teachers and certificate teachers in accordance with Subsection 53F-2-504(3).

(2) The Superintendent shall maintain an online application system for the TSSP and make it available to educators no later than October 1 each school year.

(3) An applicant for the TSSP shall apply to the Superintendent by the following deadlines:

(a) Trimester payments, prior to November 15;

(b) Semester payments, prior to January 31; and

(c) Annual payments, prior to April 30.

(4) A Title I certificate teacher shall receive a partial award if the certificate teacher has a partial assignment in a Title I school or works less than the full school year, which shall be proportional to the teacher's assignment, the portion of the assignment worked in a Title I school, and the overall portion of the school year worked.

(5)(a) If an applicant is denied funds under this Section

R277-523-3, the applicant may submit a written appeal to the Superintendent prior to June 1.

(b) An appeal under Subsection (5)(a) is limited to the following issues:

(i) whether the applicant has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in Section 53F-2-504;

(ii) whether the applicant holds a current National Board Certification;

(iii) whether the applicant was assigned to teach at a Title I school during the period covered by the TSSP award;

(iv) whether the Superintendent's initial denial was inconsistent with Section 53F-2-504 or this Rule R277-523; or

(v) whether the Superintendent's initial denial was based on inaccurate or missing information.

(c) The Superintendent may designate a panel of at least two Board staff members to review an appeal made under Subsection (5)(a) and make a recommendation to the Superintendent.

(i) A panel designated in accordance with Subsection (5)(c) shall make a recommendation in accordance with the provisions of Section 53F-2-504 or this Rule R277-523.

(ii) The panel shall make a recommendation on an appeal within 30 days of receipt of the written appeal.

(6) The Superintendent shall issue a ruling on an appeal within 15 days of receipt of the panel's recommendation.

(d) The decision of the Superintendent on an appeal is the final Board administrative action.

(7) If the appropriation for TSSP is insufficient to cover all eligible teachers and certificate teachers entitled to awards, the Superintendent shall reduce all awards by the same ratio and proportion.

KEY: TSSP, salary
Date of Enactment or Last Substantive Amendment: June 7, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53F-2-504

R277. Education, Administration.
R277-524. Paraprofessional/Paraeducator Programs, Assignments, and Qualifications.
R277-524-1. Authority and Purpose.

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board, Subsection 53E-3-401(4), which gives the Board authority to adopt rules in accordance with its responsibilities, Subsection 53E-3-501(1)(a)(i), which requires the Board to establish rules and minimum standards for the public schools regarding the qualification and certification of educators and ancillary personnel who provide direct student services, and NCLB, P.L. 107-110, Title 1, Sec, 1119 which requires that each local education agency receiving assistance under this part shall ensure that all paraprofessionals shall be appropriately qualified.

B. The purpose of this rule is to designate appropriate assignments of paraprofessionals and qualifications for paraprofessionals hired before and after January 6, 2002 consistent with NCLB requirements.

C. This rule establishes the formula for distribution of Paraeducator funding under Section 53F-2-411 to eligible schools. The rule provides minimum standards for use of funds and reporting requirements.

R277-524-2. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Core academic subjects or areas" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography under the Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind Act (NCLB).

C. "Direct supervision of a licensed teacher" means:

(1) the teacher prepares the lesson and plans the instruction support activities the paraprofessional carries out, and the teacher evaluates the achievement of the students with whom the paraprofessional works; and

(2) the paraprofessional works in close and frequent proximity with the teacher.

D. "Eligible school," for purposes of this rule and the Paraeducator Funding Program, means a Title I school that is one of the state's lowest-performing Title I priority schools as defined by ESEA.

E. "No Child Left Behind (NCLB)" means the federal law under the Elementary and Secondary Education Act, Title IX, Part A, 20 U.S.C. 7801.

F. "Paraeducator funding" means supplemental state funding

provided under Section 53F-2-411 to Title I schools identified as in need of improvement under the Elementary and Secondary Education Act (ESEA), Title IX, Part A, 20 U.S.C. 7801 to hire additional paraeducators to assist students in achieving academic success.

G. "Paraprofessional" or "paraeducator" means an individual who works under the supervision of a teacher or other licensed/certificated professional who has identified responsibilities in the public school classroom.

R277-524-3. Appropriate Assignments or Duties for Paraprofessionals.

Paraprofessionals may:

A. provide individual or small group assistance or tutoring to students under the direct supervision of a licensed teacher during times when students would not otherwise be receiving instruction from a teacher.

B. assist with classroom organization and management, such as organizing instructional or other materials;

C. provide assistance in computer laboratories;

D. conduct parental involvement activities;

E. provide support in library or media centers;

F. act as translators;

G. provide supervision for students in non-instructional settings.

R277-524-4. Requirements for Paraprofessionals.

A. Paraprofessionals hired before January 6, 2002 who function under R277-504-3A, and working in programs supported by Title I funds shall satisfy one of the following:

(1) The individual has completed at least two years (minimum of 48 semester hours) at an accredited higher education institution; or

(2) The individual has obtained an associates (or higher) degree from an accredited higher education institution; or

(3) The individual has satisfied a rigorous state assessment, approved by the Board, that demonstrates:

(a) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

(b) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate; or

(4) The individual has satisfied a rigorous local assessment, approved by the local board, that demonstrates:

(a) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

(b) knowledge of, and the ability to assist in instructing,

reading readiness, writing readiness, and mathematics readiness, as appropriate.

B. Paraprofessionals hired after January 6, 2002 in programs supported by Title I funds shall satisfy R277-524-4B(1)(2)(3) or (4).

(1) Individual shall have earned a secondary school diploma or a recognized equivalent; and

(2) The individual has completed at least two years (minimum of 48 semester hours) at an accredited higher education institution; or

(3) The individual has obtained an associates (or higher) degree from an accredited higher education institution; or

(4) The individual has satisfied a rigorous state or local assessment about the individual's knowledge of an ability to assist students in core courses under NCLB.

C. The individual shall satisfactorily complete a criminal background check consistent with Section 53G-11-402 and R277-516.

R277-524-5. Variances.

The provisions of this rule do not apply to:

A. paraprofessionals who are proficient in English and a language other than English who provide translator services; or

B. paraprofessionals who have only parental involvement or similar responsibilities.

R277-524-6. Use of Funds.

Local education agencies may use Title I funds in addition to other funds available and identified by the local education agency to support ongoing training and professional development for paraprofessionals.

R277-524-7. Board Responsibilities.

A. The Board shall annually distribute funds provided under Section 53F-2-411 to eligible Title I schools. The funds shall be divided equally among eligible schools.

B. The Board shall submit an annual report to the Public Education Appropriations Subcommittee on the implementation of this program.

R277-524-8. Responsibilities of Eligible Schools Receiving Paraeducator Funding.

A. Paraeducators hired with these funds shall meet the qualifications under R277-524-4.

B. Paraeducators hired with these funds shall provide additional aid in the classroom to assist students in achieving academic success as defined in R277-524-3A.

C. Schools that accept the Paraeducator Funding shall

demonstrate, as required by USOE reporting, that funds are used to supplement other state and federal funds to provide paraeducator services.

D. Schools accepting these funds shall provide an annual report as directed by the USOE that includes the following:

(1) the number of paraeducators hired with program money;

(2) school funding, in addition to funds provided under this rule, the school used to supplement program money to hire paraeducators; and

(3) accountability measures, including student test scores and other student assessment elements for students served by the program.

KEY: paraprofessional qualifications, NCLB
Date of Enactment or Last Substantive Amendment: May 8, 2014
Notice of Continuation: March 14, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(a)(i); P.L. 107-110, Title 1, Sec. 1119

R277. Education, Administration.
R277-525. Special Educator Stipends.
R277-525-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-2-310(2), which requires the Board to distribute money appropriated for stipends for special educators for additional days of work.

(2) The purpose of this rule is provide standards and procedures for distributing money appropriated for stipends for special educators for additional days of work, recognizing:

(a) the added duties and responsibilities assumed by special educators to comply with federal law and Board special education rules regulating the education of students with disabilities; and

(b) the need to attract and retain qualified special educators.

R277-525-2. Definitions.

(1)(a) "After the school year" means two weeks after the final day of the required contract period, as determined by the employer.

(b) For year-round schools, "after the school year" includes off-track periods, but not vacation periods.

(2) "Before the school year" means two weeks before the first day of the required contract period, as determined by the employer.

(3) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the electronic file maintained on all licensed Utah educators, which includes information such as:

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history; and

(e) a record of disciplinary action taken against the educator.

(4)(a) "Duties related to the IEP process" means;

(i) duties/responsibilities provided in Subsection 53(4)F-2-310(4);

(ii) preparing paperwork related to the implementation of IDEA; and

(iii) other duties or responsibilities related to the IEP process, as determined by the special educator.

(b) "Duties related to the IEP process" do not include:
(i) professional development;
(ii) district level planning; and
(iii) direct student instruction.
(5) "Special educator" means:
(a) a licensed "special education teacher;" or
(b) a licensed speech-language pathologist.
(6) "Special education teacher" has the same meaning as described in Subsection 53F-2-310(1)(b).
(7) "Speech-language pathologist" means:
(a) an individual who has a Utah educator license with a speech-language pathologist area of concentration; or
(b) a speech-language pathologist license; and
(c) whose primary assignment is the instruction of students with disabilities who are eligible for special education services.
(8) "Work day for special educator" means the special educator's contract day as determined by the employer.

R277-525-3. LEA Responsibilities.
(1) An LEA shall contract with individual special educators and request in writing from the special educators:
(a) the number of days that the special educator commits to work consistent with Subsection 53F-2-310(4)(b); and
(b) whether the special educator will work the additional contract days before the school year begins or after the school year ends.
(2) A special educator hired by an LEA after October 15 may receive funding for extra days to the extent of funds available.
(3) An LEA shall report to the Superintendent the number of days worked by a special educator on UPIPS as follows:
(a) no later than October 1 for a special educator who worked before the school year began; and
(b) no later than June 30 for a special educator who worked after the school year ended.
(4) An LEA may only pay special educator stipend under this rule for actual days worked.
(5) An LEA may not transfer stipend work days under this rule among teachers.
(6) An LEA shall submit a final report to the Superintendent no later than June 30 annually that provides:
(a) the number of contract days worked by designated special educators; and
(b) other assessment or evaluation information requested by the Superintendent.

R277-525-4. Superintendent Responsibilities.
(1) The Superintendent shall annually review this program

and recommend to the Board, based upon the annual appropriation, the number of special education days to be funded.

(2) To simplify accounting and evaluation requirements for LEAs, the Superintendent shall:

(a) provide model tracking and accounting materials to LEAs;

(b) provide a checklist of appropriate duties or tasks for special educators consistent with Subsection R277-525-2(4);

(c) distribute funds to participating LEAs for eligible special educators on a semiannual basis; and

KEY: special educators, stipends
Date of Enactment or Last Substantive Amendment: August 7, 2018
Notice of Continuation: June 7, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-158

R277. Education, Administration.
R277-526. Paraeducator to Teacher Scholarship Program.
R277-526-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which permits the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-5-205(9), which requires the Board to make rules to administer the Paraeducator to Teacher Scholarship Program.

(2) The purpose of this rule is to:

(a) distribute funds to paraeducators seeking to become licensed educators; and

(b) establish application and accountability procedures to provide funding to prospective educators directly and fairly.

R277-526-2. Definitions.

(1) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(2) "Paraeducator" means the same as that term is defined in Subsection 53F-5-205(1)(b).

(3) "Paraeducator Scholarship Selection Committee" or "committee" means the committee established by the Board to select scholarship recipients as required by Subsection 53F-5-205(5).

(4) "Scholarship" means funds paid directly to a Utah institution of higher education on behalf of a paraeducator in accordance with Section 53F-5-205.

R277-526-3. Scholarship Amounts and Requirements.

(1) A paraeducator shall use a stipend awarded under this rule solely for expenses approved by Section 53F-5-205 and this rule annually between July 1 and the following June 30.

(2) A scholarship recipient shall remain continuously employed by an LEA in accordance with Subsection 53F-5-205(8).

(3) A scholarship recipient shall provide documentation of progress toward graduation, as requested by the scholarship recipient's employer or the Board.

(4) A scholarship recipient who does not remain employed for the duration of the scholarship period or who does not satisfactorily complete funded courses shall be responsible to reimburse the Board for the amount of scholarship funding.

R277-526-4. Applicant Scholarships Recipient and LEA Responsibilities.

(1) An LEA shall employ a scholarship recipient for a

minimum of 10 hours per week at the time of application for the scholarship and during any year in which the paraeducator receives the scholarship.

(2) A scholarship applicant shall submit a completed application found on the Board website to the applicant's LEA.

(3) An applicant shall provide university transcripts and information about tuition expenses on the application based on the most recent information available from the Utah institution of higher education to which the applicant has either been admitted or made application.

(4) An LEA shall submit all applications to the Superintendent on or before May 15 annually.

(5) A scholarship recipient and the LEA whose employee receives funding under this program shall cooperate on any assessment required by the Board.

R277-526-5. State Board of Education Staff/Committee Responsibilities.

(1) The committee shall consist of:

(a) one representative of the Board designated by the Board;

(b) one representative of the Board of Regents designated by the Board of Regents;

(c) one representative of the largest parent/teacher association in the state;

(d) no more than two additional representatives of the general public designated by the Board.

(2) The committee shall receive completed applications from LEAs consistent with R277-526-4.

(3) The committee shall determine funding for applicants from applications received from LEAs after considering the number of applications received and the amount of funding available.

(4) The committee may develop and consider additional selection criteria including:

(a) support from the recommending LEA; and

(b) geographical distribution of recipients.

(5) The committee shall provide names of scholarship recipients to the Board for review and comment by August 1, annually.

(6) The committee or the Board may require a summary assessment of the increased number of paraeducators who become educators and other program results from participating scholarship recipients and LEAs.

KEY: paraeducators, scholarships
Date of Enactment or Last Substantive Amendment: February 7, 2017
Notice of Continuation: December 14, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401(4); 53F-5-205(9)

R277. Education, Administration.
R277-527. International Guest Teachers.
R277-527-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Section 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53A-1-402(1)(a) which directs the Board to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services.

(2) The purpose of this rule is to establish procedures for qualified international guest teachers who meet the definition of Section R277-527-1 to be effectively hired and placed by a Utah LEA with assistance and direction from the Superintendent to encourage cultural exchange and foreign language development among Utah public school students.

R277-527-2. Definitions.

(1) "International guest teacher" or "guest teacher" means a foreign educator who:

(a) has earned a public teaching credential or license in a foreign country;

(b) is currently legally residing in the United States and the state of Utah with the specific purpose to teach in Utah public schools; and

(c) is a resident of a foreign country that has a Memorandum of Understanding with the Board as described in Subsection R277-527-3.

(2) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

R277-527-3. Superintendent Responsibilities.

(1) On behalf of the board, the Superintendent shall sign a Memorandum of Understanding between the Board and the appropriate government agency of the country of origin of guest teachers, as approved by the Board.

(2) The Superintendent shall work with guest teachers and their resident countries and the United States Department of State, if necessary, to secure appropriate visas or travel and work documents for guest teachers to legally teach in the public schools in Utah.

(3) The Superintendent shall verify that guest teachers have appropriate licenses or credentials from the guest teachers' resident countries that satisfy the requirements of Utah law and

any applicable federal requirements.

(4) The Superintendent shall work with interested LEAs to make schools aware of guest teachers with specific credentials and language skills and to inform guest teachers about openings in specific grade levels and curriculum areas in various geographic locations in Utah.

(5) The Superintendent shall require and review a guest teacher's criminal background checks required under Section 53G-11-403 and a criminal background clearance from the guest teacher's resident country or both prior to authorizing the guest teacher to work in Utah.

(6) The Board may determine that it will seek guest teachers only from foreign countries that provide transportation or per diem expenses or both for the Superintendent representatives to screen and interview potential guest teachers.

(7) Following review and approval of a guest teacher's credentials and background, a guest teacher may receive an International Guest Teacher license equivalent to a Level 1 or professional license.

R277-527-4. International Guest Teacher Requirements.

(1) A Guest teacher shall have a United States issued social security number prior to an LEA processing any payment to the guest teacher.

(2) A Guest teacher shall cooperate with the Superintendent in required submission of information including criminal background check information, copies of credentials, copies of transcripts in the language and format designated by the Superintendent.

(3) A Guest teacher shall assume all responsibility for living and transportation expenses while participating in the International Guest Teachers Program.

(4) A Guest teacher shall be responsible for compliance with all state of Utah/Board and employing LEA professional and ethical public school educator requirements.

(5) A guest teacher who violates an LEA employment or state of Utah, Board or local professional practice may have the teacher's guest employment contract terminated consistent with at will employment provisions.

(6) The conduct of an individual guest teacher may influence continued participation in an International Guest Teacher Program between the Board and a guest teacher's resident country.

R277-527-5. Other Provisions.

(1) The opportunity for a teacher from outside the United States to be licensed to teach in Utah schools with assistance provided by the Superintendent under this rule shall be available

only to individuals from countries with which the Board has signed a Memorandum of Understanding.

(2) A business or third party may not facilitate a Memorandum of Understanding between a foreign country and the Board, but may facilitate the hiring process at the request of an LEA.

(3)(a) An internationally credentialed educator may seek appropriate licensing to teach in Utah schools.

(b) An educator from a country that does not have Memoranda of Understanding with the Board shall be licensed under R277-502.

(4) It is the responsibility of a prospective guest teacher or the guest teacher's home country to ensure that the guest teacher has the appropriate visa or authorization or both to live and teach in the United States for the agreed upon time period and teaching assignment.

KEY: international guest teachers
Date of Enactment or Last Substantive Amendment: November 7, 2018
Notice of Continuation: September 13, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(3); 53E-3-501(1)(a)

R277. Education, Administration.
R277-528. Use of Public Education Job Enhancement Program (PEJEP) Funds.
R277-528-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Article X, Section 3 of the Utah Constitution, which places general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state;

(c) Subsection 53F-2-514(3)(c)(ii) which requires the Board to make a rule that provides for repayment of a portion of the initial payment by the teacher if the teacher fails to complete the university program with exceptions; and

(d) Subsection 53F-2-514(5)(b) which directs the Board to develop criteria for PEJEP awards.

(2) The purpose of this rule is to provide standards and procedures for ongoing participation in PEJEP.

R277-528-2. Definitions.

(1) "Council for Accreditation of Educator Preparation" or "(CAEP)" is a nationally recognized organization that accredits professional teacher education programs in institutions offering baccalaureate and graduate degrees for K-12 teachers.

(2) "PEJEP award" means an award granted to an eligible PEJEP participant pursuant to Section 53F-2-514 and R277-528.

(3) "PEJEP Participant" means a qualified teacher with an approved application pursuant to Section 53F-2-514 and R277-528;

(4) "Public Education Job Enhancement Program (PEJEP)" means the program authorized under Subsection 53F-2-514(2).

R277-528-3. PEJEP Participants.

(1) If an application is filed on behalf of a qualified teacher pursuant to Subsection 53F-2-514(3)(a) and approved by the Superintendent, the PEJEP participant shall:

(a) commit to required courses for advanced degrees and endorsements consistent with Subsection 53F-2-514(2);

(b) provide documentation annually, by October 1, to the Superintendent, demonstrating full-time employment as an educator during the previous school year;

(c) notify the Superintendent of the participant's satisfaction of the participant's four year teaching commitment as described by Subsection 53F-2-514(3); and

(d) provide required documentation to receive textbook reimbursements which will be reimbursed directly to the PEJEP participant by the Superintendent.

(2) If a PEJEP participant changes employers, leaves public education, or moves from the state, the Superintendent may require repayment or partial repayment, consistent with Subsection 53F-2-514(3).

R277-528-4. University Program Eligibility.

(1) A university program that provides licensure and endorsements in the areas outlined in Subsection 53F-2-514(2) and meets the criteria of this section shall be eligible to receive tuition reimbursement for a PEJEP participant.

(2) To be an eligible university program, the university shall:

(a) be a Utah institution of higher education;

(b) provide documentation to the Superintendent of the university's program accreditation by CAEP; and

(c) provide to the Superintendent an overview of the university's endorsement program including:

(i) program requirements and eligibility standards for participants;

(ii) a screening process for prospective participants;

(iii) course syllabi; and

(iv) a yearly evaluation of the program.

(3) The Superintendent may determine the eligibility of a university's program on an annual basis.

(4) The Superintendent shall reimburse tuition directly to an eligible university's program for a PEJEP participant.

R277-528-5. Evaluation.

(1) The Superintendent shall maintain records of PEJEP award participants.

(2) The Superintendent shall prepare an annual report for the Board that demonstrates use of PEJEP funding consistent with Section 53F-2-514 and.

KEY: educators, awards
Date of Enactment or Last Substantive Amendment: August 19, 2019
Notice of Continuation: February 8, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-2-514; 53E-3-401(4)

R277. Education, Administration.
R277-530. Utah Effective Educator Standards.
R277-530-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsections 53E-3-501(1)(a)(i) and (ii), which require the Board to establish rules and minimum standards for the qualification and certification of educators and for required school administrative and supervisory services.

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

(a) statewide effective teaching standards for Utah public education teachers;

(b) statewide educational leadership standards for Utah public education administrators; and

(c) statewide educational school counselor standards for Utah public education school counselors.

R277-530-2. Definitions.

(1) "Educator" means an individual licensed by the Board under Section 53E-6-102(8).

(2) "School administrator" means an educator serving in a position that requires a Utah Educator License with an Educator Leadership license area of concentration and who supervises Level 2 educators.

(3) "The Utah Effective Educator Standards" means:

(a) the Effective Teaching Standards described in R277-530-5;

(b) the Educational Leadership Standards described in R277-530-6; and

(c) the Educational School Counselor Standards described in R277-530-7.

R277-530-3. Board Expectations for Effective Teaching, Educational Leadership, and Educational School Counselor Standards.

(1) The Board hereby establishes the Effective Educator Standards as the foundation of educator development, which includes:

(a) alignment of teacher and school administrator preparation programs;

(b) expectations for licensure; and

(c) the screening, hiring, induction, and mentoring of

beginning teachers, school administrators, and other licensed educators.

(2) The Board uses the Effective Educator Standards to direct and ensure the implementation of Utah's Core Standards.

(3) The Board relies on the Effective Educator Standards as the basis for an evaluation system and tiered-licensing system.

(4) The Board's model educator assessment system, for use by LEAs, is based on the Effective Educator Standards.

(5) The Board provides resources, including professional learning, which assist LEAs in integrating the Effective Educator Standards into educator practices.

R277-530-4. LEA Responsibilities for Effective Educator Standards.

(1) An LEA shall develop policies to support educators, school administrators, and school counselors in implementation of the Effective Educator Standards.

(2) An LEA shall develop professional learning experiences and professional learning plans for relicensure using the Effective Educator Standards to assess educator progress toward implementation of the standards.

(3) An LEA shall adopt formative and summative educator assessment systems based on the Effective Educator Standards to facilitate educator growth toward expert practice.

(4) An LEA shall use the Effective Educator Standards as a basis for the development of a collaborative professional culture to facilitate student learning.

(5) An LEA shall implement induction and mentoring activities for beginning teachers and school administrators that support implementation of the Effective Educator Standards.

R277-530-5. Effective Teaching Standards.

(1) The Effective Teaching Standards focus on the high-leverage concepts of:

(a) personalized learning for diverse learners;

(b) a strong focus on application of knowledge and skills;

(c) improved assessment literacy;

(d) a collaborative professional culture; and

(e) leadership roles for teachers.

(2) Utah educators shall demonstrate the following skills and work functions designated in the following ten standards:

(a) Learner Development - An educator understands cognitive, linguistic, social, emotional, and physical areas of student development;

(b) Learning Differences - An educator understands individual learner differences and cultural and linguistic diversity;

(c) Learning Environments - An educator works with learners to create environments that support individual and collaborative learning, encouraging positive social interaction, active engagement in learning, and self motivation;

(d) Content Knowledge - An educator understands the central concepts, tools of inquiry, and structures of the discipline;

(e) Assessment - An educator uses multiple methods of assessment to engage learners in their own growth, monitor learner progress, guide planning and instruction, and determine whether the outcomes described in content standards have been met;

(f) Instructional Planning - An educator plans instruction to support students in meeting rigorous learning goals by drawing upon knowledge of content areas, core curriculum standards, instructional best practices, and the community context;

(g) Instructional Strategies - An educator uses various instructional strategies to ensure that all learners develop a deep understanding of content areas and their connections, and build skills to apply and extend knowledge in meaningful ways;

(h) Reflection and Continuous Growth - An educator is a reflective practitioner who uses evidence to continually evaluate and adapt practice to meet the needs of each learner;

(i) Leadership and Collaboration - An educator is a leader who engages collaboratively with learners, families, colleagues, and community members to build a shared vision and supportive professional culture focused on student growth and success; and

(j) Professional and Ethical Behavior - An educator demonstrates the highest standards of legal, moral, and ethical conduct as required in the Utah Educator Professional Standards described in Rule R277-515.

R277-530-6. Educational Leadership Standards.

(1)(a) The Board expects that school administrators shall meet the standards of effective teaching and have the knowledge and skills to guide and supervise the work of educators, lead the school learning community, and manage the school's learning environment in order to provide effective, high quality instruction to all of Utah's students.

(b) The Educational Leadership Standards focus on:

(i) visionary leadership;

(ii) advocacy for high levels of student learning;

(iii) leading professional learning communities; and

(iv) the facilitation of school and community collaboration.

(2) In addition to meeting the standards of an effective teacher, school administrators shall demonstrate the following traits, skills, and work functions designated in the following six standards:

(a) Visionary Leadership - A school administrator promotes

the success of every student by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is largely shared and supported by stakeholders;

(b) Teaching and Learning - A school administrator promotes the success of every student by advocating, nurturing and sustaining a school focused on teaching and learning conducive to student, faculty, and staff growth;

(c) Management for Learning - A school administrator promotes the success of every student by ensuring management of the organization, operation, and resources for a safe, efficient, and effective learning environment;

(d) Community Collaboration - A school administrator promotes the success of every student by collaborating with faculty, staff, parents, and community members, responding to diverse community interests and needs and mobilizing community resources;

(e) Ethical Leadership - A school administrator promotes the success of every student by acting with, and ensuring a system of, integrity, fairness, equity, and ethical behavior; and

(f) Systems Leadership - A school administrator promotes the success of every student by understanding, responding to, and influencing the interrelated systems of political, social, economic, legal, policy, and cultural contexts affecting education.

R277-530-7. Educational School Counselor Standards.

In addition to meeting the Effective Teaching Standards described in Section R277-530-5 and the Educational Leadership Standards described in Section R277-530-6, an educational school counselor shall demonstrate the following traits, skills, and work functions designated in the following seven standards:

(1) Collaboration, Leadership and Advocacy - An educational school counselor is a leader who engages collaboratively with learners, families, colleagues, and community members to build a shared vision and supportive professional culture focused on student growth and success;

(2) Collaborative Classroom Instruction - An educational school counselor delivers a developmental and sequential guidance curriculum prioritized according to the results of the school needs assessment;

(3) The Plan for College and Career Readiness Process - An educational school counselor implements the individual planning component by guiding individuals and groups of students and their parents or guardians through the development of educational and career plans;

(4) Systemic Approach to Dropout Prevention with Social and Emotional Supports - An educational school counselor provides

responsive services through the effective use of individual and small-group counseling, consultation and referral skills and implements programs for student support in dropout prevention;

(5) Data-Driven Accountability and Program Evaluation - An educational school counselor collects and analyzes data to guide program direction and emphasis;

(6) Systemic School Counseling Program Management - An educational school counselor is involved in management activities that establish, maintain and enhance the total school counseling program; and

(7) Professional and Ethical Behavior - An educational school counselor demonstrates the highest standard of legal, moral and ethical conduct, as required in the Utah Educator Professional Standards described in R277-515.

KEY: educators, effectiveness, leadership, standards
Date of Enactment or Last Substantive Amendment: October 11, 2016
Notice of Continuation: August 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a)(i) and (ii); 53E-3-401(4)

R277. Education, Administration.
R277-531. Public Educator Evaluation Requirements (PEER).
R277-531-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsections 53E-3-501(1)(a)(i) and (ii), which require the Board to establish rules and minimum standards for the qualification and certification of educators and for required school administrative and supervisory services; and

(d) Section 53G-11-504, which directs that the Board adopt rules to guide school district employee evaluations.

(2) The purpose of this rule is to provide a statewide educator evaluation system framework that includes required Board directed expectations and components and additional school district determined components and procedures to ensure the availability of data about educator effectiveness.

(3) The process shall:

(a) focus on the improvement of high quality instruction and improved student achievement;

(b) include common data that can be aggregated and disaggregated to inform Board and school district decisions about retention, preparation, recruitment, and improved professional learning practices; and

(c) ensure school districts engage in a consistent process statewide of educator evaluation.

R277-531-2. Definitions.

(1) "Educator" means an individual licensed under Section 53A-6-103 and who meets the requirements of Rule R277-502.

(2) "Educator Evaluation Program" means a school district's process, policies, and procedures for evaluating an educator's performance according to the educator's various assignments.

(3) "Formative evaluation" means an evaluation that provides an educator with information and assessments on how to improve the educator's performance.

(4) "Instructional quality data" means data acquired through observation of an educator's instructional practices.

(5) "Joint educator evaluation committee" means the local committee described under Section 53G-11-506 that develops and assesses a school district evaluation program.

(6) "School administrator" means an educator:

(a) serving in a position that requires a Utah Educator

License with an Administrative area of concentration; and

(b) who supervises Level 2 educators.

(7) "Summative evaluation" means an evaluation that is used to make annual decisions or ratings of an educator's performance and may inform decisions on salary, confirmed employment, personnel assignments, transfers, or dismissals.

(9) "Utah Effective Educator Standards" means:

(a) the Effective Teaching Standards established in Section R277-530-5;

(b) the Educational Leadership Standards established in Section R277-530-6; and

(c) the Educational School Counselor Standards established in Section R277-530-7.

(10) "Valid and reliable measurement tool" means an instrument that has proved consistent over time and uses non-subjective criteria that require minimal interpretation.

R277-531-3. Public Educator Evaluation Framework.

(1) The Board provides the public education evaluation framework described in this section, which includes general evaluation system areas and additional discretionary components required in a school district's educator evaluation system.

(2) A school district shall:

(a) have a joint educator evaluation committee;

(b) base the school district's educator evaluation system on the Utah Effective Educator Standards in Rule R277-530;

(c) establish and articulate performance expectations individually for all licensed school district educators;

(d) use valid and reliable measurement tools including, at a minimum:

(i) observations of instructional quality;

(ii) evidence of student growth;

(iii) parent and student input; and

(iv) other indicators as determined by the school district;

(e) provide an annual rating of educator performance using uniform statewide terminology and definitions, and include summative and formative components;

(f) direct the revision or alignment of all related school district policies, as necessary, to be consistent with the school district Educator Evaluation System;

(g) use valid, reliable, and research-based measurements that shall:

(i) employ a variety of measurement tools;

(ii) measure student growth for educators;

(iii) provide evaluation for non-instructional licensed educators and administrators; and

(h) provide both formative and summative evaluation data.

(3) A school district may consider data gathered from tools to inform decisions about employment and professional learning.

(4) A school district shall discuss and protect the confidentiality of educator data in the evaluation process.

(5)(a) A school district evaluation system shall provide for clear and timely notice to educators of the components, timelines, and consequences of the evaluation process; and

(b) A school district evaluation system shall provide for timely discussion with evaluated educators to include professional growth plans as required in Rule R277-500 and evaluation conferences.

(6) A school district evaluation system shall provide support for instructional improvement, including:

(a) assessing the professional learning needs of educators; and

(b) identifying educators who do not meet expectations for instructional quality and providing support as appropriate at the school district level, which may include providing educators with mentors, coaches, and specialists in effective instruction, and setting timelines and benchmarks to assist educators toward greater improved instructional effectiveness and student achievement.

(7) A school district evaluation system shall maintain records and documentation of required educator evaluation information.

(8) A school district evaluation system shall require the evaluation of all licensed educators at least once a year in accordance with Section R277-533.

(9) A school district evaluation system shall provide at least an annual rating for each licensed educator, including teachers, school administrators, and other non-teaching licensed positions, using Board-directed statewide evaluation terminology and definitions.

(10) A school district evaluation system shall include the following specific educator performance criteria:

(a) school district-determined instructional quality measures;

(b) complete integration of student academic growth score; and

(c) other measures as determined by the school district, including data required from student or parent input.

(11) A school district evaluation system shall identify potential employment consequences, including discipline and termination, if an educator fails to meet performance expectations.

(12) A school district evaluation system shall include a review or appeals procedure for an educator to challenge the

process of a summative evaluation that provides for adequate and timely due process for the educator consistent with Subsection 53G-11-508(2).

(13) A school district may include additional components in its evaluation system.

(14) A local board of education shall review and approve its school district's proposed evaluation systems in an open meeting prior to the local board's submission to the Board.

(15) A school district shall report educator effectiveness data to the Superintendent annually, on or before June 30.

R277-531-4. Board Support and Monitoring of LEA Evaluation Systems.

The Superintendent, under supervision of the Board, shall:

(1) develop a model educator evaluation system that includes performance expectations consistent with this rule;

(2) evaluate and recommend tools and measures for use by school districts as they develop and initiate their local educator evaluation systems; and

(3) annually monitor 25% of the school districts' evaluation systems.

R277-531-5. Compensation.

(1) A school district shall implement an employee compensation system, no later than the 2018-19 school year, that is aligned to the school district's educator evaluation system.

(2) An educator's annual advancement on an adopted salary schedule shall be based primarily upon an evaluation system that differentiates among four levels of performance as described in Section 53G-11-507 and R277-533, unless the educator:

(a) is a provisional educator; or

(b) is in the first year of an assignment, including a new subject, grade level, or school.

KEY: educators, evaluations, requirements
Date of Enactment or Last Substantive Amendment: August 7, 2017
Notice of Continuation: August 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a)(i); 53E-3-401(4)

R277. Education, Administration.
R277-532. Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees).
R277-532-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53G-11-504, which directs the Board to develop rules requiring that school districts evaluate non-licensed public education employees.

(2) The purpose of this rule is to direct public school districts to adopt policies for the evaluation, dismissal and compensation of non-licensed public education employees.

R277-532-2. Definitions.

"Non-licensed public education employee" or "classified employee" means a school district employee who is working in a position that does not require a Utah educator license.

R277-532-3. School District Policies.

(1) A school district shall adopt policies for non-licensed public education employees, including:

(a) policies for evaluation and dismissal consistent with minimum standards of:

(i) Sections 53G-11-504 through 53G-11-505; and

(ii) Sections 53G-11-512 through 53G-11-517; and

(b) policies for due process and the termination of non-licensed public education employees consistent with Sections 53G-11-512 through 53G-11-515;

(c) evaluation procedures with the following components:

(i) the annual evaluation of non-licensed public education employees;

(ii) the use of appropriate tools for non-licensed public education employee evaluations;

(iii) non-licensed public education employee evaluation criteria tied to specific non-licensed job descriptions or assignments;

(iv) the administration of the evaluation by the school principal, an appropriate administrator or the principal's or administrator's designee; and

(v) an appeals process that allows non-licensed public education employees to appeal procedural violations of the evaluation process.

(2) School district evaluation policies for non-licensed

public education employees may include additional components beyond those specified in Subsection (1).

(3) A school district's policies may exclude temporary or part-time non-licensed public education employees from performance evaluations, as provided in Subsection 53G-11-504(2).

KEY: policies, evaluations, non-licensed public education employees
Date of Enactment or Last Substantive Amendment: May 8, 2018
Notice of Continuation: April 2, 2018
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-401; 53G-11-504

R277. Education, Administration.
R277-533. Educator Evaluation Systems.
R277-533-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Title 53G, Chapter 11, Part 5, Educator Evaluations, which requires the Board to make rules to establish a framework for the evaluation of educators and set policies and procedures related to educator evaluations; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) specify the requirements for district Educator Evaluation Systems Policies;

(b) describe the required components of district Educator Evaluation Systems; and

(c) establish requirements for how the Annual Summative Educator Evaluation Rating is reported for districts and charter schools.

R277-533-2. Definitions.

(1) "Administrator" has the same meaning as that term is defined in Subsection 53G-11-501(1).

(2) "Certified rater" means an educator who has been trained in evaluating educator performance and has demonstrated competency in using an educator evaluation tool to rate educator effectiveness according to established standards.

(3) "Educator" has the same meaning as that term is defined in Subsection 53G-11-501(6).

(4) "Evaluator" means a person who is responsible for an educator's overall evaluation, including:

(a) professional performance;

(b) student growth;

(c) stakeholder input; and

(d) other indicators of professional improvement.

(5) "Rater" means a person who conducts an observation of an educator related to an educator's evaluation.

(6) "School district" includes the Utah Schools for the Deaf and the Blind.

(7) "System" means a school district's educator evaluation system.

R277-533-3. School District Educator Evaluation Systems.

(1) A local school board shall adopt a district educator

evaluation system in consultation with a joint committee established by the local school board as described in Section 53G-11-506.

(2) A district educator evaluation system shall:

(a) include the components required in Section 53G-11-507;

(b) include the following four differentiated levels of performance:

(i) highly effective;

(ii) effective;

(iii) emerging/minimally effective; and

(iv) not effective;

(c) use multiple lines of evidence in evaluation, including:

(i) professional performance, as described in Section R277-533-4;

(ii) student academic growth, as described in Section R277-533-5;

(iii) stakeholder input, as described in Section R277-533-5; and

(iv) other indicators of professional improvement as required by the school district;

(d) provide a process for an educator to request a review of the implementation of the educator's evaluation, as described in:

(i) Section 53G-11-508; and

(ii) Section R277-533-8;

(e) include multiple observations as described in Section R277-533-4; and

(f) provide a description of the methods for gathering, using, and protecting educator data.

(3) To form the school district's system, a local school board may adopt:

(a) the Utah Model Educator Evaluator System established by the Board;

(b) an adapted system; or

(c) a school district-developed system, consistent with Rules R277-530, R277-531, and this rule.

(4) An educator is responsible for:

(a) improving the educator's performance, using resources offered by the school district; and

(b) demonstrating acceptable levels of improvement in any designated area of deficiency.

R277-533-4. Evaluators and Standards for Education Observations.

(1) A school district's system shall include observations.

(2) The school district shall use observation tools that:

(a) are aligned with the Utah Effective Educator Standards described in Rule R277-530 at the indicator level; and

(b) include multiple supervisor observations at appropriate

intervals.

(3) A school district's evaluation system shall include an opportunity for an educator to contribute additional information to inform their rating at several intervals throughout the process.

(4) To ensure a valid evaluation system, a school district shall establish a school district rater reliability process that:

(a) creates standardized ratings established by a committee of expert raters to be used for rater professional development and certification;

(b) provides professional development opportunities to all raters and evaluators of licensed educators to:

(i) improve a rater or evaluator's abilities; and

(ii) give the rater or evaluator an opportunity to demonstrate the rater's abilities to rate an educator in accordance with the Utah Effective Educator Standards described in Rule R277-530;

(c) designates qualified raters as certified;

(d) assures that an educator is rated by a certified rater;

(e) requires a school district to offer a rater opportunities to improve the rater's skills through instruction and practice; and

(f) maintains high standards of rater accuracy.

R277-533-5. Student Academic Growth and Stakeholder Input.

(1) A school district shall ensure that a student academic growth measurement includes the following three required components:

(a) learning goals measuring long-term outcomes linked to the appropriate specific content knowledge and skills from the Utah Core Standards;

(b) assessments; and

(c) targets for incremental monitoring of student academic growth.

(2)(a) A school district's system shall include stakeholder input for educators, principals, and administrators, including annual input from students and parents.

(b) In addition to the stakeholder input described in Subsection (2)(a), stakeholder input for principals and other administrators shall include input from teachers and support professionals.

R277-533-6. Computing the Annual Summative Rating.

(1) A school district shall base an educator's component ratings on:

(a) actual observations of the educator's performance; and

(b) educator, evaluator, student academic growth, or other

stakeholder data gathered, calculated, or observed that is aligned with standards and rubrics.

(2) A school district shall report summative scores annually for all educators using the following approved terminology for reporting:

(d) highly effective 3;

(c) effective 2;

(b) minimal/emerging effective 1; and

(a) not effective 0.

R277-533-7. Minimal or Emerging Effective Category.

If an evaluator rates an educator's performance within the minimal or emerging effective category, the rater shall:

(1) designate an educator as emerging effective if:

(a) the educator:

(i) holds a Level 1 educator license; or

(ii) is being served by the school district's Entry Years Enhancement (E.Y.E.) program described in Rule R277-522; or

(b) the educator:

(i) received a new or different teaching or leadership assignment within the last school year; or

(ii) is developing in that area; or

(2) designate an educator as minimally effective if the educator:

(a) holds a Level 2 educator license; and

(b) is teaching or leading in a familiar assignment.

R277-533-8. Evaluation Reviews.

(1) An educator who is not satisfied with a summative evaluation may request a review in writing of the summative evaluation within 15 calendar days after receiving the written summative evaluation.

(2) A school district shall conduct a review of an educator's summative evaluation:

(a) as described in this section; and

(b) the requirements of Section 53G-11-508.

(3) A review described in Subsection (2) shall be conducted:

(a) by a certified rater:

(i) with experience evaluating educators; and

(ii) not employed by the school district; and

(b) in accordance with the Utah Effective Educator Standards described in Rule R277-530.

(4) A certified rater described in Subsection (3) shall:

(a) review:

(i) the school district's educator evaluation policies and procedures;

(ii) the evaluation process conducted for the educator;

(iii) the evaluation data from the professional performance, student growth, and stakeholder input components; and

(iv) an educator's written response, if submitted as described in Subsection 53G-11-508(1)(b); and

(b) report the certified rater's findings, in writing, to the school district's superintendent for action.

(5) The school district shall determine if the initial educator evaluation was issued in accordance with:

(a) the school district's educator evaluation policies;

(b) the requirements of the performance standards;

(c) Title 53G, Chapter 11, Employees;

(d) Rule R277-531; and

(e) this rule.

R277-533-9. Educator Evaluation Data.

(1) A school district shall report information described in Section 53G-11-511 to the Superintendent annually on or before June 30 to be included in the Superintendent's annual report as required by Section 53G-11-511.

(2) Data reported in accordance with Subsection (1) shall be classified as private under Title 63G, Chapter 2, Government Records Access and Management Act.

R277-533-10. Applicability to Charter Schools.

A charter school shall comply with the requirements of Subsection R277-533-6(2) and Section R277-533-9.

KEY: educators, evaluations
Date of Enactment or Last Substantive Amendment: June 7, 2018
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-401

R277. Education, Administration.
R277-550. Charter Schools - Definitions.
R277-550-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools.

(2) The purpose of this rule is to establish definitions for rules governing charter schools.

(3) The definitions contained in this rule apply to Rules R277-550 through R277-555.

R277-550-2. Definitions.

(1) "Amendment" means a change or addition to a charter agreement.

(2) "Authorizer" means an entity approved to authorize the establishment of a charter school under Sections 53G-5-304 through 53G-5-306.

(3) "Charter school" means a public school created in accordance with the provisions of Title 53G, Chapter 5, Charter Schools.

(4)(a) "Charter school agreement" or "Charter agreement" means a written agreement between a charter school and its authorizer containing the terms and conditions for the operation of a charter school.

(b) The charter school agreement maintained by a charter school's authorizer is the final, official, and complete agreement.

(5) "Charter school deficiency" means:

(a) failure of a charter school to comply with its charter agreement, including governance, financial, academic, or operational obligations;

(b) failure of a charter school to comply with the requirements of state or federal law or board rule;

(c) failure of a charter school to meet terms established by the school's authorizer as part of a remediation process; or

(d) fraud or misuse of funds by charter school governing board members or employees.

(6) "Charter school governing board" means the local board that governs a charter school.

(7) "Expansion" means:

(a) an increase in the number of grade levels offered by a charter school identified by a single school number; or

(b) an increase in the number of students for which a charter school identified by a single school number is authorized to receive funding.

(8) "Mentor" means an individual or organization with expertise or demonstrated competence, approved by the State Charter School Board to advise charter schools in the Mentoring Program.

(9) "Mentoring program" means the State Charter School Board mentoring program.

(10) "Probation" means a written formal action and notification through which a school is required to demonstrate the school's compliance with the authorizer's probationary requirements.

(11) "Replication school" means a charter school affiliated with an existing charter school physically located in the state of Utah that:

(a) has the same governing board as the existing charter school;

(b) has a similar program of instruction as the existing charter school;

(c) is located at a different site or in a different geographical area than the existing charter school; and

(d) has a separate school number than the existing charter school.

(12) "Non-operating charter school" means a charter school that has not received minimum school program funds or federal funds and is not providing educational services during a fiscal year, such as a charter school in a start-up period.

(13) "Operating charter school" means a charter school that has received minimum school program funds or federal funds and is providing educational services during a fiscal year.

(14) "Satellite school" means a charter school affiliated with an existing charter school physically located within the state of Utah that:

(a) has the same governing board as the existing charter school;

(b) has a different program of instruction or grades served from the existing charter school;

(c) is located at a different site or in a different geographical area than the existing charter school; and

(d) has a separate school number than the existing charter school.

(15) "School number" means a number assigned by the Superintendent in accordance with National Center for Education Statistics criteria that identifies a distinct school within an

LEA.

(16) "State Charter School Board" means the board established in Section 53G-5-201.

(17) "Utah Consolidated Application" or "UCA" means the web-based grants management tool employed by the Superintendent through which LEAs submit plans and budgets for approval by the Superintendent or Board.

(18) "Utah eTranscript and Record Exchange" or "UTREx" has the same meaning as described in Subsection R277-484-2(11).

KEY: education, charter schools
Date of Enactment or Last Substantive Amendment: January 9, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205

R277. Education, Administration.
R277-551. Charter Schools - General Provisions.
R277-551-1. Authority and Purpose.

(1) This rule is authorized under:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53F-2-702, which directs the Board to distribute funds for charter school students directly to the charter school;

(c) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and

(d) Subsection 53G-5-205(5), which requires the Board to make rules establishing minimum standards that a charter school authorizer is required to apply.

(2) The purpose of this rule is to provide operational requirements for charter schools.

R277-551-2. Alternate Methods for Determining the Economically Disadvantaged Status of a Charter School's Students.

(1) A charter LEA with a charter school that does not participate in the National School Lunch Program shall comply with the requirements of this Section R277-551-2 to identify the economically disadvantaged status of students in the school's daily UTREx submission.

(2) A charter LEA described in Subsection (1):

(a) shall determine the economically disadvantaged status for its students on the basis of criteria no less stringent than those established by the U.S. Department of Agriculture for identifying students who qualify for reduced price lunch for the fiscal year in question; or

(b) may use the Charter School Declaration of Household Income form provided by the Superintendent for this purpose.

(3) A school that does not use the form identified in Subsection (2)(b) shall maintain equivalent documentation in its records, which may be subject to review by the Superintendent.

R277-551-3. Transportation.

(1) A charter school may not receive to-and-from school transportation funds except as provided under Section 53F-5-211.

(2) A charter school that provides transportation to students shall comply with the inspection and safety requirements of Section 53-8-211.

(3) A school district may provide transportation for charter school students on a space-available basis on approved routes.

(4)(a) A school district may provide transportation or transportation information to charter school students and their parents who participate in transportation by the school district

as guests.

(b) Charter schools or charter school students may forfeit with no recourse the privilege of transportation, as described in Subsection (4)(a), for violation of district policies.

R277-551-4. Student Health, Safety, and Welfare Reporting Requirements.

(1)(a) The State Charter School Board shall provide a form for a charter school to report threats to health, safety or welfare of students consistent with Subsection 53G-5-503(4).

(b) The State Charter School Board shall provide reports received, as described in Subsection (1)(a):

(i) to the Superintendent; and

(ii) for charter schools from other authorizers, to the applicable authorizer.

(2) Individuals making reports about threats shall report suspected criminal activity to local law enforcement and suspected child abuse to local law enforcement or the Division of Child and Family Services consistent with:

(a) Section 62A-4a-403;

(b) Subsection 53G-9-203(3)(a); and

(c) Rule R277-401.

(4) A charter school shall verify that potential criminal activity or suspected child abuse has been reported consistent with state law and this rule.

(5) A charter school shall act promptly to investigate and take disciplinary action, if appropriate, against students who may be participants in threatening activities or take appropriate and reasonable action to protect students or both.

(6) All charter schools shall be subject to accountability standards established by the Board and to monitoring and internal auditing by the Board.

R277-551-5. Charter School Information for Students and Parents.

(1) An authorizer shall ensure that each of the authorizer's charter schools has a website that contains the following information:

(a) the charter school s governance structure, including the name, qualification, and contact information of all charter school governing board members;

(b) the number of new students that will be admitted into the school;

(c) the school calendar, which shall include:

(i) the first and last days of school;

(ii) scheduled holidays;

(iii) scheduled professional development days; and

(iv) scheduled non-school days;

(d) timelines for acceptance of new students consistent with Section 53G-6-503;

(e) the requirement and availability of a charter school student application;

(f) the application timeline to be considered for enrollment in the charter school;

(g) procedures for transferring to or from a charter school;

(h) timelines for a transfer;

(i) provisions for payment, if required, of a one-time fee per secondary school enrollment, not to exceed $5.00, consistent with Subsection 53G-6-503(9);

(j) the charter school governing board s policies; and

(k) other items required by:

(i) the charter school s authorizer;

(ii) statute; and

(iii) Board rule.

(2) The fee described in Subsection 1(I) is subject to fee waiver in accordance with Rule R277-407.

(3) A charter school shall have an operative and readily accessible website containing the information described in Subsection (1) at least 180 days before the proposed opening day of school.

KEY: education, charter schools
Date of Enactment or Last Substantive Amendment: March 13, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205

R277. Education, Administration.
R277-552. Charter School Timelines and Approval Processes.
R277-552-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities;

(c) Subsection 53G-6-504(5), which requires the Board to make rules regarding a charter school expansion or satellite campus;

(d) Sections 53G-5-304 through 53G-5-306, which require the Board to make a rule providing a timeline for the opening of a charter school;

(e) Section 53F-2-702, which directs the Board to distribute funds for charter school students directly to the charter school;

(f) the Charter School Expansion Act of 1998, 20 U.S.C. Sec. 8063, which directs the Board to submit specific information prior to a charter school's receipt of federal funds; and

(g) Subsection 53G-5-205(5), which requires the Board to make rules establishing minimum standards that a charter school authorizer is required to apply.

(2) The purpose of this rule is to establish procedures for timelines and approval processes for charter schools.

R277-552-2. Charter School Authorization Process.

(1) An individual or non-profit organization as described in Subsection 53G-5-302(2)(b) may apply to open a charter school from any statutorily approved authorizer.

(2) An authorizer shall submit a process to the Board for approval of:

(a) a new charter school;

(b) a charter school expansion;

(c) a replication school; or

(d) a satellite school.

(3) A new authorizer shall submit a new charter school application process to the Board for approval at least six months prior to accepting applications for a new charter school.

(4)(a) The Board shall approve or deny an authorizer's application process within 65 days of receipt of the proposed process from an authorizer.

(b) If the Board denies an application process, the Superintendent shall provide a written explanation of the reasons for the denial to the applicant within 45 days.

(c) If an authorizer's application process is denied, the authorizer may submit a revised application process for approval

at any time.

(5) An existing authorizer may not authorize a new charter school for the 2021-22 school year and beyond until the Board approves the authorizer's application process.

(6) An authorizer shall have an application and charter agreement, which shall include all elements required by Title 53G, Chapter 5, Part 3, Charter School Authorization.

(7) An authorizer shall maintain the official charter agreement, which shall presumptively be the final, and complete agreement between a school and the school's authorizer.

(8) An authorizer's review process for a new charter school shall include:

(a) a plan for pre-operational and other trainings;

(b) an evaluation of the school's governing board, including:

(i) a review of the resumes of and background information of proposed governing board members; and

(ii) a capacity interview of the proposed governing board;

(c) an evaluation of the school's financial viability, including:

(i) a market analysis;

(ii) anticipated enrollment; and

(iii) anticipated and break even budgets;

(d) an evaluation of the school's academic program and academic standards by which the authorizer will hold the school accountable; and

(e) an evaluation of the school's proposed pre-operational plan, including implementation of:

(i) required policies;

(ii) student data systems;

(iii) reporting; and

(iv) financial management.

(9) An authorizer review process shall include contacting the school district in which a proposed charter school will be located and consideration of any feedback provided by the district.

(10) An authorizer shall design its approval process so that the authorizer notifies the Superintendent of an authorizer approval of a request identified in Subsection (2) no later than October 1, one fiscal year prior to the state fiscal year the charter school intends to serve students.

R277-552-3. Timelines - Charter School Starting Date and Facilities.

(1) A charter school may receive state start-up funds if the charter school is approved as a new charter school by October 1, one fiscal year prior to the state fiscal year the charter school

intends to serve students.

(2) Prior to receiving state start-up funds an authorizer shall certify in writing to the State Charter School Board that a charter school has:

(a) completed all financial identifying documents;

(b) completed background checks for each governing board member; and

(c) executed a signed charter agreement, which includes academic goals.

(3) Prior to an LEA receiving state start-up funds, the State Charter School Board shall require the LEA to submit documentation supporting the information required in Subsections (2)(a) and (c) to the Superintendent.

(4) A charter school may receive state funds, including minimum school program funds, if the charter school authorizer certifies in writing to the Superintendent by June 30 prior to the school's first operational year that:

(a) the charter school meets the requirements of Subsection (2);

(b) the charter school's governing board has adopted all policies required by statute or board rule, including a draft special education policies and procedures manual;

(c) the charter school's governing board has adopted an annual calendar in an open meeting and has submitted the calendar to the Superintendent;

(d) the authorizer has received the charter school's facility contract as required by Subsection 53G-5-404(9);

(e) the charter school has met the requirements of Subsections (5) and (6) and that the school's building is on track to be completed prior to occupancy;

(f)(i) the charter school has hired an executive director and a business administrator; or

(ii)(A) the charter school governing board has designated an executive director or business administrator employed by a third party; and

(B) the charter school governing board has established policies regarding the charter school's supervision of the charter school's third-party contractors;

(g) the charter school's enrollment is on track to be sufficient to meet the school's financial obligations and implement the charter school agreement;

(h) the charter school has an approved student data system that has successfully communicated with UTREx, including meeting the compatibility requirements of Subsection R277-484-5(3); and

(i) the charter school has a functional accounting system.

(5) An authorizer shall:

(a) create a process to verify the requirements in

Subsection (4);

(b) maintain documentation of Subsection (5)(a); and

(c) provide the documentation described in Subsection (5)(b) to the Superintendent upon request.

(6) A charter school shall begin construction on a new or existing facility requiring major renovation, such as requiring a project number consistent with Rule R277-471, no later than January 1 of the year the charter school is scheduled to open.

(7) A charter school that intends to occupy a facility requiring only minimal renovation, such as renovation not requiring a project number according to Rule R277- 471, shall enter into a written agreement no later than May 1 of the calendar year the charter school is scheduled to open.

(8) If a charter school fails to meet the requirements of this section within 36 months of approval, the approval of the charter school shall expire.

R277-552-4. Charter Amendment Requests.

(1) An authorizer shall have a policy establishing a process for consideration of proposed amendments to a school's charter agreement.

(2) An authorizer's timeline for consideration of an amendment to a charter agreement may not conflict with any funding deadline established in Board rule.

R277-552-5. Charter School Expansion Requests.

(1) A charter school may request approval for an expansion if:

(a) the charter school satisfies the requirements of federal and state law, regulations, rule, and the charter agreement; and

(b)(i) the charter school's charter agreement provides for an expansion consistent with the request; or

(ii) the charter school governing board has submitted a formal amendment request to the charter school authorizer consistent with the charter school authorizer's requirements.

(2) If the charter school authorizer approves a charter school expansion, the expansion shall be approved before October 1 of the state fiscal year prior to the school's intended expansion date.

(3) A charter school authorizer that authorizes an expansion of the authorizer's charter school shall provide the total number of students by grade that the charter school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the charter school's intended expansion date.

(4) When considering whether to approve a charter school's request for an expansion, an authorizer shall consider the following:

(a) the amount of time the charter school has operated successfully meeting the terms of its charter agreement;

(b) two years of academic performance data of students at the charter school, including whether the charter school is performing at or above:

(i) the academic goals established in the charter school's charter agreement; and

(ii) the average academic performance of other district and charter schools in the area, or for schools targeting specific populations, schools with similar demographics;

(c) the financial position of the charter school, as evidenced by the charter school's financial records, including the charter school's:

(i) most recent annual financial report (AFR);

(ii) annual program report (APR); and

(iii) audited financial statement;

(d) whether the charter school has a waiting list for enrollment;

(e) adequacy of the charter school's facility;

(f) any student safety issues; and

(g) ability to meet state and federal reporting requirements, including whether the charter school has regularly met Board reporting deadlines.

(5) A charter school requesting an expansion shall provide the information described in Subsection (4) to the authorizer with the charter school's request for expansion.

R277-552-6. Requests for a New Replication or Satellite School for an Approved Charter School.

(1) A charter school and all of the charter school's replication or satellite schools are a single LEA for purposes of public school funding and reporting.

(2) An existing charter school may submit a request to the charter school's authorizer for a replication or satellite charter school if:

(a) the charter school satisfies requirements of federal and state law, regulations, and rule;

(b) the charter school has operated successfully for at least three years meeting the terms of its charter agreement;

(c) the students at the charter school are performing on standardized assessments at or above the academic goals in the charter agreement, or, if there are no such goals in the charter agreement, are performing at or above surrounding schools;

(d) the charter school has adequate qualified administrators and staff to meet the needs of the proposed student population at the replication or satellite charter school;

(e) the charter school provides any additional information

or documentation requested by the charter school authorizer; and

(f) the charter school is in good standing with its authorizer.

(3) As part of the application process, the authorizer shall review the charter school's:

(a) educational services, assessment, and curriculum;

(b) governing board's capacity to manage multiple campuses; and

(c) the school's financial viability.

(4) A replication or satellite charter school that will receive School LAND Trust funds shall have a charter trust land council and satisfy all requirements for charter trust land councils consistent with Rule R277-477.

(5) A replication or satellite charter school may receive state funding if the authorizer approves the replication or satellite charter school by October 1 of the state fiscal year prior to the year the school intends to serve students.

(6) If a replication or satellite charter school does not open within 36 months of approval, the approval shall expire.

(7) A charter school authorizer that authorizes a replication or satellite charter school shall provide the total number of students by grade that the charter school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the charter school's intended expansion date.

R277-552-7. Procedures and Timelines to Change Charter School Authorizers.

(1) A charter school may transfer to another charter school authorizer.

(2) A charter school shall submit an application to the new charter school authorizer at least 90 days prior to the proposed transfer.

(3) The charter school authorizer transfer application shall include:

(a) current governing board members;

(b) financial records that demonstrate the charter school's financial position, including the following:

(i) most recent annual financial report (AFR);

(ii) annual project report (APR); and

(iii) audited financial statement;

(c) test scores, including all state required assessments;

(d) current employees and assignments;

(e) board minutes for the most recent 12 months; and

(f) affidavits, signed by all board members certifying:

(i) the charter school's compliance with all state and federal laws and regulations;

(ii) all information on the transfer application is complete and accurate;

(iii) the charter school is current with all charter school governing board policies;

(iv) the charter school is operating consistent with the charter school's charter agreement; and

(v) there are no outstanding lawsuits, judgments, or liens against the charter school.

(4) The current authorizer of a charter school seeking to transfer charter school authorizers shall submit a position statement to the new charter school authorizer about:

(a) the charter school's status;

(b) compliance with the charter school authorizer requirements; and

(c) unresolved concerns.

(5) A new charter school authorizer shall review an application for transferring a charter school authorizer for acceptance within 60 days of submission of a complete application, including all required documentation.

(6) If an authorizer accepts the transfer of a new charter school, the new authorizer shall notify the Superintendent within 30 days.

(7) Prior to accepting a charter school from another authorizer, a new charter authorizer shall request and consider information from the Board and current authorizer of the charter school's financial and academic performance.

(8) The Superintendent and current authorizer shall provide the information described in Subsection (7) to a new charter authorizer within 30 days of request described in Subsection (7).

KEY: training, timelines, expansion, satellite
Date of Enactment or Last Substantive Amendment: May 23, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205; 53F-2-702; 53G-6-503

R277. Education, Administration.
R277-553. Charter School Oversight, Monitoring and Appeals.
R277-553-1. Authority and Purpose.

(1) This rule is authorized under:

(a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities;

(c) Subsection 53G-5-205(5), which requires the Board to establish minimum standards that a charter school authorizer is required to apply when evaluating a charter school application and monitoring charter school compliance; and

(d) Subsection 53G--5-501(5), which directs the Board to adopt rules specifying the timeline for remedying deficiencies and ensuring the compliance of a charter school with its charter.

(2) The purpose of this rule is to establish minimum standards that an authorizer is required to apply when monitoring charter school compliance.

R277-553-2. Authorizer Review of Charter Schools.

(1) An authorizer shall review and evaluate annually the performance of charter schools for which it is the authorizer, including requiring all charter schools to:

(a) comply with their charter agreements; and

(b) comply with statute and board rule.

(2) An authorizer shall:

(a) visit a charter school at least once during its first year of operation in order to ensure adherence to an implementation of the approved charter and to finalize a review process;

(b) visit a charter school as determined in the review process;

(c) provide written reports to a charter school after the visits that set forth:

(i) strengths;

(ii) deficiencies; and

(iii) proposed corrective actions;

(d) notify the Superintendent of a claim of fraud or misuse of public assets or funds by a charter school; and

(e) coordinate the investigation of claims identified in Subsection (d) with the Superintendent.

(3) An authorizer shall annually review, and document matters specific to effective charter school operations, including:

(a) financial performance;

(b) academic performance;

(c) enrollment; and

(d) governing board performance.

(4) An authorizer shall conduct and document a comprehensive review of governing board performance and review the charter agreement at least once every five years.

(5) An authorizer shall coordinate with the Superintendent to regularly review its charter schools as described in Subsection 53G-5-205(2).

R277-553-3. Remediation and Probation.

(1)(a) An authorizer shall develop a written policy documenting the process and for remediation of any deficiencies identified through the processes outlined in Section R277-553-2.

(b) An authorizer shall submit a copy of their remediation policy to the Board for approval along with their policy for approving new charters under Section R277-552-3.

(c) Notwithstanding Subsection (b), each authorizer shall submit a remediation policy to the Board for approval by January 1, 2020.

(2) If a school fails to remedy deficiencies through the remediation process, an authorizer may place the school on probation for no longer than one calendar year.

(3) Upon placing a school on probation, an authorizer shall set forth a written plan outlining those provisions in the charter agreement, applicable laws, rules, and regulations with which the school is not in compliance.

(4) The written plan required by Subsection (3) shall:

(a) set forth the terms, conditions, and timeline that the school shall follow in order to be removed from probation; and

(b) a plan for further remedial action if the school fails to comply with probationary terms.

(5) If a school complies with the terms of the written plan within the timeline prescribed, the authorizer shall remove the school from probation.

(6) A school may request a single extension of no more than six months from an authorizer to comply with the terms of the written plan.

(7) If a school fails to satisfy the terms of the written plan within the established timeline, the authorizer shall propose to terminate the school's charter.

(8) While a school is on probation, the school may seek technical assistance from the authorizer to remedy any deficiencies.

(9) An authorizer may, for good cause, or if the health, safety, or welfare of the students at the school is threatened at any time during the probationary period, terminate the charter immediately.

(10) An authorizer shall notify the Superintendent in writing within 30 days of any probationary terms imposed under this Section R277-553-3.

(11) An authorizer shall comply with the notification requirements in Section 53G-5-504 if the authorizer approves a motion to terminate a charter.

R277-553-4. Charter School Governing Board Compliance with Law.

(1) A charter school governing board may amend the charter school's charter agreement by receiving approval from its authorizer consistent with Section 53G-5-303.

(2) A charter school governing board shall comply with the charter school's authorizer's processes and timelines for all reviews, amendments, expansion requests, and satellite applications.

(3) A charter school shall notify the Superintendent and charter school's authorizer of lawsuits filed against the charter school within 30 days of the school being served with the complaint.

R277-553-5. Charter School Financial Practices and Training.

(1)(a) A charter school shall hire or contract with a business administrator to perform the duties described in Section 53G-4-303.

(b) A charter school business administrator shall attend business meetings required by the Superintendent or the school's authorizer.

(2) A charter school board shall:

(a) regularly monitor the charter school's business administrator described under Subsection (1); and

(b) ensure the business administrator fulfills the duties outlined in Section 53G-4-303.

(3) The Board may impose corrective action against a charter school for failure to provide financial and statistical information required by law or Board rules in accordance with Rule R277-114.

(3) A charter school shall comply with the Utah State Procurement Code, Title 63G, Chapter 6.

(4) A charter school may not receive necessarily existent small schools funding under Subsection 53F-2-304(2) and Rule R277-445.

R277-553-6. Remedying Charter School Deficiencies.

(1) Upon receiving credible information of charter school financial mismanagement or fraud, or a threat to the health, safety, or welfare of students, in coordination with the Superintendent an authorizer shall direct an independent review or

monitoring, as appropriate.

(2) An authorizer may direct a charter school governing board or the charter school administration to take reasonable action to protect students or state or federal funds consistent with Section 53G-5-503.

(3) Upon receipt of findings documenting a threat to the health, welfare, or safety of a school under Subsection (1), an authorizer may:

(a) recommend that the Superintendent impose corrective action against the school in accordance with Rule R277-114;

(b) take immediate or subsequent corrective action with charter school governing board members or employees who are responsible for deficiencies consistent with Section 53G-5-501;

(c) identify a remediation team to work with the school; or

(d) immediately terminate the school's charter in accordance with Subsection 53G-5-503(5).

(4) Upon receipt of findings documenting financial mismanagement or fraud by a charter school, an authorizer shall coordinate appropriate corrective action with the Superintendent.

(5) An authorizer may exercise flexibility for good cause in making a recommendation regarding an identified deficiency.

R277-553-7. Appeals to the Board.

(1) An operating charter school may appeal an authorizer's decision to terminate the school's charter to the Board.

(2) Upon terminating a charter, an authorizer shall:

(a) provide written notice to the charter school;

(b) provide written notice of appeal rights and timelines to the charter school governing board chair or authorized agent; and

(c) post information about the appeals process on its website and provide training to charter school governing board members and authorized agents regarding the appeals procedure.

(3) If a charter school appeals an authorizer's decision to terminate a charter, the charter school governing board chair shall submit a written appeal to the Superintendent within 14 calendar days of the authorizer's action.

(4)(a) Upon receipt of an appeal under this section, Board leadership may:

(i) set a hearing before a standing committee to make a recommendation to the Board for consideration at its next regularly scheduled meeting;

(ii) designate three to five Board members and a hearing officer, who is not a Board member, to act as an objective hearing panel to conduct a hearing and provide a recommendation to the Board for consideration at its next regularly scheduled meeting; or

(iii) set a hearing before the full Board.

(b) A hearing under Subsection (4)(a) shall be held no more than 45 days following receipt of the written appeal.

(5) The Board shall:

(a) uphold the authorizer's decision; or

(b) remand the matter to the authorizer with identified deficiencies in the authorizer's decision and suggested remedies.

(6) The recommendation of the chartering entity shall be in place pending the conclusion of the appeals process, unless the Superintendent in the Superintendent's sole discretion, determines that the authorizer's decision or failure to act presents a serious threat to students or an imminent threat to public property or resources.

(7) The Board's acceptance or rejection of the hearing report is the final administrative action on the issue.

KEY: charter schools, oversight, monitoring, appeals
Date of Enactment or Last Substantive Amendment: January 9, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-5-205(5); 53G-5-501(5)

R277. Education, Administration.
R277-554. State Charter School Board Grants and Mentoring Program.
R277-554-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools; and

(d) Section 53F-2-705, which requires the Board to make rules regarding start-up and implementation grants and a mentoring program.

(2) The purpose of this rule is to establish rules for the State Charter School Board to operate:

(a) a start-up and implementation grant for charter schools; and

(b) a mentoring program for charter schools.

R277-554-2. Charter School Start-up and Implementation Grants.

(1) A charter school that desires to receive State Charter School Board start-up and implementation grant funds shall comply with the requirements of this Section R277-554-2.

(2) To receive a State Charter School Board start-up or implementation grant, a charter school may be eligible if the charter school:

(a) meets the requirements of Section 53G-5-404;

(b) has a finalized charter agreement with the school's authorizer;

(c) submits an application for the grant within six months of approval by the school's authorizer; and

(d) demonstrates a plan to use the funds within the next two full school years.

(3) New, replication, and satellite schools may be eligible for start-up and implementation grant funds.

(4) A charter school may not receive start-up and implementation grant funds for school expansion.

(5) Only schools that have not received state start-up or implementation grant funds in prior years are eligible.

(6) The State Charter School Board shall determine amounts and conditions for distribution of state start-up or implementation grant funds.

(7) Grant funds may only be used for allowable expenditures

as established by the State Charter School Board annual application form.

(8) Grant recipients shall participate in monitoring activities and shall provide monitoring information to the Superintendent, as directed.

(9)(a) A charter school shall repay grant funds to the State Charter School Board if recipients change to non-charter status within ten years of receiving grant funds.

(b) The State Charter School Board may grant an exception to the requirements of Subsection (9)(a) for a school that converts status, due to either federal or state law requirements, for academic purposes.

R277-554-3. Charter School Mentoring Program.

(1) The State Charter School Board shall identify critical mentoring needs of charter schools and, through an appropriate procurement process, allocate mentoring funds to one or more qualified individuals or organizations to meet identified needs.

(2) Mentoring program participants shall provide information to the State Charter School Board as requested.

(3) A participating mentor shall submit an annual program report to the State Charter School Board.

(4) The State Charter School Board shall evaluate the mentoring program annually.

KEY: charter schools, startup, implementation, mentoring
Date of Enactment or Last Substantive Amendment: January 9, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205

R277. Education, Administration.
R277-555. Corrective Action Against Charter School Authorizers.
R277-555-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools; and

(d) Subsection 53G-5-205(6), which authorizes the Board to establish reasonable consequences for a charter school authorizer that fails to comply with state statute or board rule.

(2) The purpose of this rule is to establish procedures for review and consequences for non-compliance by a charter school authorizer.

R277-555-2. Authorizer Accountability.

(1) The Superintendent may initiate corrective action as described in this rule if an authorizer:

(a) fails to develop and implement a process meeting minimum standards for authorizing charter schools as described in Rule R277-552;

(b) fails to develop and implement a process meeting minimum standards for charter school oversight monitoring as described in Rule R277-553; or

(c) fails to comply with statute or Board rule.

(2) For each authorizer subject to corrective action, the Superintendent shall design and implement a consistent monitoring plan.

(3) The Superintendent shall clearly outline in a corrective action plan:

(a) all areas of noncompliance;

(b) steps required to satisfy the corrective action plan; and

(c) a reasonable time frame for an authorizer to correct identified issues.

(4) In addition to the requirements of Subsection (3), a corrective action plan may include provision and a timeline for:

(a) referral for monitoring by a Board section;

(b) referral for monitoring to the Board's internal audit department, with approval of the Board's Audit Committee;

(c) periodic meetings between a recipient administrator or governing board member and the Superintendent or a member of the

Superintendency;

(d) planned appearances before the Board to provide status updates; and

(e) training for the authorizer's staff.

(5) The Superintendent may employ escalating restrictive conditions in a corrective action plan based on:

(a) the severity of the violation; or

(b) repeated violations by an authorizer.

(6) The Superintendent may include penalties for non-compliance with a corrective action plan in accordance with Subsection 53E-3-401(8).

(7) The Superintendent shall give notice and a copy of the corrective action plan in writing to:

(a) the authorizer's administrators; and

(b) the authorizer's governing board.

(8) The Superintendent shall notify an authorizer of changes to a corrective action plan.

(9) The Superintendent shall report to the Board monthly about the status of noncompliant authorizers.

R277-555-3. Authorizer Appeals.

(1) An authorizer may file an appeal to the Board of any adverse decision of the Superintendent resulting from a corrective action plan or penalty.

(2) An appeal must be made in writing and within 30 days of the date of the Superintendent's action.

(3) The Board may:

(a) review the appeal as a full board; or

(b) refer the matter to a Board standing or audit committee to make a recommendation to the Board for action.

KEY: charter schools, corrective action
Date of Enactment or Last Substantive Amendment: January 9, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205

R277. Education, Administration.
R277-600. Student Transportation Standards and Procedures.
R277-600-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public schools in the Board;

(b) Subsection 53E-3-501(1)(d), which directs the Board to establish rules for bus routes, bus safety and other transportation needs;

(c) Sections 53F-2-402 and 53F-2-403, which provide for distribution of funds for transportation of public school students;

(d) Section 53F-2-417, which directs the Board to make rules to implement rural school district transportation grants; and

(e) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to specify the standards under which school districts may qualify for and receive state transportation funds.

R277-600-2. Definitions.

(1) "ADA" means average daily attendance.

(2) "ADM" means average daily membership.

(3) "AFR" means a school district's annual financial report, one component of which is the AFR for all pupil transportation costs.

(4) "Annual Program Report" or "APR" has the same meaning as defined in Section R277-484-2.

(5)(a) "Approved costs" means the Board approved costs of transporting eligible students from home to school to home once each day, after-school routes, approved routes for students with disabilities and vocational students attending school outside their regularly assigned attendance boundary, and a portion of the bus purchase prices.

(b) All approved costs are adjusted by the Superintendent consistent with a Board-approved formula per the annual legislative transportation appropriation.

(6) "Deadhead miles" means miles traveled while operating a bus with no passengers on board.

(7) "Extended school year" or "ESY" means an extension of the school district or charter school traditional school year to provide special education and related services to a student with a disability, in accordance with the student's IEP, and at no cost to the student's parent or guardian.

(8) "Hazardous" means in a state of danger or potential danger, which may result in injury or death.

(9) "Local school board" means a local school district board of education.

(10) "Multipurpose passenger vehicle" or "MPV" means any motor vehicle with less than 10 passenger positions, including the driver's position, which cannot be certified as a bus.

(11) "Public route" means a road, thoroughfare, walkway, or highway.

(12) "Pupil Transportation Advisory Committee" means the committee described in Subsection 53F-2-403(5).

(13) "Pupil Transportation Schedule A1" means a report submitted annually to the Superintendent covering all estimated miles and minutes of to/from pupil transportation within an LEA.

(14) "Out-of-pocket expense" means gasoline, oil, and tire expenses.

R277-600-3. General Provisions.

(1)(a) The Superintendent shall use state transportation funds to reimburse school districts for the costs reasonably related to transporting students to and from school.

(b) The Board shall define the limits of a school district's transportation costs reimbursable by state funds in a manner that encourages safety, economy, and efficiency.

(2) Allowable transportation costs are divided into two categories:

(a) A Category costs include expenditures for regular bus routes established by the school district, and approved by the state.

(b) B Category costs include other methods of transporting students to and from school.

(3) The Superintendent shall develop a formula to allocate A Category costs based on a calculated rate.

(4) The Superintendent shall approve B Category costs on a line-by-line basis after:

(a) comparing the costs submitted by a school district with the costs of alternative methods of performing the designated functions; and

(b) accounting for legislative appropriation variations.

(5) The Superintendent shall develop a uniform accounting procedure for the financial reporting of transportation costs, which shall specify the methods used to calculate allowable transportation costs.

(6) The Superintendent shall develop uniform forms for the administration of the transportation program.

(7)(a) An LEA shall record all student transportation costs, including accurate mileage, minute, and trip records.

(b) An LEA may maintain records and financial worksheets during the fiscal year for audit purposes.

R277-600-4. Eligibility.

(1) The Superintendent shall only disburse state transportation funds for transporting eligible students.

(2) The Superintendent shall determine transportation eligibility for elementary students (k-6) and secondary students (7-12) in accordance with the mileage from home, specified in Subsections 53F-2-403(1) and (2), to the school attended by assignment of the local school board.

(3) A student whose IEP identifies transportation as a necessary related service is eligible for transportation regardless of distance from the school attended by assignment of the local school board.

(4) A student who attends school for at least one-half day at a location other than the local school board designated school is not eligible for transportation for distances up to one and one-half miles.

(5) A school district that implements double sessions as an alternative to new building construction may transport, one-way to or from school, with Board approval, affected elementary students residing less than one and one-half miles from school, if the local school board determines the transportation would improve safety affected by darkness or other hazardous conditions.

(6) The distance from home to school is determined as follows: From the center of the public route open to public use, opposite the regular entrance where the pupil is living, over the nearest public route open regularly for use by the public, to the center of the public route open to public use, opposite the nearest public entrance to the school grounds which the student is attending.

R277-600-5. Student with Disabilities Transportation.

(1)(a) A student with a disability shall be transported on regular buses and regular routes whenever possible, unless the IEP team determines otherwise.

(b) A school district may request approval, prior to providing transportation, for reimbursement for transporting students with disabilities who cannot be safely transported on regular school bus runs.

(2) A school district may be reimbursed for the costs of transporting or for alternative transportation for students with disabilities whose severity of disability, or combination of disabilities, necessitates special transportation.

(3) During the regular school year, an eligible special transportation route from the assigned school site to an alternative program location shall be for a minimum of fifteen days with primarily the same group of students.

(4) During the ESY, an eligible special transportation route from the assigned school site to an alternative program location shall be for a minimum of ten days with primarily the same group of students.

(5) ESY services shall meet the standards of Part B of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1401(3) and Board Special Education Rules.

(6) The Utah Schools for the Deaf and the Blind shall provide transportation for students who are transported to its self-contained classes, unless an exception is approved by the Superintendent.

R277-600-6. Bus Route Approval.

(1)(a) A local school board shall propose bus routes subject to approval by the Superintendent.

(b) A local school board shall provide information requested by the Superintendent prior to approval of a route.

(c) During the regular school year, an eligible route from the assigned school site to an alternative program location shall be for a minimum of fifteen days with primarily the same group of students.

(d) The Superintendent may not approve a route for reimbursement if an equitable student transportation allowance or a subsistence allowance for the necessary transportation is more cost-effective.

(2) The Superintendent may approve exceptions for good cause shown.

(3) A bus route shall:

(a) traverse the most direct public road;

(b) be reasonably cost-effective in comparison to other feasible alternatives;

(c) provide adequate safety for students;

(d) traverse roads that are constructed and maintained in a manner that does not cause property damage; and

(e) include an economically appropriate number of students.

(4)(a) The minimum number of general education students required to establish a bus route is ten.

(b) The minimum number of students with disabilities required to establish a bus route is five.

(c) A bus route may be established for fewer students upon special permission of the Superintendent.

(5) A school district shall designate safe areas for bus stops.

(6)(a) A student's parent or guardian is responsible for the student's own transportation to bus stops up to one and one-half miles from home.

(b) A parent or guardian with a student that has a

disability is responsible for the student's own transportation to bus stops unless the IEP team determines otherwise.

(7)(a) A school district shall report changes made in existing routes or the addition of new routes to the Superintendent as they occur.

(b) The Superintendent shall review and may refuse to fund route changes.

(8) The Superintendent may reimburse a school district for transporting another district's students across school district boundaries so long as:

(a) the route promotes efficient transportation for both districts;

(b) the route serves a group or community of students and families rather than a single student or a single family;

(c) the local school boards of both participating districts vote in an open meeting that students who reside in one district can be better and more economically served by another district; and

(d) both districts and the Superintendent maintain documentation annually of the boards' votes and the map of the approved route.

(9) A school district may transport eligible students home after school activities held at the students' school of regular attendance and within a reasonable time period after the close of the regular school day and receive approved route mileage.

(10)(a) The Superintendent may approve atypical routes as alternatives to building construction if routes are needed to allow more efficient school district use of school facilities.

(b) Building construction alternatives include:

(i) elementary double sessions;

(ii) year-round school; and

(iii) attendance across school district boundaries.

(11)(a) A school district may use local transportation funds to transport students across state lines or out-of-state for school sponsored activities or required field trips if:

(i) the local school board has a policy that includes approval of trips at the appropriate administrative level;

(ii) the school or school district has considered the purpose of the trip or activity and any competing risk or liability;

(iii) given the distance, purpose and length of the trip, the school district has determined that the use of a publicly owned school bus is appropriate for the trip or activity; and

(iv) the local school board has consulted with State Risk Management.

(b) If school bus routes transport students across Utah state lines or outside of Utah for required to and from routes,

routes are reimbursable providing a school district maintains documentation that:

(i) the routes are necessary;

(ii) the routes are more cost-effective; or

(iii) the routes provide greater safety for students than in-state routes.

R277-600-7. Alternative Transportation.

(1) The Superintendent shall analyze bus routes that involve a large number of deadhead miles to determine if an alternative method of transporting students is more efficient.

(2) Approved alternatives include the alternatives described in Subsections (3) through (9).

(3)(a) The costs incurred in transporting eligible pupils in a school district MPV are approved costs as long as the costs demonstrate efficiency; or

(b) The costs incurred in paying a parent or guardian of an eligible student an allowance in lieu of school district-supplied transportation are approved costs.

(4)(a) A parent or guardian of a student may be reimbursed for the mileage to the bus stop or school, whichever is closer to the student's home.

(b) The allowance under this Subsection (4)(a) may not be less than $0.35 per mile, nor greater than the reimbursement allowance permitted by the Utah Department of Administrative Services for use of privately owned vehicles set forth in the Utah Travel Regulations.

(5) A district shall annually perform a cost-benefit analysis as part of its determination of the LEA specific reimbursement rate and make this analysis available to the public.

(6)(a) A district shall make a student mileage allowance under this Section R277-600-7 to only one student per family for each trip that is necessary for all the students within a family to attend school.

(b) If siblings are on different school schedule or ride buses that are on significantly different schedules, a parent or guardian may claim and be paid for student mileage allowances for multiple students.

(7) If a student eligible for reimbursement under this Section R277-600-7 or the student's parent or guardian is unable to provide private transportation, with prior approval from the Superintendent, an amount equivalent to the student allowance may be paid to the school district to help pay the costs of school district transportation.

(8)(a) A district shall measure and certify a student's mileage in school district records.

(b) A student's ADA, as entered in school records, is used

to determine the student's attendance.

(9)(a) The cost incurred in providing a subsistence allowance is an approved cost under the following conditions:

(i) a student lives more than 60 miles (one way) on well-maintained roads from the student's assigned school, a parent or guardian may be reimbursed for the student's room and board if the student relocates temporarily to reside in close proximity to the student's assigned school;

(ii) payment may not exceed the Substitute Care Rate for Family Services for the current fiscal year;

(iii) adjustments for changes made in the rate during the year shall be included in the allowance; and

(iv) in addition to the reimbursement for room and board, the subsistence allowance may include the costs of up to 18 round trips per year.

(b)(i) A subsistence allowance is not available to a parent or guardian who maintains a separate home during the school year for the convenience of the family.

(ii) A parent or guardian's primary residence during the school year is the residence of the child.

(10) A school district may contract or lease with a third party provider for pupil transportation services.

(11)(a) The cost incurred in engaging in a contract or leasing for transportation is an approved cost at the prorated amount available to school districts.

(b) The Superintendent shall determine reimbursements for school districts using a leasing arrangement in accordance with the comparable cost for the school district to operate its own transportation.

(c) Under a contract or lease, a school district's transportation administrator's time may not exceed one percent of the commercial contract cost.

(12) If a school district contracts or leases with a third party provider or other LEA for pupil transportation services, it shall maintain and provide to the Superintendent upon request the following items as if it operated its own transportation:

(a) eligible student counts;

(b) bus route mileage;

(c) bus route minutes; and

(d) service to students with disabilities and bus inventory data.

R277-600-8. Other Reimbursable Expenses.

The Superintendent may reimburse a school district for the following costs with state transportation funds:

(1) salaries of clerks, secretaries, trainers, drivers, a supervisor, mechanics, and other personnel necessary to operate

the transportation program, subject to the following limitations:

(a) a full time supervisor may be paid at the same rate as other professional directors in the school district; and

(b) a school district shall ensure that a supervisor's salary is commensurate with the number of buses, number of eligible students transported, and total responsibility relative to other school district supervisory functions;

(2) a school district may claim a percentage of the school district superintendent's or other supervisor's salary for reimbursement if the school district's eligibility count is less than 600 and a verifiable record of administrative time spent in the transportation operation is maintained; and

(3) the wage time for bus drivers may include to and from school time consisting of:

(i) 10 minute pre-trip inspection;

(ii) actual driving time;

(iii) 10 minute post-trip inspection and bus cleanup; and

(iv) 10 minute bus servicing and fueling;

(4) a proportionate amount of a superintendent's or supervisor's employee benefits (health, accident, life insurance);

(5) purchased property services;

(6) property, comprehensive, and liability insurance;

(7) communication expenses and travel for supervisors to workshops or national conventions;

(8) supplies and materials for vehicles, the school district transportation office and the garage;

(9) training expenses to complete bus driver instruction and certification required by the Board; and

(10) other related costs approved by the Superintendent, which may include additional bus driver training.

R277-600-9. Non-reimbursable Expenses.

(1) AFR for all pupil transportation costs may only include pupil transportation costs and other school district expenditures directly related to pupil transportation.

(2) In determining expenditures for eligible to and from school transportation, all related costs shall be reduced on a pro rata basis for the miles not connected with approved costs.

(3) Expenses determined by the Superintendent as not directly related to transportation of eligible students to and from school may not be reimbursed.

(4)(a) A local school board may determine appropriate non-school uses of school buses.

(b) A local school board may lease or rent public school buses to:

(i) federal, state, county, or municipal entities;

(ii) entities insured by State Risk Management;

(iii) non-government entities; or

(iv) entities not insured through State Risk Management.

(c) As part of any agreement to allow non-school use of a school bus, a local school board shall:

(i) require full cost reimbursement for any non-public school use including:

(A) cost per mile;

(B) cost per minute; and

(C) bus depreciation;

(ii) require a non-school user to provide:

(A) proof of insurance through State Risk Management or private insurance coverage; and

(B) a fully executed agreement for full release of indemnification;

(iii) require that any non-school use is revenue neutral; and

(iv) consult with State Risk Management to determine adequacy of documentation of insurance and indemnity for any entity requesting use or rental of publicly owned school buses.

(5) A local school board shall approve the use of school buses by a non-governmental entity or an entity not insured through State Risk Management in an open meeting.

(6)(a) In the event of an emergency, local, regional, state or federal authorities may request the use of school buses or school bus drivers or both for the period of the emergency.

(b) A local school board shall grant a request under Subsection (a) so long as the use can be accommodated consistent with continuing student transportation and student safety requirements.

R277-600-10. Board Local Levy.

(1) Costs for school district transportation of students which are not reimbursable may be paid for from general school district funds or from the proceeds of the Board Local Levy authorized under Section 53F-8-302.

(2) The revenue from the Board Local Levy may be used for transporting students and for school bus replacement.

(3)(a) A local school board may approve the transportation of students in areas where walking constitutes a hazardous condition from general local school board funds or from the Board Local Levy.

(b) A local school board shall determine hazardous walking conditions by an analysis of the following factors:

(i) volume, type, and speed of vehicular traffic;

(ii) age and condition of students traversing the area;

(iii) condition of the roadway, sidewalks and applicable means of access in the area; and

(iv) environmental conditions.

(c) A local school board may designate hazardous conditions.

R277-600-11. Exceptions.

(1)(a) When undue hardships and inequities are created through exact application of these standards, a school district may request an exception to these rules from the Superintendent for individual cases.

(b) Hardships or inequities under Subsection (1)(a) may include written evidence demonstrating that no significant increased costs (less than one percent of a school district's transportation budget) is incurred due to a waiver or that students cannot be provided services consistent with the law due to transportation exigencies.

(c) The Superintendent may consult with the Pupil Transportation Advisory Committee in considering the exemption.

(2) A school district shall not be penalized in the computation of its state allocation for the presence on an approved to and from school route of an ineligible student who does not create an appreciable increase in the cost of the route.

(3) There is an appreciable increase in cost under Subsection (2) if, because of the presence of ineligible students, any of the following occurs:

(a) another route is required;

(b) a larger or additional bus is required;

(c) a route's mileage is increased;

(d) the number of pick-up points below the mileage limits for eligible students exceeds one; and

(e) significant additional time is required to complete a route.

(4)(a) An ineligible student may ride a school bus on a space available basis.

(b) An eligible student may not be displaced or required to stand in order to make room for an ineligible student.

R277-600-12. Rural School Transportation Reimbursement Program.

(1) The Superintendent shall annually determine which LEAs are eligible for rural school transportation reimbursement using the criteria described in Subsection 53F-5-211(1)(a).

(2) The Superintendent shall measure eligibility based on:

(a) the most recent October 1 UTREx submission; and

(b) the prior year's transportation data submitted in accordance with Section R277-484-3.

(3) By November 1 annually, the Superintendent shall notify an LEA that the LEA may seek reimbursement.

(4) An LEA eligible for reimbursement shall:

(a) provide evidence to the Superintendent in the first year

of the LEA's eligibility that the LEA has provided transportation to and from the school for the past five years;

(b) submit to the Superintendent in the first year of the LEA's eligibility the LEA's current year pupil transportation Schedule A1 by December 30; and

(c) in subsequent years of eligibility, submit all transportation reports in accordance with Section R277-484-3.

(5) Submission of the pupil transportation Schedule A1 shall constitute an annual application and request for reimbursement by an LEA with an eligible school.

(6)(a) The Superintendent shall calculate and process reimbursements to LEAs once a year.

(b) The Superintendent shall determine allowable costs eligible for reimbursement taking into account:

(i) eligible routes; and

(ii) eligible miles and minutes as reported on the pupil transportation Schedule A1.

(c) The Superintendent shall reimburse an LEA based on the LEA's percentage of total unreimbursed eligible costs submitted.

(d) If the annual appropriation is insufficient to fund all submitted eligible cost payments, the Superintendent shall prorate the reimbursement up to the amount of the appropriation.

(7) An LEA shall permit the Superintendent to review accounting ledgers, student records, and transportation records upon request in order to determine:

(a) a school's eligibility in accordance with Subsection (1); and

(b) allowability of an LEA's submitted costs.

R277-600-13. Rural School District Transportation Grant Program.

(1) The Superintendent shall annually determine which school districts are eligible for the rural school district transportation grant program using the criteria described in Subsection 53F-2-417(2).

(2) The Superintendent shall measure school district eligibility based on:

(a) the prior year's transportation data submitted in accordance with Section R277-484-3; and

(b) the most recent county classification.

(3)(a) By November 1 annually, the Superintendent shall notify a school district that the school district may apply for a grant and the amount of available grant funds based on the prior-year eligible miles for unreimbursed costs associated with activities described in 53F-2-417(3).

(b) The Superintendent shall prorate an eligible school district's award amount up to the amount of the appropriation.

(4) A school district eligible for the grant program shall:

(a) provide assurance within the school district's application that matching funds from the school district's board local levy will be utilized for the purposes outlined in Subsection 53F-2-417(1); and

(b) report revenue from the board local levy and related expenditures for the grant program in the school district's Annual Program Report for that specific fiscal year.

(5)(a) The Superintendent shall process the grant award in the state's grants management system

(b) The Superintendent shall allocate funds to eligible school districts once a year.

(6) A school district shall permit the Superintendent to review accounting ledgers, student records, and transportation records upon request in order to determine:

(a) a school's eligibility in accordance with Subsection (1); and

(b) allowability of an LEA's submitted program costs.

(7) If a school district does not comply with the requirements of the grant program, the Superintendent may impose corrective action in accordance with Rule R277-114.

KEY: school buses, school transportation
Date of Enactment or Last Substantive Amendment: August 19, 2019
Notice of Continuation: September 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(d); 53E-3-401(4); 53F-2-415; 53F-2-403

R277. Education, Administration.
R277-601. Standards for Utah School Buses and Operations.
R277-601-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Local board" means the local school board of education.

R277-601-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public education in the Board, Subsection 53E-3-501(1)(d) which directs the Board to adopt rules for state reimbursed bus routes, bus safety and operational requirements, and other transportation needs and Subsection 53E-3-401(4) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify standards for state student transportation funds, school buses, and school bus drivers utilized by school districts.

R277-601-3. Standards.

A. The local board and school district personnel shall act consistent with the manual entitled STANDARDS FOR UTAH SCHOOL BUSES AND OPERATIONS, 2010, which includes information received from Utah school districts, the Utah Transportation Commission, and the Utah Department of Public Safety and is available at each department or agency. The STANDARDS shall include the following:

(1) Electronic and telecommunications devices

(a) A school bus operator's primary responsibility, consistent with training and policy, is the safety of passengers and the safety of the public at all times.

(b) A school bus operator shall not use a cell phone, wireless electronic device, or any headset, earpiece, earphones or other equipment that might distract a driver from his responsibilities, whether hand held or not, while the school bus is in motion and not appropriately parked or secured. This prohibition does not apply to the safe and appropriate use of two-way radios or to mounted, GPS systems. All school districts and public schools that regularly transport students shall maintain documentation of training for bus drivers and employees in the safe and appropriate use of two-way radios.

(c) Once the bus is stopped and safely parked, a school bus operator may use an electronic device for emergencies, to assist special needs students, for behavior management, for appropriate assistance for field/activity trips or for other business-related issues.

(d) A school bus operator may use an electronic device for personal use once a school bus is safely parked, appropriately secured and all passengers are safely off and at a safe distance

from the bus, consistent with school district policy.

(e) Any violation of these provisions for emergency or compelling reasons may require documentation and will be addressed by the employing education entity.

(f) Violations of these provisions may result in personnel action(s) against the school bus operator consistent with school district/employer policies.

(g) Private contractors employed by school districts for student transportation shall also adhere strictly to these provisions in addition to the policies of the employer.

(2) End of bus route inspection

(a) At the end of a student delivery, both during the day and after the final route of the day, a school bus operator shall complete the delivery, stop and park the bus, and insure that all students are off the bus.

(b) Where possible, this inspection shall be completed at each school site when delivering students to school.

(c) Following each from-school route of the day, the bus operator shall complete the same type of inspection at a safe location a short distance from where the final student(s) left the bus. If children are found on the bus, they shall be immediately returned to their assigned bus stop location or to an alternate location, consistent with district policy, with express permission from the parents(s).

KEY: school, buses, school transportation
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R277. Education, Administration.
R277-602. Carson Smith Scholarships -- Funding and Procedures.
R277-602-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system under the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-4-305, which authorizes the Board to make rules establishing:

(i) the eligibility of students to participate in the scholarship program; and

(ii) the application process for the scholarship program.

(2) The purpose of this rule is to:

(a) outline responsibilities of a parent, an LEA, an eligible private school, and the Board in providing choice for a parent of a special needs student who chooses to have a student served in a private school; and

(b) provide accountability for the citizenry in the administration and distribution of the scholarship funds.

R277-602-2. Definitions.

(1) "Appeal" means an opportunity to discuss or contest a final administrative decision consistent with and expressly limited to the procedures of this rule.

(2) "Appeals Committee" means a committee comprised of:

(a) the Carson Smith Scholarship coordinator;

(b) the Board's Special Education Director;

(c) one individual appointed by the Superintendent; and

(d) two Board-designated special education advocates.

(3) "Assessment" means a formal testing procedure carried out under prescribed and uniform conditions that measures a student's academic progress, consistent with Subsection 53F-4-303(1)(f).

(4) "Assessment team" means the individuals designated under Subsection 53F-4-301(1).

(5) "Days" means school days unless specifically designated otherwise in this rule.

(6) "Eligible student" means a student who meets the qualifications described in Section 53F-4-302.

(7) "Enrollment" means that:

(a) the student has completed the school enrollment process;

(b) the school maintains required student enrollment information and documentation of age eligibility;

(c) the student is scheduled to receive services at the

school;

(d) the student attends regularly; and

(e) the school has accepted the student consistent with Rule R277-419 and the student's IEP.

(8) "Private school that has previously served a student with a disability" means a school that:

(a) has enrolled a student within the last three years under the Carson Smith Scholarship program;

(b) has enrolled a student within the last three years who has received special education services under an Individual Services Plan (ISP) from an LEA where the school is geographically located; or

(c) can provide other evidence to the Board that is determinative of having enrolled a student with a disability within the last three years.

(9) "Warrant" means payment by check to a private school.

R277-602-3. Parent Responsibilities and Payment Provisions.

(1) To receive a scholarship, a parent of a student shall submit an application by the deadline described in Subsection 53F-4-302(4), on a form specified by the Superintendent to:

(a) the LEA that the student is or was enrolled in; or

(b) if the student was not enrolled in an LEA in the school year prior to the school year in which the scholarship is sought, the school district that is responsible for the education of the student under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1414.

(2) Along with the application described in Subsection (1), a parent shall submit documentation that:

(a) the parent is a resident of the state;

(b) the student is at least three years of age before September 2 of the year of enrollment;

(c) the student is not more than 21 years of age and has not graduated from high school; and

(d) the student has official acceptance at an eligible private school, as described in Section 53F-4-303.

(3) Any intentional falsification, misinformation, or incomplete information provided on the application may result in the cancellation of the scholarship to the student and non-payment to the private school.

(4)(a) The Superintendent shall make a scholarship payment in accordance with Section 53F-4-304 and this rule.

(b) The Superintendent may distribute a scholarship payment to a private school through electronic transfer after the Superintendent is able to verify the scholarship student's attendance at the private school through a Board provided software application.

(5)(a) A parent shall notify the Board in writing within five days if the student does not continue in enrollment in an eligible private school for any reason, including:

(i) parent or student choice;

(ii) suspension or expulsion of the student; or

(iii) the student has unexcused absences during all of the prior 10 consecutive school days.

(b) In accordance with Subsection 53F-4-304(4), if a student does not continue in enrollment, the Superintendent may:

(i) modify the payment to the private school; or

(ii) if payment has already been made for that quarter, request reimbursement from the private school for an amount equal to the portion of the scholarship attributable to the number of remaining days in the quarter.

(6) A parent shall cooperate and respond within 10 days to an enrollment cross-checking request from the Superintendent.

(7) The parent shall notify the Superintendent in writing by May 1 annually to indicate the student's continued enrollment.

R277-602-4. LEA Responsibilities.

(1) An LEA that receives a student's scholarship application consistent with Subsection 53F-4-302(4) shall:

(a) forward the application to the Superintendent no more than 10 days following receipt of the application;

(b) verify enrollment of the student seeking a scholarship in a previous school year within a reasonable time following contact by the Superintendent;

(c) verify the existence of the student's IEP and level of service to the Superintendent within a reasonable time;

(d) provide personnel to participate on an assessment team to:

(i) make the determination described in Section 53F-4-302; or

(ii) determine whether a student who previously received a Carson Smith Scholarship is entitled to receive the scholarship during the subsequent eligibility period.

(3) A Carson Smith Scholarship student may not participate in an extracurricular or co-curricular activity at an LEA, consistent with the parent's assumption of full responsibility for a student's services under Subsection 53F-4-302(5).

(4) In accordance Subsection 53F-4-302(8), a Carson Smith Scholarship student may participate in the Statewide Online Education Program described in Part 5, Statewide Online Education Program in the same manner as other private school students as described in Section 53F-4-507.

(5) A Carson Smith Scholarship student is eligible to receive equitable services under the Individuals with Disabilities

Education Act.

(6) An LEA shall cooperate with the Superintendent in cross-checking Carson Smith Scholarship student enrollment information to ensure scholarship payments are not erroneously made.

(7)(a) An LEA shall provide written notice to a parent of a student who has an IEP of the availability of a scholarship to attend a private school in accordance with Subsection 53F-4-302(10).

(b) The written notice shall consist of the following statement: A local education agency is required by Utah law, Subsection 53F-4-302(10), to inform parents of students with IEPs enrolled in public schools, of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.

R277-602-5. State Board of Education Responsibilities.

(1) No later than April 1, the Superintendent shall provide an application containing acknowledgments required under Subsection 53F-4-302(5), for a parent seeking a Carson Smith Scholarship:

(a) online;

(b) at the Board office; and

(c) at LEA offices.

(2) The Superintendent shall provide a determination that a private school meets the eligibility requirements of Section 53F-4-303 as soon as possible but no more than 30 calendar days after the private school submits an application and completes documentation of eligibility.

(3) The Superintendent may:

(a) provide reasonable timelines within the application for satisfaction of private school requirements;

(b) issue letters of warning;

(c) require the school to take corrective action within a time frame set by the Superintendent;

(d) suspend the school from the program consistent with Section 53F-4-306;

(e) establish an appropriate penalty for a private school that fails to comply with requirements described in Title 53F, Chapter 4, Part 3, Carson Smith Scholarships for Students with Special Needs, including:

(i) providing an affidavit under Section 53F-4-306;

(ii) administering assessments or reporting an assessment to a parent or assessment team under Subsection 53F-4-303(1)(f);

(iii) employing teachers with credentials required under Subsection 53F-4-303(g);

(iv) providing to a parent relevant credentials of teachers under Subsection 53F4-303(i); or

(v) requiring a completed criminal background and ongoing monitoring under Title 53G, Chapter 11, Part 4, Background Checks and take appropriate action consistent with information received; or

(f) initiate a complaint and hold an administrative hearing, as appropriate, and consistent with this rule.

(4) The Superintendent shall make a list of eligible private schools updated annually and available no later than June 1 of each year.

(5) On or before July 1, the Superintendent shall annually publish information regarding the level of funding available for scholarships for the fiscal year.

(6) The Superintendent may mail a scholarship payment directly to a private school in accordance with Subsection 53F-4-304(8) as soon as reasonably possible.

R277-602-6. Responsibilities of Private Schools that Receive Carson Smith Scholarships.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) meet the criteria described in Section 53F-4-303; and

(b) submit an application and appropriate documentation by the deadline established in Section 53F-4-303 to the Superintendent on a form designated by the Superintendent.

(2) A private school shall annually:

(a) obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(i) the audit shall be performed in accordance with generally accepted auditing standards;

(ii) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(iii) the audited financial statements shall be as of a period within the last 12 months; or

(b) contract with an independent licensed certified public accountant to conduct an agreed upon procedures engagement described in Subsection (4);

(3) The Superintendent shall annually publish:

(a) an agreed upon procedures document for a new private school to apply for eligibility to accept Carson Smith Scholarship students; and

(b) an agreed upon procedures document for a continuing private school to apply for continued eligibility to accept Carson Smith Scholarship students.

(4) A private school that seeks to enroll Carson Smith Scholarship students shall submit an agreed upon procedures document described in Subsection (3):

(a) for a new private school seeking eligibility to accept Carson Smith Scholarship students for the first time, by the May 1 prior to the fiscal year that the private school is seeking eligibility; and

(b) for a school seeking continued eligibility to accept Carson Smith Scholarship students, by the November 30 prior to the school year in which they are reapplying.

(5)(a) A private school that seeks to enroll a Carson Smith Scholarship student shall, in concert with the parent seeking a Carson Smith Scholarship for a student, initiate the assessment team meetings required under Section 53F-4-302.

(b) A private school shall schedule a meeting at a time and location mutually acceptable to the private school, the applicant parent, and participating public school personnel.

(c)(i) A private school and public school shall confidentially maintain documentation regarding an assessment team meeting, including documentation of:

(A) a meeting for a student denied a scholarship or service; and

(B) a student admitted into a private school and the student's level of service.

(ii) Upon request by the Superintendent, a private school and public school shall provide the documentation described in Subsection (3)(c)(i) to the Superintendent for purposes of determining student scholarship eligibility or for verification of compliance.

(6) A private school that receives a scholarship payment shall provide complete student records in a timely manner to another private school or a public school that requests student records if a parent transfers a student under Subsection 53F-4-302(7).

(7) A private school shall notify the Board within five days if the student does not continue in enrollment in an eligible private school for any reason, including:

(a) parent or student choice;

(b) suspension or expulsion of the student; or

(c) the student has unexcused absences during all of the prior ten consecutive school days.

(8) A private school shall satisfy health and safety laws and codes required by Subsection 53F-4-303(1)(d), including:

(a) the adoption of emergency preparedness response plans that include training for school personnel and parent notification for fire drills, natural disasters, and school safety emergencies; and

(b) compliance with Rule R392-200, Design, Construction, Operation, Sanitation, and Safety of Schools.

(9)(a) An approved eligible private school that changes

ownership shall submit a new application for eligibility to receive a Carson Smith Scholarship payment from the Superintendent:

(i) that demonstrates that the school continues to meet the eligibility requirements of Section 53F-4-303 and this rule; and

(ii) within 60 calendar days of the date that an agreement is signed between previous owner and new owner.

(b) If the Superintendent does not receive the application within the time described in Subsection (7)(a)(ii):

(i) the new owner of the school is presumed ineligible to receive continued Carson Smith Scholarship payments from the Superintendent;

(ii) at the discretion of the Board, the Superintendent may reclaim any payments made to a school within the previous 60 calendar days; and

(iii) the private school shall submit a new application for eligibility to enroll Carson Smith Scholarship students consistent with the requirements and timelines of this rule.

R277-602-7. Carson Smith Scholarship Appeals.

(1)(a) A parent of an eligible student or a parent of a prospective eligible student may appeal only the following actions under this rule:

(i) an alleged violation by the Superintendent of Sections 53F-4-301 through 308 or this rule; or

(ii) an alleged violation by the Superintendent of a required timeline.

(b) An appellant has no right to additional elements of due process beyond the specific provisions of this rule.

(2) The Appeals Committee may not grant an appeal contrary to Sections 53F-4-301 through 53F-4-308.

(3) A parent shall submit an appeal:

(a) in writing to the Board's Carson Smith Scholarship Coordinator at: Utah State Board of Education, 250 East 500 South, P.O. Box 144200, Salt Lake City, UT 84114-4200; and

(b) within 15 calendar days of written notification of the final administrative action described in Subsection (1)(a).

(4)(a) The appeal opportunity does not include an investigation required under or similar to an IDEA state complaint investigation.

(b) Nothing in the appeals process established under this rule shall be construed to limit, replace, or adversely affect parental appeal rights available under IDEA.

(5) The Appeals Committee shall:

(a) consider an appeal within 15 calendar days of receipt of the written appeal;

(b) transmit the decision to a parent no more than ten

calendar days following consideration by the Appeals Committee; and

(c) finalize an appeal as expeditiously as possible in the joint interest of schools and students involved.

(6) The Appeals Committee's decision is a final administrative action.

KEY: special needs students, scholarships
Date of Enactment or Last Substantive Amendment: October 16, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-4-3

R277. Education, Administration.
R277-603. Autism Awareness Restricted Account Distribution.
R277-603-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53F-9-401, which authorizes the Superintendent to distribute autism awareness funds appropriated by the Legislature; and

(c) Subsection 53E-3-401(4); which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to provide procedures, timelines and accountability for distribution of funds received in the Autism Awareness Restricted Account and subsequently appropriated by the Legislature to eligible organizations.

R277-603-2. Definitions.

(1) "Autism Awareness Restricted Account" means the account established under Section 53F-9-401.

R277-603-3. Procedures.

(1) The Superintendent shall provide an application for an organization that meets the qualifications of Subsection 53F-9-401(3), to apply for available Autism Awareness Restricted Account funds to the extent of the legislative appropriation.

(2) The Superintendent shall review applications and select qualified recipients.

(3) An application shall include a budget section, a plan for use of the funds by eligible charitable organizations consistent with Subsection 53F-9-401(3), and other information as requested.

(4) The Superintendent shall distribute funds to eligible charitable organizations, to the extent of funds appropriated, annually.

R277-603-4. Timelines.

(1) The Superintendent shall announce the availability of funds annually by March 15.

(2) Applicants may apply for funds on forms available from the Superintendent.

(3) Applications shall be due June 5 annually.

(4) Applicants identified for funding shall be notified no later than July 1 annually.

(5) The Superintendent shall distribute funds annually in July.

R277-603-5. Accountability.

(1) The Superintendent shall require organizations that receive funding to complete a year-end report describing and documenting the use of funds consistent with the law and this rule.

(2) The year-end report may require an independent audit or review of a funded program.

KEY: autism awareness, restricted account
Date of Enactment or Last Substantive Amendment: November 7, 2016
Notice of Continuation: September 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-9-401; 53E-3-401(4)

R277. Education, Administration.

R277-604. Private School, Home School, and Bureau of Indian Education (BIE) Student Participation in Public School Achievement Tests.

R277-604-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-3-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-4-302, which directs the Board to require school districts and charter schools to administer the U-PASS assessment system to uniformly measure statewide student performance.

(2) The purpose of this rule is:

(a) to provide opportunities for Utah private school students and home school students who are Utah residents, and Utah students attending Bureau of Indian Education (BIE) schools to participate in U-PASS;

(b) to maintain the integrity and security of U-PASS;

(c) to provide an orderly and manageable administrative process for public schools to include Utah private school students and home school students who are Utah residents, and Utah students attending BIE schools to participate in U-PASS if they so desire; and

(d) to protect the public investment in U-PASS by making assessments available to students who are not funded by the public education system through fair, reasonable, and consistent practices.

R277-604-2. Definitions.

(1) "Home school student" means a student who has been excused from compulsory education and for whom documentation has been completed under Section 53G-6-204.

(2) "Private school" means a school that is not a public school but:

(a) has a current business license through the Utah Department of Commerce;

(b) is accredited as described in R277-410; and

(c) has and makes available a written policy for maintaining and securing student records.

(3) "Utah Performance Assessment System for Students" or "U-PASS" means:

(a) the summative adaptive assessment of a student in grades 3 through 8 in basic skills courses;

(b) the online writing assessment in grades 5 and 8;

(c) a high school assessment in grades 9 and 10;

(d) a statewide English Language proficiency assessment;

(e) the college readiness assessment; and

(f) the summative assessment of a student in grade 3 to measure reading grade level using the end of year benchmark reading assessment.

R277-604-3. Private Schools.

(1) Private school students who are Utah residents, as defined under 53G-6-302, may participate in U-PASS.

(2) Private school students who are not Utah residents may participate in U-PASS only by payment in advance of the full cost of individual assessments as determined by local school board policy.

(3)(a) Private schools that are interested in participating in U-PASS may, at the public school district's discretion, do so only in the public school district in which the private school is located.

(b) School districts shall determine at which public schools within the district private school students may take achievement tests.

(c) A private school may request the following from the school district in which the private school is located:

(i) an annual schedule of U-PASS dates;

(ii) the locations at which private schools may be tested; and

(iii) written policies for private school student participation.

(4) A school district shall develop a policy regarding private school student participation in U-PASS, which shall include:

(a) reasonable costs for the participation of Utah private school students in U-PASS to be paid in advance by either the student or the student's private school;

(b) an explanation of reasonable costs including costs for administration materials, scoring, and reporting of assessment results;

(c) notice to private school administrators of any required private school administrator participation in monitoring or proctoring of tests; and

(d) reasonable time lines for private school requests for participation and school district or school response.

R277-604-4. Home School Students.

(1) A home school student who is a Utah resident, as defined under Section 53G-6-302, may participate in U-PASS as provided in

this rule.

(2) A home school student may participate in U-PASS only if the student has satisfied the home schooling requirements of Section 53G-6-204.

(3) A home school student who desires to participate in U-PASS may participate in:

(a) the public school district in which the home school student's parent or legal guardian resides; or

(b) a charter school.

(4) A home school student or parent may request the following from the school district in which the home school student or parent resides or a charter school:

(a) an annual schedule of U-PASS dates;

(b) the locations at which home school students may be tested; and

(c) written policies for home school student participation.

(5) A school district or charter school shall develop a policy regarding home school student participation in U-PASS, which:

(a) may not require a home school student to pay a fee that is not charged to traditional students;

(b) shall include notice to home school students or parents of any required parent or adult participation in monitoring or proctoring of tests; and

(c) shall include reasonable time lines for home school requests for participation and school district or school response.

R277-604-5. Bureau of Indian Education (BIE) Students.

(1) BIA schools may participate in all U-PASS requirements for all Utah students.

(2) Materials and training shall be provided to BIE schools from the public school district in which the school is located on the schedule that applies to Utah school districts.

R277-604-6. LEA Responsibilities.

An LEA shall comply with the following when administering U-PASS to a private, home school, or Bureau of Indian Educations' student:

(1) Board Rule R277-404; and

(2) the Standard Test Administration and Testing Ethics Policy described in R277-404-3.

KEY: home school, private school, participation, achievement tests
Date of Enactment or Last Substantive Amendment: July 31, 2019
Notice of Continuation: October 14, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401; 53E-4-302(1)(a)

R277. Education, Administration.
R277-605. Coaching Standards and Athletic Clinics.
R277-605-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-501(1)(b), which directs the Board to adopt rules regarding access to programs.

(2) The purpose of this rule is to specify standards for school athletic and activity coaches and standards for athletic clinics and workshops.

R277-605-2. Athletics and the Core Curriculum.

High school competitive sports programs shall be supplementary to the high school curriculum.

R277-605-3. Coaches and School Activity Leaders as Supervisors and Role Models.

(1) Coaches and other designated school leaders shall diligently supervise student athletes at all times while on school-sponsored activities, including supervising students:

(a) on the field, court, or other competition or performance sites;

(b) in locker rooms, in seating areas, in eating establishments, and in lodging facilities; and

(c) while traveling.

(2) A coach or other designated school leader shall be an exemplary role model and may not use alcoholic beverages, tobacco, controlled substances, or participate in promiscuous sexual relationships while on school-sponsored activities.

(3) Coaches, assistants and advisors shall act in a manner consistent with Section 53G-8-209 and may not:

(a) use foul, abusive, or profane language while engaged in school related activities; or

(b) permit hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

R277-605-4. Athletic and Activity Clinics.

(1) School personnel, activity leaders, coaches, advisors,

and other personnel may not require students to attend out-of-school camps, clinics, or workshops for which the personnel, activity leaders, coaches, or advisors receive remuneration from a source other than the school or district in which they are employed.

(2) Required or voluntary participation in summer or other off-season clinics, workshops, and leagues may not be used as eligibility criteria for team membership, participation in extracurricular activities, or for the opportunity to try out for school-sponsored programs.

KEY: extracurricular activities
Date of Enactment or Last Substantive Amendment: December 8, 2016
Notice of Continuation: October 14, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(b)

R277. Education, Administration.
R277-606. Dropout Prevention and Recovery Program.
R277-606-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Section 53A-15-1903, which requires the Board to develop rules to set policies related to a dropout prevention and recovery program;

(c) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) develop policies related to an LEA's dropout prevention and recovery program; and

(b) set reporting requirements for LEAs with a dropout prevention and recovery program.

R277-606-2. Definitions.

For purposes of this rule:

(1) "Attainment goal" has the same meaning as that term is defined in Section 53A-15-1902.

(2) "Average daily membership" means the same as that term is defined in Section 53A-17a-103.

(3) "Cohort" means the same as that term is defined in Section 53A-15-1902.

(4) "College and career readiness work" means the same as that term is defined in Section 53A-15-1902.

(5) "Designated student" means a student:

(a)(i) who has withdrawn from a secondary school prior to earning a diploma;

(ii) who was dropped from average daily membership; and

(iii) whose cohort has not yet graduated; or

(b) who is at risk of meeting the criteria described in Subsection (5)(a), as determined by the student's LEA, using the risk factors described in Subsection (10).

(6) "Graduation rate" means the same as that term is defined in Section 53A-15-1902.

(7) "LEA" means the same as that term is defined in Section 53A-15-1902.

(8) "Nontraditional program" means the same as that term is defined in Section 53A-15-1902.

(9) "Proxy graduation rate" means a rate calculated:

(a) in a manner similar to the regular graduation rate for each year of grades 9 through 12;

(b) treating a student as having graduated if the student

returned after each grade year; and

(c) treating a student as dropping out if the student:

(i) did not return after each year; or

(ii) the student did not have an acceptable exit code entered into the Board's UTREx system.

(10) "Risk factors" means:

(a) low academic performance, as measured by grades, test scores, or course failure;

(b) poor behavior, as measured by office disciplinary referrals, suspensions, or expulsions; and

(c) absenteeism, whether excused or unexcused absences, and including days tardy and truant.

(11) "Third party" means the same as that term is defined in Section 53A-15-1902.

R277-606-3. LEA Dropout Prevention and Recovery Programs.

(1) Beginning with the 2016-17 school year, an LEA that serves students in grades 9, 10, 11, or 12 shall provide a dropout prevention and recovery program for a designated student with the dropout prevention and recovery services described in Section 53A-15-1903.

(2) An LEA that enrolls a designated student in a dropout prevention and recovery program shall:

(a) develop a written policy that describes:

(i) how the LEA or the LEA's third party will measure and report if the designated student made a year's worth of progress toward an attainment goal as required in Section R277-606-4; and

(ii) how membership days will be determined for the designated student in accordance with the LEA's established school schedule and enrollment policies; and

(b) indicate that the designated student is enrolling in the LEA's dropout prevention and recovery program in accordance with current UTREx specifications.

(3)(a) If a designated student chooses to enroll in a dropout prevention and recovery program, the LEA, in consultation with the designated student, shall prepare, in accordance with the LEA's written policy described in Subsection (2), a learning plan for the designated student that includes an attainment goal for the designated student.

(b) If an LEA is required to contract with a third party to provide dropout prevention and recovery services, the third party shall:

(i) work with the LEA to prepare a learning plan for a designated student described in Subsection (3)(a);

(ii) regularly report a designated student's progress toward the designated student's attainment goal in accordance with the LEA's written policy described in Subsection (2); and

(iii) maintain documentation required by the LEA for the LEA to meet the requirements of Subsection R277-606-4(4).

(4)(a) If a designated student is a student with a disability and an LEA provides dropout prevention and recovery services without using a third party, the LEA shall:

(i) prepare an IEP or Section 504 plan for the designated student; and

(ii) provide the dropout prevention and recovery services in accordance with the designated student's IEP or Section 504 plan.

(b) If a designated student is a student with a disability and an LEA contracts with a third party to provide dropout prevention and recovery services to the designated student:

(i) the LEA shall prepare an IEP or Section 504 plan for the designated student; and

(ii) the third party shall provide the dropout prevention and recovery services to the designated student in accordance with the designated student's IEP or Section 504 plan.

R277-606-4. Reporting Requirements and Audits.

(1)(a) Beginning with the 2016-17 school year, on or before August 1, 2017 and on or before August 1 each year thereafter, an LEA shall submit a report to the Superintendent on the LEA's dropout prevention and recovery services.

(b) The report described in Subsection (1)(a) shall include:

(i) the information described in Section 53A-15-1903;

(ii) the total number of designated students in the LEA; and

(iii) if applicable, the name of a third party the LEA is contracting with to provide dropout prevention and recovery services.

(2) A third party working with an LEA on the LEA's dropout prevention and recovery program shall report any information requested by the LEA including any information required for the LEA to submit a report described in Subsection (1).

(3) The Superintendent shall:

(a) review LEA reports described in Subsection (1);

(b) by April 1 each year, inform an LEA that the LEA is required to enter into a contract with a third party as described in Subsection 53A-15-1903(3); and

(c) ensure that an LEA described in Subsection 53A-15-1903(3) and Subsection R277-606-3(3) contracts with a third party as required in Section 53A-15-1903 and Section R277-606-3.

(4)(a) An LEA shall maintain documentation to comply with the requirements of Section 53A-15-1903 and this rule.

(b) The Board or the Superintendent may request an audit of an LEA's dropout prevention and recovery program.

KEY: dropout, prevention and recovery, pupil accounting
Date of Enactment or Last Substantive Amendment: October 11, 2016
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-401; 53A-15-1903

R277. Education, Administration.
R277-607. Truancy Prevention.
R277-607-1. Definitions.

A. "Absence" means a student's non-attendance at school for one school day or part of one school day.

B. "Habitual truant" means a school-age minor who:

(1) is at least 12 years old;

(2) is subject to the requirements of Section 53G-6-202; and

(3)(a) is truant at least five times during one school year; and

(b) fails to cooperate with efforts on the part of school authorities to resolve the minor's attendance problem as required under Section 53G-6-206.

C. "Habitual truant citation" is a citation issued only consistent with Section 53G-6-203.

D. "IEP team" means an local education agency representative, a parent, a regular and special education educator, and person qualified to interpret evaluation results, in accordance with the Individuals with Disabilities Education Act (IDEA).

E. "LEA" means a local education agency, including local school boards/public school districts and charter schools.

F. "Truant" means absent without a valid excuse.

G. "Unexcused absence" means a student's absence from school for reasons other than those authorized under the LEA policy.

H. "USOE" means the Utah State Office of Education.

I. "Valid excuse" means an excuse for an absence from school consistent with Subsection 53G-6-201(9).

R277-607-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Subsection 53E-3-401(4), which permits the Board to adopt rules in accordance with its responsibilities, and Section 53G-6-206 which directs educational entities and parents working on behalf of children to make efforts to resolve school attendance problems of school-age minors who are or should be enrolled in LEAs.

B. The purpose of this rule is to direct LEAs to establish procedures for:

(1) informing parents about compulsory education laws;

(2) encouraging and monitoring school attendance consistent with the law; and

(3) providing firm consequences for noncompliance.

C. This rule encourages meaningful incentives for parental responsibility and directs LEAs to establish ongoing truancy prevention procedures in schools especially for students in grades

1-8.

R277-607-3. General Provisions.

A. Each LEA board shall develop a truancy policy that encourages regular, punctual attendance of students, consistent with this rule and Title 53G, Chapter 6, Part 2, Compulsory Education, and shall review the policy annually.

B. LEA boards shall annually review attendance data and consider revisions to policies to encourage student attendance.

C. LEAs shall make truancy policies available for review by parents or interested parties.

D. LEAs may issue habitual truant citations to students consistent with Section 53G-6-203.

R277-607-4. LEA Responsibilities.

A. LEAs shall:

(1) establish definitions not provided in law or this rule necessary to implement a compulsory attendance policy;

(2) include definitions of approved school activity under Subsection 53G-6-201(9)(c) and excused absence to be provided locally under Subsection 53G-6-201(9)(e);

(3) include criteria and procedures for preapproval of extended absences consistent with Section 53G-6-205; and

(4) establish programs and meaningful incentives which promote regular, punctual student attendance.

B. LEAs shall include in their policies provisions for:

(1) notice to parents of the policy;

(2) notice to parents as discipline or consequences progress; and

(3) the opportunity to appeal disciplinary measures.

C. LEAs shall establish and publish procedures for use by school-age minors or their parents to contest notices of truancy.

KEY: compulsory education, truancy
Date of Enactment or Last Substantive Amendment: October 9, 2014
Notice of Continuation: August 6, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-6-206

R277. Education, Administration.
R277-608. Prohibition of Corporal Punishment in Utah's Public Schools.
R277-608-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Sections 53G-8-301 through 53G-8-305, which provide guidelines for the use of reasonable and necessary physical restraint or force in educational settings.

(2) The purpose of this rule is to direct LEAs to have policies in place that prohibit corporal punishment consistent with the law.

R277-608-2. Definitions.

(1) "Corporal punishment" means the intentional infliction of physical pain upon the body of a minor child as a disciplinary measure.

(2) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

R277-608-3. Reporting Requirements.

(1) Each LEA shall incorporate in the LEA plan submitted to the Superintendent annually, the prohibition of corporal punishment consistent with the law.

(2) An LEA policy shall include:

(a) a prohibition of corporal punishment consistent with the law;

(b) criteria and procedures for using appropriate behavior reduction intervention in accordance with federal and state law;

(c) appropriate sanctions for LEA employees who use corporal punishment; and

(d) appeal procedures for LEA employees disciplined for a violation of the LEA's policy.

KEY: students' rights, disciplinary problems, teachers
Date of Enactment or Last Substantive Amendment: September 21, 2017
Notice of Continuation: July 19, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-8-301 through 305

R277. Education, Administration.
R277-609. Standards for LEA Discipline Plans and Emergency Safety Interventions.
R277-609-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-3-501(1)(b)(v), which requires the Board to establish rules concerning discipline and control;

(d) Section 53E-3-509, which requires the Board to adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction;

(e) Section 53G-8-702, which requires the Board to adopt rules regarding training programs for school principals and school resource officers; and

(f) Section 53G-8-202, which directs local school boards and charter school governing boards to adopt conduct and discipline policies and directs the Board to develop model policies to assist local school boards and charter school governing boards.

(2)(a) The purpose of this rule is to outline requirements for school discipline plans and policies.

(b) An LEA's written policies shall include provisions to develop, implement, and monitor the policies for the use of emergency safety interventions in all schools and for all students within each LEA's jurisdiction.

R277-609-2. Definitions.

(1) "Discipline" includes:

(a) imposed discipline; and

(b) self-discipline.

(2) "Disruptive student behavior" includes:

(a) the grounds for suspension or expulsion described in Section 53G-8-205; and

(b) the conduct described in Subsection 53G-8-209(2)(b).

(3)(a) "Emergency safety intervention" means the use of seclusionary time out or physical restraint when a student presents an immediate danger to self or others.

(b) An "emergency safety intervention" is not for disciplinary purposes.

(4) "Functional Behavior Assessment" or "FBA" means a systematic process of identifying problem behaviors and the events that reliably predict occurrence and non-occurrence of those

behaviors and maintain the behaviors across time.

(5) "Immediate danger" means the imminent danger of physical violence or aggression towards self or others, which is likely to cause serious physical harm.

(6) "Imposed discipline" means a code of conduct prescribed for the highest welfare of the individual and of the society in which the individual lives.

(7) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(8) "Physical restraint" means personal restriction that immobilizes or reduces the ability of an individual to move the individual's arms, legs, body, or head freely.

(9) "Plan" means an LEA and school-wide written model for prevention and intervention addressing student behavior management and discipline procedures for students.

(10) "Program" means an instructional or behavioral program, including a program:

(a) provided by contract private providers under the direct supervision of public school staff;

(b) that receives public funding; or

(c) for which the Board has regulatory authority.

(11) "Policy" means standards and procedures that include:

(a) the provisions of Section 53G-8-202 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that:

(i) defines hazing, bullying, and cyber-bullying;

(ii) prohibits hazing and bullying;

(iii) requires annual discussion and training designed to prevent hazing, bullying, cyber-bullying, discipline, and emergency safety interventions, among school employees and students; and

(iv) provides for enforcement through employment action or student discipline.

(12) "Qualifying minor" means a school-age minor who:

(a) is at least nine years old; or

(b) turns nine years old at any time during the school year.

(13) "Restorative justice program" means the same as that term is defined in Section 53G-8-211.

(14) "School" means any public elementary or secondary school or charter school.

(15) "School board" means:

(a) a local school board; or

(b) a local charter board.

(16) "School employee" means:

(a) a school teacher;

(b) a school staff member;

(c) a school administrator; or

(d) any other person employed, directly or indirectly, by an LEA.

(17) "Seclusionary time out" means that a student is:

(a) placed in a safe enclosed area by school personnel in accordance with the requirements of Rules R392-200 and R710-4;

(b) purposefully isolated from adults and peers; and

(c) prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.

(18) "Section 504 accommodation plan," required by Section 504 of the Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

(19) "Self-Discipline" means a personal system of organized behavior designed to promote self-interest while contributing to the welfare of others.

(20) "Student with a qualifying offense" means a qualifying minor who committed an alleged class C misdemeanor, infraction, status offense on school property, or truancy.

R277-609-3. Incorporation of Least Restricted Behavioral Interventions (LRBI) Technical Assistance Manual by Reference.

(1) This rule incorporates by reference the LRBI Technical Assistance Manual, dated September 2015, which provides guidance and information in creating successful behavioral systems and supports within Utah's public schools that:

(a) promote positive behaviors while preventing negative or risky behaviors; and

(b) create a safe learning environment that enhances all student outcomes.

(2) A copy of the manual is located at:

(a) https://www.schools.utah.gov/file/d6715b0b-9125-4132-86d3-179d8629a895; and

(b) the Utah State Board of Education.

R277-609-4. LEA Responsibility to Develop Plans.

(1) An LEA or school shall develop and implement a board approved comprehensive LEA plan or policy for student and classroom management, and school discipline.

(2) An LEA shall include administration, instruction and support staff, students, parents, community council, and other community members in policy development, training, and prevention implementation so as to create a community sense of participation, ownership, support, and responsibility.

(3) A plan described in Subsection (1) shall include:

(a) the definitions of Section 53G-8-210;

(b) written standards for student behavior expectations,

including school and classroom management;

(c) effective instructional practices for teaching student expectations, including:

(i) self-discipline;

(ii) citizenship;

(iii) civic skills; and

(iv) social skills;

(d) systematic methods for reinforcement of expected behaviors;

(e) uniform and equitable methods for correction of student behavior;

(f) uniform and equitable methods for at least annual school level data-based evaluations of efficiency and effectiveness;

(g) an ongoing staff development program related to development of:

(i) student behavior expectations;

(ii) effective instructional practices for teaching and reinforcing behavior expectations;

(iii) effective intervention strategies; and

(iv) effective strategies for evaluation of the efficiency and effectiveness of interventions;

(h) procedures for ongoing training of appropriate school personnel in:

(i) crisis intervention training;

(ii) emergency safety intervention professional development; and

(iii) LEA policies related to emergency safety interventions consistent with evidence-based practice;

(i) policies and procedures relating to the use and abuse of alcohol and controlled substances by students;

(j) policies and procedures, consistent with requirements of Rule R277-613, related to:

(i) bullying;

(ii) cyber-bullying;

(iv) hazing; and

(v) retaliation;

(k) policies and procedures for the use of emergency safety interventions for all students consistent with evidence-based practices including prohibition of:

(i) physical restraint, subject to the requirements of Section R277-609-5, except when the physical restraint is allowed as described in Subsection 53G-8-302(2);

(ii) prone, or face-down, physical restraint;

(iii) supine, or face-up, physical restraint;

(iv) physical restraint that obstructs the airway of a student or adversely affects a student's primary mode of communication;

(v) mechanical restraint, except:

(A) protective or stabilizing restraints;

(B) restraints required by law, including seatbelts or any other safety equipment when used to secure students during transportation; and

(C) any device used by a law enforcement officer in carrying out law enforcement duties;

(vi) chemical restraint, except as:

(A) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under State law, for the standard treatment of a student's medical or psychiatric condition; and

(B) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under state law;

(vii) seclusionary time out, subject to the requirements of Section R277-609-5, except when a student presents an immediate danger of serious physical harm to self or others; and

(viii) for a student with a disability, emergency safety interventions written into a student's IEP, as a planned intervention, unless:

(A) school personnel, the family, and the IEP team agree less restrictive means which meet circumstances described in Section R277-608-5 have been attempted;

(B) a FBA has been conducted; and

(C) a positive behavior intervention plan based on data analysis has been written into the plan and implemented.

(l) direction for dealing with bullying and disruptive students;

(m) direction for schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address student behavior, including students who engage in disruptive student behaviors as described in Section 53G-8-210;

(n) identification, by position, of an individual designated to issue notices of disruptive and bullying student behavior;

(o) identification of individuals who shall receive notices of disruptive and bullying student behavior;

(p) a requirement to provide for documentation of an alleged class B misdemeanor or a nonperson class A misdemeanor prior to referral of students with an alleged class B misdemeanor or a nonperson class A misdemeanor to juvenile court;

(q) strategies to provide for necessary adult supervision;

(R) a requirement that policies be clearly written and consistently enforced;

(s) notice to employees that violation of this rule may result in employee discipline or action;

(t) gang prevention and intervention policies in accordance with Subsection 53E-3-509(1);

(u) provisions that account for an individual LEA's or school's unique needs or circumstances, including:

(i) the role of law enforcement;

(ii) emergency medical services; and

(iii) a provision for publication of notice to parents and school employees of policies by reasonable means; and

(iv) a plan for referral for a student with a qualifying office to alternative school-related interventions, including:

(A) a mobile crisis outreach team, as defined in Section 78A-6-105;

(B) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104;

(C) a youth court; or

(v) a comparable restorative justice program.

(4) A plan described in Subsection (1) may include:

(a) the provisions of Subsection 53E-3-509(2); and

(b) a plan for training administrators and school resource officers in accordance with Section 53G-8-702.

R277-609-5. Physical Restraint and Seclusionary Time Out.

(1) When used consistently with an LEA plan under Subsection R277-609-4(1);

(a) a physical restraint must be immediately terminated when:

(i) a student is no longer an immediate danger to self or others; or

(ii) a student is in severe distress; and

(b) the use of physical restraint shall be for the minimum time necessary to ensure safety and a release criteria, as outlined in LEA policies, must be implemented.

(2) If a public education employee physically restrains a student, the school or the public education employee shall immediately notify:

(a) the student's parent or guardian; and

(b) school administration.

(3) A public education employee may not use physical restraint on a student for more than 30 minutes.

(4) In addition to the notice described in Subsection (2), if a public education employee physically restrains a student for more than fifteen minutes, the school or the public education employee shall immediately notify:

(a) the student's parent or guardian; and

(b) school administration.

(5) An LEA may not use physical restraint as a means of discipline or punishment.

(6) If a public education employee uses seclusionary time out, the public education employee shall:

(a) use the minimum time necessary to ensure safety;

(b) use release criteria as outlined in LEA policies;

(c) ensure that any door remains unlocked;

(d) maintain the student within line of sight of the public education employee;

(e) use the seclusionary time out consistent with the LEA's plan described in Section R277-609-4; and

(f) ensure that the enclosed area meets the fire and public safety requirements described in R392-200 and R710-4.

(7) If a student is placed in seclusionary time out, the school or the public education employee shall immediately notify:

(a) the student's parent or guardian; and

(b) school administration.

(8) A public education employee may not place a student in a seclusionary time out for more than 30 minutes.

(9) In addition to the notice described in Subsection (7), if a public education employee places a student in seclusionary time out for more than fifteen minutes, the school or the public education employee shall immediately notify:

(a) the student's parent or guardian; and

(b) school administration.

(10) Seclusionary time out may only be used for maintaining safety.

(11) A public education employee may not use seclusionary time out as a means of discipline or punishment.

R277-609-6. Implementation.

(1) An LEA shall implement strategies and policies consistent with the LEA's plan required in Section R277-609-4.

(2) An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs prior to administrative referral.

(3) An LEA shall implement positive behavior interventions and supports as part of the LEA's continuum of behavior interventions strategies.

(4) Nothing in state law or this rule restricts an LEA from implementing policies to allow for suspension of students of any age consistent with due process requirements and consistent with all requirements of the Individuals with Disabilities Education Act 2004.

R277-609-7. LEA Emergency Safety Intervention (ESI Committees.

(1) An LEA shall establish an Emergency Safety Intervention (ESI) Committee before September 1, 2015.

(2) The LEA ESI Committee:

(a) shall include:

(i) at least two administrators;

(ii) at least one parent or guardian of a student enrolled in the LEA, appointed by the LEA; and

(iii) at least two certified educational professionals with behavior training and knowledge in both state rules and LEA discipline policies;

(b) shall meet often enough to monitor the use of emergency safety intervention in the LEA;

(c) shall determine and recommend professional development needs; and

(d) shall develop policies for local dispute resolution processes to address concerns regarding disciplinary actions.

R277-609-8. LEA Reporting.

(1) An LEA shall have procedures for the collection, maintenance, and periodic review of documentation or records of the use of emergency safety interventions at schools within the LEA.

(2) The Superintendent shall define the procedures for the collection, maintenance, and review of records described in Subsection (1).

(3) An LEA shall provide documentation of any school, program or LEA's use of emergency safety interventions to the Superintendent annually.

(4)(a) An LEA shall submit all required UTREx discipline incident data elements to the Superintendent no later than June 30, 2018.

(b) Beginning in the 2018-19 school year, an LEA shall submit all required UTREx discipline incident data elements as part of the LEA's daily UTREx submission.

R277-609-9. Special Education Exception(s) to this Rule.

(1) An LEA shall have in place, as part of its LEA special education policies, procedures, or practices, criteria and steps for using emergency safety interventions consistent with state and federal law.

(2) The Superintendent shall periodically review:

(a) all LEA special education behavior intervention plans, procedures, or manuals; and

(b) emergency safety intervention data as related to IDEA eligible students in accordance with Utah's Program Improvement and Planning System.

R277-609-10. Parent/Guardian Notification and Court Referral.

(1) LEA policies shall provide procedures for qualifying minors and their parents to participate in decisions regarding consequences for disruptive student behavior.

(2) An LEA shall establish policies that:

(a) provide notice to parents and information about resources available to assist a parent in resolving the parent's school-age minors' disruptive behavior;

(b) provide for notices of disruptive behavior to be issued by schools to qualifying minors and parents consistent with:

(i) numbers of disruptions and timelines in accordance with Section 53G-8-210;

(ii) school resources available;

(iii) cooperation from the appropriate juvenile court in accessing student school records, including:

(A) attendance;

(B) grades;

(C) behavioral reports; and

(D) other available student school data; and

(iv) provide due process procedures for minors and parents to contest allegations and citations of disruptive student behavior.

(3)(a) When a crisis situation occurs that requires the use of an emergency safety intervention to protect the student or others from harm, a school shall notify the LEA and the student's parent or guardian as soon as possible and no later than the end of the school day.

(b) In addition to the notice described in Subsection (3)(a), if a crisis situation occurs for more than fifteen minutes, the school shall immediately notify:

(i) the student's parent or guardian; and

(ii) school administration.

(d) A notice described in Subsection (3)(a) shall be documented within student information systems (SIS) records.

(4)(a) A school shall provide a parent or guardian with a copy of any notes or additional documentation taken during a crisis situation upon request of the parent or guardian.

(b) Within 24 hours of a crisis situation, a school shall notify a parent or guardian that the parent or guardian may request a copy of any notes or additional documentation taken during a crisis situation.

(c) A parent or guardian may request a time to meet with school staff and administration to discuss a crisis situation.

R277-609-11. Model Policies.

(1) The Superintendent shall develop, review regularly, and

provide to LEA boards model policies to address disruptive student behavior and appropriate consequences.

(2) The Superintendent shall provide technical assistance to LEAs in developing and implementing policies and training employees in the appropriate use of physical force and emergency safety interventions to the extent of resources available.

R277-609-12. LEA Compliance.

If an LEA fails to comply with this rule, the Superintendent may withhold funds in accordance with Rule R277-114 or impose any other sanction authorized by law.

KEY: disciplinary actions, disruptive students, emergency safety interventions
Date of Enactment or Last Substantive Amendment: May 8, 2018
Notice of Continuation: October 14, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(b)(v); 53E-3-509; 53G-8-202; 53G-8-702

R277. Education, Administration.
R277-610. Released-Time Classes and Public Schools.
R277-610-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-501 which directs the Board to adopt minimum standards for public schools; and

(c) Subsection 53E-3-401(4) which permits the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to specify standards and procedures for public schools regarding released-time classes.

R277-610-2. Definitions.

(1) "Non-entangling criteria" means neutral course instruction and standards that:

(a) are academic as opposed to devotional;

(b) promote awareness as opposed to acceptance of any religion;

(c) expose to as opposed to imposing a particular view;

(d) educate about religion; and

(e) inform but not seek to make students conform to any religion.

(2) "Released-time" means a period of time during the regular school day when a student attending a public school is excused from the school at the request of the student's parent.

R277-610-3. Interaction Between Public Schools and Released-Time Classes.

(1) A student may attend released-time classes during the regular school day only upon the written request of the student's parent or legal guardian.

(2) A public school may not maintain records of attendance for released-time classes or use school personnel or school resources to regulate such attendance.

(3)(a) A teacher of a released-time class is not a member of the public school faculty.

(b) A released-time teacher may participate in school activities as a community member.

(4) A public school teacher, administrator, or other official may not request teachers of released-time classes to exercise functions or assume responsibilities for the public school program which would result in a commingling of the activities of the school and the released-time class sponsor.

(5)(a) A public school class schedule or course catalog may not include a released-time class by name.

(b) At the convenience of the school, a registration form may contain a space for a released-time designation.

(6) A public school publication may not include pictures, reports, or records of released-time classes.

(7) Public school personnel may not participate in released-time classes during work hours.

(8) A released-time class may not use school resources or equipment.

R277-610-4. Additional Conditions for Religious Released-Time Programs.

(1) A religious class may not be held in school buildings or on school property in any way that permits public money or property to be applied to, or that requires public employees to become entangled with, any religious worship, exercise, or instruction.

(2) Religious released-time scheduling shall take place on forms and supplies furnished by the religious institution and by personnel employed or engaged by the institution and shall occur off public school premises.

(3)(a) A public school may not connect bells, telephones, computers or other devices between public school buildings and institutions offering religious instruction, except as a convenience to the public school in the operation of its own programs.

(b) When any connection of devices is permitted, the costs shall be borne by the respective institutions.

(4) Records of attendance at religious released-time classes, grades, marks, or other data may not be included in the correspondence or reports made by a public school to parents.

(5)(a) Institutions offering religious instruction are private programs or schools separate and apart from the public schools.

(b) Those relationships that are legitimately exercised between the public school and any private school are appropriate with institutions offering released-time classes, so long as public property, public funds, or other public resources are not used to aid such institutions.

(6) A public school may grant elective credit for religious released-time classes if the public school establishes neutral, non-entangling criteria with which to evaluate the released-time courses.

KEY: released-time classes
Date of Enactment or Last Substantive Amendment: April 9, 2018
Notice of Continuation: February 26, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401; 53E-3-501

R277. Education, Administration.
R277-611. Certified Volunteer Instructors and Material Approval Requirements and Process for Firearm Safety in the Public Schools.
R277-611-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-6-201, which creates a Firearms Safety and Violence Prevention Pilot Program for implementation in the public schools.

(2) The purpose of this rule is to:

(a) provide a definition of certified volunteer for purposes of providing firearm safety training in a public school;

(b) direct LEAs to designate public school areas that may be used for firearm safety training for adults or students or both; and

(c) provide for voluntary firearm safety training of public school district employees or school community members or both on public school property at times determined by the local school board or local governing board.

R277-611-2. Definitions.

(1) "Certified volunteer" means an individual who:

(a) volunteers to teach an LEA employee or student in a public school about firearm safety; and

(b) is certified as required by Section R277-611-3.

(2) "Public school classroom or auditorium" means a classroom or auditorium in a public school:

(a) identified as available and appropriate; and

(b) designated by an LEA, superintendent, or director as available for firearm safety instruction.

R277-611-3. Firearm Safety and Violence Prevention Pilot Program.

(1) A local school board or charter school governing board may choose to participate in a pilot program established in accordance with the standards and limitations set forth in Section 53F-6-201.

(2) An LEA may designate anyone identified in Subsection 53F-6-201(5)(b)(ii) to provide instruction under a pilot program approved in accordance with Subsection (1).

(3)(a) A "certified firearms safety instructor" as identified in Subsection 53F-6-201(5)(b)(ii)(D) means a volunteer who is certified by the Utah Bureau of Criminal Identification to

teach firearm safety on public school property consistent with LEA policy and direction.

(b) A list of certified firearms instructors by county is available through the Utah Department of Public Safety.

(4) A certified volunteer shall provide documentation of required training to the designated school administrator prior to the advertisement or notice of available training.

(5) In addition to obtaining certification through the Bureau of Criminal Identification, prior to volunteering in the pilot program identified in Section 53F-6-201, a certified firearms safety instructor shall:

(a) complete a fingerprint background check and submit to ongoing monitoring consistent with the requirements of Title 53G, Chapter 11, Part 4, Background Checks; and

(b) have the background check reviewed by an LEA administrator prior to instructing a public school age student.

R277-611-4. Voluntary Training of Adults and Public Education Employees on Public School Property.

(1) An LEA may allow a community group to use public school property for voluntary firearm safety training for a public school employee or interested community member under conditions used to approve public school buildings for non-curriculum uses.

(2) An LEA shall give the greatest consideration to availability of space and the safety of school age children and school employees in the approval of a request to use public education property for voluntary firearm safety training and instruction.

(3) Live ammunition may not be brought on public school property as a part of firearm safety instruction under this R277-611-4.

R277-611-5. Use of Public School Property for Firearm Safety Instruction.

(1) An LEA may designate which classroom or auditorium or other appropriate public school area may be used for firearm safety instruction.

(2) An LEA shall give first priority to curriculum-related groups in allowing firearm safety instruction to be held on public school property.

(3) An LEA shall give the safety of all students and community patrons the greatest consideration in allowing for firearm safety instruction or training on public school property.

(4) If appropriate or necessary, at the LEA's discretion, the LEA may post notice in and around a public school area designated for firearm instruction and training.

KEY: firearms, instruction
Date of Enactment or Last Substantive Amendment: November 7, 2016
Notice of Continuation: October 15, 2015
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53F-6-201; 53E-3-401(4)

R277. Education, Administration.
R277-612. Foreign Exchange Students.
R277-612-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53F-2-303(3)(b), which directs the Board to make rules to administer the cap on the number of foreign exchange students for purposes of apportioning state monies for the students; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) administer the cap on the number of foreign exchange students that may be counted by school districts and charter schools for state funding; and

(b) provide guidance to school districts and charter schools in working with exchange student agencies and accepting foreign exchange students to provide for safety and fairness to the exchange students and Utah public school students.

R277-612-2. Definitions.

(1) "Foreign exchange student" means a student sponsored by an agency approved by an LEA governing board, subject to the limitations of Subsection 53F-2-303(3).

R277-612-3. Foreign Exchange Student Cap.

(1) The Superintendent shall allocate funds to an LEA from a specific legislative appropriation designated annually to pay the costs of educating foreign exchange students who meet all criteria of the law.

(2) School districts and charter schools are encouraged to enroll foreign exchange students and report those enrollment numbers annually to the Superintendent in the October 1 Superintendents' Report.

(3) School districts and charter schools shall include in their report to the Superintendent only foreign exchange students that satisfy all requirements of Subsection 53G-6-707(7) and LEA policies.

(4) An LEA may enroll foreign exchange students who do not qualify for state monies and:

(a) pay the costs of the student with other LEA funds; or

(b) charge the student tuition.

(5) Nothing in this section shall prevent an LEA from enrolling a foreign exchange student in accordance with Subsection

53G-6-707(2).

R277-612-4. LEA Policy for Working with Foreign Exchange Student Agencies and Protecting Students.

(1) An LEA that enrolls foreign exchange students shall have a policy that includes:

(a) adherence to the requirements of Subsection 53G-6-707(7); and

(b) provisions which create a safe environment for foreign exchange students and school district/charter school students.

(2) Prior to accepting students through a foreign exchange student agency, each LEA shall require and maintain a sworn affidavit of compliance.

(3) A sworn affidavit of compliance shall include confirmation that the agency:

(a) is in compliance with all applicable policies of the LEA governing board;

(b) has completed a household study, including a background check consistent with Section 53G-6-707, of all adult residents of each household where foreign exchange students will reside;

(c) has reviewed the information revealed through the background checks required by Subsection (b) with an appropriate LEA official;

(d) has completed a background study to assure that the exchange student will receive proper care and supervision in a safe environment;

(e) has provided host parents with training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(10) for persons who are in a position of special trust;

(f) will send a representative to visit each student's place of residence at least monthly during the student's stay in Utah;

(g) will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;

(h) will give each exchange student names and telephone numbers of agency representatives and others who could be called at any time if a serious problem occurs, in the exchange student's native language; and

(i) will provide alternate placements so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.

(4) An LEA that accepts foreign exchange students shall provide each approved foreign exchange student agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.

(5) A foreign exchange student agency shall provide a copy of a list in the student's native language provided by an LEA in accordance with Subsection (4) to each foreign exchange student.

KEY: foreign exchange students, enrollment
Date of Enactment or Last Substantive Amendment: May 10, 2017
Notice of Continuation: March 15, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-2-303(3); 53E-3-401(4)

R277. Education, Administration.
R277-613. LEA Disruptive Student Behavior, Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct Policies and Training.
R277-613-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Subsection 53E-3-401(4)(a), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law

(2) The purpose of the rule is to:

(a) require LEAs to develop, update, and implement bullying, cyber-bullying, hazing, retaliation, and abusive conduct policies at the school district and school level;

(b) provide for regular and meaningful training of school employees and students;

(c) provide for enforcement of the policies in schools, at the state level and in public school athletic programs; and

(d) require an LEA to review allegations of bullying, cyber-bullying, hazing, retaliation, and abusive conduct.

R277-613-2. Definitions.

(1) "Abusive conduct" means the same as that term is defined in Subsection 53G-9-601(1).

(2)(a) "Bullying" means the same as that term is defined in Subsection 53G-9-601(2).

(b) "Bullying" includes relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation.

(c) The conduct described in Subsection 53G-9-601(2) constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

(3) "Civil rights violation" means bullying, cyber-bullying, harassment, or hazing that is targeted at a student based upon the students' or employees' identification as part of any group protected from discrimination under the following federal laws:

(a) Title VI of the Civil Rights Act of 1964;

(b) Title IX of the Education Amendments of 1972; or

(c) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990.

(4) "Cyber-bullying" means the same as that term is defined in Subsection 53G-9-601(4).

(5) "Disruptive student behavior" means the same as that

term is defined in Subsection 53G-8-210(1)(a).

(6) "Hazing" means the same as that term is defined in Subsection 53G-9-601(5).

(7) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(8) "Participant" means any student, employee or volunteer coach participating in a public school sponsored athletic program or activity, including a curricular, co-curricular, or extracurricular club or activity.

(9) "Policy" means standards and procedures that:

(a) are required in Section 53G-9-605;

(b) include the provisions of Section 53G-8-202; and

(c) provide additional standards, procedures, and training adopted in an open meeting by an LEA board that:

(i) define bullying, cyber-bullying, hazing, retaliation, and abusive conduct;

(ii) prohibit bullying, cyber-bullying, hazing, retaliation, and abusive conduct;

(iii) require regular annual discussion and training designed to prevent bullying, cyber-bullying, hazing, and retaliation among school employees and students; and

(iv) provide for enforcement through employment action or student discipline.

(10) "Restorative justice practice" means a discipline practice that brings together students, school personnel, families, and community members to resolve conflicts, address disruptive behaviors, promote positive relationships, and healing.

(11) "Retaliate" or "retaliation" means the same as that term is defined in Subsection 53G-9-601(7).

(12) "School employee" means the same as that term is defined in Subsection 53G-9-601(10).

(13) "Trauma-Informed Care" means a strengths-based service delivery approach that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both the alleged victim and the individual who is alleged to have engaged in prohibited conduct, and that creates opportunities for targets to rebuild a sense of control and empowerment.

R277-613-3. Superintendent Responsibilities.

(1) Subject to availability of funds, the Superintendent shall provide:

(a) a model policy on bullying, cyber-bullying, hazing, and retaliation as required in Section 53G-9-606;

(b) model training and training opportunities on:

(i) the prevention and identification of bullying, cyber-bullying, hazing, and retaliation, that an LEA may use to train

the LEA's employees, contract employees, and volunteers, including coaches; and

(ii) the reporting and review requirements in Section R277-613-5;

(c) evidence based practices and policies related to the prevention of bullying, cyber-bullying, hazing, and retaliation.

(2) Although an LEA is required to have a policy on bullying, cyber-bullying, hazing, retaliation and abusive conduct as described in Section 53G-9-605 and this rule and provide training as described in Section 53G-9-607 and this rule, the LEA is not required to use the model policy or model training developed by the Superintendent described in Subsection (1).

(3) The Board may interrupt disbursements of funds consistent with Subsection 53E-3-401(8) and Rule R277-114 for failure of an LEA to comply with:

(a) Title 53G, Chapter 9, Bulling and Hazing; and

(b) this rule.

(4) In addition to the requirements of Title 53G, Chapter 9, Bullying and Hazing and this R277-613, LEAs are required to comply with applicable federal requirements.

R277-613-4. LEA Responsibility to Create or Update Bullying Policies.

(1) In addition to the requirements of Subsection 53G-9-605(3), an LEA shall:

(a) develop, update, and implement policies as required by Section 53G-9-605 and this rule, which shall include a prohibition on:

(i) bullying;

(ii) cyber-bullying;

(iii) hazing;

(iv) retaliation; and

(v) making a false report.

(b) post a copy of the LEA's policy on the LEA website;

(c) develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation; and

(d) provide a requirement for a signed statement that meets the requirements of Subsection 53G-9-605(3)(h) annually.

(2)(a) As required by Section 53G-9-605, an LEA shall notify a parent of:

(i) a parent's student's threat to commit suicide; or

(ii) an incident of bullying, cyber-bullying, hazing, or retaliation involving the parent's student as a victim or an individual who is alleged to have engaged in prohibited conduct.

(b) An LEA shall:

(i) notify a parent described in Subsection (2)(a) in a timely manner;

(ii) designate the appropriate school employee to provide parental notification; and

(iii) designate the format in which notification is provided to parents and maintained by the LEA.

(3) Subject to the parental consent requirements of Section 53E-9-203, if applicable, an LEA shall assess students about the prevalence of bullying, cyber-bullying, hazing, and retaliation in LEAs and schools, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas.

(4) An LEA shall take strong responsive action against retaliation, including assistance to victims and their parents in reporting subsequent problems and new incidents.

(5)(a) An LEA shall provide that students, school employees, coaches, and volunteers receive training on bullying, cyber-bullying, hazing, and retaliation, from individuals qualified to provide such training.

(b) The training described in Subsection (5)(a) shall:

(i) include information on various types of aggression and bullying, including:

(A) overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;

(B) relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;

(C) sexual aggression or acts of a sexual nature or with sexual overtones;

(D) cyber-bullying, including use of email, web pages, text messaging, instant messaging, social media, three-way calling or messaging or any other electronic means for aggression inside or outside of school;

(E) bullying, cyber-bullying, hazing and retaliation based upon the students' or employees' identification as part of any group protected from discrimination under the following federal laws:

(i) Title VI of the Civil Rights Act of 1964, including discrimination on the basis of race, color, or national origin;

(ii) Title IX of the Education Amendments of 1972, including discrimination on the basis of sex; or

(iii) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, including discrimination on the basis of disability; and

(F) bullying, cyber-bullying, hazing, and retaliation based upon the students' or employees' actual or perceived characteristics, including race, color, national origin, sex,

disability, religion, gender identity, sexual orientation, or other physical or mental attributes or conformance or failure to conform with stereotypes;

(ii) complement the suicide prevention program required for students under Rule R277-620 and the suicide prevention training required for licensed educators consistent with Subsection 53G-9-704(1); and

(iii) include information on when issues relating to this rule may lead to student or employee discipline.

(6) The training described in Subsection (5) shall be offered to:

(a) new school employees, coaches, and volunteers; and

(b) all school employees, coaches, and volunteers at least once every three years.

(7)(a) An LEA's policies developed under this section shall complement existing school policies and research based school discipline plans.

(b) Consistent with Rule R277-609, the discipline plan shall provide direction for dealing with bullying, cyber-bullying, hazing, retaliation and disruptive students.

(c) An LEA shall ensure that a discipline plan required by Rule R277-609:

(i) directs schools to determine the range of behaviors and establish the continuum of administrative procedures to be used by school personnel to address the behavior of students;

(ii) provides for identification, by position, of individuals designated to issue notices of disruptive student behavior, bullying, cyber-bullying, hazing, and retaliation;

(iii) designates to whom notices shall be provided;

(iv) provides for documentation of disruptive student behavior in the LEA's student information system;

(v) includes strategies to provide for necessary adult supervision;

(vi) is clearly written and consistently enforced; and

(vii) includes administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility.

R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, and Retaliation.

(1) In accordance with an action plan adopted in accordance with Subsection R277-613-4(1)(c), an LEA shall:

(a) investigate allegations of incidents of bullying, cyber-bullying, hazing, and retaliation in accordance with this section; and

(b) provide an individual who investigates allegations of incidents of bullying, cyber-bullying, hazing, and retaliation with adequate training on conducting an investigation.

(2)(a) An LEA shall investigate allegations of incidents described in Subsection (1)(a) by interviewing at least the alleged victim and the individual who is alleged to have engaged in prohibited conduct.

(b) An LEA may also interview the following as part of an investigation:

(i) parents of the alleged victim and the individual who is alleged to have engaged in prohibited conduct;

(ii) any witnesses;

(iii) school staff; and

(iv) other individuals who may provide additional information.

(c) An individual who investigates an allegation of an incident shall inform an individual being interviewed that:

(i) to the extent allowed by law, the individual is required to keep all details of the interview confidential; and

(ii) further reports of bullying will become part of the review.

(3) The confidentiality requirement in Subsection (2)(c) does not apply to:

(a) conversations with law enforcement professionals;

(b) requests for information pursuant to a warrant or subpoena;

(c) a state or federal reporting requirement; or

(d) other reporting required by this rule.

(4) In conducting an investigation under this section, an LEA may:

(a) review disciplinary reports of involved students; and

(b) review physical evidence, consistent with search and seizure law in schools, which may include:

(i) video or audio;

(ii) notes;

(iii) email;

(iv) text messages;

(v) social media; or

(vi) graffiti.

(5) An LEA shall adopt a policy outlining under what circumstances the LEA will report incidents of bullying, cyber-bullying, harassment, and retaliation to law enforcement.

(6) Following an investigation of a confirmed allegation of an incident of bullying, cyber-bullying, hazing, or retaliation, if appropriate, an LEA may:

(a) in accordance with the requirements in Subsection (6), take positive restorative justice practice action, in accordance

with policies established by the LEA; and

(b) support involved students through trauma-informed practices, if appropriate.

(6)(a) An alleged victim is not required to participate in a restorative justice practice with an individual who is alleged to have engaged in prohibited conduct as described in Subsection (5)(a).

(b) If an LEA would like an alleged victim who is a student to participate in a restorative justice practice, the LEA shall notify the alleged victim's parent of the restorative justice practice and obtain consent from the alleged victim's parent before including the alleged victim in the process.

(7) A grievance process required under Subsection 53G-9-605(3)(f) shall be consistent with the LEA's established grievance process.

(8) An LEA shall, as required by Subsection 53G-9-606(2), report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:

(a) a copy of LEA's policy required in Section R277-613-4;

(b) implementation of the signed statement requirement described in Subsection 53G-9-605(3)(h);

(c) verification of the LEA's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607;

(d) incidents of bullying, cyber-bullying, hazing, and retaliation;

(e) the number of incidents described in Subsection (8)(d) required to be reported separately under federal law, including the reporting requirements in:

(i) Title VI of the Civil Rights Act of 1964;

(ii) Title IX of the Education Amendments of 1972; or

(iii) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990; and

(f) the number of incidents described in Subsection (8)(d) that include a student who was bullied, cyber-bullied, hazed, or retaliated against based on the student's actual or perceived characteristics, including disability, race, national origin, religion, sex, gender identity, or sexual orientation.

(9) The requirements of this R277-613 are in addition to any federal requirements, including reporting civil rights violations to the appropriate entities and taking other appropriate action.

R277-613-6. Training by LEAs Specific to Participants in Public School Athletic Programs and School Clubs.

(1)(a) Prior to any student, employee or volunteer coach participating in a public school sponsored athletic program, both

curricular and extracurricular, or extracurricular club or activity, the student, employee or coach shall participate in bullying, cyber-bullying, hazing, and retaliation prevention training.

(b) A training described in Subsection (1)(a) shall be offered to new participants on an annual basis and to all participants at least once every three years.

(2) An LEA shall inform student athletes and extracurricular club members of prohibited activities under this rule and potential consequences for violation of the law and the rule.

(3) An LEA shall maintain training participant lists or signatures, to be provided to the Board upon request.

R277-613-7. Abusive Conduct.

(1) An LEA shall prohibit abusive conduct.

(2) An LEA's bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy, required in Section 53A-11a-301 and this rule, shall include a grievance process for a school employee who has experienced abusive conduct as described in Subsection 53G-9-605(3)(f).

KEY: abusive conduct, bullying, harassment, hazing, training
Date of Enactment or Last Substantive Amendment: July 9, 2018
Notice of Continuation: August 2, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G, Chapter 9

R277. Education, Administration.
R277-614. Athletes and Students with Head Injuries.
R277-614-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution X, Section 3, which vests general control and supervision in the Board; and

(b) Section 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to direct LEAs under the general control and supervision of the Utah State Board of Education to adopt and enforce a head injury policy for students participating in physical education and extracurricular sporting events.

R277-614-2. Definitions.

(1) "Agent" has the same meaning as described in Subsection 26-53-102(1).

(2) "Free play" means unstructured student play, games and field days during school hours.

(3) "LEA" includes for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(4) "Parent" means a parent or legal guardian of a student for whom an LEA is responsible.

(5) "Physical education class" means a structured school class that includes an adult supervisor.

(6) "Sporting event" has the same meaning as described in Subsection 26-53-102(5).

(7) "Traumatic head injury" has the same meaning as described in Subsection 26-53-102(6).

R277-614-3. Superintendent Responsibilities.

(1) The Superintendent shall, in consultation with Utah State Risk Management, provide a model policy for LEAs to use in developing the policy required in Section R277-614-4.

(2) The Superintendent shall provide model forms for LEAs to use to inform parents of LEA policies and obtain parent signatures documenting the parents' understanding of and willingness to adhere to LEA policies.

(3) The Superintendent shall provide professional development, as needed and to the extent of funds available, to assist LEAs with training to:

(a) identify students' traumatic head injuries;

(b) provide notice to parents; and

(c) comply with the law.

(4) The Superintendent shall make the resources required by this Section R277-614-3 available on the Board website.

R277-614-4. LEA Responsibilities.

(1) An LEA shall comply with Title 26, Chapter 53, Protection of Athletes with Head Injuries Act, including all responsibilities of an amateur sports organization.

(2) All LEAs shall adopt and maintain a traumatic head injury policy for students:

(a) participating in physical education classes, excluding free play, offered by the LEA; and

(b) participating in extracurricular activities sponsored by the LEA or statewide athletic associations.

(3) An LEA's policy shall include:

(a) direction to agents to remove a student from a sporting event if the student is suspected of sustaining a concussion or a traumatic head injury;

(b) the prohibition of the continued participation of a student removed under Subsection (3)(a) until the student is evaluated by a trained qualified health care professional;

(c) a written statement from a trained health care provider clearing a student removed under Subsection (3)(a) to resume participation in a sporting event;

(d) adequate training for agents, consistent with their involvement and responsibility for supervising students in sporting events and physical education classes, about traumatic head injuries and response to suspected student injuries, consistent with the law; and

(e) a requirement of notice at least annually to parents of students who participate in sporting events, to be acknowledged by a parent in writing, of an LEA's traumatic head injury policy.

(4) An LEA shall post the policy required under Subsection (2) on the LEA's website where the information will be readily accessible to the public and to parents.

KEY: athletes, head injuries
Date of Enactment or Last Substantive Amendment: July 9, 2018
Notice of Continuation: May 11, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3)

R277. Education, Administration.
R277-615. Standards and Procedures for Student Searches.
R277-615-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Section 53G-8-509, which directs the Board and LEAs to adopt rules to protect students against unreasonable and excessive intrusion of personal rights; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to direct LEAs to adopt policies to protect student rights with procedures and provisions that balance students' rights and privacy with the responsibility of school officials for the safety and protection of students and adults while on school property or at school-sponsored events.

R277-615-2. Definitions.

(1) "Controlled substance" has the same meaning as provided in Subsection 58-37-2(1)(f).

(2)(a) "Law enforcement authorities" means officers working under the direct supervision and in the employment of police or law enforcement, as opposed to under the supervision of an LEA.

(b) Law enforcement authorities have received police officer training and are acting in that capacity.

(3) "LEA," for purposes of this rule, includes the Utah Schools for the Deaf and the Blind.

(4) "Weapon" means any item capable of causing death or serious bodily injury or a facsimile or representation of the item.

R277-615-3. Superintendent Responsibilities.

(1) The Superintendent shall provide consistent definitions for LEAs to include in search and seizure policies.

(2) The Superintendent shall develop a model search and seizure policy as guidance for LEAs.

(3) The Superintendent shall require an assurance from LEAs in the Utah Consolidated Report regarding the student search policy required under Section 53G-8-509.

R277-615-4. LEA Responsibilities.

(1) An LEA shall develop a policy for searching students for controlled substances and weapons.

(2) An LEA shall include appropriate interested parties in the development of student search policies, including:

(a) parents;

(b) school employees; and

(c) licensed school employees.

(3) An LEA policy developed pursuant to Subsection (1) shall ensure protection of individual student rights against excessive and unreasonable intrusion.

(4) An LEA shall make policies available electronically and in and in printed form to parents and students upon enrollment.

(5) An LEA shall provide adequate training to appropriate classes of employees for fair and consistent implementation of student search policies.

KEY: students, searches
Date of Enactment or Last Substantive Amendment: May 10, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-8-509; 53E-3-401(4)

R277. Education, Administration.
R277-616. Education for Homeless and Emancipated Students.
R277-616-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities;

(c) Section 53G-6-202, which requires that minors between the ages of 6 and 18 attend school during the school year;

(d) Subsection 53G-6-302(6), which makes each school district or charter school responsible for providing educational services for all children of school age who reside in the school district or attend the school; and

(e) the McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle B, as amended, 42 U.S.C. 11431 through 11435.

(2) The purpose of this rule is to ensure that homeless children or youth have the opportunity to attend school with as little disruption as reasonably possible.

R277-616-2. Definitions.

(1) "Domicile" means the place which a person considers to be the permanent home, even though temporarily residing elsewhere.

(2) "Emancipated minor" means:

(a) a child under the age of 18 who has become emancipated through marriage or by order of a court consistent with Section 78A-6-801 et seq.; or

(b) a child recommended for school enrollment as an emancipated or independent or homeless child or youth by an authorized representative of the Utah State Department of Social Services.

(3) "Enrolled" for purposes of this rule means a student has the opportunity to attend classes and participate fully in school and extracurricular activities based on academic and citizenship requirements of all students.

(4) "Homeless child" or "homeless youth" means a child who:

(a) lacks a fixed, regular, and adequate nighttime residence;

(b) has primary nighttime residence in a homeless shelter, welfare hotel, motel, congregate shelter, domestic violence shelter, car, abandoned building, bus or train station, trailer park, or camping ground;

(c) sleeps in a public or private place not ordinarily used as a regular sleeping accommodation for human beings;

(d) is, due to loss of housing or economic hardship, or a similar reason, living with relatives or friends usually on a temporary or emergency basis due to lack of housing; or

(e) is a runaway, a child or youth denied housing by his family, or school-age unwed mother living in a home for unwed mothers, who has no other housing available.

(5) "School district of residence for a homeless child or youth" means the school district in which the student or the student's legal guardian or both currently resides or the charter school that the student is attending for the period that the student or student's family satisfies the homeless criteria.

R277-616-3. Criteria for Determining Where a Homeless or Emancipated Student Shall Attend School.

(1) Under the McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle B, as amended, 42 U.S.C. 11431 through 11435, homeless children are entitled to immediate enrollment and full participation even if they are unable to produce records which may include medical records, birth certificates, school records, or proof of residency normally required for enrollment.

(2) A homeless child or homeless youth shall:

(a) be immediately enrolled even if the homeless youth does not have documentation required under Sections 53G-9-402, 302, 303, 304 and Title 53G, Chapter 6, Part 3, District of Residency;

(b) be allowed to continue to attend his school of origin, to the extent feasible, unless it is against the parent's wishes;

(c) be permitted to remain in the student's school of origin for the duration of the homelessness and until the end of any academic year in which the student moves into permanent housing; or

(d) transfer to the school district of residence or charter school if space is available as defined under Subsection R277-616-1I.

(2) A determination of a residence or domicile for a homeless youth or emancipated minor may include consideration of the following criteria:

(a) the place, however temporary, where the child actually sleeps;

(b) the place where an emancipated minor or an unaccompanied youth or accompanied youth's family keeps the family's belongings;

(c) the place which an emancipated minor or an unaccompanied youth or accompanied youth's parent considers to be home; or

(d) such recommendations concerning a child's domicile as made by the State Department of Human Services.

(3) Determination of a residence or domicile for a homeless youth or emancipated minor may not be based upon:

(a) rent or lease receipts for an apartment or home;

(b) the existence or absence of a permanent address; or

(c) a required length of residence in a given location.

(4) If there is a dispute as to the residence or the status

of an emancipated minor or an unaccompanied youth, the issue may be referred to the Superintendent for resolution.

(5) The purpose of federal homeless education legislation is to ensure that a child's education is not needlessly disrupted because of homelessness.

(6) If a child's residence or eligibility is in question, the child shall be admitted to school until the issue is resolved.

R277-616-4. Transfer of Guardianship.

(1) If guardianship of a minor child is awarded to a resident of a school district by action of a court or through appointment by a school district under Section 53G-6-303, the child becomes a resident of the school district in which the guardian resides.

(2) If a child's residence has been established by transfer of legal guardianship, no tuition may be charged by the new school district of residence.

KEY: compulsory education, students' rights
Date of Enactment or Last Substantive Amendment: November 23, 2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-6-302(6); 53G-6-303

R277. Education, Administration.
R277-617. Smart School Technology Program.
R277-617-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests the general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-6-202(8)(d), which directs the Board to make rules specifying procedures and criteria to be used for selecting schools that may participate in the Smart School Technology Program.

(2) The purpose of this rule is to provide criteria and procedures for the Board to select schools to participate in the Smart School Technology Program.

R277-617-2. Definitions.

(1) "Independent Evaluating Committee" means the committee established under Subsection 53F-6-202(5).

(2) "Smart School Technology Program" or "Program" means a three-year program developed by a selected technology provider for a customized whole-school technology deployment plan individualized for each school selected by the Board.

(3) "Technology", means components provided as examples under Subsection 53F-6-202(7) or other components approved by the independent evaluating committee.

R277-617-3. School Selection Criteria.

(1) A public school that includes any combination of grades K-12 shall be eligible for the Program

(2) An applicant school shall provide a technology implementation plan with its application, which shall, at a minimum:

(a) identify technologies that the school will employ;

(b) estimate numbers of technology devices needed based on numbers of students expected to be in the school for identified school years;

(c) provide a supported explanation about how technology will support the improvement of student achievement with respect to the core curriculum;

(d) explain how technology will improve students' skill using technology;

(e) explain what filtering devices or protections will be used by the school to protect students from inappropriate technology use and sites;

(f) agree that the school will provide all data and

information required by the Superintendent for evaluation purposes;

(g) explain the current technology capabilities and equipment available at the applicant school; and

(h) provide additional information requested by the Superintendent on the application.

R277-617-4. Required Matching Funds.

(1) The Superintendent shall provide an application form, which will require specific information about the level or amount of matching funds or resources that the school must provide and when the matching funds must be available.

(2) An application shall explain how the school or LEA will provide matching funds to satisfy the requirement of Subsection 53F-6-202(8)(d)(ii) for matching funds.

(3) An application shall include assurance that a school or LEA will meet the requirement for matching local funds through the duration of the Program or may be obligated to repay the state funds to the Board.

R277-617-5. School Selection and Evaluation.

(1) The Superintendent shall set application and funding deadlines based on funding availability.

(2) The Superintendent shall screen all applications for compliance with all state laws, this Rule R277-617, and application requirements.

(3) The Superintendent shall seek the participation and advice of the independent evaluating committee in selecting final applications to recommend for funding.

(4) The Board shall make final school selections.

(5) To the extent possible, the independent evaluatinf committee recommend schools, which represent geographic, economic and demographic diversity, in addition to other criteria provided in the application.

(6) The Board and the education technology provider shall evaluate the program consistent with Subsection 53F-6-202(9).

KEY: schools, technology
Date of Enactment or Last Substantive Amendment: August 7, 2018
Notice of Continuation: June 7, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F

R277. Education, Administration.
R277-619. Student Leadership Skills Development.
R277-619-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-2-508(4), which directs the Board to make rules for elementary school participation in this pilot grant program.

(2) The purpose of this rule is to provide criteria, procedures and timelines for the Board to designate schools and grant awards to facilitate elementary school participation in the pilot Student Leadership Skills Development program.

R277-619-2. Definitions.

(1) "Matching funds" means an amount of funds or services that shall be provided by an applicant in the Board application to meet the match requirement of Subsection 53F-2-508(5)(a) for first year applicants.

(2) "Student leadership skills development program" or "Program" means a program established in accordance with Section 53F-2-508 to develop students' behaviors and skills vital for learning and career success and that will enhance a school's learning environment.

R277-619-3. School Selection Criteria.

(1) An elementary school that includes any combination of grades K-6 may apply for program funds.

(2) An applicant school shall provide a completed application for its pilot program, which shall:

(a) indicate how the program will develop:

(i) communication skills;

(ii) teamwork skills;

(iii) interpersonal skills;

(iv) initiative and self-motivation;

(v) goal setting skills;

(vi) problem solving skills; and

(vii) creativity;

(b) estimate the number of students that will be served by the program;

(c) agree that the school will provide all data and information required by the Superintendent for evaluation and reporting purposes;

(d) explain how the school will provide matching funds as required under Subsection 53F-2-505(5)(a).

(d) provide additional information requested by the Superintendent on the application including selection criteria and assurances provided in Subsection 53F-2-508(5).

R277-619-4. School Selection and Criteria.

(1) The Superintendent shall set application and funding deadlines based on funding availability.

(2) The Superintendent shall screen all applications for compliance with all state laws, this Rule R277-619, and application requirements.

(3) The Superintendent may seek the participation and advice of an independent evaluating committee in recommending applications for funding.

(4) The Board shall make final school funding selections.

(5) Subject to legislative appropriation, the Board shall determine the final number of schools and amounts per school not to exceed $10,000 per school for first year applicants and $20,000 per school for second year applicants, based on the number and quality of applications.

KEY: students, leadership skills
Date of Enactment or Last Substantive Amendment: August 7, 2018
Notice of Continuation: July 13, 2018
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-401(4); 53F-2-508

R277. Education, Administration.
R277-620. Suicide Prevention Programs.
R277-620-1. Authority and Purpose.

(1) This rule is authorized under:

(a) Utah Constitution Article X Section 3 which vests general control and supervision of public education in the Board; and

(b) Section 53E-3-401(4) which allows the Board to adopt rules in accordance with its responsibilities.

(2) The purposes of this rule are:

(a) to provide for collaboration with the Department of Health and Department of Human Services to establish, oversee, and provide model policies, programs for an LEA and training for parents about youth suicide prevention programs;

(b) to require an LEA to have and update youth protection policies; and

(c) to direct an LEA to send notice to parents and protect the confidentiality of the required parent notification record regarding bullying and suicide incidents.

R277-620-2. Definitions.

(1) "Adverse Childhood Experiences Study" or "ACES" means the study conducted on potentially traumatic events that can have negative, lasting effects on health, learning, and well-being as defined by the American Journal of Preventive Medicine.

(2) "Intervention" means an effort to prevent a student from attempting suicide.

(3) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(4) "Parent notification" means a notice provided by a public school to a students' parent(s) consistent with Section 53G-9-604(2) and 53G-9-605(3)(e).

(5) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(6) "Program for secondary grades" means a youth suicide prevention program for students in grades 7 through 12, including grade 6 if middle or junior high school includes grade 6.

(7) "State suicide prevention coordinator" means the person designated by the Department of Health - State Division of Substance Abuse and Mental Health in Section 62A-15-1101.

(8) "Youth protection and mental health seminar" means a seminar offered for each 11,000 students enrolled in a school district to parents of students consistent with Section 53G-9-702.

R277-620-3. Youth Suicide Prevention Grants - LEA Reporting Requirements.

(1) The Superintendent, in collaboration with the Department

of Health - State Division of Substance Abuse and Mental Health and the State suicide prevention coordinator, shall establish model youth suicide prevention programs for LEAs that include training and resources addressing:

(a) prevention of youth suicides;

(b) standard response protocols that utilize trauma informed practices, which may reference the ACES or other empirical data;

(c) youth suicide intervention; and

(d) postvention for family, students, and faculty.

(2) Based on legislative appropriation, the Board shall distribute funds to LEAs to support suicide prevention efforts in the school district or charter school.

(a) An LEA may use the awarded funds to select and implement:

(i) evidenced-based practices and programs; or

(ii) emerging best practices and programs.

(3) An LEA shall implement youth suicide prevention programs for students in secondary grades, including grades 7 through 12 and grade 6, if grade 6 is part of a secondary grade model.

(4) An LEA's youth suicide prevention program shall include the components provided in Subection 53G-9-702(2).

(5) An LEA shall establish a policy governing the required parent notification outlined in Sections 53G-9-604(2) and 53G-9-605(3)(e) and Subsection R277-613-4.

(6) An LEA shall provide necessary reporting information consistent with Subection 53G-9-702(7) for the Board's report on the coordination of suicide prevention programs and seminar program implementation to the Legislature's Education Interim Committee.

KEY: public schools, suicide prevention programs, parent notifications, seminars
Date of Enactment or Last Substantive Amendment: December 10, 2018
Notice of Continuation: October 5, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(3)

R277. Education, Administration.
R277-621. District of Residence.
R277-621-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53A--2-201, which directs the Board to establish rules for determination of a student's district of residency in accordance with the statute.

(2) The purpose of this rule is to establish the procedure for reviewing a student's request for an alternative district of residency in accordance with Subsections 53A-2-201(2)(b)(iii) and 53A-2-201(2)(b)(iv).

R277-621-2. Definitions.

(1) "Alternative district" or "alternative district of residency" means a district, which may provide educational services, where a student resides:

(a) with a responsible adult, other than a custodial parent or legal guardian; or

(b) in a health care facility or human services program facility.

(2) "Health care facility" means the same as that term is defined in Section 26-21-2.

(3) "Human services program" means the same as that term is defined in Section 62A-2-101.

(4) "Review official" means a district employee designated by the district's superintendent to make an initial determination on a request for an alternative district of residence in accordance with this rule.

R277-621-3. Determination of Alternative District of Residency.

(1) A student's custodial parent or legal guardian may request a determination that the student's district of residency is a district other than where the student's custodial parent or legal guardian resides by filing a written request with an alternative district.

(a) The Superintendent shall provide a model form for use by a district to accept requests under this rule.

(b) A student request shall outline why the student should receive resident services from an alternative district in accordance with the criteria provided in:

(i) Subsection 53A-2-201(2)(b)(iii); or

(ii) Subsection 53A-2-201(2)(b)(iv).

(2) If an alternative district receives a request under Subsection (1), a district review official shall review the request and make a recommendation to the alternative district's local school board or designee on whether the student should be treated as a resident of the alternative district within ten business days.

(3) The student's custodial parent or legal guardian's district of residence is responsible for the student's education services pending a decision by the local school board or designee of an alternative district in accordance with this R277-621-3.

(4) If the local school board or designee of an alternative district approves a request under Subsection (1), the alternative district shall assume responsibility for providing educational services for the student and enroll the student immediately.

(5) The decision of the alternative district's local school board or designee shall be in writing and set forth the reasons for approving or denying the request in accordance with the statutory criteria.

(6)(a) If the alternative district denies a student request, the student may appeal the decision within ten business days to the Superintendent.

(b) The Superintendent shall rule on a request under Subsection (6)(a) within ten business days.

(7) If a request for an alternative district of residence is approved for a student qualifying for services under the IDEA, the alternative district shall conduct an IEP meeting with representation from the alternative district and the former district of residence under Subsection 53A-2-201(2)(a).

R277-621-4. Students at Human Services Program Facilities.

(1) A student approved for an alternative district of residency while attending a private human services program facility shall be entitled to the educational services of the alternative district at the alternative district's educational facilities designated by the alternative district.

(2) An alternative district of residency is not required to provide educational services on site at a private human services program facility, unless the IEP team of the alternative district determines that on site services are required to meet the needs of a student under federal law.

(3) The alternative district is not responsible for a student's required transportation between a health care facility or human services program facility and the school district's facility.

(4) The alternative district's local school board or designee may periodically reevaluate the non-resident student's

eligibility for education services by the alternative district as described in Subsections 53A-2-201(2)(b)(iii) or (iv).

KEY: students, alternative district of residency
Date of Enactment or Last Substantive Amendment: January 9, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401; 53A-2-201

R277. Education, Administration.
R277-622. School-based Mental Health Qualified Grant Program.
R277-622-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-2-415 which requires the Board to makes rules that establish:

(i) procedures for submitting a plan for the School-based Mental Health Qualified Grant Program;

(ii) a distribution formula the Board will use to distribute funds to an LEA; and

(iii) annual reporting requirements for an LEA that receives funds pursuant to the School-based Mental Health Qualified Grant Program.

(2) The purpose of this rule is to establish the procedures for an LEA to receive a School-based Mental Health Qualified Grant including:

(i) plan submission process, format, and requirements;

(ii) funding distribution methods; and

(iii) additional requirements including reporting and accountability.

R277-622-2. Definitions.

(1) "Plan" means a School-based Mental Health Qualified Grant plan described in Section R277-622-3.

(2) "Qualified Personnel" means the same as the term is defined in Subsection 53F-2-415(1).

(3) "Related Services" means mental-health or school nursing services provided by the local mental health authority or a private provider through a contract.

R277-622-3. School-based Mental Health Plan.

(1) To qualify for a School-based Mental Health Qualified Grant, an LEA shall submit a plan to the Superintendent.

(2) The plan shall include:

(a) a three-year projection for the LEA's goals, metrics, and outcomes;

(b) requirements outlined in Subsection 53F-2-415(3);

(c) plan for improving access to students who are underserved or at risk;

(d) how qualified personnel will increase access to mental health services;

(e) a process for utilization of qualified personnel in participating with an LEA's care team as outlined in R277-400;

(f) the source of the LEA's matching funds; and

(g) a timeline and process for stakeholder training in trauma-informed practices.

(3) Except as provided in Subsection (4), an LEA shall submit the LEA's plan no later than May 31 for a funding distribution to be made for the upcoming school year.

(4) An LEA shall submit a plan no later than June 7 for a funding distribution to be made in Fiscal Year 20.

(5) An LEA's approved plan is valid for three years and may be required to be reapproved after three years of implementation.

R277-622-4. Board Approval or Denial of LEA Plan.

(1) The Board shall approve or deny each LEA plan submitted by the Superintendent.

(2) If the Board denies an LEA's plan, the LEA may amend and resubmit the LEA's plan to the Superintendent until the Board approves the LEA plan.

R277-622-5. School-Based Mental Health Grant Distribution.

(1) An LEA with an approved plan pursuant to subsection R277-622-4 shall receive a School-based Mental Health Grant distribution.

(2) The funding amount distributed to an approved LEA shall be the sum of:

(a) $25,000; and

(b) a per student allocation based on the number of students in an LEA divided by the total available grant appropriation less the aggregate amount of appropriation allocated as described in Subsection (2)(a).

(3) The number of students used in Subsection (2)(b) shall be:

(i) based on the October 1 headcount in the prior year; or

(ii) for a new LEA, based on the new LEA's projected October 1 headcount.

(4) An LEA may only receive an initial distribution totaling 25% of the allocation upon plan approval.

(5) An LEA may receive a second distribution totaling 75% of the allocation upon demonstration to the Superintendent of:

(a) contracting of services for qualified personnel; or

(b) hiring qualified personnel.

(6) After the distribution described in subsections (2)(a) and (b), and by October 1 of each year, the Superintendent shall distribute any undistributed funds as an additional allocation to an LEA.

(7) An LEA may qualify for the additional allocation

described in Subsection (6) if the LEA demonstrates an intent to collaborate with the Local Mental Health Authority of the county the LEA is located.

(8) The additional allocation described in subsection (6) shall be:

(a) the aggregate total of undistributed funds;

(b) subject to all matching fund requirements described in section R277-622-3;

(c) distributed to an eligible LEA in an amount equal to the LEA's portion of the student headcount of all eligible and participating LEAs; and

(d) used for collaboration with the Local Mental Health Authority of the County the LEA is located.

R277-622-6. Matching Funds.

(1) To qualify for a School-based Mental Health Qualified Grant, an LEA shall provide matching funds as required by Subsection 53F-2-415(4)(b).

(2) To qualify as matching funds the LEA's funds may come from any of the following sources or procedures:

(a) prioritizing of existing unrestricted state or local funds including:

(i) an unrestricted donation; or

(ii) new funds available in the next fiscal year;

(b) funds generated from property tax;

(c) charter school local replacement funds;

(d) unrestricted MSP Basic program funds; or

(e) another source of unrestricted state funds or local funds as approved by the Superintendent.

(3) Funds may not qualify as a match if:

(a) the funds are from restricted state funds including:

(i) funds granted to an LEA for a specific program created in statute or rule;

(ii) funds that have already been used as a match in a different state grant program; or

(iii) funds from a federal source; or

(b) the funds are described in Subsection 53F-2-415(5).

(4) An LEA shall demonstrate that all matching funds fit within the scope of work for school-based mental health and general health services as outlined in an LEA's plan.

(5) An LEA shall report revenues and expenditures of program funds by location code according to the Board approved chart of accounts.

R277-622-7. Allowable Uses of Funds.

(1) An LEA that receives a distribution pursuant to Section R277-622-6 may use the funds only for the following:

(a) salary and benefits for the hiring of qualified personnel; or

(b) procuring a contract for related services;

(2) If an LEA fails to hire qualified personnel by January 31 the allocated funds shall be returned to the Board.

(3) All unexpended funds distributed to an LEA shall be returned to the Board at the end of the LEA's school year and redistributed in the following year's distribution.

(4) An LEA shall use the LEA's matching funds and allocation within the fiscal year the funds are distributed.

(5) An LEA that has remaining balances at year end shall report the remaining balances in the LEA's annual program report described in R277-484.

(6) An LEA with remaining balances shall receive a reduction totaling the remaining balances in the LEA's award for the following fiscal year.

R277-622-8. Annual Reporting and Accountability.

(1) An LEA with an approved plan and funding amount shall provide the Superintendent with an annual report no later than October 1 of each year.

(2) The annual report shall include:

(a) a total baseline count of qualified personnel in an LEA before receiving the initial funding allocation;

(b) the number of qualified personnel hired above the baseline count using the funding allocation;

(c) the progress made toward achieving goals and outcomes outlined in the LEA's plan; and

(d) other information requested by the Superintendent.

KEY: mental health, programs, reporting
Date of Enactment or Last Substantive Amendment: July 31, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-4-302(1)(a)

R277. Education, Administration.
R277-700. The Elementary and Secondary School General Core.
R277-700-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Section 53E-3-501, which directs the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements;

(d) Section 53E-4-202, which directs:

(i) the Board to establish Core Standards in consultation with LEA boards and superintendents; and

(ii) LEA boards to adopt local curriculum and to design programs to help students master the General Core;

(e) Title 53E, Chapter 4, Part 2, Career and College Readiness Mathematics Competency, which directs the Board to establish college and career mathematics competency standards; and

(f) Section 53E-4-205, which requires the Board to provide rules related to a basic civics test.

(2) The purpose of this rule is to specify the minimum Core Standards and General Core requirements for the public schools, and to establish responsibility for mastery of Core Standard requirements.

R277-700-2. Definitions.

For purposes of this rule:

(1)(a) "Applied course" means a public school course or class that applies the concepts of a Core subject.

(b) "Applied course" includes a course offered through Career and Technical Education or through other areas of the curriculum.

(2) "Arts" means the visual arts, music, dance, theatre, and media arts.

(3) "Assessment" means a summative computer adaptive assessment for:

(a) English language arts grades 3 through 11;

(b) mathematics grades 3 through 8, and Secondary I, II, and III; or

(c) science grades 4 through 8, earth science, biology, physics and chemistry.

(4) "Career and Technical Education (CTE)" means an organized educational program or course which directly or indirectly prepares students for employment, or for additional

preparation leading to employment, in an occupation, where entry requirements generally do not require a baccalaureate or advanced degree.

(5) "Core Standard" means a statement of what a student enrolled in a public school is expected to know and be able to do at a specific grade level or following completion of an identified course.

(6) "Core subject" means a course for which there is a declared set of Core Standards as approved by the Board.

(7) "Elementary school" for purposes of this rule means a school that serves grades K-6 in whatever kind of school the grade levels exist.

(8) "General Core" means the courses, content, instructional elements, materials, resources and pedagogy that are used to teach the Core Standards, including the ideas, knowledge, practice and skills that support the Core Standards.

(9) "High school" for purposes of this rule means a school that serves grades 9-12 in whatever kind of school the grade levels exist.

(10) "LEA" or "local education agency" includes the Utah Schools for the Deaf and the Blind.

(11) "Middle school" for purposes of this rule means a school that serves grades 7-8 in whatever kind of school the grade levels exist.

(12) "Junior High school" means a school that serves grades 7-9 in whatever kind of school the grade levels exist.

(13) "Proficiency in keyboarding" means a student's ability to key by touch.

(14) "Summative adaptive assessment" means an assessment that:

(a) is administered upon completion of instruction to assess a student's achievement;

(b) is administered online under the direct supervision of a licensed educator;

(c) is designed to identify student achievement on the Core Standards for the respective grade and course; and

(d) measures the full range of student ability by adapting to each student's responses, selecting more difficult questions when a student answers correctly and less difficult questions when a student answers incorrectly.

R277-700-3. General Core and Core Standards.

(1) The Board establishes minimum course description standards for each course in the required General Core.

(2)(a) The Superintendent shall develop, in cooperation with LEAs, course descriptions for required and elective courses.

(b) The Superintendent shall provide parents and the general

public an opportunity to participate in the development process of the course descriptions described in Subsection (2)(a).

(3)(a) The Superintendent shall ensure that the courses described in Subsection (2):

(i) contain mastery criteria for the courses; and

(ii) stress mastery of the course material, Core Standards, and life skills consistent with the General Core.

(b) The Superintendent shall place a greater emphasis on a student's mastery of course material rather than completion of predetermined time allotments for courses.

(4) An LEA board shall administer the General Core and comply with student assessment procedures consistent with state law.

R277-700-4. Elementary Education Requirements.

(1) The Core Standards and a General Core for elementary school students in grades K-6 are described in this section.

(2) The following are the Elementary School Education Core Subject Requirements:

(a) English Language Arts;

(b) Mathematics;

(c) Science;

(d) Social Studies;

(e) Arts:

(i) Visual Arts;

(ii) Music;

(iii) Dance; or

(iv) Theatre;

(f) Health Education;

(g) Physical Education;

(h) Educational Technology, including keyboarding; and

(i) Library Media.

(3) An LEA board shall provide access to the General Core to all students within the LEA.

(4) An LEA board is responsible for student mastery of the Core Standards.

(5) An LEA shall conduct informal assessments on a regular basis to ensure continual student progress.

(6) An LEA shall assess students for proficiency in keyboarding by grade 5 and report school level results to the Superintendent.

(7) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following:

(a) reading;

(b) language arts;

(c) mathematics;

(d) science; and

(e) effectiveness of written expression in grades five and eight.

(8) An LEA shall provide remediation to elementary students who do not achieve mastery of the subjects described in this section.

R277-700-5. Middle School Education Requirements.

(1) The Core Standards and a General Core for middle school students are described in this section.

(2) A student in grades 7-8 is required to complete the courses described in Subsection (3) to be properly prepared for instruction in grades 9-12.

(3) The following are the Grades 7-8 General Core Requirements:

(a) Grade 7 Language Arts;

(b) Grade 8 Language Arts;

(c) Grade 7 Mathematics;

(d) Grade 8 Mathematics;

(e) Grade 7 Integrated Science;

(f) Grade 8 Integrated Science;

(g) United States History;

(h) Utah History; and

(i) at least one course in each of the following in grades 7 or 8:

(A) Health Education;

(B) College and Career Awareness;

(C) Digital Literacy;

(D) the Arts; and

(E) Physical Education.

(4) An LEA shall use evidence-based best practices, technology, and other instructional media in middle school curricula to increase the relevance and quality of instruction.

(5) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following:

(a) reading;

(b) language arts;

(c) mathematics; and

(d) science.

(6) At the discretion of the LEA board, an LEA board may:

(a) offer additional elective courses;

(b) require a student to complete additional courses; or

(c) set minimum credit requirements.

(7) Upon parental or student request, an LEA may, with parental consent, substitute a course requirement described in Subsection (3) with a course, extracurricular activity, or experience that is:

(a) similar to the course requirement; or

(b) consistent with the student's plan for college and career readiness.

(8)(a) An LEA shall establish a policy governing the substitution of a course requirement as described in Subsection (7).

(b) An LEA's policy described in Subsection (8)(a) shall include a process for a parent to appeal an LEA's denial of a request for a substitution described in Subsection (7) to the LEA board or the LEA board designee.

R277-700-6. High School Requirements.

(1) The General Core and Core Standards for students in grades 9-12 are described in this section.

(2) A student in grades 9-12 is required to earn a minimum of 24 units of credit through course completion or through competency assessment consistent with R277-705 to graduate.

(3) Through recording of credits in a student's transcripts for grades 9-12, in accordance with Subsections R277-726-5(9) and R277-726-5(10), for purposes of high school graduation, an LEA shall recognize high school credits earned prior to grade 9 through participation in the Statewide Online Education Program, provided that:

(a) the student has declared an intention to graduate early; and

(b) the high school courses are not used to replace middle school educational requirements.

(4) The General Core credit requirements from courses approved by the Board are described in Subsections (4) through (18).

(5) Language Arts (4.0 units of credit from the following):

(a) Grade 9 level (1.0 unit of credit);

(b) Grade 10 level (1.0 unit of credit);

(c) Grade 11 level (1.0 unit of credit); and

(d) Grade 12 level (1.0 Unit of credit) consisting of applied or advanced language arts credit from the list of Board-approved courses using the following criteria and consistent with the student's Plan for College and Career Readiness:

(i) courses are within the field/discipline of language arts with a significant portion of instruction aligned to language arts content, principles, knowledge, and skills;

(ii) courses provide instruction that leads to student understanding of the nature and disposition of language arts;

(iii) courses apply the fundamental concepts and skills of language arts;

(iv) courses provide developmentally appropriate content; and

(v) courses develop skills in reading, writing, listening,

speaking, and presentation.

(6) Mathematics (3.0 units of credit) shall be met minimally through successful completion of a combination of the foundation or foundation honors courses, Secondary Mathematics I, Secondary Mathematics II, and Secondary Mathematics III.

(7)(a) A student may opt out of Secondary Mathematics III if the student's parent submits a written request to the school.

(b) If a student's parent requests an opt out described in Subsection (6)(a), the student is required to complete a third math credit from the Board-approved mathematics list.

(8) A 7th or 8th grade student may earn credit for a mathematics foundation course before 9th grade, consistent with the student's Plan for College and Career Readiness if:

(a) the student is identified as gifted in mathematics on at least two different Board-approved assessments;

(b) the student is enrolled at a middle school or junior high school and a high school;

(c) the student qualifies for promotion one or two grade levels above the student's age group and is placed in 9th grade; or

(d) the student takes the Board competency test in the summer prior to 9th grade and earns high school graduation credit for the course.

(9) A student who successfully completes a mathematics foundation course before 9th grade is required to earn 3.0 units of additional mathematics credit by:

(a) taking the other mathematics foundation courses described in Subsection (5); and

(b) an additional course from the Board-approved mathematics list consistent with:

(i) the student's Plan for College and Career Readiness; and

(ii) the following criteria:

(A) courses are within the field/discipline of mathematics with a significant portion of instruction aligned to mathematics content, principles, knowledge, and skills;

(B) courses provide instruction that lead to student understanding of the nature and disposition of mathematics;

(C) courses apply the fundamental concepts and skills of mathematics;

(D) courses provide developmentally appropriate content; and

(E) courses include the five process skills of mathematics: problem solving, reasoning, communication, connections, and representation.

(10) A student who successfully completes a Calculus course with a "C" grade or higher has completed mathematics graduation requirements, regardless of the number of mathematics credits earned.

(11) Science (3.0 units of credit):

(a) shall be met minimally through successful completion of 2.0 units of credit from two of the following five science foundation areas:

(i) Earth Science (1.0 units of credit);

(A) Earth Science;

(B) Advanced Placement Environmental Science; or

(C) International Baccalaureate Environmental Systems;

(ii) Biological Science (1.0 units of credit);

(A) Biology;

(B) Human Biology;

(C) Biology: Agricultural Science and Technology;

(D) Advanced Placement Biology;

(E) International Baccalaureate Biology; or

(F) Biology with Lab Concurrent Enrollment;

(iii) Chemistry (1.0 units of credit);

(A) Chemistry;

(B) Advanced Placement Chemistry;

(C) International Baccalaureate Chemistry; or

(D) Chemistry with Lab Concurrent Enrollment;

(iv) Physics (1.0 units of credit);

(A) Physics;

(B) Physics with Technology;

(C) Advanced Placement Physics (1, 2, C: Electricity and Magnetism, or C: Mechanics);

(D) International Baccalaureate Physics; or

(E) Physics with Lab Concurrent Enrollment; or

(v) Computer Science (1.0 units of credit):

(A) Advanced Placement Computer Science;

(B) Computer Science Principles; or

(C) Computer Programming II; and

(b) one additional unit of credit from:

(i) the foundation courses described in Subsection(10)(a); or

(ii) the applied or advanced science list:

(A) determined by the LEA board; and

(B) approved by the Board using the following criteria and consistent with the student's Plan for College and Career Readiness:

(i) courses are within the field/discipline of science with a significant portion of instruction aligned to science content, principles, knowledge, and skills;

(ii) courses provide instruction that leads to student understanding of the nature and disposition of science;

(iii) courses apply the fundamental concepts and skills of science;

(iv) courses provide developmentally appropriate content;

(v) courses include the areas of physical, natural, or applied sciences; and

(vi) courses develop students' skills in scientific inquiry.

(12) Social Studies (3.0 units of credit) shall be met minimally through successful completion of:

(a) 2.5 units of credit from the following courses:

(i) Geography for Life (0.5 units of credit);

(ii) World Civilizations (0.5 units of credit);

(iii) U.S. History (1.0 units of credit); and

(iv) U.S. Government and Citizenship (0.5 units of credit);

(b) Social Studies (0.5 units of credit per LEA discretion); and

(c) a basic civics test or alternate assessment described in R277-700-8.

(13) The Arts (1.5 units of credit from any of the following performance areas):

(a) Visual Arts;

(b) Music;

(c) Dance; or

(d) Theatre.

(14) Physical and Health Education (2.0 units of credit from any of the following):

(a) Health (0.5 units of credit);

(b) Participation Skills (0.5 units of credit);

(c) Fitness for Life (0.5 units of credit);

(d) Individualized Lifetime Activities (0.5 units of credit); or

(e) team sport/athletic participation (maximum of 1.0 units of credit with school approval).

(15) Career and Technical Education (1.0 units of credit from any of the following):

(a) Agriculture;

(b) Business;

(c) Family and Consumer Sciences;

(d) Health Science and Technology;

(e) Information Technology;

(f) Marketing;

(g) Technology and Engineering Education; or

(h) Trade and Technical Education.

(16) Digital Studies (0.5 units of credit).

(17) Library Media Skills (integrated into the subject areas).

(18) General Financial Literacy (0.5 units of credit).

(19) Electives (5.5 units of credit).

(20) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following subjects:

(a) reading;

(b) language arts through grade 11;

(c) mathematics as defined in Subsection (5); and

(d) science as defined in Subsection (10).

(21) An LEA board may require a student to earn credits for graduation that exceed the minimum Board requirements described in this rule.

(22) An LEA board may establish and offer additional elective course offerings at the discretion of the LEA board.

(23)(a) An LEA may modify a student's graduation requirements to meet the unique educational needs of a student if:

(i) the student has a disability; and

(ii) the modifications to the student's graduation requirements are made through the student's individual IEP.

(b) An LEA shall document the nature and extent of a modification, substitution, or exemption made to a student's graduation requirements described in Subsection (22)(a) in the student's IEP.

(24) The Superintendent shall provide a list of approved courses meeting the requirements of this rule.

(25) An LEA may modify graduation requirements for an individual student to achieve an appropriate route to student success if the modification:

(a) is consistent with:

(i) the student's IEP; or

(ii) SEOP/Plan for College and Career Readiness;

(b) is maintained in the student's file;

(c) includes the parent's signature; and

(d) maintains the integrity and rigor expected for high school graduation, as determined by the Board.

R277-700-7. Student Mastery and Assessment of Core Standards.

(1) An LEA shall ensure students master the Core Standards at all levels.

(2) An LEA shall provide remediation for secondary students who do not achieve mastery in accordance with Section 53G-9-803.

(3) An LEA shall provide remedial assistance to students who are found to be deficient in basic skills through a statewide assessment in accordance with Subsection 53E-5-206(1).

(4) If a parent objects to a portion of a course or to a course in its entirety under Section 53G-10-205 and R277-105, the parent shall be responsible for the student's mastery of Core Standards to the satisfaction of the school prior to the student's promotion to the next course or grade level.

(5)(a) A student with a disability served by a special education program is required to demonstrate mastery of the Core Standards.

(b) If a student's disability precludes the student from

successfully mastering the Core Standards, the student's IEP team, on a case-by-case basis, may provide the student an accommodation for, or modify the mastery demonstration to accommodate, the student's disability.

(6) A student may demonstrate competency to satisfy course requirements consistent with R277-705-3.

(7) LEAs are ultimately responsible for and shall comply with all assessment procedures, policies and ethics as described in R277-404.

R277-700-8. Civics Education Initiative.

(1) For purposes of this section:

(a) "Student" means:

(i) a public school student who graduates on or after January 1, 2016; or

(ii) a student enrolled in an adult education program who receives an adult education secondary diploma on or after January 1, 2016.

(b) "Basic civics test" means the same as that term is defined in Subsection 53E-4-205(1)(b).

(2) Except as provided in Subsection (3), an LEA shall:

(a) administer a basic civics test in accordance with the requirements of Section 53E-4-205; and

(b) require a student to pass the basic civics test as a condition of receiving:

(i) a high school diploma; or

(ii) an adult education secondary diploma.

(3) An LEA may require a student to pass an alternate assessment if:

(a)(i) the student has a disability; and

(ii) the alternate assessment is consistent with the student's IEP; or

(b) the student is within six months of intended graduation.

(4) Except as provided in Subsection (5), the alternate assessment shall be given:

(a) in the same manner as an exam given to an unnaturalized citizen; and

(b) in accordance with 8 C.F.R. Sec. 312.2.

(5) An LEA may modify the manner of the administration of an alternate assessment for a student with a disability in accordance with the student's IEP.

(6) If a student passes a basics civics test or an alternate assessment described in this section, an LEA shall report to the Superintendent that the student passed the basic civics test or alternate assessment.

(7) If a student who passes a basic civics test or an alternate assessment transfers to another LEA, the LEA may not

require the student to re-take the basic civics test or alternate assessment.

R277-700-9. College and Career Readiness Mathematics Competency.

(1) For purposes of this section, "senior student with a special circumstance" means a student who:

(a) is pursuing a college degree after graduation; and

(b) has not met one of criteria described in Subsection (2)(a) before the beginning of the student's senior year of high school.

(2) Except as provided in Subsection (4), in addition to the graduation requirements described in R277-700-6, beginning with the 2016-17 school year, a student pursuing a college degree after graduation shall:

(a) receive one of the following:

(i) a score of 3 or higher on an Advanced Placement (AP) calculus AB or BC exam;

(ii) a score of 3 or higher on an Advanced Placement (AP) statistics exam;

(iii) a score of 5 or higher on an International Baccalaureate (IB) higher level math exam;

(iv) a score of 50 or higher on a College Level Exam Program (CLEP) pre-calculus or calculus exam;

(v) a score of 26 or higher on the mathematics portion of the American College Test (ACT) exam;

(vi) a score of 640 or higher on the mathematics portion of the Scholastic Aptitude Test (SAT) exam; or

(vii) a "C" grade in a concurrent enrollment mathematics course that satisfies a state system of higher education quantitative literacy requirement; or

(b) if the student is a senior student with a special circumstance, take a full year mathematics course during the student's senior year of high school.

(3) Except as provided in Subsection (4), in addition to the graduation requirements described in R277-700-6, beginning with the 2016-17 school year, a non-college and degree-seeking student shall complete appropriate math competencies for the student's career goals as described in the student's Plan for College and Career Readiness.

(4) An LEA may modify a student's college or career readiness mathematics competency requirement under this section if:

(a) the student has a disability; and

(b) the modification to the student's college or career readiness mathematics competency requirement is made through the student's IEP.

(5)(a) An LEA shall report annually to the LEA's board the

number of students within the LEA who:

(i) meet the criteria described in Subsection (2)(a);

(ii) take a full year of mathematics as described in Subsection (2)(b);

(iii) meet appropriate math competencies as established in the students' career goals as described in Subsection (3); and

(iv) meet the college or career readiness mathematics competency requirement established in the students' IEP as described in Subsection (4).

(b) An LEA shall provide the information described in Subsection (5)(a) to the Superintendent by October 1 of each year.

KEY: graduation requirements, standards
Date of Enactment or Last Substantive Amendment: May 23, 2019
Notice of Continuation: August 14, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(b); 53E-4-202; 53E-33-401(4)

R277. Education, Administration.
R277-702. Procedures for the Utah High School Completion Diploma.
R277-702-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-501(1)(b), which directs the Board to adopt rules regarding access to programs, competency levels, and graduation requirements; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah constitution and state law.

(2) The purpose of this rule is to describe the standards and procedures required for an individual to obtain a Utah High School Completion Diploma.

R277-702-2. Definitions.

(1) "High school equivalency exam" or "HSE exam" means a Board approved examination whose test modules are aligned with:

(a) current high school core standards; and

(b) adult education college and career readiness standards.

(2) "Out-of-school youth" means an individual 16 to 19 years of age whose high school cohort has not graduated and who is no longer enrolled in a K-12 program of instruction.

(3) "Utah high school completion diploma" means a completion diploma issued by the Board and distributed by a Board-approved contractor, to an individual who has passed all subject modules of the HSE exam at a Utah HSE exam testing center.

R277-702-3. Administrative Procedures and Standards for Testing and Certification.

(1)(a) The Superintendent shall contract with a third party contractor in accordance with state procurement law to administer HSE exams in the state.

(b) The Superintendent may contract with public non-profit institutions within the state to administer HSE exams and provide related testing services.

(c) The Superintendent shall determine the number and location of the institutions designated as testing centers in a manner that ensures that the test is reasonably accessible to potential applicants.

(d) The Superintendent shall develop requirements for HSE exam testing centers in conjunction with the contractor approved in accordance with Subsection (1)(a).

(2) The Superintendent shall develop minimum scores required for passing an HSE exam in conjunction with a vendor chosen in accordance with Subsection (1)(a).

(3) The Superintendent shall award a diploma to a candidate who receives a passing score on an HSE exam.

R277-702-4. Eligibility for HSE Testing.

(1) Any individual may take a Utah HSE exam regardless of:

(a) race;

(b) color;

(c) national origin;

(d) gender;

(e) disability; or

(f) state of residency.

(2) A candidate for the HSE exam:

(a) shall be at least 16 years of age; and

(b) may not be enrolled in any Utah k-12 school.

(3) A 16-year-old candidate shall submit a completed state of Utah HSE Exam Application for 16-18 Year Old Non-Graduates, which shall include:

(a) verification in a manner approved by the Superintendent that the candidate is not enrolled in a school;

(b) verification that the candidate understands and accepts the consequences and educational choices associated with the candidate's withdrawal from a K-12 program of instruction, including the prohibition from returning to a K-12 program anywhere in Utah upon successful passing of an HSE exam; and

(c) signed acknowledgment from the candidate's parent or guardian specifically stating that the candidate and parent or guardian:

(i) understand and accept the consequences and educational choices associated with the candidate's decision to withdraw from a K-12 program of instruction; and

(ii) authorize the candidate to take an HSE exam; and

(d) verification from a representative of a Utah state-sponsored adult education district program that the candidate demonstrates academic competencies to meet with success in passing the HSE exam.

(4) A 16 year-old candidate may provide a marriage certificate in lieu of the requirement of Subsection (3)(c) if the candidate is married.

(5) A 17 or 18 year-old candidate whose cohort has not graduated shall submit a state of Utah HSE exam Application for 16-18 Year Old Non-Graduates, which shall include:

(a) verification in a manner approved by the Superintendent that the candidate is not enrolled in school; and

(b) the signature of the candidate's parent or guardian authorizing the test.

(6) A candidate may submit a marriage certificate in lieu of the requirement contained in Subsection (5)(b) if the candidate is

married.

(7) An out-of-school youth of school age who has not successfully passed all HSE exam modules shall be allowed to return to a k-12 public school prior to the time his class graduates with the understanding and expectation that all necessary requirements for the traditional k-12 diploma shall be completed prior to issuance of a regular high school diploma.

(8) An out-of-school youth of school age who has received a Utah high school completion diploma is not eligible to return to a k-12 public school unless it is required for provision of a free appropriate public education under the Individuals with Disabilities Education Act, 20 U.S.C., Chapter 33.

(9) The Superintendent shall classify an out-of-school youth of school age who has successfully passed all HSE exam modules and received a Utah high school completion diploma as a graduate for k-12 graduation annual yearly progress outcomes.

(10) An individual who is required by an employer or higher education institution to provide academic competency and cannot offer proof of high school completion may, upon approval of the Superintendent, take an HSE exam.

(11) An individual who has previously passed HSE exam modules but seeks higher HSE exam scores for specific post-secondary institution admission may seek permission to retake an HSE exam module from the Superintendent.

R277-702-5. Fees.

(1) The Superintendent, with approval of the Board, shall adopt uniform fees for the Utah high school completion diploma and uniform forms, deadlines, and accounting procedures to administer this program for inclusion with the contract with the contractor identified in accordance with Subsection R277-702-3(1)(a).

(2) An approved testing center may only collect a fee in accordance with the amounts and procedures approved pursuant to Subsection (1).

R277-702-6. Official Transcripts.

(1) The Board shall accept HSE exam scores when an original score is reported by:

(a) a Board-approved HSE exam testing center;

(b) the transcript service of the Defense Activity for Non-Traditional Educational Support;

(c) a Veterans Administration hospital or center; or

(d) a contractor selected by the Superintendent in accordance with Subsection R277-702-3(1)(a) or the contractor's authorized agent.

(2) The Superintendent shall include a candidate's HSE exam result on the candidate's official transcript.

R277-702-7. Adult High School Outcomes.

(1) A local board of education may adopt standards and procedures for awarding up to five units of credit on the basis of test results which may be applied toward an adult education secondary diploma only if the student was enrolled in an adult education program prior to July 1, 2009 and an approved HSE exam was transcripted prior to July 1, 2009.

(2) An individual who took and passed an approved HSE exam prior to January 1, 2002 may enroll in an adult education program now and in the future to obtain an adult education secondary diploma upon completion of graduation requirements as defined in Rule 277-733, but may not apply for a previously issued HSE exam certificate to be converted to a Utah high school completion diploma.

(3) An individual who took and passed an approved HSE exam in the state of Utah between the dates of January 1, 2002 and June 30, 2009 may apply for a Utah high school completion diploma to replace the originally issued HSE exam certificate issued by the Board or they may enroll in an adult education program to complete the necessary requirements for an adult education secondary diploma.

R277-702-8. HSE Exam Security.

(1) The following individuals may have access to the HSE exam:

(a) Board staff approved by the Superintendent;

(b) Authorized test examiners;

(c) A contractor selected pursuant to Subsection R277-702-3(1)(a) and the contractor's agents;

(d) Approved exam candidates during exam administration; or

(e) An individual granted access in writing by the Superintendent.

(2) A test facilitator shall administer an HSE exam in strict accordance with procedures and guidelines specified by the Superintendent and the contractor approved in accordance with Subsection R277-702-3(1)(a).

(3) School staff members may not:

(a) provide a student directly or indirectly with specific questions or answers from any official HSE exam;

(b) allow a student access to any testing material, in any form, prior to test administration; or

(c) knowingly and intentionally do anything that would inappropriately affect the security, validity, or reliability of an exam score of any individual student or group taking an HSE exam.

(4) A licensed educator who intentionally violates this

Section R277-702-8 may be subject to disciplinary action under Section 53E-6-604 and R277-515.

KEY: adult education, educational testing, student competency
Date of Enactment or Last Substantive Amendment: March 14, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(b); 53E-3-401

R277. Education, Administration.
R277-703. Centennial Scholarship for Early Graduation.
R277-703-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53F-2-501(3), which requires the Board to make payments to a public school student who graduates early;

(c) Subsection 53E-3-501(1), which authorizes the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; and

(d) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) This rule:

(a) designates the early graduation centennial scholarship certificate for use by public schools;

(b) allows for graduation to be flexible and appropriate to meet individual students' needs; and

(c) outlines the early graduation procedure.

R277-703-2. Definitions.

(1) "Centennial scholarship" or "scholarship" means the amount awarded to an early graduating student in accordance with Section 53F-2-501.

(2) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(3) "UCAT" or "technical college" means the Utah System of Technical Colleges listed in Section 53B-2a-105.

R277-703-3. Curriculum Options for Accelerating a Secondary School Student's Education Program.

(1) If a student graduates any time before the conclusion of grade 11, or prior to the conclusion of grade 12, the student may receive a reimbursement towards enrollment in a Utah post-secondary institution as described in Subsection 53F-2-501(3)(b) and this R277-703.

(2) A post-secondary institution selected by a student who receives a centennial scholarship shall receive a centennial scholarship certificate signed by the high school principal or charter school director entitling the early graduate to a partial tuition scholarship following the date of graduation according to the schedule established by this rule.

(3) A student seeking a centennial scholarship shall complete the courses of study and credit mandated by the Board and by the student's local school board or charter school governing

board.

(4) Options for earning additional credit may include:

(a) courses:

(i) high school summer school;

(ii) high school or UCAT early morning or after school classes;

(iii) courses completed at the student's own rate based on performance as approved by the local school board or charter school governing board;

(iv) college courses numbered 1000 and above from fully accredited institutions;

(v) LEA-approved high school or college level correspondence courses; or

(vi) equivalency ratio of higher education hours to high school credits: five (5) quarter or three (3) semester hours equal one (1) unit of high school credit;

(b) demonstrated proficiency by assessment in an amount of credit as determined by the local school board or charter school governing board:

(i) advanced placement examination, as approved by the local school board or charter school governing board;

(ii) ACT or SAT scores that meet or exceed a level set by the local school board or charter school governing board;

(iii) Utah state or LEA secondary end-of-course tests;

(iv) demonstrated proficiency in a subject, as assessed by the LEA; or

(v) College Level Examination Program (CLEP) tests;

(c) approved work experience, as assessed by the LEA.

(d) demonstrated mastery in an experimental program that has received prior approval from the Board;

(e) increased credit for courses that are combined into a time frame that ordinarily accommodates a lesser number of classes, as approved by the LEA;

(f) independent study credit for an independent research project or independent reading relevant to a course of study; or

(g) credit for experience gained during travel relevant to a specific course if approved in advance by the LEA.

R277-703-4. Early Graduation Student Education Plan.

(1) In consultation with the student's parent or guardian and school advisor, a student seeking a centennial scholarship shall indicate to the secondary principal or charter school director the student's intent to complete early graduation at the beginning of the ninth grade year or as soon thereafter as the intent is known.

(2) To be eligible for early graduation, a student shall have a current plan for college and career readiness on file at

the student's high school as described in Subsection R277-700-6(24).

R277-703-5. Local Education Requirements.

(1) Requirements relating to semesters in membership are inapplicable to students who have been approved under Section R277-703-4 for graduation following the eleventh grade year.

(2) Local academic and citizenship credit requirements for graduation which exceed Board requirements shall include provisions that permit students to graduate early.

R277-703-6. Funding Provisions.

(1) An LEA shall receive a payment designated for each high school from which students graduated before the end of the twelfth grade year.

(2) An LEA shall receive payment for one-half of the designated centennial scholarship amount for each student reported as having graduated at the conclusion of the eleventh grade year on the S-3 report in the fiscal year following the student's graduation.

(3)(a) An LEA shall receive payment based on a percentage of the centennial scholarship amount for each student reported as graduating during the twelfth grade year.

(b) A student described in Subsection (3)(a) shall also be listed on the S-3 report and payment shall be made to the LEA in the fiscal year following the students' graduation.

(c) An LEA shall receive payment for schools operating on the quarter or trimester system for each early graduating student according to the following schedule:

(i) end of first quarter of 12th grade year: 75 percent of one-half of the centennial scholarship amount;

(ii) end of second quarter of 12th grade year: 50 percent of one-half of the centennial scholarship amount;

(iii) end of third quarter of 12th grade year: 25 percent of one-half of the centennial scholarship amount;

(iv) end of first trimester of 12th grade year: 67 percent of one-half of the centennial scholarship amount; or

(v) end of second trimester of 12th grade year: 33 percent of one-half of the centennial scholarship amount.

(4) A student who graduates from high school at the conclusion of the eleventh grade year or during the twelfth grade year shall be entitled to a partial tuition scholarship in the form of the early graduation centennial scholarship certificate to be used at a Utah public college, university, community college, technical college, or any other institution in Utah accredited by the Northwest Accreditation Commission that offers post-secondary courses.

(5) The post-secondary institution selected by a student who receives a centennial scholarship shall complete the early graduation centennial scholarship certificate and submit it to the Superintendent.

(6) Upon receipt of the early graduation centennial scholarship certificate, the Suprintendent shall verify the information, and reimburse the institution an amount set forth in the following schedule in the fiscal year during which the student enrolls in a post-secondary institution.

(7) Except as provided in Section R277-703-7, to be eligible for the scholarship, the student must enroll in an eligible post-secondary institution within one calendar year of graduation.

(8)(a) A student who graduates at the end of the eleventh grade year shall receive a full centennial scholarship.

(b) A student who graduates at the end of the first quarter of the twelfth grade year shall receive 75 percent of the centennial scholarship amount.

(c) A student who graduates at the end of the second quarter of the twelfth grade year shall receive 50 percent of the centennial scholarship amount.

(d) A student who graduates at the end of the third quarter of the twelfth grade year shall receive 25 percent of the centennial scholarship amount.

(e) A student who graduates at the end of the first trimester of the twelfth grade year shall receive 67 percent of the centennial scholarship amount.

(f) A student who graduates at the end of the second trimester of the twelfth grade year shall receive 33 percent of the centennial scholarship amount.

R277-703-7. Student Deferrals.

(1) Except as provided in Subsection (5) and as allowed in Subsection 53F-2-501(4), a student who is eligible for a centennial scholarship, as described in Subsection 53F-2-501(3) and this R277-703, may make a request to the Board that the Board defer consideration of the student for the scholarship for a set period of time up to five years.

(2) The Superintendent shall:

(a) create an application, for the Board's approval, for a student seeking a deferral to request the deferral; and

(b) make the application described in Subsection (2)(a) available online.

(3) A student seeking a deferral described in Subsection (1) shall file a request for deferral with the Superintendent on or before:

(a) the second Monday in February for a student who graduated on or before December 31 of a school year; and

(b) the second Monday in July for a student who graduated on or before June 15 of a school year.

(4)(a) If a student's request for a deferral is denied by the Superintendent, the student may request an appeal of the Superintendent's decision.

(b) The Law and Licensing Committee shall review a student's appeal within 60 days of receipt of the appeal.

(c) The Superintendent shall inform a student requesting appeal of the Law and Licensing Committee's decision.

(5) A student's centennial scholarship expires five years from the date the eligible student graduated.

KEY: curricula, early graduation, graduation requirements, scholarships
Date of Enactment or Last Substantive Amendment: October 10, 2017
Notice of Continuation: August 14, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1); 53E-3-401

R277. Education, Administration.
R277-704. Financial and Economic Literacy: Integration into Core Curriculum and Financial and Economic Literacy Student Passports.
R277-704-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state;

(c) Section 53E-3-505, which directs the Board to work with financial and economic experts and private and non-profit entities to develop and integrate financial and economic literacy and skills into the public school curriculum at all appropriate levels and to develop a financial and economic literacy student passport which is optional for students and tracks student mastery of financial and economic literacy concepts.

(2) The purpose of this rule is:

(a) to provide funds appropriated by the Legislature to develop and integrate financial and economic literacy concepts effectively into the core curriculum in various programs and at various grade levels;

(b) to begin the development of a financial and economic literacy student passport;

(c) to provide for educator professional development using business and community expertise;

(d) to provide curriculum resources and assessments for financial and economic literacy;

(e) to provide passport criteria and tracking capabilities for the financial and economic literacy passport for students grades K-12;

(f) to provide simple and consistent messaging to students that becomes part of the core curriculum that reinforces the importance of financial and economic literacy for students and parents; and

(g) to help students and parents to locate and use school and community resources to improve financial and economic literacy among students and families.

R277-704-2. Definitions.

(1) "Content Specialist" means the same as the term is defined in Subsection R277-520-1(1).

(2) "End of course assessment" means an online end of course assessment for students who take the general financial literacy course.

(3) "Endorsement" means the licensing document required by

the board for teachers who teach general financial literacy.

(4) "Financial and economic literacy project" means a program or series of activities developed locally to implement financial and economic literacy education as described in Section 53E-3-505.

(5) "Financial and economic literacy student passport" means a collection of approved activities, assessments, or achievements completed during a given time period which indicate advancement in financial and economic understanding.

(6) "LEA" for purposes of this rule, includes the Utah Schools for the Deaf and the Blind.

(7) "Professional development" means the same as the term defined in Subsection R277-522-2(10).

R277-704-3. Financial and Economic Literacy Student Passport.

(1) The Superintendent shall develop and promote a financial and economic literacy student passport that includes tracking a student's progress.

(2) The Superintendent shall include parent and community participation on the development of the student passport described in Subsection (1).

(3) The first round of implementation of the financial and economic literacy student passport shall be for students in grades nine through 12.

(4) The Superintendent shall provide a financial and economic literacy student passport to support educators as they educate students and their parents of the importance of financial and economic literacy, including its applicability to other subject areas.

(5) An LEA shall provide parents and students with the following:

(a) a financial and economic literacy passport and information about post-secondary education savings options; and

(b) information about the financial and economic literacy student passport opportunity as part of the student's plan for college and career readiness.

R277-704-4. General Financial Literacy End of Course Assessment.

(1) The Superintendent shall provide an LEA with an end of course assessment for general financial literacy which shall be:

(a) administered to every student who takes the general financial literacy course;

(b) aligned with general financial literacy revised core standards and objectives; and

(c) measured and analyzed at the school, district, and state-wide levels.

R277-704-5. General Financial Literacy Teacher Endorsement.

(1) A Board licensed educator who teaches general financial literacy is required to have licensing, endorsements, and other credentials equal to other content specialists as described in Section R277-520-4.

(2) An educator's course work may be part of or in addition to course work and programs of study required for licensure by the Board consistent with R277-502.

R277-704-6. Financial and Economic Literacy Professional Development Opportunities.

(1) The Superintendent shall provide professional development for all areas of financial and economic literacy utilizing the expertise of community and business groups.

(2) Professional development activities shall:

(a) provide information about financial and economic literacy including personal finance and economic responsibility;

(c) provide resources for teaching financial and economic literacy without promoting specific products or businesses; and

(d) work with the Superintendent to develop strategies for promoting financial and economic literacy.

R277-704-7. Financial and Economic Literacy Taskforce.

(1) The financial and economic literacy taskforce shall have the membership and general responsibilities outlined in Subsection 53E-3-505(3).

(2) In addition to the responsibilities outlined in Subsection 53E-3-505(3), the financial and economic literacy taskforce shall:

(a) analyze data provided by the Superintendent that includes:

(i) aggregated-school level proficiency results from the end of course assessment;

(ii) general enrollment data;

(iii) assessment of general financial literacy education quality; and

(iv) other relevant data to inform strategies for strengthening financial literacy proficiency; and

(b) serve as the writing committee for the financial literacy course standards described in Subsection 53E-4-204(1)(b), (3), and (4).

(3) The course standards described in Subsection (2)(b) are subject to the same approval requirements described in Subsection 53E-4-202(4).

KEY: financial, economics, literacy
Date of Enactment or Last Substantive Amendment: April 8, 2019

Notice of Continuation: November 5, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-3-505; 53E-3-401(4)

R277. Education, Administration.
R277-705. Secondary School Completion and Diplomas.
R277-705-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsections 53E-3-501(1)(b) and (c), which direct the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) provide consistent definitions;

(b) provide alternative methods for a student to earn credit and alternate methods for schools to award credit;

(c) provide rules and procedures for the assessment of all students as required by law; and

(d) provide rules for a student to receive an alternative to a traditional diploma if appropriate criteria are met.

R277-705-2. Definitions.

(1) "Alternate Diploma" means a diploma issued in accordance with Section R277-705-5.

(2) "Demonstrated competence" means subject mastery as determined by LEA standards and review. LEA review may include such methods and documentation as: tests, interviews, peer evaluations, writing samples, reports or portfolios.

(3) "Diploma" means an official document awarded by an LEA consistent with state and LEA graduation requirements and the provisions of this rule.

(4) "FAPE" means a free appropriate public education, which includes special education and related services that are provided at public expense, under public supervision and direction, and without charge in accordance with Board rule and the IDEA.

(5)(a) "Secondary school" means grades 7-12 in whatever kind of school the grade levels exist.

(b) Grade 6 may be considered a secondary grade for some purposes.

(6) "Section 504 plan" means a written statement of reasonable accommodations for a student with a qualifying disability that is developed, reviewed, and revised in accordance with Section 504 of the Rehabilitation Act of 1973.

(7)(a) "Special purpose school" means a school designated by a regional accrediting agency, adopted by the Board.

(b) "Special purpose school" includes a school:

(i) that serves a specific population such as a student with

a disability, youth in custody, or a school with a specific curricular emphasis; and

(ii) with curricula designed to serve specific populations that may be modified from a traditional program.

(8) "Student with a significant cognitive disability" or "SCD" is determined by a comprehensive understanding of a whole student, including review of educational considerations and data obtained through the IEP process, including whether a student:

(a) requires intensive, repeated, modified, and direct individualized instruction and requires substantial supports to learn, maintain, and generalize skills in the student's grade and age-appropriate curriculum;

(b) has special education eligibility documentation indicating the disability significantly impacts intellectual functioning and adaptive behavior;

(c) demonstrates cognitive functioning and adaptive behavior in home, school, and community environments, which are significantly below age expectations, even with program modifications, adaptations, and accommodations;

(d) has a severe and complex cognitive disability, which limits the student from meaningful participation in the standard academic core curriculum or achievement of the academic content standards established at grade level, without substantial support, modifications, adaptations, and accommodations;

(e) may be eligible to participate in alternate assessments; and

(f) has a disability, which increases the need for dependence on others for many, if not all, daily living needs, and is expected to require extensive ongoing support through adulthood.

(9) "Supplemental education provider" means a private school or educational service provider:

(a) that may or may not be accredited; and

(b) that provides courses or services similar to public school courses or classes.

(10)(a) "Transcript" means an official document or record generated by one or several schools which includes:

(i) the courses in which a secondary student was enrolled;

(ii) grades and units of credit earned; and

(iii) citizenship and attendance records.

(b) A transcript is one part of a student's permanent record or cumulative file that may include:

(i) birth certificate

(ii) immunization records; and

(iii) other information as determined by the school in possession of the record.

(11) "Unit of credit" means credit awarded for a course

taken:

(a) consistent with this rule;

(b) upon LEA authorization; or

(c) for mastery demonstrated by approved methods.

R277-705-3. Required LEA Policy Explaining Student Credit.

(1)(a) An LEA governing board shall establish a policy, in an open meeting, explaining the process and standards for acceptance and reciprocity of credits earned by a student in accordance with state law.

(b) An LEA policy described in Subsection (1)(a) shall include specific and adequate notice to a student and a parent of all policy requirements and limitations.

(2)(a) An LEA shall accept credits and grades awarded to a student from a school or a provider accredited by an accrediting entity adopted by the Board.

(b) An LEA policy may establish reasonable timelines and may require adequate and timely documentation of authenticity for credits and grades submitted.

(3) An LEA policy shall provide various methods for a student to earn credit from a non-accredited source, course work, or education provider including:

(a) satisfaction of coursework by demonstrated competency, as evaluated at the LEA level;

(b) assessment as proctored and determined at the school or school level;

(c) review of student work or projects by an LEA administrator; and

(d) satisfaction of electronic or correspondence coursework, as approved at the LEA level.

(4) An LEA may require documentation of compliance with Section 53G-6-204 prior to reviewing a student's home school or competency work, assessment or materials.

(5) An LEA policy for participation in extracurricular activities, awards, recognitions, and enhanced diplomas may be determined locally consistent with the law and this rule.

(6) An LEA has the final decision-making authority for the awarding of credit and grades from a non-accredited source consistent with state law, due process, and this rule.

R277-705-4. Diplomas and Certificates of Completion.

(1) An LEA shall award diplomas and certificates of completion.

(2) An LEA shall establish criteria for a student to earn a certificate of completion that may be awarded to a student who:

(a) has completed the student's senior year;

(b) is exiting or aging out of the school system; and

(c) has not met all state or LEA requirements for a diploma.

(3) A student with a disability served by a special education program shall satisfy high school completion or graduation criteria, consistent with state and federal law and the student's IEP.

(4) An LEA may award a student a certificate of completion consistent with state and federal law and the student's IEP or Section 504 plan.

R277-705-5. Alternate Diploma.

(1) An LEA may award an alternate diploma to a student with a significant cognitive disability if:

(a) the student accesses grade-level Core standards through the Essential Elements;

(b) the student's IEP team makes graduation substitutions in the same content area, from a list of alternative courses approved by the Superintendent; and

(c) the student meets all graduation requirements prior to exiting school at or before age 22.

(2) An alternate diploma issued in accordance with Subsection (1) may not indicate that the recipient is a student with a disability.

(3) Notwithstanding the award of an alternate diploma, an LEA may still be obligated to provide FAPE to an eligible student in accordance with the IDEA.

(4)(a) The Superintendent shall provide a list of alternative courses that may be considered for student with cognitive disabilities working to receive an alternate diploma.

(b) An LEA may submit courses to the Superintendent to be considered for possible inclusion on the list required by Subsection (4)(a).

(c) The Superintendent shall annually update the list of alternative courses required under Subsection (4)(a) following review of LEA recommendations made under Subsection (4)(b).

R277-705-6. Career Development Credentials.

(1) An LEA may award a career development credential to a student with an IEP or Section 504 plan:

(a) who meets the requirements of a career focused work experience prior to leaving school; and

(b) consistent with:

(i) state and federal law; and

(ii) the student's IEP or Section 504 plan.

(2) Prior to receiving a career development credential, a student shall:

(a) earn the following credits in core content:

(i) English Language Arts (3.0);

(ii) Mathematics (2.0);
(iii) Science (1.0); and
(iv) Social Studies (1.0);
(b) complete 120 hours of community based work experience, to include:
(i) 40 hours of paid employment; or
(ii) documentation of completion of intake with a vocal rehabilitation counselor or the Department of Workforce Services;
(c) complete an LEA approved transition curriculum class or coursework that includes:
(i) disability awareness;
(ii) accommodations;
(iii) self-advocacy training;
(iv) career exploration; and
(v) workplace soft skills;
(d) receive .5 credits in a CTE Work Based Learning internship, including accommodations or modifications as appropriate and allowed by industry standards; and
(e) verify concentration in a CTE pathway in the student's area of interest.

R277-705-7. Adult Education Students.

(1) An adult education student is eligible only for an adult education secondary diploma.
(2) An adult education diploma may not be upgraded or changed to a traditional, high school-specific diploma.
(3) A school district shall establish a policy:
(a) allowing or disallowing adult education student participation in graduation activities or ceremonies; and
(b) establishing timelines and criteria for satisfying adult education graduation and diploma requirements.

R277-705-8. Student Rights and Responsibilities Related to Graduation, Transcripts and Receipt of Diplomas.

(1) An LEA shall supervise the granting of credit and awarding of diplomas, but may delegate the responsibility to schools within the LEA.
(2) An LEA may determine criteria for a student's participation in graduation activities, honors, and exercises, independent of a student's receipt of a diploma or certificate of completion.
(3) A diploma, a certificate, credits, or an unofficial transcript may not be withheld from a student for nonpayment of school fees.
(4)(a) An LEA shall establish a consistent timeline for all students for completion of graduation requirements.
(b) A timeline described in Subsection (4)(a) shall be

consistent with state law and this rule.

(5) An LEA's graduation requirements may not apply retroactively.

KEY: adult education, high school credits, graduation requirements
Date of Enactment or Last Substantive Amendment: February 28, 2018
Notice of Continuation: December 15, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(b); 53E-3-401(4)

R277. Education, Administration.
R277-706. Public Education Regional Service Centers.
R277-706-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Eligible regional service center" means a regional service center formed by two or more school districts by means of an interlocal entity in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

C. "USOE" means the Utah State Office of Education.

R277-706-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Subsection 53G-4-410(6), that directs the Board to make rules regarding eligible regional services center, and Subsection 53E-3-401(4), which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide definitions and procedures for school districts to form interlocal agreements and to provide for distribution of legislative funds to eligible regional service centers by the Board.

R277-706-3. Eligible Regional Service Centers.

A. Two or more school districts may enter into an interlocal agreement and form an interlocal entity.

B. An eligible regional service center may receive funds if the Legislature appropriates money.

C. An interlocal agreement shall confirm and ratify the regional service center as of the effective date of the interlocal agreement.

R277-706-4. Distribution of Funds.

A. The USOE shall distribute funds, if provided by the Legislature, in equal amounts to eligible regional service centers based on:

(1) requests from eligible regional service centers; and

(2) satisfaction and submission of all information and requirements set by the Board.

B. The USOE shall provide notice that completed applications for regional service center funds are due to the USOE consistent with timelines provided by the USOE.

C. The Board may review and consider a different distribution plan for future years.

D. Legislative funding, if provided, shall be distributed to eligible regional service centers after July 1 annually.

R277-706-5. Eligible Regional Service Center Responsibilities.

A. Eligible regional service centers shall submit an annual application for available funds to the Board consistent with USOE timelines.

B. A regional service center application for funds shall include:

(1) a copy of completed interlocal agreement(s);

(2) a proposed budget and request for funds from the Board;

(3) a current external audit of current regional service center assets and liabilities in the initial application for funds and with each annual application;

(4) assurance signed by all parties to the interlocal agreement that the USOE shall have access to all regional service center records upon request;

(5) an annual financial report from the previous fiscal year; and

(6) a plan for the use and distribution of regional service center funds for the applicable fiscal year with specific attention to delivery of Utah Education Network and Telehealth services and the delivery of education-related services.

C. A regional service center shall provide an annual performance report beginning with fiscal year 2012 including information about:

(1) the regional service center delivery of Utah Education and Telehealth Network services;

(2) the type, amount, and effectiveness of delivery of public and higher education related services; and

(3) the coordination of public and higher education related services.

KEY: eligible regional service centers
Date of Enactment or Last Substantive Amendment: October 9, 2014
Notice of Continuation: August 6, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-4-410(6); 53E-3-401(4)

R277. Education, Administration.
R277-707. Enhancement for Accelerated Students Program.
R277-707-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53F-2-408, which requires the Board to establish a distribution formula for the expenditure of funds appropriated for the Enhancement for Accelerated Students Program; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2)(a) The purpose of this rule is to specify the procedures for distributing funds appropriated under Section 53F-2-408 to LEAs.

(b) The intent of this appropriation is to provide resources to LEAs to enhance the academic growth of students whose academic achievement is accelerated.

R277-707-2. Definitions.

(1) "Accelerated students" means students participating in accelerated programs.

(2) "Accelerated programs" means student services with increased depth, complexity, or rigor, which may include above-grade level coursework, including:

(a) Gifted and Talented programs;

(b) IB programs; or

(c) AP courses.

(3) "Advanced placement" or "AP" courses means rigorous courses developed by the College Board where:

(a) each course is developed by a committee composed of college faculty and AP teachers, and covers the breadth of information, skills, and assignments found in the corresponding college course; and

(b) students who perform well on the AP exam may be:

(i) granted credit; or

(ii) advanced standing at participating colleges or universities.

(4)(a) "Gifted and talented programs" means programs to identify, through multiple assessment instruments, and serve students with outstanding abilities in the following areas:

(i) general intellectual ability;

(ii) specific academic aptitude; and

(iii) creative or productive thinking.

(b) Instruments for identifying gifted and talented students shall not be solely dependent upon English vocabulary or

comprehension skills and shall take into consideration abilities of culturally diverse students and students with disabilities.

(5) "International Baccalaureate" or "IB" Program means one of the following programs established by the International Baccalaureate Organization:

(a) the Diploma Program;

(b) the Middle Years Program; or

(c) the Primary Years Program.

(6) "Underrepresented students" means a subset of students, as determined by an LEA and approved by the Superintendent, that holds a smaller percentage in a program as compared to the overall LEA population.

(7) "Weighted Pupil Unit" means the basic state funding unit.

R277-707-3. Eligibility and Application.

(1) All LEAs are eligible to apply for the Enhancement for Accelerated Students Program funds annually.

(2) An LEA shall have a process for identifying students whose academic achievement would benefit from the support of accelerated programs.

(3) To receive program money, an LEA shall submit an application to the Superintendent that includes an LEA's plan for:

(a) how the LEA intends to engage all parents so that parents understand the opportunities available for their children in elementary, middle school, high school and beyond, including how the LEA will comply with Rule R277-462;

(b) how the LEA intends to spend program money; and

(c) how the LEA intends to eliminate barriers and increase student enrollment, in accelerated academic programs, including underrepresented students.

(4) The Superintendent shall publish expectations, growth percentage capacities, timelines, funding dates, and required submission dates related to an LEA application and plan for increasing enrollment, including underrepresented students, in accelerated academic programs.

R277-707-4. Distribution and Use of Funds.

(1) The Superintendent shall distribute Enhancement of Accelerated Students program funds as follows:

(a) the greater of 1.5% or $100,000 to support IB programs;

(b) 60% of the total EASP allocation to LEAs to support Gifted and Talented programs; and

(c) the remaining funds to LEAs to support AP programs.

(2)(a) The Superintendent shall determine funding to be awarded to an LEA's IB programs by:

(i) dividing the number of students enrolled in an LEA's IB

program by the total enrollment of students in IB programs throughout the state; and

(ii) multiplying the result from Subsection (2)(a)(i) by the total IB allocation.

(b) The Superintendent shall determine 30% of the funding to be awarded for LEA AP programs by:

(i) dividing the number of students enrolled in an LEA's AP classes by the total enrollment of students in AP classes throughout the state; and

(ii) multiplying the result from Subsection (2)(b)(i) by 30% of the total AP allocation.

(c) The Superintendent shall determine 70% of the funding to be awarded for LEA AP programs by:

(i) dividing the number of students in the LEA receiving a three or higher on an AP examination by the total number of students receiving a three or higher on an AP examination throughout the state; and

(ii) multiplying the result from Subsection (2)(c)(i) by 70% of the total AP allocation.

(3) If an LEA fails to demonstrate progress in meeting plan goals for placing and retaining underrepresented students in accelerated programs, the Superintendent may:

(a) place the LEA on probation and provide targeted technical assistance; and

(b) reduce funding to the LEA.

(4) Subject to the general requirements of Section R277-700-7:

(a) A middle school or high school:

(i) shall provide all course registration opportunities to each student; and

(ii) through consultation with students, parents, educators, and administrators, may consider academic readiness, but may not require prerequisites for enrolling in an AP or IB course.

(b) A school that offers a program eligible for funding under Section 53F-2-408, may not prohibit a student from enrolling in the course based on the student's:

(i) grades or grade point average;

(ii) state standardized assessment scores; or

(iii) referral or lack of a referral from an educator;

(c) In addition to the restrictions listed in Subsection (d), a middle school or high school may not prohibit a student from enrolling in a course based on the student's:

(i) grade level;

(ii) participation in or passing a pre-requisite course;

(iii) participation in or passing an honors-level or college-preparatory course; or

(iv) requirements over the summer.

(5) An LEA may use Enhancement for Accelerated Students Program funds for:

(a) gifted and talented programs, including professional learning for teachers;

(b) identification of underrepresented students;

(c) Advanced Placement courses;

(d) Advanced Placement test fees of eligible low-income students, as defined in Section 53F-2-408;

(e) International Baccalaureate programs; or

(f) International Baccalaureate test fees of eligible low-income students, as defined in Section 53F-2-408.

R277-707-5. Performance Criteria and Reports.

(1) An LEA receiving funds shall submit an annual evaluation report to the Superintendent consistent with Section 53F-2-408.

(2) An LEA shall present the evaluation report identified in Subsection (1) to the LEA's local board in a public meeting.

(3) At a minimum, the report shall include the following performance criteria related to the identified students whose academic achievement is accelerated, which shall be disaggregated by groups as defined in the State Accountability System:

(a) number of elementary, middle school, and high school students participating in Gifted and Talented programs;

(b) number of AP classes taken, completed, and exams passed with a score of 2 or above;

(c) number of IB classes taken, completed, and exams passed with a score of 4 or above; and

(d) evidence of stakeholder input demonstrating that the LEA engaged parents;

(4) As part of the LEA's annual report under Subsection (1), an LEA shall provide:

(a) an accounting of how the LEA's funds were disbursed to the teacher level; and

(b) evidence, disaggregated by subgroups, demonstrating that the LEA is:

(i) increasing student enrollment, in the LEA's accelerated academic courses, including underrepresented students; or

(ii) meeting goals in the LEA's plan to increase enrollment and retention, in the LEA's accelerated academic courses, including underrepresented students.

KEY: accelerated learning, enhancement programs
Date of Enactment or Last Substantive Amendment: August 19, 2019
Notice of Continuation: May 16, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-2-408; 53E-3-401(4)

R277. Education, Administration.
R277-708. Enhancement for At-Risk Students.
R277-708-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53F-2-410, which directs the Board to manage the Enhancement for At-Risk Students interventions by:

(i) developing a funding formula;

(ii) developing performance criteria;

(iii) supporting LEA implementation of evidence-based interventions;

(iv) distributing the appropriation; and

(v) monitoring and reporting the effectiveness of the evidence-based interventions; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2)(a) The purpose of this rule is to establish criteria and procedures for distributing Enhancement for At-Risk Students funds to LEAs.

(b) The intent of the rule and the legislative appropriation is to improve academic achievement of students who are at risk of academic failure.

R277-708-2. Definitions.

(1) "At-risk of academic failure" means a k-12 public school student who:

(a) scores below proficient on a Board or LEA approved assessment; or

(b) meets an LEA governing board's approved definition of at-risk of academic failure.

(2) "Available funds" means the total funds appropriated for the Enhancement for At-Risk Students interventions, less funding designated for gang prevention under Subsection 53F-2-410(1)(b)(i).

(3) "Chronic absenteeism" means the number of students within an LEA who:

(a) were enrolled in the LEA 60 calendar days or more; and

(b) missed 10% or more days of instruction, whether the absence was excused or not.

(4) "Homeless child" or "homeless youth" means the same as that term is defined in R277-616-2.

(5) "Homelessness" means the number of students within an LEA identified as homeless youth.

(6) "LEA governing board" means:

(a) a charter school governing board; or

(b) a district's local school board.

(7) "LEA share" means the percentage of k-12 students from an LEA who are at risk of academic failure compared to the total count for the state of Utah from the previous school year.

(8) "Limited English Proficiency" or "LEP" means the total number of English learner or "EL" students in an LEA from the October 1 count from the previous school year who received a score of 1-4 on the English language proficiency assessment.

(9) "Low performance on a statewide assessment" means the unduplicated count of k-12 students from an LEA scoring below proficient in Reading/Language, Math, and Science on one of the following exams from the previous school year:

(a) for students in grades 3 through 8, the Readiness Improvement Success Empowerment (RISE) standards assessment;

(b) for students in grades 9 and 10, Utah Aspire;

(c) the Special Education alternate assessment; or

(d) other Board approved assessment.

(10) "Mobility" means the number of k-12 students enrolled less than 160 days or its equivalent in one school within a school year, as determined by the prior year's year-end average daily membership submission.

(11) "Poverty" means the total number of k-12 students in an LEA reported as economically disadvantaged using federal child nutrition income eligibility guidelines for free or reduced-priced under the federal school lunch program from the official October 1 enrollment count from the previous school year.

(12) "Truancy" or "truant student" means a student absent without a valid excuse.

(13) "UTREx System" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.

(14) "Valid excuse" means the same as that term is defined in Section 53G-6-201.

R277-708-3. Allocation of Enhancement for At-Risk Student Funds.

(1) The Superintendent shall base an LEA's allocation on the certified data from the UTREx System using the most recent school year for which data is complete and available.

(2) The Superintendent shall use the following funding formula to determine an LEA base to distribute to LEAs:

(a) the Superintendent shall annually calculate 4% of the state appropriation of the Enhancement for At-Risk Students funding available for LEA grants to provide a base amount to LEAs.

(b) The Superintendent shall divide the base amount

described in Subsection (2)(a) equally among all eligible LEAs.

(3) The Superintendent shall annually calculate 20% of the state appropriation of the Enhancement for At-Risk Students on a per school basis to provide a targeted amount to LEAs with traditional elementary schools, secondary schools, and alternative high schools with at least 75% poverty.

(4)(a) Subject to Subsection (4)(b), the Superintendent shall award remaining funds to an LEA based on the LEA's number of students who meet any of the following criteria:

(i) low performance on a Board approved assessment;

(ii) poverty;

(iii) mobility;

(iv) limited English Proficiency;

(v) chronic absenteeism; and

(vi) homelessness.

(b) When counting the number of students within an LEA who meet the criteria described in Subsection (4)(a), the Superintendent shall:

(i) for a student who meets one criterion, count the student once; and

(ii) for a student who meets more than one criterion, count the student for each criterion the student meets, up to three criteria.

(5) The Superintendent shall notify an LEA that qualifies for funding of the LEA's level of funding annually by May 1.

R277-708-4. Fiscal Procedures.

(1) An LEA shall submit its application to the Superintendent annually by November 1 through the Board's grant management system.

(2) The Superintendent shall distribute available funds to LEAs with an approved application monthly based on a one-twelfth distribution beginning on July 1.

(3) Except as provided in Subsection (5)(a), an LEA shall spend all allocated funds annually by June 30.

(4) An LEA that accepts funds for Enhancement for At-Risk Students intervention services shall be subject to Board accounting, auditing, and budgeting rules and policies.

(5)(a) With written approval from the Superintendent, an LEA may carry over and spend up to ten percent of state Enhancement for At-Risk Student funds in the next fiscal year.

(b) An LEA shall submit a request to carry over funds under Subsection (5)(a) to the Superintendent annually.

(c) An LEA shall detail approved carry over amounts in a revised budget submitted with the LEA's application described in Subsection (1) and through the Board's grant management system.

(d) The Superintendent shall review and approve a revised

budget submitted under Subsection (5)(c) no later than December 1 in the year submitted.

R277-708-5. Application Process.

(1) An LEA may use funds for activities that support academic achievement of students who are at risk of academic failure, including addressing truancy.

(2) An LEA shall establish the following to include in the LEA's application for Enhancement for At-Risk Student money:

(a) supporting the specific measurable goals aligned to the growth goals in the state accountability system, including a baseline measurement, related to increased academic achievement of students at-risk of academic failure;

(b) a copy of the LEA's comprehensive plan for student and classroom management, and school discipline required in Section R277-609-4; and

(c) if the LEA establishes an LEA specific definition of a student at-risk of academic failure as described in Subsection R277-708-2(1)(b), the LEA governing board's approved definition of a student at-risk of academic failure.

(3) Annually, an LEA shall provide the following information to the Superintendent:

(a) a report of the LEA's use of funds through the annual financial reporting process;

(b) the LEA's outcome data related to the specific measurable goals included in the LEA's application; and

(c) a report of intervention effectiveness based on performance criteria defined by the Superintendent.

R277-708-6. Oversight: Monitoring, Evaluation and Reports.

(1)(a) The Superintendent shall conduct tri-annual intervention reviews of each LEA receiving Enhancement for At-Risk Students funding to ensure intervention compliance.

(b) In the Superintendent's discretion or for good cause, the Superintendent may conduct additional formal or informal:

(i) monitoring;

(ii) reviews; or

(iii) site visits.

(2) If the Superintendent identifies violations as a result of a review described in Subsection (1)(a), an LEA shall prepare and submit to the Superintendent a written corrective action plan for each finding made by the Superintendent.

(3) If an LEA fails to resolve findings identified by the Superintendent under Subsection (2), the Superintendent may implement corrective action as provided in R277-114.

R277-708-7. Gang Prevention and Intervention Funds.

(1) Consistent with Subsection 53F-2-410(1)(b), the Superintendent shall distribute funding to LEAs for gang prevention and intervention.

(2) An LEA desiring to receive gang prevention and intervention funds shall submit a proposal consistent with Rule R277-436.

KEY: students at risk
Date of Enactment or Last Substantive Amendment: November 7, 2018
Notice of Continuation: September 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-2-410; 53E-3-401(4)

R277. Education, Administration.
R277-709. Education Programs Serving Youth in Custody.
R277-709-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-503(2)(b) which requires the Board to adopt rules for the distribution of funds for the education of youth in custody.

(2) The purpose of this rule is to specify operation standards, procedures, and distribution of funds for youth in custody programs.

R277-709-2. Definitions.

(1) "Accreditation" means the formal process for evaluation and approval from a regional accrediting body.

(2) "Custody" means the status of being legally subject to the control of another person or a public agency.

(3)(a) "Youth in custody" means a person for whom the Board is responsible to provide educational services under Subsections 53E-3-503(2)(a) and 62A-15-609(1).

(b) "Youth in custody" does not include a person taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.

R277-709-3. Student Evaluation, Education Plans, and LEA Programs.

(1) Each student meeting the eligibility definition of youth in custody shall have a written plan for college and career readiness defining the student's academic achievement, which shall specify known in-school and extra-school factors which may affect the student's school performance.

(2) A student, school staff and parent/guardian shall annually review the student's plan for college and career readiness maintained in the student's file.

(3) A program receiving a youth in custody student is responsible for obtaining the student's evaluation records, and, in cases where the records are not current, for conducting the evaluation, which may include a special education eligibility evaluation, as quickly as possible so that unnecessary delay in developing a student's education program is avoided.

(4) The LEA in which a youth in custody program is located has the responsibility to conduct IDEA child find activities within the program, consistent with Section R277-750-2 and Utah

State Board of Education Special Education Rule II.A.

(5)(a) A youth in custody program shall prepare an appropriate plan for college and career readiness and, as needed, an Individualized Education Program for each eligible youth in custody based upon the results of the student evaluation.

(b) A youth in custody program shall review and update the plans required under Subsection (5)(a) at least once each year or immediately following transfer of a student from one custody program to another, whichever is sooner.

(c) A youth in custody program shall develop the plans required under Subsection (5)(a) in cooperation with appropriate representatives of other service agencies working with a student, such as JJS, DCFS, DWS, etc.

(d) The plans required under Subsection (5)(a) shall specify the responsibilities of each of the agencies towards the student and shall be signed by each agency's representative.

(6)(a) All provisions of the IDEA and state special education rules apply to youth in custody programs.

(b) The USBE Special Education Department shall include youth in custody programs in annual general supervision monitoring.

(7)(a) An LEA shall provide an education program for the student which conforms as closely as possible to the student's education plan.

(b) An LEA shall provide educational services in the least restrictive environment appropriate for the student's behavior and educational performance.

(8) An LEA shall consider youth in custody who do not require educational services or supervision beyond students not in custody to be part of the district's regular enrollment and provided education services.

(9) An LEA shall only assign or allow youth in custody to remain in restrictive or mainstream programs if:

(a) their custodial status;

(b) past behavior that does not put others at risk; or

(c) the inappropriate behavior of other students.

(10)(a) Education programs to which youth in custody are assigned shall meet the standards which are adopted by the Board for that type program.

(b) The Superintendent shall monitor compliance in annual review visits.

(11) An LEA shall accept credit earned in youth in custody programs that are accredited at face value in Utah's public schools consistent with Section R277-410-9, Transfer or Acceptance of Credit.

(12) A youth in custody program shall coordinate educational services with non-custody programs to enable youth in custody to

continue their education following discharge from custody.

(13)(a) A youth in custody program shall admit youth in custody to classes within five school days following arrival at a new residential placement.

(b) If a youth in custody program cannot complete an evaluation and plan for college and career readiness or IEP development within five school days, the program shall enroll the student temporarily based upon the best information available.

(c) A temporary schedule may be modified to meet the student's needs after the evaluation and planning process is complete.

(14)(a) Following a student's release from custody or transfer to a new program, the sending program shall bring all available school records up to date and forward them to the receiving program consistent with Section 53G-6-604.

(b) An LEA shall maintain all grades, attendance records and special education SCRAM records in the LEA's SIS system in compliance with Rule R277-484, Data Standards.

R277-709-4. Program Fiscal and Accountability Procedures.

(1) The Superintendent shall allocate state funds appropriated for youth in custody, including the Utah State Hospital, in accordance with Section 53E-3-503 and Section 62A-15-609.

(2) Funds appropriated for youth in custody programs shall be subject to Board accounting, auditing, and budgeting rules and policies.

(3) The Superintendent shall, through an annually submitted and approved state application and plan, contract with LEAs to provide educational services for youth in custody.

(a) A contract required by Subsection (3) shall include the respective responsibilities of the Board, LEAs, and other local service providers for education.

(b) An LEA may subcontract with local non-district educational service providers for the provision of educational services.

(4) The Superintendent may only contract through an RFP process with an appropriate entity if the Superintendent determines that the LEA where the facility is located is unable or unwilling to provide adequate education services.

(5) Youth in custody students receiving education services by or through an LEA are students of that LEA.

(6) Notwithstanding the procedures for determining an alternative district of residency in Rule R277-621, an LEA may not create an alternative district of residency for a student who has been placed in custody primarily in an attempt to receive services in a state funded youth in custody program.

(7) The Superintendent shall allocate state funds appropriated for youth in custody on the basis of an annually submitted and approved application made by the LEA where a youth in custody program resides.

(8) The Superintendent shall base the share of funds distributed to an LEA upon criteria, which include:

(a) the number of youth in custody served by the LEA;

(b) the type of program required for the youth;

(c) the setting for providing services; and

(d) the length of the program.

(9) A youth in custody program shall expend funds approved for youth in custody projects solely for the purposes described in the respective funding application.

(10) The Superintendent may retain no more than five percent of the total youth in custody annual legislative appropriation for administration, oversight, monitoring, and evaluation of youth in custody programs and their compliance with law and this rule.

(11) Up to three percent of the five percent of administrative funds allowed under Subsection (9) may be withheld by the Superintendent and directed to students attending youth in custody programs for short periods of time or to new or beginning youth in custody programs or initiatives benefitting youth in custody students.

(12) The Superintendent may withhold federal or state funds for noncompliance with state policy and procedures and associated reporting timelines in accordance with Rule R277-114.

(13) The Superintendent shall develop uniform forms, deadlines, reporting and accounting procedures and guidelines to govern the youth in custody school-based programs and Utah State Hospital funded programs.

R277-709-5. Youth in Custody Programs and Students with Disabilities.

(1) The youth in custody program is separate from and not conducted under the state's education program for students with disabilities.

(2) Custodial status alone does not qualify a youth in custody student as a student with a disability under laws regulating education for students with disabilities.

(3) Youth in custody students may be eligible for special education funding and services based upon special education rules and regulations.

(4) Youth in custody students qualifying for special education services shall receive educational instruction as defined in Rule R277-750, Education Programs for Students with Disabilities.

(5) Special education procedural safeguards shall apply to

all IDEA eligible youth in custody students regardless of instructional location.

(6) The Superintendent shall monitor special education programs provided through youth in custody programs on an annual basis in accordance with special education rules and policies.

R277-709-6. Youth in Custody Program Staffing and Monitoring.

(1) Education staff assigned to youth in custody shall be qualified and appropriate for their assignments in accordance with Board licensing rules.

(2) Youth in custody programs shall maintain accreditation as part of the LEA where the programs are located consistent with Rule R277-410, Accreditation of Schools.

(3) The Superintendent shall evaluate youth in custody programs through regular site monitoring visits and monthly desk monitoring.

(4) Monitored programs shall prepare and submit to the Superintendent a written corrective action plan for each monitoring finding, as requested by the Superintendent.

(5) A youth in custody program's failure to resolve monitoring findings as soon as possible, and, in no case, later than one calendar year from date of notice, may result in the termination of state funding as provided in Rule R277-114.

(6) The Superintendent may review LEA or State Hospital records and practices for compliance with the law and this rule.

R277-709-7. Youth in Custody/LEA Fiscal Procedures.

(1) Ten percent of state youth in custody funds or educational contract funds not expended in the current fiscal year may be carried over by eligible LEAs and spent in the next fiscal year with written approval of the Superintendent.

(2) An LEA shall submit a request to carry over funds for approval by August 1.

(3) If approved, an LEA shall detail carry over amounts in a revised budget submitted to the Superintendent no later than October 1 in the year requested.

(4) The Superintendent shall consider excess funds in determining the LEA's allocation for the next fiscal year.

(5)(a) The Superintendent shall annually recapture fund balances in excess of ten percent no later than February 1.

(b) The Superintendent shall reallocate funds recaptured in accordance with Subsection (5)(a) to the youth in custody programs based on the criteria and procedures provided by this rule.

R277-709-8. Program, Curriculum, Outcomes and Student Mastery.

(1) Youth in custody programs shall offer courses consistent with the Utah Core standards under Rule R277-700.

(2) A youth in custody program may modify or adjust Utah core standards and teaching strategies to meet the individual needs of youth in custody students.

(3) Youth in custody programs shall stress course content mastery rather than completion of predetermined seat time in a classroom.

(4) The Superintendent shall make available written course descriptions for GED Test preparation for youth in custody students who consider pursuing GED Tests as an alternative to traditional Carnegie diploma courses.

R277-709-9. Confidentiality.

(1) An LEA shall issue transcripts and diplomas prepared for youth in custody in the name of an existing LEA, which also serves non-custodial youth and shall not bear references to custodial status.

(2) School records which refer to custodial status, juvenile court records, and related matters shall be kept separate from permanent school records, but are nonetheless student records if retained by the LEA.

(3)(a) Members of the interagency team which design and oversee student education plans shall have access, through team member representatives of the participating agencies, to relevant records of the various agencies.

(b) The records and information obtained from the records remain the property of the supplying agency and shall not be transferred or shared with other persons or agencies without the permission of the supplying agency, the student's legal guardian, or the eligible student, as defined under 20 U.S.C. 1232g(d).

(4) Youth in custody programs shall comply with all state and federal privacy requirements for student records.

R277-709-10. Coordinating Council.

(1)(a) The Department of Human Services and the Board shall appoint a coordinating council in accordance with Subsection 53E-3-503(6)(a) to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.

(b) The coordinating council shall operate under guidelines developed and approved by the Department of Human Services and the Board.

(2) Coordinating council membership shall include a representative of the following:

(a) the Department of Human Services;

(b) the Division of Substance Abuse and Mental Health;

(c) the Division of Juvenile Justice Services;

(d) the Division of Child and Family Services;
(e) the Board;
(f) the Administrative Office of the Courts;
(g) school district superintendents; and
(h) a Native American tribe.

R277-709-11. Advisory Councils.

(1)(a) Each LEA serving youth in custody shall establish a local interagency advisory council which shall be responsible for advising member agencies concerning coordination of youth in custody programs.

(b) Members of council required under Subsection (1)(a) shall include, if applicable to the LEA, the following:

(i) a representative of the Division of Child and Family Services;

(ii) a representative of the Division of Juvenile Justice Services;

(iii) directors of agencies located in an LEA such as detention centers, secure lockup facilities, observation and assessment units, and the Utah State Hospital;

(iv) a representative of community-based alternative programs for custodial juveniles; and

(v) a representative of the LEA.

(2) A local interagency advisory council required under Subsection (1)(a) shall:

(a) adopt by-laws for its operation; and

(b) meet at least quarterly.

KEY: students, education, juvenile courts
Date of Enactment or Last Substantive Amendment: August 19, 2019
Notice of Continuation: February 26, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-503(2)(b)

R277. Education, Administration.
R277-710. Intergenerational Poverty Interventions in Public Schools.
R277-710-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-5-207(4), which directs the Board to accept proposals and award grants under the program.

(2) The purpose of this rule is:

(a) to provide for distribution of funds to LEAs; and

(b) to provide for out-of-school educational services that assist students affected by intergenerational poverty in achieving academic success.

(3) This rule provides eligibility criteria, provides minimum application criteria, provides timelines, and provides for Superintendent oversight and reporting.

R277-710-2. Definitions.

(1) "Eligible student" means a student in grades k-12 of the public school system who is classified as a child affected by intergenerational poverty.

(2)(a) "Intergenerational poverty (IGP)" means poverty in which two or more successive generations of a family continue in the cycle of poverty and government dependence.

(b) "Intergenerational poverty" does not include situational poverty as defined in Subsection 35A-9-102(2).

(3) "Program" means the Intergenerational Poverty Interventions Grant Program that provides educational services outside of the regular school day, including before school, after school, or summer programs.

R277-710-3. Grant Eligibility.

(1) Only LEAs are eligible to apply for funds under the program.

(2) An LEA, in designing the LEAs program services, may collaborate with a community-based organization that provides quality after school programs.

(3) The Board shall give priority to applicants that have a significant number or percentage of students affected by intergenerational poverty.

(4) Program funds are intended to provide supplemental services beyond what is already available through state and local

funding.

(a)(i) For an LEA with a school that has an existing after school program, the program funds may be used to augment the amount or intensity of services to benefit students affected by IGP.

(ii) A program applicant that has an existing after school program may apply for a grant in the range of $30,000 to $50,000 per school year.

(b)(i) For an LEA with a school that does not have an existing after school program, the program funds may be used to establish a quality after school program.

(ii) A program applicant without an existing after school program may apply for grants in the range of $100,000-$200,000 per school year.

(5) An LEA that participates in the program and serves students in grades k-6 may be eligible to apply for additional federal after school funding through the Department of Workforce Services.

R277-710-4. Program Requirements.

An applicant for a program grant shall design a program that includes the following minimum components:

(1) a description of the level of administrative support and leadership at the LEA to effectively implement, monitor, and evaluate the program;

(2) an explanation of how the LEA will provide adequate supervision and support to successfully implement or increase programs at the school level;

(3) a summary of a needs assessment conducted by the LEA to determine the academic needs and interests of participating students and their families;

(4) the identification of intended outcomes of the program and how these outcomes will be measured;

(5) an explanation of how the LEA or school will provide services to improve the academic achievement of children affected by intergenerational poverty;

(6) a commitment to assess program quality and effectiveness and make changes as needed;

(7) an outline of the scope of services, including days of the week, number of hours, and number of weeks;

(8) an explanation of the LEA's strategy for coordinating with and engaging the Department of Workforce Services to provide services for the LEA's eligible students;

(9) an explanation of how the LEA will work with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts to provide services to the LEA's eligible students;

(10) the identification of IGP eligible students categorized by age, and schools in which the LEA plans to develop programs with the grant money;

(11) an annual program budget and identification of the estimated cost per student; and

(12) establishment and maintenance of data systems that inform program decisions and annual reporting requirements.

R277-710-5. Program Fees.

(1) Program fees charged by an LEA or school are subject to the provisions of R277-407.

(2) An LEA or school may impose a fee, including fees on a sliding scale, related to the LEA's program if the LEA or school complies with the provisions of R277-407, including:

(a) ensuring the program fee is approved by the LEA governing board before the LEA or school charges the fee;

(b) advertising or notifying parents and students of fee waiver eligibility and the process for a parent or student to obtain a fee waiver; and

(c) providing a student or parent an opportunity to appeal the LEA's denial of the student or parent's request for a fee waiver.

R277-710-6. Application Process.

(1) The Superintendent shall:

(a) create a scoring rubric to evaluate grant applications;

(b) solicit competitive grant applications from LEAs;

(c) review an LEA grant application according to the scoring rubric described in Subsection (1)(a); and

(d) award grant funds to LEAs based on the recommendations of a program grant application review panel.

(2) An LEA may apply for a grant through the Utah Consolidated Application (UCA).

(3)(a) The Superintendent shall convene a panel of application reviewers who demonstrate no conflicts of interest.

(b) The panel reviewers shall score applications and the panel shall make recommendations for funding to the Board.

(4) In a year when there is a grant competition:

(a) the application deadline is May 15; and

(b) the Superintendent shall notify grant recipients no later than July 1.

(5) The Superintendent, in future years, subject to continuing appropriations, may adjust the time periods and create applicable timelines to allow LEAs more time to propose programs and complete applications.

R277-710-7. Superintendent Oversight and Reporting Requirements.

(1) The Superintendent shall provide adequate oversight in the administration of the IGP program to include:

(a) conducting the annual application process and awarding of funds;

(b) monitoring program implementation; and

(c) gathering and reporting required data.

(2) An LEA that receives program grant money shall annually provide to the Superintendent the information that is necessary for the Board's report to the Utah Intergenerational Welfare Reform Commission as required by Subsection 53F-5-207(7).

(3) The annual report required under Subsection 53F-5-207(7) shall include:

(a) the progress of LEA programs in expending grant money;

(b) the progress of LEA programs in improving the academic achievement of children affected by intergenerational poverty; and

(c) the LEA's coordination efforts with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts.

KEY: public schools, poverty, intervention
Date of Enactment or Last Substantive Amendment: August 19, 2019
Notice of Continuation: June 21, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-5-207

R277. Education, Administration.
R277-711. High Quality School Readiness Expansion.
R277-711-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Section 53F-5-303, which requires the Board to make rules to:

(i) implement a grant program for LEAs to increase capacity in high-quality school readiness programs; and

(ii) create a tool to determine quality of a school readiness program; and

(d) Section 53F-5-304, which requires the Board to make rules to implement a grant program for home-based technology programs to provide high-quality school readiness programs.

(2) The purpose of this rule is to:

(a) designate the tool for the Superintendent to use in determining if a school readiness program is high quality; and

(b) designate procedures for an LEA to apply to the Board to receive grant money.

R277-711-2. Definitions.

(1) "Eligible LEA" means an LEA that provides a school readiness program that the Superintendent has determined to be a high-quality program consistent with procedures established in this Rule.

(2) "Program" means the high-quality school readiness expansion program established in Title 53F, Chapter 5, Part 3, Expanded Access to High Quality School Readiness Programs Act.

R277-711-3. Grant Applications - Timelines.

(1) The Superintendent shall:

(a) develop a grant application that allows an LEA to apply to participate in the program; and

(b) make the grant application available on the Board's website.

(2) An LEA may apply for a grant described in Section 53F-5-303 by submitting an application to the Superintendent on or before the date published on the Board's website.

(3)(a) An LEA may notify the Superintendent of the LEA's intention to apply for a grant at any time.

(b) If an LEA intends to be considered for a grant for the upcoming school year, the LEA shall submit a letter of intent by

the deadline established by the Superintendent and published on the Board's website.

(4) For each year the Superintendent is authorized to solicit grant applications, the Superintendent shall publish a timeline on the Board's website by March 1, including a date for the application release, and due dates for the LEA to submit required materials.

(5) The Superintendent shall evaluate each application using the tool described in Section R277-711-4 to determine if the applying LEA is an eligible LEA.

(6) The Superintendent shall notify an eligible LEA of successful receipt of a grant by July 1.

R277-711-4. Superintendent and LEA Responsibilities - Tool to Determine Quality of an LEA School Readiness Program.

(1) The Superintendent shall create a tool to determine whether or not an LEA school readiness program may be designated as high quality.

(2) The tool described in Subsection (1) shall consist of the following components:

(a)(i) the Early Childhood Environmental Rating Scale (ECERS) observational tool for an observer to rate a program through a site visit; or

(ii) another observational tool that the Superintendent trusts to be a reliable tool;

(b) an application from the LEA containing the high quality components described in 53F-6-304; and

(c) an on-site visit and interview with the Superintendent's designated staff.

(3) The Superintendent shall establish a scoring rubric for how the application will be evaluated, and make the rubric available to applicants.

(4) The Superintendent shall maintain a list of state-funded high-quality school readiness programs operating in each LEA's geographic boundaries, which have been designated as high quality through use of the tool.

(5) The Superintendent shall provide for a flag in a student's data file to indicate the type of state-funded high-quality school readiness program that the student participated in.

(6)(a) The Superintendent may require an LEA that receives program money to develop a corrective action plan and successfully implement the corrective action plan if the LEA fails to:

(i) comply with statutory provisions or the requirements of this Rule;

(ii) meet expected goals; or

(iii) maintain all the high-quality elements of the school readiness program.

(b) If an LEA fails to successfully implement a corrective action plan described in Subsection (6)(a), the Superintendent may discontinue or reduce funding of program grant monies to the LEA.

(7) The Superintendent shall administer the grant program for home-based technology providers as provided in Section 53F-5-304.

(8) The Superintendent shall administer and oversee the evaluation of the program as provided in Section 53F-5-307.

KEY: grants, school readiness program
Date of Enactment or Last Substantive Amendment: October 11, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-5-303; 53F-5-304

R277. Education, Administration.
R277-712. Competency-based Grant Programs.
R277-712-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Section 53F-5-502, which requires the Board to:

(i) define outcome-based measures for each type of grant awarded to LEA's;

(ii) establish a grant application process;

(iii) establish a review committee; and

(iv) adopt metrics to analyze the quality of a grant application; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) define outcome-based measures for each type of grant awarded to LEA's;

(b) establish a grant application process;

(c) establish a review committee; and

(d) adopt metrics to analyze the quality of a grant application.

R277-712-2. Definitions.

(1) "Advisory committee" means the advisory committee established by the Board in Section R277-712-3.

(2) "Grant program" means the same as that term is defined in Subsection 53F-5-501(5).

R277-712-3. Competency-based Advisory Committee Membership and Duties.

(1) The advisory committee shall include the following ten individuals:

(a) the Deputy Superintendent of Instructional Services or the Deputy's designee, who is a non-voting member of the advisory committee;

(b) one member who is an expert in blended learning;

(c) one member who is an expert in STEM education;

(d) one member who is an expert in assessment of student learning;

(e) one member who is a former school district superintendent;

(f) one member who is a current school administrator;

(g) one member who is a current charter school administrator;

(h) one member who is a former LEA administrator;

(i) one member who is a current teacher; and

(j) one member who is a former teacher.

(2) In addition to the committee members described in Subsection (1), the advisory committee may select additional grant application reviewers to assist the advisory committee with the work described in Subsection (3).

(3) The advisory committee shall:

(a) establish metrics to analyze the quality of a grant application;

(b) review an LEA's planning grant application to determine whether the planning grant application:

(i) meets the criteria described in Section 53F-5-503 and Section R277-712-5; and

(ii) should be selected by the Board as one of three LEAs to receive a planning grant;

(c) make a recommendation to the Superintendent and the Board on which grant applications should be selected by the Board; and

(d) perform other duties as directed by:

(i) the Board; or

(ii) the Superintendent.

(4) The advisory committee, or the Superintendent on behalf of the advisory committee, shall present the advisory committee's recommendations on grant applications to the Board for approval.

R277-712-4. Pre-grant Approval Requirements.

(1) Before an LEA submits a planning grant application to the advisory committee for approval by the Board, the LEA shall have at least two LEA representatives participate in the competency-based technical assistance training conducted by the Superintendent, including;

(a) the school district superintendent or charter school executive director; and

(b)(i) the LEA's curriculum director; or

(ii) the LEA's proposed competency-based education program manager.

(2) A member of an LEA's local school board or charter school governing board and other staff identified by the applying LEA may participate in the technical assistance training described in Subsection (1).

R277-712-5. Grant Application.

(1) An LEA may apply for a planning grant described in Section 53F-5-503 by submitting an application to the Superintendent.

(2) The Superintendent shall:

(a) develop a grant application;

(b) set a deadline for the application to be submitted to the Superintendent; and

(c) make the grant application available to LEAs on the Board's website.

R277-712-6. Procedure and Requirements for Awarding a Planning Grant.

(1) The advisory committee and the Superintendent shall make recommendations to the Board based on:

(a) the criteria described in Subsection 53F-5-503(2);

(b) the LEA's proposed budget for the LEA's competency-based program; and

(c) the LEA's outcome based measurements described in Subsection (2).

(2)(a) For a planning grant, an LEA shall include outcome-based measurements as part of the LEA's competency-based program to measure the performance of the LEA's plan.

(b) The outcome-based measurements described in Subsection (2)(a) shall include at least one measurement of student growth and proficiency.

(c) The outcome-based measurements described in Subsection (2)(a) may include:

(i) parent and student satisfaction with the LEA's competency-based program;

(ii) cost savings;

(iii) an increase in the LEA's graduation rate; and

(iv) number of credits earned by students through the competency-based program.

KEY: competency-based instruction, grant programs
Date of Enactment or Last Substantive Amendment: October 11, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-5-502; 53E-3-401(4)

R277. Education, Administration.
R277-713. Concurrent Enrollment of High School Students in College Courses.
R277-713-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-2-409, which directs the Board to provide for the distribution of concurrent enrollment dollars in rule.

(2) The purpose of the concurrent enrollment program is to provide a challenging college-level and productive experience in high school, and to provide transition courses that can be applied to postsecondary education.

(3) The purpose of this rule is to specify the standards and procedures for concurrent enrollment courses and the criteria for funding appropriate concurrent enrollment expenditures.

R277-713-2. Definitions.

(1) "Concurrent Enrollment" means a public high school student is enrolled in a course that satisfies both high school graduation requirements and qualifies for higher education credit at a USHE institution.

(2) "Concurrent Enrollment Program" or "Program" means the program created in Section 53E-10-302 that receives funding in accordance with Section 53F-2-409, which allows students to participate in concurrent enrollment courses.

(3) "Master course list" means a list of approved courses, maintained by the Superintendent and USHE, which may be offered and funded through the concurrent enrollment program.

(4) "USHE" means the Utah System of Higher Education.

R277-713-3. Student Eligibility and Participation.

(1) A student participating in the program shall:

(a) be enrolled in a public high school in the state and counted in average daily membership for that high school, as required in Subsection 53E-10-301(4);

(b) have on file at the participating school, a current student SEOP, as defined in Section 53E-2-304.

(c) have completed a concurrent enrollment participation form, including a parent permission form and acknowledgment of program participation requirements, as required in section 53E-10-304; and

(d)(i) be enrolled in grade 11 or 12; or

(ii) if allowed by exception, be enrolled in grade 9 or 10, as detailed in Subsection 53E-10-302(5).

(2) Student eligibility requirements for the program shall be:

(a) established by an LEA and a USHE institution; and

(b) sufficiently selective to predict a successful experience for qualified students.

(3) An LEA has the primary responsibility for identifying a student who is eligible to participate in a concurrent enrollment class.

(4) To ensure that a student is prepared for college level work, an LEA shall appropriately evaluate the student's abilities prior to participation in concurrent enrollment courses, and to determine that the student meets prerequisites previously established for the same campus-based course by the sponsoring USHE institution.

R277-713-4. Course Credit and Offerings - Course Approval Process.

(1) Credit earned through a concurrent enrollment course:

(a) has the same credit hour value as when taught on a college campus;

(b) applies toward graduation on the same basis as a course taught at a USHE institution to which the credits are submitted;

(c) generates higher education credit that becomes a part of a student's permanent college transcript;

(d) generates high school credit that is consistent with the LEA policies for awarding credit for graduation; and

(e) is transferable from one USHE institution to another.

(2) A USHE institution is responsible to determine the credit for a concurrent enrollment course, consistent with State Board of Regents policies.

(3) An LEA and a USHE institution shall provide the Superintendent and USHE with proposed new course offerings, including syllabi and curriculum materials, by November 15 of the year preceding the school year in which the courses would be offered.

(4) A concurrent enrollment course shall be approved by the Superintendent and USHE, and designated on the master course list, maintained by the Superintendent and USHE.

(5)(a) Concurrent enrollment course offerings shall reflect the strengths and resources of the respective schools and USHE institutions and be based upon student needs.

(b) The number of courses selected shall be kept small enough to ensure coordinated statewide development and professional development activities for participating teachers.

(6) To provide for the focus of energy and resources on

quality instruction in the concurrent enrollment program, program courses shall be limited to courses in:

(a) English;

(b) mathematics;

(c) fine arts;

(d) humanities;

(e) science;

(f) social science;

(g) world languages; and

(h) career and technical education.

(7) A Technology-intensive concurrent enrollment (TICE) course is a hybrid course, having a blend of different learning activities, available both in the classroom and online, or may be delivered exclusively online.

(8) A concurrent enrollment course shall be a course at the 1000 or 2000 level in postsecondary education, except for a 3000-level accelerated foreign language course, which may be approved as a concurrent enrollment course for eligible students.

(9) A concurrent enrollment course may not be approved if it is:

(a) a high school course that is typically offered in grade 9 or 10; or

(b) a postsecondary course below the 1000 level.

(10) The appropriate USHE institution shall take responsibility for course content, procedures, examinations, teaching materials, and program monitoring and all procedures and materials shall be consistent with Utah law, and shall ensure quality and comparability with courses offered on a college or university campus.

R277-713-5. Program Management and Delivery.

(1)(a) Concurrent enrollment courses and curriculum may be provided through live classroom instruction or by other means, including electronic communications.

(b) An LEA and a USHE institution shall design and implement courses to take full advantage of the most currently available educational technology.

(2) An LEA shall use a Superintendent-designated 11-digit course code for a concurrent enrollment course.

(3) An LEA and a USHE institution shall jointly align information technology systems with all individual student academic achievement data so that student information will be tracked through both education systems consistent with Section 53E-4-308.

R277-713-6. Faculty and Educator Requirements.

(1) An educator who is not employed by a USHE institution

and teaches a concurrent enrollment course shall:

(a) be employed by an LEA;

(b) have secondary endorsements in each subject area in which they teach; and

(c) have a Level 4 mathematics endorsement if the educator teaches a mathematics concurrent enrollment course.

(2) An educator employed by an LEA who teaches a concurrent enrollment course shall be approved as an adjunct faculty member at the contracting USHE institution prior to teaching the concurrent enrollment course.

(3) High school educators who hold adjunct or part time faculty status with a USHE institution for the purpose of teaching concurrent enrollment courses shall be included as fully as possible in the academic life of the supervising academic department at the USHE institution.

(4) An LEA and a USHE institution shall share expertise and professional development, as necessary, to adequately prepare a teacher to teach in the concurrent enrollment program, including federal and state laws specific to student privacy and student records.

(5) A USHE institution that employs a faculty member who teaches in a high school has responsibility for ensuring and maintaining documentation that the faculty member has successfully completed a criminal background check, consistent with Section 53G-11-402.

R277-713-7. Concurrent Enrollment Funding and Use of Concurrent Enrollment Funds.

(1) Program funds shall be allocated in accordance with Section 53F-2-409.

(2) Program funds allocated to LEAs may not be used for any other program or purpose, except as provided in Section 53F-2-206.

(3) Concurrent enrollment funding may not be used to fund a parent- or student-initiated college-level course at an institution of higher education.

(4) The Superintendent may not distribute concurrent enrollment funds to an LEA for reimbursement of a concurrent enrollment course:

(a) that is not on the master course list;

(b) for a student that has exceeded 30 semester hours of concurrent enrollment for the school year;

(c) for a concurrent enrollment course repeated by a student; or

(d) taken by a student:

(i) who has received a diploma;

(ii) whose class has graduated; or

(iii) who has participated in graduation exercises.

(5)(a) An LEA shall receive a pro-rated amount of the funds appropriated for concurrent enrollment according to the number of semester hours successfully completed by students registered through the LEA in the prior year compared to the state total of completed concurrent enrollment hours.

(b) Successfully completed means that a student received USHE credit for the course.

(6) An LEA's use of state funds for concurrent enrollment is limited to the following:

(a) aid in professional development of adjunct faculty in cooperation with the participating USHE institution;

(b) assistance with delivery costs for distance learning programs;

(c) participation in the costs of LEA personnel who work with the program;

(d) student textbooks and other instructional materials;

(e) fee waivers for costs or expenses related to concurrent enrollment for fee waiver eligible students under R277-407;

(f) purchases by LEAs of classroom equipment required to conduct concurrent enrollment courses; and

(g) other uses approved in writing by the Superintendent consistent with the law and purposes of this rule.

(7) An LEA that receives program funds shall provide the Superintendent with the following:

(a) end-of-year expenditures reports; and

(b) an annual report regarding supervisory services and professional development provided by a USHE institution.

(8) Appropriate reimbursement may be verified at any time by an audit.

R277-713-8. Student Tuition and Fees.

(1) A concurrent enrollment program student may be charged partial tuition and program-related fees, in accordance with Section 53E-10-305.

(2) Postsecondary tuition and participation fees charged to a concurrent enrollment student are not fees, as defined in R277-407, and do not qualify for a fee waiver under R277-407.

(3)(a) All costs related to concurrent enrollment classes that are not tuition and participation fees are subject to a fee waiver consistent with R277-407.

(b) Concurrent enrollment costs subject to fee waiver may include consumables, lab fees, copying, material costs, and textbooks required for the course.

(4)(a) Except as provided in Subsection (4)(b), an LEA shall be responsible for fee waivers.

(b) An agreement between a USHE institution and an LEA may address the responsibility for fee waivers.

R277-713-9. Annual Contracts and Other Student Instruction Issues.

(1) An LEA and a USHE institution that plan to collaborate to offer a concurrent enrollment course shall enter into an annual contract for the upcoming school year by no later than May 30.

(2) An LEA shall provide the Superintendent a copy of each annual contract entered into between the LEA and a USHE institution for the upcoming school year by no later than May 30.

(3) An LEA and a USHE institution shall use the standard contract language developed by the Superintendent and USHE.

KEY: students, curricula, higher education
Date of Enactment or Last Substantive Amendment: August 11, 2016
Notice of Continuation: July 19, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(c); 53E-10-3

R277. Education, Administration.
R277-715. Out-of-School Time Program Standards.
R277-715-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-4-301(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-3-508, which requires the Board to adopt rules to set standards for high quality out-of-school time programs.

(2) The purpose of this rule is to set standards for high quality out-of-school time programs, and establish the programs required to adopt those standards.

R277-715-2. Definitions.

(1) "Assessment tool" means the Utah After-school Program Quality Assessment and Improvement Tool developed by a statewide multi-agency stakeholder group, and administered by the Utah After-school Network.

(2) "Out-of-school time" means time that a student at a participating program is engaged in a learning environment that is not during regular school hours, including before school, after school, and during the summer.

(3) "Participating program" means a program that receives funds from the Board or from the Department of Workforce Services to support the program's out-of-school time programming.

R277-715-3. Requirements and Standards for High Quality Out-of-School Time Programs.

(1) A participating program shall:

(a) use the assessment tool to determine the extent to which the program is meeting the standards described in this Section;

(b) ensure that it is working toward achieving the standards described in this Section; and

(c) collect and submit student attendance data to the Superintendent in a format prescribed by the Superintendent.

(2) The Superintendent shall provide for a flag in a student's data file to indicate the student's attendance in a participating program.

(3) The safety standard includes the following components in order to provide a safe, healthy, and nurturing environment for all participants, including that:

(a) staff are professionally qualified to work with program participants;

(b) policies and procedures are established and implemented to ensure the health and safety of all program participants;

(c) program participants are carefully supervised to maintain safety;

(d) a transportation policy is established and communicated to staff and families of participants; and

(e) a consistent and responsive behavior management plan is established and implemented.

(4) The relationships standard includes the following components in order to develop and maintain positive relationships among staff, participants, families, schools, and communities, including that:

(a) staff and participants know, respect, and support each other;

(b) the program communicates and collaborates with the school and the community; and

(c) the program fosters family involvement to support program goals.

(5) The skills standard includes the following components in order to encourage participants to learn new skills, including that:

(a) participants are actively engaged in learning activities that promote critical thinking, creative thinking, and that build on the individual's interests and strengths;

(b) the program aligns academic support and interventions to the school-day curricula to address student learning needs; and

(c) the program offers a variety of life skill activities and needs-based support to promote leadership skills, personal growth, and responsible behaviors toward self and others.

(6) The administration standard includes the following components in order to ensure that the program is effectively administered, including that the program:

(a) has established a plan for increasing capacity, ensuring program quality, and promoting sustainability, including sound fiscal management;

(b) establishes and consistently implements clearly-defined policies and procedures;

(c) recruits, hires, and trains diverse and qualified staff members who value and nurture all participants; and

(d) provides professional development and training opportunities to enhance staff job performance.

KEY: out-of-school time, programs, standards, students
Date of Enactment or Last Substantive Amendment: November 7, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-508

R277. Education, Administration.
R277-716. Alternative Language Services for Utah Students.
R277-716-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Title III; and

(c) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.

(2) The purpose of this rule is:

(a) to address the requirements of Title III and implementing regulations and case law;

(b) to clearly define the respective responsibilities of the Superintendent and LEAs:

(i) in identifying students learning English who are currently enrolled in Utah schools; and

(ii) in providing evidence-based language instruction educational programs to identified students; and

(c) in order to:

(i) meet Title III requirements;

(ii) meet funding eligibility requirements; and

(iii) appropriately distribute Title III funds for students learning English to LEAs with approved plans in the Utah Grants Management System.

R277-716-2. Definitions.

(1) "Alternative language services program" or "ALS program" means an evidence-based language instruction educational program used to achieve English proficiency and academic progress of identified students.

(2) "Alternative language services" or "ALS" means language services designed to meet the education needs of all students learning English so that students are able to participate effectively in the regular instruction program.

(3) "Consolidated State Plan" means the application for federal funds authorized under the Elementary and Secondary Education Act, or ESEA, 20 U.S.C. Sec. 1001, et seq., as amended, and other federal sources submitted annually to the Superintendent.

(4) "Evidence-based language instruction education program" means evidence-based methods, recommended by the Superintendent, that meet the "Non-Regulatory Guidance: Using Evidence to Strengthen Education Investments" developed by the U.S. Department of Education.

(5) "Immigrant children and youth" for purposes of this rule means individuals who:

(a) are ages 3 through 21;

(b) were born outside of the United States; and

(c) have not been attending one or more schools in any one or more states of the United States for more than three full academic years.

(6) "Instructional Materials Commission" means a Commission appointed by the Board to evaluate instructional materials for recommendation by the Board consistent with Title 53E, Chapter 4, State Instructional Materials Commission.

(7) "Language instruction educational program" means an instructional course:

(a) in which a student learning English is placed for the purpose of developing and attaining English proficiency, while meeting challenging state academic standards;

(b) that may make instructional use of both English and a child's native language to enable the child to attain and develop English proficiency; and

(c) that may include the participation of English proficient children if the course is designed to enable all participating children to become proficient in English and a second language.

(8) "State Approved Endorsement Program" or "SAEP" means a professional development plan on which a licensed Utah educator is working to obtain an endorsement.

(9) "Student learning English" means an individual who:

(a) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual the opportunity to:

(i) learn successfully in classrooms where the language of instruction is English; or

(ii) participate fully in society;

(b) who was not born in the United States or whose native language is a language other than English and who comes from an environment where a language other than English is dominant; or

(c) who is an American Indian or Alaskan native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency.

(10) "TESOL" means Teachers of English to Speakers of Other Langages.

(11) "TESOL Standards" mean the Pre-K-12 English Language Proficiency Standards established by TESOL International.

(12) "Title III" means federal provisions for providing language instruction to students learning English and immigrant children and youth under 20 U.S.C. 6801, et seq.

R277-716-3. Superintendent Responsibilities.

(1) The Superintendent shall make available in Utah's

approved Title III plan identification and placement procedures to support evidence-based language instruction education programs for students learning English.

(2) The Superintendent shall develop and require all LEAs to administer a Board approved annual English language proficiency assessment to measure fluency level and progress in:

(a) listening;

(b) speaking;

(c) reading; and

(d) writing.

(3) The Superintendent shall apply a formula and distribute funds to LEAs for identification and services to students learning English and their families.

(a) The formula shall provide an amount based upon eligible students and available funds, to be distributed to all eligible LEAs and consortia consistent with Title III requirements.

(b) The formula shall provide for an additional amount to qualifying LEAs based on numbers of immigrant children and youth.

(4) An LEA that receives Title III funds under this rule shall provide the following to the Superintendent:

(a) assurances and documentation maintained of services or a program used to serve students; and

(b) assurances and documentation maintained of required parent notification.

(7) The Superintendent shall provide timelines to LEAs for meeting Title III requirements.

(8) The Superintendent shall assist and provide training to LEAs in development of ALS and Title III services to students learning English who do not meet the state designated annual growth goals in both increased English proficiency and academic standards.

(9) An LEA shall maintain:

(a) an ALS budget plan;

(b) a plan for delivering student instruction as a requirement in the monitoring section of the Utah Grants Management System;

(c) ALS assessments to date;

(d) a sample of parent notification required under Subsection R277-716-4(7); and

(e) documentation or evidence of progress in the state accountability system.

(10) The Superintendent shall conduct on-site monitoring of all funded ALS programs at least once every five years.

(11) The Superintendent shall provide technical assistance during on-site monitoring and as the Superintendent deems necessary.

R277-716-4. LEA Responsibilities.

(1) An LEA that receives funds under Title III shall assure that the LEA has a written plan that:

(a) includes an identification process for students learning English, including a home language survey and a language proficiency for program placement, that is implemented with student registration;

(b) uses a valid and reliable assessment of a student's English proficiency in:

(i) listening;

(ii) speaking;

(iii) reading; and

(iv) writing;

(c) provides an evidence-based language instruction educational program based on Board-approved Utah English Language Proficiency Standards;

(d) establishes student exit criteria from ALS programs or services; and

(e) includes the count of students learning English, by classification, prior to July 1 of each year.

(2) Following receipt of Title III funds, an LEA shall:

(a) determine what type of Title III ALS services are available and appropriate for each student identified in need of ALS services, including:

(i) dual immersion;

(ii) ESL content-based; and

(iii) sheltered instruction;

(b) implement an approved language instruction educational program designed to achieve English proficiency and academic progress of an identified student;

(c) ensure that all identified students learning English receive English language instructional services, consistent with Subsection (1)(c);

(d) provide adequate staff development to assist a teacher and staff in supporting students learning English; and

(e) provide necessary staff with:

(i) curricular materials approved by the Instructional Materials Commission consistent with Rule R277-469; and

(ii) facilities for adequate and effective training.

(3) Following evaluation of student achievement and services, an LEA shall:

(a) analyze results and determine the program's success or failure; and

(b) modify a program or services that are not effective.

(4) An LEA shall have a policy to identify and serve students who qualify for services under IDEA, including:

(a) implementing procedures and training, consistent with

federal regulations and state special education rules, that ensure students learning English are not misidentified as students with disabilities due to their inability to speak and understand English;

(b) reviewing the assessment results of a student's language proficiency in English and other language prior to initiating evaluation activities, including selecting additional assessment tools;

(c) conducting assessments for IDEA eligibility determination and educational programming in a student's native language when appropriate;

(d) using nonverbal assessment tools when appropriate;

(e) ensuring that accurate information regarding a student's language proficiency in English and another language is considered in evaluating assessment results;

(f) considering results from assessments administered both in English and in a student's native language;

(g) ensuring that all required written notices and communications with a parent who is not proficient in English are provided in the parent's preferred language, including utilizing interpretation services; and

(h) coordinating the language instruction educational program and special education and related services to ensure that the IEP is implemented as written.

(5) An LEA shall provide information and training to staff that:

(a) limited English proficiency is not a disability; and

(b) if there is evidence that a student with limited English proficiency has a disability, the staff shall refer the student for possible evaluation for eligibility under IDEA.

(6)(a) An LEA shall notify a parent who is not proficient in English of the LEA's required activities.

(b) A school shall provide information about required and optional school activities in a parent's preferred language.

(c) An LEA shall provide interpretation and translation services for a parent at:

(i) registration;

(ii) an IEP meeting;

(iii) an SEOP meeting;

(iv) a parent-teacher conference; and

(v) a student disciplinary meeting.

(d) An LEA shall provide annual notice to a parent of a student placed in a language instruction educational program at the beginning of the school year or no later than 30 days after identification.

(e) If a student has been identified as requiring ALS services after the school year has started, the LEA shall notify

the student's parent within 14 days of the student's identification and placement.

(7) A required notice described in Subsection (6) shall include:

(a) the student's English proficiency level;

(b) how the student's English proficiency level was assessed;

(c) the status of the student's academic achievement;

(d) the methods of instruction proposed to increase language acquisition, including using both the student's native language and English if necessary;

(e) specifics regarding how the methods of instruction will help the child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation; and

(f) the specific exit requirements for the program including:

(i) the student's expected rate of transition from the program into a classroom that is not tailored for a student learning English; and

(ii) the student's expected high school graduation date if funds appropriated consistent with this rule are used for a secondary school student.

R277-716-5. Teacher Qualifications.

(1) A Utah educator who is assigned to provide instruction in a language acquisition instructional program shall comply with state ESL endorsement requirements.

(2) A Utah educator whose primary assignment is to provide English language instruction to a student learning English shall have:

(a) an ESL endorsement, through an approved program based on the TESOL Standards;

(b) an advanced degree or certification in teaching English as a Second Language, including an approved competency program consistent with Board rule; or

(c) a bilingual endorsement consistent with the educator's assignment.

R277-716-6. Miscellaneous Provisions.

(1)(a) An LEA that generates less than $10,000 from the LEA's count of students learning English, may form a consortium with other similar LEAs.

(b) A consortium described in Subsection (1)(a) shall designate a fiscal agent and shall submit all budget and reporting information from all of the member LEAs of the consortium.

(c) Each member of a consortium shall submit plans and materials to the fiscal agent of the consortium for final

reporting submission to the Superintendent.

(d) A fiscal agent of a consortium described in Subsection (1)(a) shall assume all responsibility of an LEA under Section R277-716-4.

(2) No LEA or consortium may withhold more than two percent of Title III funding for administrative costs in serving students learning English.

KEY: alternative language services
Date of Enactment or Last Substantive Amendment: July 31, 2019
Notice of Continuation: February 16, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

R277. Education, Administration.
R277-717. High School Course Grading Requirements.
R277-717-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to establish requirements for awarding credit when a student repeats a course or takes a comparable course and earns a higher grade.

R277-717-2. Definitions.

(1) "Comparable course" means a course that fulfills the same graduation credit requirements as a course for which a student seeks to improve a grade.

(2) "Course" means a course that a student:

(a) is enrolled in; and

(b)(i) completes; or

(ii) withdraws from but still receives a grade.

(3) "Highest grade" means a grade that reflects the higher grade of:

(a) a course and a repeat of the course; or

(b) a course and a comparable course.

(4) "LEA" includes the Utah Schools for the Deaf and the Blind for purposes of this rule.

(5) "Recurring course" means a course that a student takes more than once to:

(a) further the student's understanding and skills in the course subject, such as journalism or band; or

(b) satisfy a different credit requirement that the course may fulfill, such as an art class that fulfills an elective requirement and an art requirement.

(6) "Student" means an individual enrolled in an LEA in grade 9, 10, 11, or 12.

R277-717-3. Course Grade Forgiveness.

(1)(a) A student may, to improve a course grade received by the student:

(i) repeat the course one or more times; or

(ii) enroll in and complete a comparable course.

(b) A grade for an additional unit of a recurring course does not change a student's original course grade for purposes of this section.

(2) If a student repeats a course, the student's LEA:

(a) shall adjust, if necessary, the student's course grade and grade point average to reflect the student's highest grade and exclude a lower grade;

(b) shall exclude from the student's permanent record the course grade that is not the highest grade; and

(c) may not otherwise indicate on the student's current record that the student repeated the course.

(3)(a) If a student enrolls in a comparable course, the student shall, at the time of enrolling in the comparable course, inform the student's LEA of the student's intent to enroll in the course for the purpose of improving a course grade.

(b) If a student enrolls in a comparable course, the student's LEA:

(i) shall confirm, at the time the student enrolls in the comparable course, that the comparable course fulfills the same credit requirements as the course that the student intends to replace with the comparable course grade;

(ii) shall update the student's current record and grade point average to reflect the highest grade between the course and the comparable course and exclude the lower grade and corresponding course; and

(iii) may not otherwise indicate the course or comparable course for which the student did not receive the highest grade on the student's record.

KEY: students, grades, credits
Date of Enactment or Last Substantive Amendment: March 14, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

R277. Education, Administration.
R277-718. Out-of-School Time Program Quality Improvement Grants.
R277-718-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-5-210, which creates a grant program for out-of-school time programs, and requires the Board to adopt rules to administer the grant program.

(2) The purpose of this rule is to outline grant procedures, including:

(a) an application procedure;

(b) criteria and procedures for awarding grants; and

(c) requirements for grant recipients.

R277-718-2. Definitions.

(1) "Assessment tool" means the same as defined in R277-715.

(2) "Grant program" means the Educational Improvement Opportunities Outside of the Regular School Day Grant Program established in Section 53F-5-210.

(3) "Participating program" means the same as defined in R277-715

(4) "Private matching funds" does not include funds from federal, state, or local government sources.

(5) "Quality observation process" means a process in which a trained and certified specialist observes a participating program that is awarded funds under the grant program, using a valid observation tool, on the extent to which the program is implementing the standards described in R277-715-3.

R277-718-3. Grant Applications.

(1) The Superintendent shall create an application consistent with the provisions of Subsection 53F-5-210(4), and make the application available to participating programs operated by LEAs.

(2) The application shall require the LEA to provide evidence and report how it intends to provide the matching private funds required in Subsection 53F-5-210(7), including the source of funding the LEA intends to use.

(3) For each year the Superintendent is authorized to solicit grant applications, the Superintendent shall publish a timeline, and include a date for the application release, due dates for an LEA to submit required materials, and anticipated

timeframes for evaluation to participating programs operated by LEAs through the Board's enterprise grant management system.

R277-718-4. Procedures and Criteria for Awarding Grants.

(1) In accordance with Subsection 53F-5-210(5), the Superintendent shall evaluate LEA program proposals on:

(a) the percentage of students in the program who qualify for free or reduced-price lunch;

(b)(i) evidence that the LEA has dedicated private matching funds to support the LEA's grant funding request; or

(ii) provide assurances that the LEA will obtain private matching funds to support the LEA's grant funding request;

(c) the extent to which the program has participated in the assessment tool;

(d) the program's commitment to implementing the quality observation process and reporting timely results to the Superintendent;

(e) whether the program intends to spend grant funds on activities, purposes, or interventions that have a likelihood of improving student academic performance; and

(f) the extent to which the program has engaged in and implemented a program needs assessment for purposes of identifying gaps that may be addressed by funding.

(2) A program shall receive priority points or additional weighting for a higher percentage of students in the program who qualify for free or reduced-price lunch.

(3) The Superintendent may not distribute grant funds until the LEA has certified that the LEA has obtained the private matching funds in an amount that is equal to or more than the grant funds.

R277-718-5. Grant Recipient Requirements, Accountability, and Reporting.

(1) An LEA that receives funding under the grant program shall target grant funds to expenditures that are likely to have a positive effect on the quality of the program, such as highly-qualified staff, specific professional development or training for staff, or evidence-based curriculum.

(2) LEAs shall submit reimbursement requests to claim grant funds.

(3) An LEA grant recipient shall participate in the quality observation process to assess the quality of the program.

(4) To determine the impact of the program on the academic performance of participating students, the Superintendent shall use statewide assessments.

(5) An LEA grant recipient shall report to the Superintendent:

(a) the average daily attendance of regularly participating students;

(b) the types of interventions that program recipients received on the days they attended the program; and

(c) the amount of services received by participating students, grouped by:

(i) 30 days;

(ii) 30-59 days;

(iii) 60-89 days; and

(iv) more than 90 days.

(6) An LEA grant recipient shall report the data described in Subsection (4) to the Superintendent in:

(a) a mid-year report by Dec 31; and

(b) an end-of-year report by May 31.

(7) LEAs that receive grant funds may be required to provide evidence to the Superintendent that the private matching funds were obtained and expended for the same purposes as the activities supported by these state funds.

(8) LEAs that receive grant funds are subject to fiscal and programmatic monitoring to validate uses of funds and programmatic performance and outcomes annually.

KEY: grant program, application procedures, reporting, assessments
Date of Enactment or Last Substantive Amendment: October 16, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53F-5-210

R277. Education, Administration.
R277-719. Standards for Selling Foods Outside of the Reimbursable Meal in Schools.
R277-719-1. Authority and Purpose.

(1) This rule is authorized by

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Section 53E-3-510, which allows the Board to set standards relating to the use of school lunch revenues; and

(d) Subsection 53E-3-501(1)(e), which requires the Board to establish rules concerning school productivity and cost effectiveness measures and federal programs.

(2) The purpose of this rule is to outline requirements for LEA policies regarding foods sold outside of the reimbursable meal service.

R277-719-2. Definitions.

(1) "Competitive foods" as provided in 7 CFR 210, means all food and beverages, other than meals reimbursed under programs authorized by federal child nutrition laws available for sale to students on the school campus during the school day.

(2)(a) "Eating area" means the place where the reimbursable meal is served or eaten.

(b) In some schools, the "eating area" may include the entire campus.

(3) "Federal child nutrition laws" means the Richard B. Russell National School Lunch Act, 79 P.L. 396, 60 Stat. 230, and the Child Nutrition Act of 1966, 89 P.L. 642, 80 Stat. 885.

(4) "Nutrition Standards" has the same meaning as contained in 7 CFR 210.11.

(5) "Reimbursable meal" means a meal which meets the requirements set forth in 7 CFR 210, 211, 215, 220 or 225 to be claimed for payment.

(6) "School day" means the period from the midnight before, to 30 minutes after the end of a school's calendared class time.

(7) "School campus" means all areas of the property under the jurisdiction of the school that are accessible to students during the school day.

(8) "Unit" means per container, package or amount served.

(9) "Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card or key, dispenses unit servings of food in bulk or in packages.

R277-719-3. LEA Policies Regarding Vending Machines.

(1) Each LEA shall develop and implement a policy for schools that choose to provide vending machines.

(2) A policy implemented in accordance with Subsection (1) shall include:

(a) a requirement that all agreements for vending machines be in writing in a contract form approved by the local board of education or charter school governing board;

(b) accepted uses of vending machine income; and

(c) generally accepted accounting procedures, including periodic reports to the LEA of vending machine receipts and expenditures.

R277-719-4. LEA Policies Regarding Competitive Food Sales on Campus.

(1) Federal nutrition standards apply to the sale of competitive foods in all schools offering programs authorized by federal child nutrition laws on the school campus during the school day.

(2)(a) Profits from competitive foods shall accrue either to a non-profit school account or to the non-profit school food service account.

(b) Profits from competitive foods may not accrue to the benefit of a for-profit account or entity.

(3) If competitive foods were purchased using non-profit school food service funds, the reimbursement shall ensure revenue from the sale of non-program foods generates at least the same proportion of revenue as contributed to the non-profit school food service cost.

(4)(a) A competitive food item that is sold by an LEA or an employee or agent shall meet federal nutrition standards.

(b) An LEA may use a Smart Snacks calculator, available online at https://foodplanner.healthiergeneration.org/calculator, to verify that competitive foods sold meet nutrition standards.

R277-719-5. Fundraising Using Food or Beverages.

(1) An LEA shall comply with the standards set forth in this Section if the LEA has a school that offers programs under federal child nutrition laws on a school campus during the school day.

(2)(a) Competitive food and beverage items sold during the school day shall meet federal nutrition standards.

(b) Notwithstanding Subsection (2)(a), a school may sell food or beverages that do not meet the competitive food standards for the purpose of conducting infrequent school-sponsored fundraisers, subject to the following restrictions:

(i) An LEA may not hold an exempt fundraiser more than three times per year per site;

(ii) An exempt fundraiser may not last more than five consecutive days; and

(iii) The principal of a school holding an exempt fundraiser shall designate an individual to maintain records for the fundraiser.

(3) The Superintendent may grant permission for exempt fundraisers in addition to those allowed under Subsection (2)(b) upon the written request of a career and technical education program.

R277-719-6. LEA Local School Wellness Policies.

Each LEA participating in programs under federal child nutrition laws shall establish a local school wellness policy for all schools under the LEA's jurisdiction, which shall, at a minimum, include all the elements required in 7 CFR 210.30.

R277-719-7. Miscellaneous Provisions.

(1) If a school does not participate in programs under federal child nutrition laws, the school shall adopt a written policy for the sale of all foods that are not part of the meal service, including vending, a la carte or other food sales.

(2) A policy required under Subsection (1):

(a) shall apply to all foods sold anywhere on the school campus during the school day ; and

(b) may use the definitions for competitive foods and wellness policies contained in 7 CFR 210.11 and 7 CFR 210.30.

(3) A local superintendent or school principal or director shall designate an individual who shall maintain documentation of compliance with this R277-719.

KEY: schools, foods, nutrition, vending machines
Date of Enactment or Last Substantive Amendment: April 9, 2018
Notice of Continuation: February 26, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-19-201(1); 53A-1-402(1)(e)

R277. Education, Administration.
R277-720. Reimbursement Program for Early Graduation from Competency-Based Education.
R277-720-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53F-2-511(1)(c)(ii), which allows the Board to make rules to specify additional criteria for an LEA to be eligible for a competency-based education early graduation reimbursement; and

(d) Subsection 53F-2-511(6), which allows the Board to make rules for the administration of the Reimbursement Program for Early Graduation from Competency-Based Education.

R277-720-2. Definitions.

(1) "Advisory Committee" means the Competency-based Advisory Committee created in Section R277-712-3.

(2) "Eligible LEA" means an LEA that:

(a) has demonstrated to the Board that the LEA or, for a school district, a school within the LEA, provides and facilitates competency-based education that is based on the core principles described in Section 53F-5-502; and

(b) has an approved competency-based education program that includes:

(i) at least one outcome measure for each indicator level required by the Superintendent;

(ii) outcome measures that are disaggregated by student subgroups where possible; and

(iii) at least one outcome measure for student growth and proficiency.

(3) "Eligible student" means a student who:

(a) meets the requirements described in Subsection 53F-2-511(1)(d);

(b) has been flagged by an LEA as a competency-based education participant.

(4) "Program" means the Reimbursement Program for Early Graduation from Competency-Based Education described in Section 53F-2-511.

R277-720-3. Competency Based Education Designation.

(1) To receive a competency-based education designation, an eligible LEA shall:

(a) submit an application in the form prescribed by the Superintendent to the advisory committee;

(b) submit the application in Subsection (1)(a) no later than April 1st of the school year prior to the school year in which the LEA intends to seek reimbursement; and

(c) have an approved competency-based education plan pursuant to R277-712.

(2) The advisory committee shall review all applications and make recommendations to the Board based on the Board approved competency-based education core principals and measures described in R277-712.

(3) The Board shall approve or deny the recommendations made by the advisory committee.

(4) If approved, an eligible LEA's competency-based education designation shall last for the following three years, provided the school continues to operate on a competency-based model.

(5) An eligible LEA may not retroactively use an approved competency-based education designation for reimbursement of eligible students.

(6) If an eligible LEA does not have a current competency-based education designation, the eligible LEA may not use the approved competency-based education designation for reimbursement of eligible students in the school year in which the eligible LEA's application is approved.

R277-720-4. Early Graduation Reimbursement.

(1) An eligible LEA with a competency-based education designation may seek reimbursement for an eligible student beginning October 2021 for membership generated in the 2020-2021 school year.

(2) The reimbursement amount shall be calculated by the Superintendent in the following manner:

(a) the amount of weighted pupil unit lost due to early graduation for each eligible student shall be determined as described by Subsection 53F-2-511(5);

(b) the total amount of lost weighted pupil unit for each eligible student shall be used to establish an LEA aggregate total and a statewide aggregate total for all eligible students;

(c) if the statewide aggregate total is equal to or less than the total amount allocated for the program by the legislature, an eligible LEA shall be reimbursed the LEA aggregate total;

(d) if the statewide aggregate total exceeds the total amount allocated for the program by the legislature, an eligible LEA shall be reimbursed a prorated amount proportionate to the percentage that the LEA aggregate total is of the statewide

aggregate total.

(3) An LEA shall not receive a reimbursement for an eligible student that exceeds the amount outlined in Subsection 53F-2-511(5)(a).

KEY: competency-based education, reimbursements, early graduation
Date of Enactment or Last Substantive Amendment: May 23, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-511(1)(c)(ii); 53F-2-511(6)

R277. Education, Administration.
R277-724. Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program.
R277-724-1. Definitions.

A. "Child and Adult Care Food Program (CACFP)" means the section of the USOE that administers the initiation, maintenance, and expansion of non-profit food service programs for children in non-residential centers and homes which provide child care. The definition also includes the administration of food service programs for non-residential adult day care.

B. "Board" means the Utah State Board of Education.

C. "Child care center" means any public or private nonprofit organization, or any proprietary title XX center, licensed or approved to provide nonresidential child care services to enrolled children, primarily of preschool age. Child care centers may participate in the CACFP as independent centers or under the auspices of a sponsoring organization.

D. "Day care home" means an organized nonresidential child care program for children enrolled in a private home, licensed or approved as a family or group day care home and under the auspices of a sponsoring organization.

E. "Facilities" means a sponsored center or a family day care home.

F. "Institution" means an organization with whom the USOE has an agreement to accept final administrative and financial responsibility for CACFP operation.

G. "Recruited facilities" means potential daycare centers or homes that a prospective sponsor seeks to enroll in CACFP participation.

H. "Service area" means the geographic area from which a sponsoring organization draws its client facilities.

I. "Sponsoring organization" means a public or nonprofit private organization which is entirely responsible for the administration of the food program in:

(1) one or more day care homes;

(2) a child care center, outside-school-hours care center, or adult day care center which is a legally distinct entity from the sponsoring organization;

(3) two or more child care centers, outside-school-hours care centers, or adult day care centers are part of the organization; or

(4) any combination of child care centers, adult day care centers, day care homes, and outside-school-hours care centers.

J. "State agency" means the state educational agency or any other State agency that has been designated by the Governor or other appropriate executive or by the legislative authority of the state, and has been approved by the Department to administer the

Program within the state.

K. "USOE" means the Utah State Office of Education.

R277-724-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Subsection 53E-3-501(3), which authorizes the Board to administer and distribute funds made available through programs of the federal government and by Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish eligibility criteria for new sponsors to recruit participants for child care centers and day care homes in unserved areas.

R277-724-3. Criteria for Recruiting Facilities.

The following criteria shall be met before a sponsor is approved:

A. The recruited facilities are not currently participating or were recently terminated for convenience by another sponsoring organization due to being outside the sponsoring organization's service area; and

B. The recruited facilities have not been terminated for cause, have no unresolved serious deficiency pending with another sponsoring organization and do not owe a refund to another sponsoring organization; and

C. The state agency certifies other sponsoring organizations are unable to accommodate the targeted facilities or the area(s) where it/they are located because:

(1) other sponsoring organizations generate insufficient resources to properly train and monitor facilities; or

(2) supervising additional facilities would threaten currently participating sponsoring organization's viability, capability or accountability.

R277-724-4. New and Renewing Institution Performance Standards.

A. The new or renewing institution shall ensure:

(1) it is financially viable and program funds are spent and accounted for consistent with the requirements of federal law and regulations;

(2) that management practices are in effect to ensure that the institution and participating facilities operate in accordance with federal law and regulations; and

(3) it has internal controls and other management systems in effect to ensure fiscal accountability and to ensure that the CACFP operates in accordance with federal law and regulations.

B. The USOE Child Nutrition Program Section shall regulate

and ensure that these performance criteria are met consistent with federal law and regulations.

KEY: facilities, food programs
Date of Enactment or Last Substantive Amendment: January 15, 2004
Notice of Continuation: March 13, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(3); 53E-3-401(4)

R277. Education, Administration.
R277-726. Statewide Online Education Program.
R277-726-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Section 53F-4-514, which requires the Board to make rules providing for the administration of statewide assessments to students enrolled in online courses;

(c) Section 53F-4-508, which requires the Board to make rules that establish a course credit acknowledgment form and procedures for completing and submitting the form to the Board; and

(d) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) define necessary terms;

(b) provide and describe a program registration agreement; and

(c) provide other requirements for an LEA, the Superintendent, a parent and a student, and a provider for program implementation and accountability.

R277-726-2. Definitions.

(1) "Actively participates" means the student actively participates as defined by the provider.

(2) "Course completion" means that a student has completed a course with a passing grade and the provider has transmitted the grade and credit to the primary LEA of enrollment.

(3)(a) "Course Credit Acknowledgment" or "CCA" means an agreement and registration record using the Statewide Online Education Program application provided by the Superintendent.

(b) Except as provided in Subsection 53F-4-508(3)(h), the CCA shall be signed by the designee of the primary school of enrollment, and the qualified provider.

(4)(a) "Eligible student" means a student enrolled in grades 6-12 in a secondary environment in a course that:

(i) is offered by a public school; and

(ii) provides the student the opportunity to earn high school graduation credit.

(b) "Eligible student" does not include a student enrolled in an adult education program.

(5) "Enrollment confirmation" means the student initially registered and actively participated, as defined under Subsection(1).

(6)(a) "Executed CCA" means a CCA that has been signed by

all parties as provided in Subsection 53F-4-508(3)(h) and received by the Superintendent.

(b) Following enrollment confirmation and participation, Superintendent directs funds to the provider, consistent with Sections 53F-4-505 through 53F-4-507.

(7) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(8) "Online course" means a course of instruction offered through the Statewide Online Education Program.

(9) "Online course payment" means the amount withheld from a student's primary LEA and disbursed or otherwise paid to the designated provider following satisfaction of the requirements of the law, and as directed in Subsection 53F-4-507(2).

(10) "Online course provider" or "provider" means:

(a) a school district school;

(b) a charter school;

(c) an LEA program created for the purpose of serving Utah students in grades 9-12 online; or

(d) a program of an institution of higher education described in Subsection 53F-4-504(3).

(11) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program, and which reports the student to be in regular membership, and special education membership, if applicable.

(12) "Primary school of enrollment" means:

(a) a student's school of record within a primary LEA of enrollment; and

(b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.

(13) "Resident school" means the district school within whose attendance boundaries the student's custodial parent or legal guardian resides.

(14) "Statewide assessment" means a test or assessment required under Rule R277-404.

(15) "Statewide Online Education Program" or "program" means courses offered to students under Title 53F, Chapter 4, Part 5, Statewide Online Education Program Act.

(16) "Teacher of record" means the teacher who is employed by a provider and to whom students are assigned for purposes of reporting and data submissions to the Superintendent in accordance with Section R277-484-3.

(17) "Underenrolled student" means a student with less than a full course load, as defined by the LEA, during the regular school day at the student's primary school of enrollment.

(18) "USBE course code" means a code for a designated

subject matter course assigned by the Superintendent.

(19) "Withdrawal from online course" means that a student withdraws or ceases participation in an online course as follows:

(a) within 20 calendar days of the start date of the course, if the student enrolls on or before the start date;

(b) within 20 calendar days of enrolling in a course, if the student enrolls after the start date; or

(c) within 20 calendar days after the start date of the second 0.5 credit of a 1.0 credit course; or

(d) as the result of a student suspension from an online course following adequate documented due process by the provider.

R277-726-3. Course Credit Acknowledgment (CCA) Process.

(1) A student, a student's parent, a counselor, or a provider may initiate a CCA.

(2)(a) A counselor designated by a student's primary school of enrollment shall review the student's CCA to ensure consistency with:

(i) graduation requirements;

(ii) the student's plan for college and career readiness;

(iii) the student's IEP;

(iv) the student's Section 504 plan; or

(v) the student's international baccalaureate program.

(b) The primary school of enrollment shall return the CCA to the Superintendent within 72 business hours.

(3)(a) The primary school of enrollment is not required to meet with the student or parent for approval of a course request.

(b) The Superintendent shall notify a primary school of enrollment of a student's enrollment in the program.

(4) If a student enrolling in the program has an IEP or a Section 504 plan, the primary LEA or school of enrollment shall forward the IEP or description of 504 accommodations to the provider within 72 business hours of receiving notice from the Superintendent that the provider has accepted the enrollment request.

(5) The Superintendent shall develop and administer procedures for facilitation of a CCA that informs all appropriate parties.

R277-726-4. Eligible Student and Parent Rights and Responsibilities.

(1) An eligible student may register for program credits consistent with Section 53F-4-503.

(2) An eligible student may exceed a full course load during a regular school year if:

(a) the student's plan for college and career readiness indicates that the student intends to complete high school

graduation requirements and exit high school before the rest of the student's high school cohort; and

(b) the student's schedule demonstrates progress toward early graduation.

(3) In accordance with Section 53F-4-509(5), if a student enrolled in a program course exceeds a full course load during a regular school year, a primary LEA of enrollment may mark the student as an early graduate and increase membership in accordance with Section R277-419-6 and Rule R277-484 to account for credits in excess of full-time enrollment in a local Student Information System.

(4)(a) An eligible student is expected to complete courses in which the student enrolls in a timely manner consistent with Section 53F-4-505 and requirements for attendance and participation in accordance with Subsection R277-726-7(15).

(b) If a student changes the student's enrollment for any reason, it is the student's or student's parent's responsibility to notify the provider immediately.

(5) A student should enroll in online courses, or declare an intention to enroll, during the school course registration period designated by the primary LEA of enrollment for regular course registration.

(6) A student may alter a course schedule by dropping a traditional course and adding an online course in accordance with the primary school of enrollment's same established deadline for dropping and adding traditional courses.

(7)(a) Notwithstanding Subsection (6), an underenrolled student may enroll in an online course at any time during a calendar year.

(b) If an underenrolled student enrolls in an online course as described in Subsection (7)(a), the primary school of enrollment may immediately claim the student for the adjusted portion of enrollment.

R277-726-5. LEA Requirements and Responsibilities.

(1) A primary school of enrollment shall facilitate student enrollment with any and all eligible providers selected by an eligible student consistent with course credit limits.

(2) A primary school of enrollment or a provider LEA shall use the CCA application, records, and processes provided by the Superintendent for the program.

(3) A primary school or LEA of enrollment shall provide information about available online courses and programs:

(a) in registration materials;

(b) on the LEA's website; and

(c) on the school's website.

(4) A primary school or LEA of enrollment shall provide the

notice required under Subsection (3) concurrent with the high school course registration period designated by the LEA for the upcoming school year to facilitate enrollment as required by Section 53F-4-513.

(5) A primary school of enrollment shall include a student's online courses in the student's enrollment records and, upon course completion, include online course grades and credits on the student's transcripts.

(6) A primary school of enrollment shall recognize credit earned by a participating secondary student through courses completed prior to grade 9 for purposes of high school graduation provided that:

(a) the student has in the student's records documentation of the student's intention to graduate early; and

(b) the student is enrolled at a middle school or junior high school and a high school accredited in accordance with Rule R277-410.

(7) A primary school of enrollment shall determine fee waiver eligibility for participating public school students.

(8) A primary school of enrollment shall provide participating students access to sports, extracurricular and co-curricular activities, and graduation services consistent with local policies governing participation irrespective of relative levels of participation in traditional courses versus Statewide Online Education courses.

(9) If a participating student's primary school of enrollment is a middle school or junior high as defined in Rule R277-700, course completions will be recorded in a student's record of credit and course completion for grade 9 to allow recognition toward grades 9-12, high school graduation requirements, and post-secondary requirements.

(10) When a student satisfactorily completes an online semester or quarter course, in accordance with the LEA's procedures, a designated counselor or registrar at the primary school of enrollment shall forward records of grades and credit for students participating prior to grade 9 to the student's grade 9 primary school of enrollment for recording grades and credit per Subsection R277-726-5(8) once a student completes grade 8.

R277-726-6. Superintendent Requirements and Responsibilities.

(1) The Superintendent shall provide a website for the program, including information required under Section 53F-4-512 and other information as determined by the Board.

(2) The Superintendent shall direct a provider to administer statewide assessments consistent with Rule R277-404 and Section 53F-4-514 for identified courses using LEA-adopted and state-approved assessments.

(3)(a) The Board may determine space availability standards and appropriate course load standards for online courses consistent with Subsection 53F-4-512(3)(d).

(b) Course load standards may differ based on subject matter.

(4) The Board shall withhold funds from a primary LEA of enrollment and make payments to a provider consistent with Sections 53F-4-505 through 53F-4-507.

(5) The Board may refuse to provide funds under a CCA if the Board finds that information has been submitted fraudulently or in violation of the law or Board rule by any of the parties to a CCA.

(6) The Superintendent shall receive and investigate complaints, and impose sanctions, if appropriate, regarding course integrity, financial mismanagement, enrollment fraud or inaccuracy, or violations of the law or this rule specific to the requirements and provisions of the program.

(7) If a Board investigation finds that a provider has violated the IDEA or Section 504 provisions for a student taking online courses, the provider shall compensate the student's primary LEA of enrollment for all costs related to compliance.

(8)(a) The Superintendent may audit, at the Board's sole discretion, an LEA's or program participant's compliance with any requirement of state or federal law or Board rule under the program.

(b) All participants shall provide timely access to all records, student information, financial data or other information requested by the Board, the Board's auditors, or the Superintendent upon request.

(9) The Board may withhold funds from a program participant for the participant's failure to comply with a reasonable request for records or information.

(10) Program records are available to the public subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(11) The Superintendent shall withhold online course payment from a primary LEA of enrollment and payments to an eligible provider at the nearest monthly transfer of funds, subject to verification of information, in an amount consistent with, and at the time a provider qualifies to receive payment, under Subsection 53F-4-505(4).

(12) The Superintendent shall pay a provider consistent with Minimum School Program funding transfer schedules.

(13)(a) The Superintendent may make decisions on questions or issues unresolved by Title 53F, Chapter 4, Part 5, Statewide Online Program Act or this rule on a case-by-case basis.

(b) The Superintendent shall report decisions described in Subsection (13)(a) to the Board consistent with the purposes of

the law and this rule.

R277-726-7. Provider Requirements and Responsibilities.

(1)(a) A provider shall administer statewide assessments as directed by the Superintendent, including proctoring statewide assessments, consistent with Section 53F-4-415 and Rule R277-404.

(b) A provider shall pay administrative and proctoring costs for all statewide assessments.

(2) A provider shall provide a parent or a student with email and telephone contacts for the provider during regular business hours to facilitate parent contact.

(3) A provider and any third party working with a provider shall, for all eligible students, satisfy all Board requirements for:

(a) consistency with course standards;

(b) criminal background checks for provider employees;

(c) documentation of student enrollment and participation; and

(d) compliance with:

(i) the IDEA;

(ii) Section 504; and

(iii) requirements for ELL students.

(4) A provider shall receive payments for a student properly enrolled in the program from the Superintendent consistent with:

(a) Board procedures;

(b) Board timelines; and

(c) Sections 53F-4-505 through 53F-4-508.

(5)(a) A provider may charge a fee consistent with other secondary schools.

(b) If a provider intends to charge a fee of any kind, the provider:

(i) shall notify the primary school of enrollment with whom the provider has the CCA of the purpose for fees and amounts of fees;

(ii) shall provide timely notice to a parent of required fees and fee waiver opportunities;

(iii) shall post fees on the provider website;

(iv) shall be responsible for fee waivers for an eligible student, including all materials for a student designated fee waiver eligible by a student's primary school of enrollment;

(v) shall satisfy all requirements of Rule R277-407, as applicable; and

(vi) shall provide fee waivers to home school or private school students who meet fee waiver eligibility at the provider's expense.

(6) A provider shall maintain a student's records and comply with the federal Family Educational Rights and Privacy Act, Title

53E, Chapter 9, Part 3, Utah Family Educational Rights and Privacy Act, and Rule R277-487, including protecting the confidentiality of a student's records and providing a parent and an eligible student access to records.

(7) Except as otherwise provided in this Rule R277-726, a provider shall submit a student's credit and grade to the Superintendent, using processes and applications provided by the Superintendent for this purpose, to a designated counselor or registrar at the primary school of enrollment, and the student's parent no later than:

(a) 30 days after a student satisfactorily completes an online semester or quarter course; or

(b) June 30 of the school year.

(8) A provider may not withhold a student's credits, grades, or transcripts from the student, parent, or the student's school of enrollment for any reason.

(9)(a) If a provider suspends or expels a student from an online course for disciplinary reasons, the provider shall notify the student's primary LEA of enrollment.

(b) A provider is responsible for all due process procedures for student disciplinary actions in the provider's online program.

(c) A provider shall notify the Superintendent of a student's administrative withdrawal, if the student is suspended for more than ten days, using forms and processes developed by the Superintendent for this purpose.

(10)(a) A provider shall provide to the Superintendent a list of course options using USBE-provided course codes.

(b) All program courses shall be coded as semester or quarter courses.

(c) A provider shall update the provider's course offerings annually.

(11) A provider shall serve a student on a first-come-first-served basis who desires to take courses and who is designated eligible by a primary school of enrollment if desired courses have space available.

(12) A provider shall provide all records maintained as part of a public online school or program, including:

(a) financial and enrollment records; and

(b) information for accountability and audit purposes upon request by the Superintendent and the provider's external auditors.

(13) A provider shall maintain documentation of student work, including dates of submission, for program audit purposes.

(14) A provider is responsible for complete and timely submissions of record changes to executed CCAs and submission of other reports and records as required by the Superintendent.

(15) A provider shall inform a student and the student's

parent of expectations for active participation in course work.

(16) An LEA may participate in the program as a provider by offering a school or program to Utah secondary students in grades 6-12 who is not a resident student of the LEA and a regularly-enrolled student of the LEA consistent with Sections 53F-4-501 and 53F-4-503.

(17) A program school or program shall:

(a) be accredited by the accrediting entity adopted by the Board consistent with Rule R277-410;

(b) have a designated administrator who meets the requirements of Rule R277-520;

(c) ensure that a student who qualifies for a fee waiver shall receive all services offered by and through the public schools consistent with Section 53G-7-504 and Rule R277-407;

(d) maintain student records consistent with:

(i) the federal Family Educational Rights and Privacy Act, 20 U.S.C. Sec 1232g and 34 CFR Part 99; and

(ii) Rule R277-487; and

(e) shall offer course work:

(i) aligned with Utah Core standards;

(ii) in accordance with program requirements; and

(iii) in accordance with the provisions of Rules R277-700 and R277-404; and

(f) shall not issue transcripts under the name of a third-party provider.

(18) An LEA that offers an online program or school as a provider under the program:

(a) shall employ only educators licensed in Utah as teachers;

(b) may not employ an individual whose educator license has been suspended or revoked;

(c) shall require all employees to meet requirements of Title 53G, Chapter 11, Part 4, Background Checks, prior to the provider offering services to a student;

(d) may only employ teachers who meet the requirements of Rule R277-510, Educator Licensing - Highly Qualified Assignment;

(e) shall agree to administer and have the capacity to carry out statewide assessments, including proctoring statewide assessments, consistent with Section 53F-4-514 and Rule R277-404;

(f) in accordance with Section R277-726-8, shall provide services to a student consistent with requirements of the IDEA, Section 504, and Title VI of the Civil Rights Act of 1964 for English Language Learners (ELL);

(g) shall maintain copies of all CCAs for audit purposes; and

(h) shall agree that funds shall be withheld by the Superintendent consistent with Sections 53F-4-505, 53F-4-506, and

53F-4-508.

(19) A provider shall cooperate with the Superintendent in providing timely documentation of student participation, enrollment, educator credentials, and other additional data consistent with Board directives and procedures and as requested.

(20) A provider shall post required information online on the provider's individual website including required assessment and accountability information.

(21)(a) A provider contracting with a third-party to provide educational services to students participating with the provider through the Statewide Online Education Program shall:

(b) develop a written monitoring plan to supervise the activities and services provided by the third-party provider to ensure:

(i) a third-party provider is complying with:

(A) federal law;

(B) state law; and

(C) Board rules;

(ii) curriculum provided by a third-party provider is aligned with the Board's core standards and rules;

(iii) supervision of third-party facilitation and instruction by an educator licensed in Utah:

(A) employed by the provider, and

(B) reported as teacher of record per Section R277-484-3 and Subsection R277-726-2(3); and

(iv) consistent with the LEA's administrative records retention schedule, maintenance of documentation of the LEA's supervisory activities.

(22) A provider shall offer courses consistent with standards outlined in an applicable Statewide Services Agreement, which may be updated or amended to reflect changes in law, rule or recommended practice.

R277-726-8. Services to Students with Disabilities Participating in the Program.

(1)(a) If a student wishes to receive services under Section 504 of the Rehabilitation Act of 1973, the student shall make a request with the student's primary school of enrollment.

(b) The primary school of enrollment shall evaluate a student's request under Subsection (1)(a) and determine if a student is eligible for Section 504 accommodations.

(c) If the primary school of enrollment determines the student is eligible, the school shall prepare a Section 504 plan and implement the plan in accordance with Subsection (2)(b).

(2)(a) If a student requests services related to an existing Section 504 accommodation, a provider shall:

(i) except as provided in Subsection (2)(b), review and

implement the plan for the student; and

(ii) provide the services or accommodations to the student in accordance with the student's Section 504 plan.

(b) An LEA of enrollment shall provide a Section 504 plan of a student to a provider within 72 business hours if:

(i) the student is enrolled in a primary LEA of enrollment; and

(ii) the primary LEA of enrollment has a current Section 504 plan for the student.

(2) For a student enrolled in a primary LEA of enrollment, if a student participating in the program qualifies to receive services under the IDEA:

(a) the student's primary LEA of enrollment shall:

(i) working with a provider LEA representative, review or develop an IEP for the student within ten days of enrollment;

(ii) working with a provider LEA representative, update an existing IEP with necessary accommodations and services, considering the courses selected by the student;

(iii) provide the IEP described in Subsection (2)(a)(i) to the provider within 72 business hours of completion of the student's IEP; and

(iv) continue to claim the student in the primary LEA of enrollment's membership; and

(b) the provider shall provide special education services and accommodations to the student in accordance with the student's IEP described in Subsection (2)(a)(i).

(3) If a home or private school student requests an evaluation for eligibility to receive special education services:

(a) the home or private school student's resident school shall:

(i) evaluate the student's eligibility for services under the IDEA;

(ii) if eligible, prepare an IEP for the student, with input from the provider LEA, in accordance with the timelines required by the IDEA;

(iii) provide the IEP described in Subsection (4)(a)(ii) to the provider within 72 business hours of completion of the student's IEP; and

(iv) claim the student in the resident school's membership; and

(b) the provider shall provide special education services and accommodations to the student in accordance with the student's IEP described in Subsection (4)(a)(i).

R277-726-9. Home and Private School Appropriation.

(1) The Superintendent shall allocate the annual appropriation for home and private school tuition, along with any

carryover or unobligated funds, as follows:

(a) 50% of the total appropriation for home school students; and

(b) 50% of the total appropriation for private school students.

(2) The Superintendent shall receive and accept enrollment requests on a first come, first served basis until all available funds are obligated.

(3) If home school or private school student funds remain by March 1, the Superintendent may release the funds for any pending enrollment requests.

R277-726-10. Other Information.

(1) A primary school of enrollment shall set reasonable timelines and standards.

(2) A provider shall adhere to timelines and standards described in Subsection (1) for student grades and enrollment in online courses for purposes of:

(a) school awards and honors;

(b) Utah High School Activities Association participation; and

(c) high school graduation.

KEY: statewide online education program
Date of Enactment or Last Substantive Amendment: May 23, 2019
Notice of Continuation: December 15, 2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-15-1210; 53A-15-1213; 53A-1-401

R277. Education, Administration.
R277-733. Adult Education Programs.
R277-733-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;

(b) Section 53E-10-202 which vests general control and supervision over adult education in the Board;

(c) Subsection 53E-3-501(1), which allows the Board to adopt minimum standards for programs;

(d) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(e) Section 53F-2-401, which vests the Board with responsibility to provide education to persons in the custody of the Utah Department of Corrections.

(2) The purpose of this rule is to describe curriculum, program standards, allocation formulas, and operation procedures for the adult education program for adult education students both in and out of state custody.

R277-733-2. Incorporation of Utah Adult Education Policies and Procedures Guide by Reference.

(1) The rule incorporates by reference the Utah Adult Education Policies and Procedures Guide, June 2016 Revision, which provides day-to-day operating standards and technical assistance to eligible providers for operation of adult education programs.

(2) A copy of the guide is located at:

(a) https://www.schools.utah.gov/sas/aaed/adulteducation; and

(b) the Utah State Board of Education.

R277-733-3. Definitions.

(1) "Adult" means an individual 18 years of age or over.

(2) "Adult education" means organized educational programs below the collegiate/postsecondary level, other than regular full-time K-12 secondary education programs:

(a) provided by LEAs or other eligible providers;

(b) affording opportunities for individuals having demonstrated both presence and intent to reside within the state of Utah;

(c) provided for out-of-school youth (16 years of age and older) or adults who have or have not graduated from high school; and

(d) provided to improve literacy levels and to further high school level education.

(3)(a) "Adult Basic Education" or "ABE" means a program of instruction at or below the 8.9 academic grade level, which prepares adults for advanced education and training, who lack competency in reading, writing, speaking, problem solving or computation at a level that substantially impairs their ability to find or retain adequate employment that will allow them to become employable, contributing members of society.

(b) ABE is designed to help adults by:

(i) increasing their independence;

(ii) improving their ability to benefit from occupational training;

(iii) increasing opportunities for more productive and profitable employment; and

(iv) making them better able to meet adult responsibilities.

(4) "Adult Education and Family Literacy Act" or "AEFLA" means Title II of the Workforce Innovation Opportunity Act of 2014, which provides the principle source of federal support for:

(a) academic instruction and education services below the post-secondary level that increase an adult education student's ability to read, write and speak in English, and perform mathematics or other activities necessary for the attainment of a secondary diploma or its recognized equivalent; and

(b) transition to post-secondary education, training, and employment.

(5) "Adult High School Completion" or "AHSC" means a program of academic instruction at the 9.0 grade level or above in Board-approved subjects for eligible adult education students who are seeking an Adult Education Secondary Diploma from an adult education program.

(6) "College and Career Readiness Plan" or "CCRP" means a plan developed by a student in consultation with adult education program counselors, teachers, and administrators that:

(a) is initiated at the time of entrance into an adult education program;

(b) identifies a student's skills and objectives;

(c) identifies a career pathway strategy to guide a student's course selection; and

(d) links a student to post-secondary education, training, or employment using a program-defined adult education transition process.

(7) "Desk monitoring" means the monthly review of UTopia data to ensure program integrity.

(8)(a) "Eligible adult education student" means an individual who provides documentation that his primary and permanent residency is in Utah, and:

(i) is 17 years of age or older, and whose high school class has graduated;

(ii) is under 18 years of age and is married;

(iii) has been emancipated or adjudicated as an adult; or

(iv) is an out-of-school youth 16 years of age or older who has not graduated from high school and who:

(A) is basic skills deficient;

(B) does not have a secondary school diploma, its recognized equivalent, or an equivalent level of education; or

(C) is an ELL.

(b) A non-resident may be treated as an eligible adult education student in accordance with an individual agreement between an eligible provider and another state.

(9) "Eligible Provider" may include:

(a) an LEA;

(b) a community-based or faith-based organization;

(c) a voluntary literacy organization;

(d) an institution of higher education;

(e) a public or private non-profit agency;

(f) a library;

(g) a public housing authority;

(h) a non-profit institution not described in Subsections (a) through (g) that has the ability to provide adult education and literacy activities to eligible adult education students.

(i) a consortium or coalition of providers identified in Subsections (a) through (h); or

(j) a partnership between an employer and a provider identified in Subsections (a) through (i).

(10)(a) "Enrollee" means an adult student who has:

(i) 12 or more contact hours in an adult education program during a fiscal program year;

(ii) an academic assessment establishing an Entering Functioning Level; and

(iii) an adult education CCRP with an established goal and a defined funding code.

(b) An enrollee's status is based on the last date that the items set forth in Subsections R277-733-3(10)(a)(i) through (iii) were entered into UTopia.

(11) "English Language Learner" or "ELL" means an individual:

(a) who has limited ability in reading, writing, speaking, or comprehending the English language and whose native language is a language other than English; or

(b) who lives in a family or community where a language other than English is the dominant language.

(12)(a) "Fee" means any charge, deposit, rental, or other mandatory payment, however designated, whether in the form of money or goods.

(b) Admission fees, transportation charges, and similar

payments to third parties are fees if the charges are made in connection with an activity or function sponsored by or through an adult education program.

(c) All fees are subject to approval by an eligible provider's governing board.

(13) "High School Equivalency Exam" or "HSE" means a Board approved examination whose modules are aligned with current high school core standards and adult education College and Career Readiness standards.

(14)(a) "Other eligible adult education student" means an individual 16 to 19 years of age whose high school class has not graduated and who is counted in the regular school program, receiving instruction in both a traditional and adult education program.

(b) The Superintendent shall pro-rate and provide a credit to an adult education program for funds generated for an other eligible adult education student, weighted pupil unit (WPU) and collected fees.

(15) "Out-of-school youth" means a student 16 years of age or older who has not graduated from high school and is no longer enrolled in a K-12 program of instruction.

(16) "Teachers of English to Speakers of Other Languages" or "TESOL" means a credential for teachers of ELL students.

(17) "Utah High School Completion Diploma" means a diploma issued by the Board and distributed by a Board approved contractor to an individual who has passed all subject modules of an HSE exam at an HSE testing center.

(18) "UTopia" means the Utah Online Performance Indicators for Adult Education statewide database.

(19)(a) "Waiver release form" means a form signed by an adult education student allowing for release of the student's CCRP and personal data, including social security number and HSE scores, for data matching purposes with partners including:

(i) the Department of Workforce Services;

(ii) higher education institutions;

(iii) the Utah State Office of Rehabilitation; and

(iv) a Board approved HSE contractor.

(b) A signed waiver release allows a student's education records to be shared with other adult education programs or interested agencies for the purpose of skill development, job training, career planning, or other purposes if specified in the waiver release form.

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

R277-733-4. Federal Adult Education Funds.

The Superintendent shall follow the standards and procedures contained in AEFLA and the WIOA state plan adopted by the Board pursuant to AEFLA to administer both federal and state funding of adult education programs.

R277-733-5. Program Standards.

(1) Adult education programs shall comply with state and federal law and administrative regulations and follow the procedures contained in the Utah Adult Education Policies and Procedures Guide.

(2) Adult education programs shall make reasonable efforts to:

(a) market and inform prospective students within their geographic areas of the availability of adult education programs; and

(b) provide enrollment information to prospective students.

(3)(a) Adult education programs may offer adult education services to a qualifying individual whose primary residence is located in communities closely bordering Utah if the student's circumstances are not conducive to commuting to the bordering state's closest adult education program.

(b) An adult education program shall not charge tuition to a student receiving services in accordance with Subsection (3)(a).

(4) Adult education programs shall make reasonable efforts to schedule classes at sites and times that meet the needs of adult education students.

(5)(a) Each eligible adult education student shall have a written CCRP defining the student's goals based upon:

(i) a complete academic assessment;

(ii) prior academic achievement;

(iii) work experience; and

(iv) an established entering functioning level.

(b) A designated program official shall review a student's plan and waiver release form annually with the student.

(6) Adult education staff shall only teach courses identified in R277-733-8.

(7) The Superintendent shall evaluate programs for compliance through:

(a) tri-annual site monitoring visits;

(b) monthly desk monitoring; and

(c) additional monitoring as needed.

(8) Adult education program staff, administrators, teachers, instructors, and counselors shall have appropriate qualifications for their assignments.

(9)(a) An eligible provider may consider a staff member's teaching certificate and endorsement in evaluating the appropriateness of the staff member's assignment.

(b) Notwithstanding Subsection (9)(a) an eligible provider may assign staff members to teach in circumstances not generally covered by their teaching certificate and endorsement under appropriate circumstances, such as placing an elementary teacher to teach adult students who are performing academically at an elementary level in certain subjects.

(c) An individual teaching an adult education high school completion class shall hold a valid Utah elementary or secondary education license and may issue adult education high school completion credits in multiple subjects.

(d) A non-licensed individual providing instruction in ELL, ABE, HSE preparation, or AHSC classes shall instruct under the supervision of a licensed program employee.

(10) A non-licensed individual with a post-secondary degree may only be considered for a teaching position by an eligible provider after approval for participation in the Alternative Route to Licensure program under R277-518 and R277-503-4; or

(11) An eligible provider may consider an individual for employment who has TESOL credentials in lieu of a Utah teaching license solely in an adult education program funded to provide ELL services.

R277-733-6. Fiscal Procedures.

(1) The Superintendent shall allocate state funds for adult education in accordance with Section 53F-2-401.

(2) No eligible LEA shall receive less than its portion of an eight percent base amount of the state appropriation if:

(a) the LEA provided instructional services approved by the Board to eligible adult students during the preceding fiscal year; or

(b) the LEA is preparing to offer services to eligible adult students, provided that the LEA's preparation period does not exceed two years.

(3) Funds appropriated for adult education programs shall be subject to Board accounting, auditing, and budgeting rules and policies.

(4) An LEA may carry over to the next fiscal year ten percent or $50,000, whichever is less, of state adult education funds allocated to the LEA's adult education programs not expended in the current fiscal year with written approval from the Superintendent.

(5)(a) An LEA shall submit a request to carry over funds for approval by August 1 annually.

(b) The Superintendent shall prepare a revised budget incorporating approved carryover amounts no later than September 1 in the year requested.

(6) The Superintendent may consider excess funds in

determining an LEA's allocation for the next fiscal year.

(7) The Superintendent shall recapture fund balances in excess of 10 percent or $50,000 no later than February 1 annually.

(8) The Superintendent shall reallocate funds recaptured in accordance with Subsection (7) to LEA adult education programs through the supplemental award process based on need and effort as determined by the Board consistent with Subsection 53F-2-401(3).

(9)(a) The Superintendent shall develop uniform forms, deadlines, program reporting and accounting procedures, and guidelines to govern state and federally funded adult education programs.

(b) The Superintendent shall update the Utah Adult Education Policies and Procedures Guide annually and make the guide available on the Board adult education website.

(10)(a) The Superintendent shall provide a competitive bidding process for an eligible provider to apply for federal adult education funds.

(b) The Superintendent shall only fund an eligible provider following an award under Subsection (10)(a) on a reimbursement basis.

(c) An eligible provider is subject to all laws and regulations regarding adult education funds, which are applicable to an LEA.

R277-733-7. Adult Education Pupil Accounting.

(1) A district administered adult education program shall receive WPU funding for a student at the rate of 990 clock hours of membership per one weighted pupil for a student who is a resident of a Utah school district and meets the following criteria:

(a) is at least 16 years of age but less than 19 years of age;

(b) has not received a high school diploma or a Utah High School Completion Diploma;

(c) intends to graduate from a K-12 high school; and

(d) attends a CCRP meeting with his school counselor, school administrator or designee, and parent or legal guardian to discuss the appropriateness of the student's participation in adult education; or

(2) A district may additionally receive WPU funding for a student at the rate of 990 clock hours of membership per one weighted pupil uni for a resident student who meets the following criteria:

(a) is 19 years of age or older;

(b) has not received a high school diploma but whose high school class has graduated;

(c) intends to graduate from a K-12 high school; and

(d) has written approval from all parties following consultation with the student's parent or guardian.

(2) Student attendance up to 990 clock hours of membership is equivalent to 1 FTE per year.

(3) The Superintendent shall prorate the clock hours of students enrolled part-time

(4) As an alternative, a district may generate equivalent WPUs for competencies mastered with a district plan approved by the Superintendent.

(5)(a) A student may only be counted in average daily membership once on any day.

(b) If a student's day is part-time in the regular school program and part-time in the adult education program, a district shall report the student's membership on a prorated basis for each program.

(c) A district may not receive funding for a student for more than one regular WPU for any school year.

(6) If an eligible adult education student as specified in R277-733-3(8)(a)(iv) enrolls in an adult education program:

(a) The district may not receive WPU funding for the student's participation in an adult education program;

(b) The student may be eligible for adult education state funding;

(c) The student shall be presented with information prior to or at the time of enrollment in an adult education program that defines the consequences of the student's decision, including the following:

(i) The student may receive an Adult Education Secondary Diploma upon completion of the minimum required Carnegie units of credit as defined by the adult education program;

(ii) The student may earn a Utah High School Completion Diploma upon successful passing of an HSE exam; or

(iii) The student may, at the discretion of the district, return to his regular high school prior to the time his class graduates with the understanding and expectation that all necessary requirements for the traditional k-12 diploma shall be completed, provided that the student:

(A) is released from the adult education program;

(B) has not completed the requirements necessary for an Adult Education Secondary Diploma; and

(C) has not successfully passed an HSE exam and has not received a Utah High School Completion Diploma;

(d) The student may not return to a k-12 high school after receiving an Adult Education Secondary Diploma;

(e) The student is not eligible to return to a k-12 high school after receiving a Utah High School Completion Diploma unless it is required for the provision of a free appropriate

public education (FAPE) under the IDEA.

(f) A district shall report a student who has successfully completed an Adult Education Secondary Diploma or a Utah High School Completion Diploma as a graduate for k-12 graduation (AYP) outcomes.

(g) The student may take an HSE exam in accordance with the provisions of R277-702.

R277-733-8. Program, Curriculum, Outcomes and Student Mastery.

(1) The Utah Adult Education Program shall offer courses consistent with the Elementary and Secondary General Core under R277-700.

(2) The core standards may be modified or adjusted to meet the individual needs of an adult education student.

(3) An LEA shall develop written course descriptions for AHSC required and elective courses for all adult education program classes taught, consistent with the core standards and Utah adult education college and career readiness standards, as provided by the Superintendent.

(4) The Superintendent, in cooperation with eligible providers, shall develop written course descriptions for HSE exam preparation, ELL and ABE courses based on Utah's core standards, modified for adult learners.

(5) Course descriptions shall stress content mastery rather than completion of predetermined seat time in a classroom.

(6) Adult high school completion education shall include the following prerequisite courses:

(a) ELL competency AEFLA levels one through six; or

(b) ABE competency AEFLA levels one through four.

(7) AHSC courses for students seeking an Adult Education Secondary Diploma shall meet federal AEFLA AHSC Levels I and II competency requirements with a minimum completion of 24 credits consistent with cores standards and adult education college and career readiness standards under the direction of a Utah licensed teacher as provided in the Utah Adult Education Policies and Procedures Guide.

(8) The Superintendent and eligible providers shall disseminate clear information regarding revised adult education graduation requirements.

(9) An adult education student receiving education services in a state prison or jail education program may graduate with an Adult Education Secondary Diploma upon completion of the state required 24.0 units of credit required under R277-700 and:

(a) completed credits;

(b) demonstrated course competency; or

(c) a Utah High School Completion Diploma with a successful passing score on an HSE exam consistent with the student's adult

education CCRP.

(10) An eligible provider may modify Adult Education Secondary Diploma graduation requirements to meet unique educational needs of an adult student with:

(a) documented disabilities through an IEP from age 16 until the student's 22nd birthday; or

(b) an adult education CCRP.

(11) A student's IEP or adult education CCRP shall document the nature and extent of modifications, substitutions, or exemptions made to accommodate the student's disabilities.

(12) Modified graduation requirements for an individual student shall:

(a) be consistent with the student's IEP or CCRP;

(b) be maintained in the student's adult education files; and

(c) maintain the integrity and rigor expected for AHSC graduation.

(13) An LEA shall establish policies allowing or disallowing adult education student participation in graduation activities or ceremonies.

(14) An adult education student may only receive an Adult Education Secondary Diploma earned through a Utah adult education program accredited through a Board-approved organization.

(15) An adult education program shall accept credits and grades awarded to a student without alteration from other accredited state-recognized adult education programs or eligible providers approved by the Superintendent.

(16) An adult education program may establish reasonable timelines and may require adequate and timely documentation of authenticity for credits and grades submitted from other eligible providers.

(17) An LEA adult education program is the final decision-making authority for the awarding of credit and grades from non-accredited sources.

(18) An adult education program shall provide instruction that allows a student to transition between sites in a seamless manner.

(19) An adult education program shall offer an adult education student seeking a Utah High School Completion Diploma a course of academic instruction designed to prepare the student to take an HSE exam.

(20) The Superintendent shall award a Utah High School Completion Diploma if a student passes an HSE exam.

(21) Notwithstanding receipt of the Utah High School Completion Diploma a student may still be entitled to a free appropriate public education under IDEA requirements.

(22) Following completion of requirements for a Utah Adult

Education Secondary Diploma or a Utah High School Completion Diploma, an adult education student may only continue in an adult education program to improve their basic literacy skills if:

(a) the student's academic skills are less than 9.0 grade level in an academic area of reading, math or English;

(b) the student lacks sufficient mastery of basic educational skills to enable the student to function effectively in society; and

(c) the focus of the continued instruction is limited solely to literacy in reading, math or English for a maximum of 120 instructional contact hours.

R277-733-9. Adult Education Programs--Tuition and Fees.

(1) Any adult may enroll in an adult education class consistent with Section 53E-10-205.

(2) An eligible provider may charge tuition and fees for ABE, HSE exam preparation, AHSC, or ELL courses in an amount not to exceed $100 annually per student based on the student's ability to pay as determined by federal free and reduced lunch guidelines under the Richard B. Russell National School Lunch Act, 42 USC Section 1751, et seq.

(3) A school board or board of trustees of an eligible provider shall determine reasonable and necessary student fees and tuition on an annual basis.

(4) An eligible provider shall provide potential adult education program students adequate notice of tuition and fees through public posting.

(5) An eligible provider shall specifically use collected fees and tuition to provide additional adult education and literacy services that the provider would otherwise be unable to provide.

(6) An eligible provider receiving state or federal adult education funds shall provide annual written assurances on a form approved by the Superintendent that all fees and tuition collected and submitted for accounting purposes are:

(a) returned or delegated with the exception of indirect costs to the local adult education program;

(b) used solely and specifically for adult education programming; and

(c) not withheld and maintained in a general maintenance and operation fund.

(7)(a) An eligible provider shall spend all collected fees and tuition generated from the previous fiscal year in the adult education program in the ensuing program year.

(b) A district may not use funds identified in Subsection (7)(a) in calculating carryover fund balance amounts.

(8) An eligible provider may not count collected fees and

tuition toward meeting federal matching, cost sharing, or maintenance of effort requirements related to the program's award.

(9) Annually, eligible providers shall report to the Superintendent all fees and tuition collected from students associated with each funding source.

(10) An eligible provider shall not commingle or report fees and tuition collected from adult education students with community education funds or any other public education fund.

R277-733-10. Allocation of Adult Education Funds.

(1) The Superintendent shall distribute adult education state funds to an LEA offering adult education programs consistent with percentages defined in the Utah Adult Education Policies and Procedures Guide.

(2)(a) The Superintendent shall distribute supplemental support to an LEA adult education program with no carryover funds, which receives less than one percent of the state allocation as indicated on the state allocation table.

(b) The Superintendent shall accept and process applications for supplemental funds annually between October 15 and October 31.

(c) An LEA receiving supplemental support shall use the awarded funds for special program needs or professional development, as determined by the Superintendent's evaluation of the LEA's written request and need.

(d) An LEA may apply for the balance of supplemental funds for special program needs or professional development between November 1 and March 1 annually.

(e) Following review of a written request submitted pursuant to Subsection (d), the Superintendent shall distribute funds based on need.

(f) The Superintendent shall add recaptured LEA funds that are greater than allowable carryover amounts to the available supplemental funds awarded to adult education programs based on the criteria defined in Subsection 2(a) through (e).

(3)(a) Adult education federal AEFLA funds shall be distributed based on a competitive application.

(b) The Superintendent shall base second or subsequent year AEFLA funding on performance criteria established in the Utah Adult Education Policies and Procedures Guide.

(4) The Superintendent may recommend that the Board withhold state or federal funds for noncompliance with:

(a) Board rule;

(b) adult education state policy and procedures;

(c) associated reporting timelines; and

(d) program monitoring outcomes, as defined by the Board, including:

(i) lack of program improvement; and

(ii) unsuccessful student outcomes.

R277-733-11. Adult Education Records and Audits.

(1) An LEA shall maintain official records regarding an eligible adult education student in accordance with state retention schedules SD17-25 and SD 17-32.

(2) An eligible provider shall maintain records for each student to validate student outcomes annually in accordance with the Utah Adult Education Policies and Procedures Guide.

(3) To ensure valid and accurate student data, all programs accepting state or federal adult education funds, or both, shall enter and maintain required student data in the UTopia data system.

(4) An eligible provider shall annually retain an independent auditor to:

(a) audit student accounting records;

(b) verify UTopia data entries; and

(c) validate the cash controls over collection of student fees.

(5) An auditor retained pursuant to Subsection (4) shall submit a written report by September 15 annually to:

(a) the eligible provider's governing board or board of trustees;

(b) the Superintendent; and

(c) the local adult education program director, if appropriate.

(6) In the event of an audit finding of non-compliance with state or federal law, regulation, or policy, a program shall prepare and submit to the Superintendent a written corrective action plan for each audit finding by October 15 annually.

(7) The Superintendent shall monitor and assist a program in the resolution of a corrective action plan.

(8) The Superintendent may recommend that the Board terminate a program's state or federal funding for failure to resolve audit findings in accordance with R277-114.

(9) Independent audit reporting dates, forms, and procedures are available in the state of Utah Legal Compliance Audit Guide provided to an eligible provider by the Superintendent in cooperation with the State Auditor's Office and published under the heading of APPC-5.

(10) The Superintendent may review for cause an eligible provider's records and practices for compliance with the law and this rule.

R277-733-12. State Workforce Development Board.

(1) The Superintendent shall represent adult education programs on the State Workforce Development Board as a voting

member, in accordance with WIOA.

(2) The Superintendent may assign Board staff to State Workforce Development Board WIOA committees to the purpose of implementation of the State's WIOA Unified Plan.

R277-733-13. Oversight, Monitoring, Evaluation, and Reports.

The Board may designate no more than two percent of the total legislative appropriation for adult education services to be used specifically by the Superintendent for oversight, monitoring, and evaluation of adult education programs and their compliance with law and regulation.

KEY: adult education
Date of Enactment or Last Substantive Amendment: August 7, 2017
Notice of Continuation: June 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-10-202; 53E-3-501(1); 53E-3-401(4); 53F-2-401; 53F-2-401; 53E-10-205

R277. Education, Administration.
R277-735. Corrections Education Programs.
R277-735-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53F-2-401, which makes the Board, along with the Utah Department of Corrections, responsible for the education of inmates in custody; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to specify operation standards and procedures for inmates in corrections education programs that are the responsibility of the public school system.

R277-735-2. Incorporation of Utah Adult Education Policies and Procedures Guide by Reference.

(1) The rule incorporates by reference the Utah Adult Education Policies and Procedures Guide, June 2016 Revision, which provides day-to-day operating standards and technical assistance to eligible providers for operation of adult education programs.

(2) A copy of the guide is located at:

(a) https://www.schools.utah.gov/sas/aaed/adulteducation; and

(b) the Utah State Board of Education.

R277-735-3. Definitions.

(1) "Custody" means the status of being legally in the control of another adult person or a public agency.

(2) "Education Contracts funds" means funds appropriated annually by the Legislature to be used partly for corrections education.

(3) "FERPA" means the Family Educational Rights and Privacy Act, 20 USC 1232g, and its implementing regulations.

(4) "Inmate" means an offender who is incarcerated in state or county correctional facilities located throughout the state.

(5) "Utah Online Performance Indicators for Adult Education" or "UTopia" means a statewide database for tracking adult education student progress and outcomes.

R277-735-4. Procedures for Providing Services.

(1) The Board may contract to provide educational services for inmates with:

(a) local school boards;

(b) state post-secondary educational institutions;

(c) other state agencies; or

(d) private providers recommended by a local school board.

(2) A contract made in accordance with Subsection (1) shall be in writing and shall provide for:

(a) services to students in an appropriate environment for student behavior and educational performance;

(b) compliance with relevant Board standards;

(c) program monitoring by the Superintendent in accordance with R277-733; and

(d) coordination of services with non-custodial programs to enable an inmate in custody to continue the inmate's public school education with minimal disruption following discharge.

(3) A school district may sub-contract with local educational service providers for the provision of educational services to students in custody.

(4) Custodial status alone does not qualify an individual for services under the IDEA.

(5) When a student inmate is transferred to a new program, the sending program shall update and finalize all school records in UTopia releasing the student's records as soon as possible after receiving notice of the transfer.

(6) An educational service provider shall only disclose educational records of a student inmate, before or after release from custody, consistent with (FERPA).

(7) Corrections education programs shall adhere to the same overarching program standards and practices defined for all adult education programs, consistent with R277-733, unless otherwise noted herein.

R277-735-5. Fiscal Procedures.

(1) An inmate receiving educational services by or through a school district shall be a student of that school district for funding purposes.

(2) The Superintendent shall allocate state corrections education funds to school districts on the basis of annual applications.

(3) A program receiving funds approved for a corrections education project shall only expend funds for the purposes described in the respective funding application.

(4) Education Contracts funds used for corrections education shall be subject to Board accounting, auditing and budgeting rules and policies.

(5) Ten percent or $50,000, whichever is less, of state funds designated for corrections education not expended in the current fiscal year may be carried over and spent by a school district in the next fiscal year with written approval from the Superintendent.

(6) The Superintendent shall establish a timeline for submission and approval of school district budgets and carry over requests.

(7)(a) The Superintendent may consider excess funds in determining a school district's allocation for the next fiscal year.

(b) The Superintendent shall recapture fund balances in excess of 10 percent or $50,000 annually no later than February 1 and reallocate funds to school district corrections education programs through the supplemental award process based on need and effort consistent with R277-733.

R277-735-6. Allocation of Education Contracts Funds Designated for Corrections Education.

(1) The Superintendent may not allocate more than four percent of the total legislative education contracts funding appropriated for adult corrections education administrative services.

(2) The Superintendent shall use funds allocated in accordance with Subsection (1) for oversight, monitoring, and evaluation of corrections adult education program compliance with law and this rule.

(3) The Superintendent shall annually calculate:

(a) the total number of incarcerated offenders in the custody of the Utah Department of Corrections;

(b) the percentage of incarcerated offenders housed in county jails; and

(c) the percentage of incarcerated offenders housed at prison sites.

(4) The Superintendent shall use the calculations made under Subsection (3) to determine the allocation of education contracts funds to school districts.

(5) An eligible school district shall receive a base amount of $10,000 for each correctional facility in which they provide services.

(6) The Superintendent shall prorate the balance of the education contracts funds allocation to school districts based upon adult education UTopia data reporting of the average number of state inmates receiving educational services from August 1 through March 1 of the prior school year.

R277-735-7. Program, Curriculum, Outcomes and Student Mastery.

(1) Corrections education programs shall provide programs that allow students to transition between correctional sites in a seamless manner.

(2)(a) An adult education student receiving education services in a state correctional facility education program may

graduate with a school district adult education secondary diploma upon completion of the state required minimum units of credit under R277-700.

(b) A student in custody may meet graduation requirements through:

(i) completed credits; or

(ii) demonstrated course competency consistent with a student's plan for college and career readiness in accordance with R277-733.

(3) An adult student in custody seeking an adult high school diploma shall have the minimum credits defined in R277-705.

(4) A district shall employ a qualified Utah licensed educator to teach corrections education courses.

R277-735-8. Confidentiality.

(1) A transcript or diploma prepared for an inmate in custody shall:

(a) include the name of the contracted educational agency which also provides service to non-custodial offenders; and

(b) not reference the inmate's custodial status.

(2)(a) A district or corrections education provider shall keep an inmate's education records which refer to custodial status, inmate court records, and related matters separate from permanent school records.

(b) A district shall destroy or seal an inmate's education records upon order of a court of competent jurisdiction.

(3) A district or corrections education provider may only provide access to education records in accordance with FERPA.

R277-735-9. Adult Education Standards.

Corrections adult education programs shall meet program standards defined in R277-733 and the Utah Adult Education Policies and Procedures Guide.

KEY: public education, custody, inmates
Date of Enactment or Last Substantive Amendment: August 7, 2017
Notice of Continuation: June 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-2-401; 53E-3-401(4)

R277. Education, Administration.
R277-746. Driver Education Programs for Utah Schools.
R277-746-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53G-10-502(4), which directs the Board to prescribe rules for driver education classes in the public schools.

(2) The purpose of this rule is to incorporate by reference the Board's Driver Education manual, which specifies standards and procedures for local school districts conducting automobile driver education.

R277-746-2. Incorporation by Reference of Driver Education Manual.

(1) This rule incorporates by reference Driver Education for Utah High Schools - Organization, Administration and Standards, Revised February 2018, which outlines statutory requirements and Board procedures for administering an automobile driver education program.

(2) A copy of the manual is located at:

(a) https://www.schools.utah.gov/curr/drivered; and

(b) the offices of the Utah State Board of Education.

KEY: driver education
Date of Enactment or Last Substantive Amendment: May 8, 2018
Notice of Continuation: April 2, 2018
Authorizing, and Implemented or Interpreted Law: 53G-10-502(4); 53E-3-401(4)

R277. Education, Administration.
R277-750. Education Programs for Students with Disabilities.
R277-750-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-501(1), which directs the Board to adopt rules regarding services for persons with disabilities;

(c) Title 53E, Chapter 7, Part 2, Education of Children with Disabilities, which requires the Board to adopt rules regarding educational services to students with disabilities; and

(d) Subsection 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to specify standards and procedures for special education programs.

R277-750-2. Incorporation of Special Education Rules Manual by Reference.

(1) This rule incorporates by reference the Special Education Rules manual dated October 2016, which establishes policies and procedures for:

(a) appropriate and timely identification of a student with a disability;

(b) evaluation and classification of a student with a disability by qualified personnel;

(c) standards for services provided to a student with a disability;

(d) provision for multi-district programs for a student with a disability;

(e) provision for delivery of service responsibilities;

(f) certification and qualifications for instructional staff; and

(g) the state's implementation of federal special education programs, including IDEA.

(2) A copy of the manual is located at:

(a) https://www.schools.utah.gov/specialeducation/resources/lawsrulesregulations; and

(b) the Utah State Board of Education.

R277-750-3. Standards and Procedures.

(1) The Board adopts and hereby incorporates by reference the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C., 1400 as the Board's rules for students with disabilities.

(2) The Superintendent and LEAs shall provide services to a

student with a disability in accordance with:

(a) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. 794, incorporated by reference in R277-112;

(b) this rule;

(c) the Special Education Rules, August 2016, included in the Special Education Rules manual described in R277-750-2; and

(d) the annual Utah State Federal Application under Part B of the Individuals with Disabilities Education Act as amended in 2004.

KEY: special education
Date of Enactment or Last Substantive Amendment: October 11, 2016
Notice of Continuation: August 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; Title 53E, Chapter 7, Part 2; 53E-3-501(1); 53E-3-401(4)

R277. Education, Administration.
R277-751. Special Education Extended School Year (ESY).
R277-751-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-3-501(1)(c)(vi)(A), which directs the Board to adopt rules regarding services to students with disabilities.

(2) The purpose of this rule is to specify the standards for the special education ESY.

R277-751-2. Definitions.

(1)(a) "Extended school year" or "ESY" means an extension of the school district or charter school traditional school year to provide special education and related services to a student with a disability, in accordance with the student's IEP, and at no cost to the student's parents.

(b) ESY services shall meet the standards of Part B of the IDEA and Board special education rules.

(2) "ESY services" means the individualized education program provided by the school to a student with a disability during the ESY.

(3) "FAPE" means a free appropriate public education, which:

(a) includes special education and related services that are provided at public expense, under public supervision and direction, and without charge;

(b) meets the standards of the Board and Part B of the IDEA;

(c) includes preschool, elementary school, secondary school, and may include post-secondary education in Utah; and

(d) is provided in conformity with an IEP that meets the requirements of Part B of the IDEA and Board special education rules.

(4) "IEP team" means a group of individuals that is responsible for developing, reviewing, and revising an IEP for a student with a disability.

(5) "LEA" includes, for the purposes of this rule, the Utah Schools for the Deaf and the Blind.

(6)(a) "Procedural safeguards" means the procedural rights designed to protect the rights of students with disabilities and their parents.

(b) "Procedural safeguards are defined in IDEA and Board special education rules, and include a parent's right to:

(i) participate in meetings;

(ii) review educational records;

(iii) request an independent educational evaluation;

(iv) receive written prior notice of actions proposed or refused by an LEA; and

(v) consent to evaluations and special education services.

(c) "Procedural safeguards" also include dispute resolution options.

(7) "Recoupment means recover of basic behavioral or academic patterns, or both, or skills, specified in an IEP, to a level demonstrated prior to the interruption of educational programming.

(8) "Regression" means reversion to a lower level of functioning, evidenced by a decrease in the level of basic behavioral or academic patterns, or both, or skills, specified in an IEP, which occurs as a result of an interruption in educational programming.

(9) "Student with a disability" means a student who meets eligibility criteria for special education and related services, as defined in the Board special education rules.

R277-751-3. Determining Eligibility.

(1) A student is eligible for ESY if the student's IEP team has determined, based upon a review of multiple data sources and factors that the student:

(a) is eligible under Board special education rules and Part B of the IDEA; and

(b) requires an ESY to receive a FAPE.

(2) A student's IEP shall reflect the student's IEP team's decision regarding need for ESY services.

(a) An LEA shall provide a student's parents with written prior notice of the LEA's proposal or refusal to provide ESY services.

(b) A student's IEP team shall determine the appropriate ESY services for an eligible student, based on the student's individual needs.

(3) ESY eligibility decisions and written prior notice of ESY services shall be provided to parents in sufficient time to permit accessing dispute resolution options of the Procedural Safeguards, in the event of a dispute.

R277-751-4. ESY Program Standards.

(1) The primary goal for a student requiring ESY services is to maintain the current level of the student's academic and functional skills and behavior in areas identified by the student's IEP in order to provide FAPE.

(2) LEAs may not limit ESY to:

(a) particular categories of disabilities;

(b) particular ages; or

(c) particular grade levels of students.

(3) An LEA may not unilaterally limit the type, amount, or duration of ESY services provided for students.

(4) An LEA may not limit data consideration by IEP teams exclusively to an analysis of regression and recoupment.

(5) An LEA shall ensure that:

(a) an ESY student receives services in the least restrictive environment; and

(b) ESY teachers and paraprofessionals meet Board licensing rules.

R277-751-5. Division of Responsibilities.

(1) The Superintendent shall:

(a) conduct LEA program administrative reviews, such as Utah Program Improvement Planning System or "UPIPS" monitoring;

(b) require student attendance and membership accountability;

(c) provide technical assistance to LEAs;

(d) collect data on:

(i) the number, disabilities, and levels of students served;

(ii) the types of program delivery models used;

(iii) costs of the ESY services in LEAs; and

(iv) program effectiveness.

(e) develop guidelines for LEAs.

(2) An LEA shall:

(a) establish LEA procedures which are in accordance with Board rules;

(b) provide professional development and on-site visits to assure that Board and LEA procedures are appropriately understood and implemented;

(c) establish timelines to accomplish the purposes of this rule;

(d) analyze LEA needs, reported by professionals, for ESY services for individual, eligible students;

(e) determine LEA ESY services parameters based upon data received from educators on individual, eligible students, including:

(i) the personnel required to provide special education and related services;

(ii) location of services; and

(iii) budget specifications;

(f) ensure parents and professionals have received information about dispute resolution procedures for the appeal of ESY eligibility decisions and ESY services parameters; and

(g) implement processes to collect program effectiveness data.

KEY: exceptional children, extended school year
Date of Enactment or Last Substantive Amendment: May 8, 2018
Notice of Continuation: April 2, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53-3-401(4); 53E-3-501(1)(c)(vi)(A)

R277. Education, Administration.
R277-752. Special Education Intensive Services Fund.
R277-752-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-2-309, which requires the Board to make rules establishing a distribution formula to allocate money appropriated to the board for the special education intensive services fund.

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

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

(b) a formula to distribute the funds.

R277-752-2. Definitions.

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

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

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

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

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

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

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

(a) expenses that:

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

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

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

(2) From the special education intensive services fund, the

Superintendent shall allocate:

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

(i) as described in Section 53F-2-309; and

(ii) in accordance with Subsection (3); and

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

(i) as described in Section 53F-2-309; and

(ii) in accordance with Subsection (4).

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

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

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

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

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

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

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

(ii) reimbursements from private insurance or Medicaid.

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

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

(ii) the product of:

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

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

(b) The Superintendent shall provide a reimbursement described in Subsection (4)(a) starting with the LEA with the highest impacted LEA cost ratio until funds are exhausted.

KEY: special education, intensive services fund
Date of Enactment or Last Substantive Amendment: February 7, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-309

R277. Education, Administration.
R277-753. LEA Reporting Requirements for Section 504 Students.
R277-753-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-2-512(2)(a), which directs the Board to make rules for implementation of a reimbursement program for special education funds to address Section 504 accommodations.

(2) The purpose of this rule is to establish reporting requirements for LEAs providing Section 504 accommodations to students.

R277-753-2. Definitions.

(1) "Autism" means a disability of verbal, non-verbal or social interaction that substantially limits one or more major life activities and does not require specialized instruction under special education services.

(2) "Brain injury impairment" or "Concussion impairment" means a short term disability of the brain caused by an external physical force that substantially limits one or more major life activities, and which adversely affects a student's access to the student's education.

(3) "Hearing impairment" means a hearing disability that substantially limits one or more major life activity, which may require assistive technology but does not require specialized instruction under special education services.

(4) "Learning impairment" means a learning disability, which includes, but is not limited to, dyslexia, dysgraphia, and dyscalculia, that substantially limits one or more major life activities, but does not require specialized instruction under special education services.

(5) "Major bodily function impairment" means an impairment to any of the following functions that adversely limit a student's access to the student's education:

(a) immune system function;
(b) normal cell growth;
(c) genitourinary function;
(d) bladder function;
(e) brain function;
(f) circulatory function;
(g) endocrine function;
(h) lymphatic function;

(i) special sensory organ and skin function;
(j) digestive function;
(k) bowel function;
(l) neurological function;
(m) respiratory function;
(n) cardiovascular function;
(o) hemic function;
(p) musculoskeletal function; and
(q) reproductive function.

(6) "Medical impairment" means a disability that is chronic or acute in nature, which may be active or in remission, and which substantially limits one or more major life activities, including, but not limited to:

(a) allergies;
(b) asthma;
(c) attention deficit disorder or attention deficit hyperactivity disorder;
(d) chemical sensitivities;
(e) diabetes;
(f) epilepsy;
(g) a heart condition;
(h) hemophilia;
(i) lead poisoning;
(j) leukemia;
(k) cancer;
(l) arthritis;
(m) nephritis;
(n) rheumatic fever;
(o) sickle cell anemia;
(p) Tourette syndrome;
(q) HIV/AIDS; or
(r) an acquired brain injury adversely affecting a student's access to the student's education, which may result from health problems such as:
(i) an hypoxic event;
(ii) encephalitis;
(iii) meningitis;
(iv) brain tumor; or
(v) stroke.

(7) "Mental health impairment" means a mental disability that is chronic or acute in nature, and which substantially limits one or more major life activities, including, but not limited to:

(a) anxiety;
(b) attention deficit disorder or attention deficit hyperactivity disorder;
(c) depression;
(d) post-traumatic stress disorder; or

(e) emotional or mental illnesses.

(8) "Orthopedic impairment" means a physical disability, which may be on-going or short term in nature, that substantially limits one or more major life activities, and which adversely affects a student's access to the student's education.

(9) "Other impairment" means any other disability not specifically defined in this rule, which substantially limits one or more major life activities.

(10) "Section 504" means section 504 of the Vocational Rehabilitation Act of 1973, 29 U.S.C. 701, et seq., which guarantees certain rights to disabled students.

(11) "Utah eTranscript and Record Exchange" or "UTREx" means a system that allows individual detailed student records to be exchanged electronically between public education LEAs and the Board.

(12) "Utah Program Improvement Planning System" or "UPIPS" is a secure website utilized by the Board Special Education Services section to collect compliance and fiscal LEA data regarding students with disabilities, required under state and federal law.

R277-753-3. LEA Section 504 Reporting Requirements.

(1) An LEA shall include a count of students with Section 504 accommodations in its daily UTREx submission.

(2) An LEA shall report financial costs incurred as a result of Section 504 accommodations to the Superintendent through UPIPS by June 30 annually.

(3) An LEA's data submissions under this rule shall be broken down in the following categories:

(a) Autism;

(b) Brain Injury or Concussion Impairment;

(c) Hearing Impairment;

(d) Learning Impairment;

(e) Major Bodily Function Impairment;

(f) Medical Impairment;

(g) Mental Health Impairment;

(h) Orthopedic Impairment; and

(i) Other Impairment.

KEY: reporting, requirements, Section 504
Date of Enactment or Last Substantive Amendment: August 7, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

R277. Education, Administration.
R277-800. Utah Schools for the Deaf and the Blind.
R277-800-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-8-204 which authorizes the Board to make rules regarding the administration of the Utah Schools for the Deaf and the Blind;

(c) Subsection 53E-8-204(3), which directs the Board to appoint Advisory Council members;

(d) Section 53E-8-402, which directs the Board to establish entrance policies and procedures to be considered, consistent with the IDEA, for student placement recommendations at the USDB;

(e) Section 53E-8-409, which directs the Board to establish the USIMAC and outline collaboration and operating procedures for USIMAC and USDB resources; and

(f) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to provide standards and procedures for the operation of the USDB and the USDB outreach programs and services.

R277-800-2. Definitions.

(1) "Accessible media producer" means a company or agency that creates fully-accessible, specialized, student-ready formats for curriculum materials, such as:

(a) Braille;

(b) large print;

(c) audio books; or

(d) digital books.

(2) "Advisory Council" means the Advisory Council for the Utah Schools for the Deaf and the Blind appointed by the Board in accordance with Subsection 53E-8-204(3) and Section R277-800-4.

(3)(a) "Assessment" means the process of documenting, usually in measurable terms, knowledge, skills, attitudes and abilities pertaining to the fields of vision and hearing.

(b) An assessment may include the following areas of focus:

(i) a valid, reliable and appropriate assessment given to determine eligibility for placement and services by a team of qualified professionals and a student's parent or guardian;

(ii) a functional assessment accomplished by observation and measurement of daily living skills and functional use of vision or hearing, or both; and

(iii) academic evaluations as part of the Utah Performance

Assessment System for Students (U-PASS), including an alternate assessment with appropriate accommodations as indicated on a student's IEP.

(4)(a) "Campus-based program" means a program provided by USDB that offers an alternative to an outreach program for students, ages three to 22, who are blind or visually impaired, deaf or hard of hearing, or deafblind.

(b) Under a campus-based program, services are provided by qualified USDB staff at a USDB site.

(5)(a) "The Chafee Amendment to the Copyright Act" or the "Chafee Amendment" is a federal law, 17 U.S.C. 121, that allows an authorized entity to reproduce or distribute copyrighted materials in specialized formats for students who are blind or have other print disabilities without the need to obtain permission of the copyright owner.

(b) Authorized entities under the Chafee Amendment include governmental or nonprofit organizations that have a primary mission to provide copyrighted works in specialized formats for students who are blind or have other print disabilities.

(6) "Child Find" means activities and strategies designed to locate, evaluate, and identify individuals eligible for services under the IDEA.

(7) "Consultation" means a meeting for discussion or seeking advice.

(8) "Designated LEA" means the local education agency assigned by a student's IEP or Section 504 team to have primary responsibility for ensuring that all rights and requirements regarding individual student assessment, eligibility services and procedural safeguards are satisfied consistent with the IDEA.

(9) "Deafblindness" or "deafblind" means written verification provided by a medical professional stating that an individual has concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.

(10) "Deafness" is a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, and that adversely affects a student's educational performance.

(11) "Educational Resource Center" or "ERC" is a center under the direction of the USDB that:

(a) provides information, technology, and instructional materials to assist children who are deaf, hard of hearing, blind, visually impaired, and deafblind in progressing in the curriculum; and

(b) facilitates access to materials, information, and

training for teachers and parents of children who are deaf, hard of hearing, blind, visually impaired, and deafblind.

(12) "Extension classroom" means a classroom provided by an LEA where USDB provides a full-time classroom teacher and related services to students who remain enrolled in the LEA's general education programs.

(13) "Hearing loss" is an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance, but that is not included under the definition of deafness.

(14) "National Instructional Materials Access Center" or "NIMAC" is a central national repository that receives file sets in the NIMAS from publishers to maintain, catalogue, and house for future reference file sets for states to use with students who have print disabilities and require accessible alternate formats.

(15) "National Instructional Materials Accessibility Standard" or "NIMAS" means the electronic standard that enables all producers of alternate formats for students with print disabilities to work from one standard format available from publishers for this purpose.

(16)(a) "Outreach program" is a program provided by the USDB that offers an alternative to a campus-based program for students ages three to 22 who are blind or visually impaired, deaf or hard of hearing, or deafblind.

(b) In an outreach program, services are provided at a student's resident school or at a designated school by a qualified teacher of the blind or visually impaired, deaf or hard of hearing, or deafblind.

(17)(a) "Related services" means those supportive services that are necessary for the appropriate implementation of an IEP.

(b) Related services may include, but are not limited to:

(i) speech pathology;

(ii) audiology;

(iii) low vision services;

(iv) orientation and mobility;

(v) school counseling;

(vi) transportation;

(vii) school nursing services;

(viii) occupational therapy; or

(ix) physical therapy.

(18) "Section 504 accommodation plan" means a plan required by Section 504 of the Rehabilitation Act of 1973, which is designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

(19) "Technical assistance" means assistance to public education employees, licensed educators, parents, and families in

significant areas of need by someone who has the expertise necessary to give council and training in designated areas.

(20) "USDB" means the Utah Schools for the Deaf and the Blind.

(21) "Utah State Instructional Materials Access Center" or "USIMAC" means a center that receives NIMAS electronic file sets and produces them in the accessible alternate format required by students with print disabilities.

(22)(a) "Visual impairment," is an impairment in vision that, even with correction, adversely affects a student's educational performance.

(b) "Visual impairment" includes both partial sight and blindness that adversely affect a student's educational performance.

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

R277-800-3. Operation of USDB.

(1) Consistent with Section 53E-8-204, the Board is the governing board of the USDB.

(2) The USDB superintendent, appointed consistent with Subsection 53E-8-204(2), is subject to the direction of the Board and the Superintendent.

(3) The USDB superintendent shall serve subject to the following:

(a) the USDB superintendent's term of office is for two years and until a successor is appointed;

(b) the Board shall set the USDB superintendent's compensation for services;

(c) the USDB superintendent shall have, at a minimum, an annual evaluation, as directed by the Board;

(d) the USDB superintendent qualifications shall be established by the Board; and

(e) the duties of the USDB superintendent shall be established by the Board.

(4) The Superintendent shall support, provide assistance, and work cooperatively with the USDB in providing services to designated Utah students.

(5) The Superintendent shall assign a liaison to provide appropriate supervision to the USDB to ensure compliance with the law.

(6) The Superintendent shall assist the USDB, its superintendent, and associate superintendents in adopting policies and preparing an annual budget that are consistent with the law.

(7) The Board shall approve the annual budget and expenditures of USDB.

(8)(a) The USDB superintendent shall, subject to the approval of the Board, appoint an associate superintendent to administer the Utah School for the Deaf and an associate superintendent to administer the Utah School for the Blind.

(b) Qualifications of a USDB associate superintendent shall be aligned with the requirements of Section 53E-8-204.

(9)(a) The USDB superintendent and associate superintendents may hire staff and teachers as needed for the USDB.

(b) Educators and related service providers shall be appropriately licensed and credentialed for their specific assignments.

(10) In employment practices and decisions, the USDB and the USDB superintendent shall maintain the accreditation of the USDB school and programs.

(11) The USDB superintendent and associate superintendents shall communicate regularly and effectively with the Board and provide a written report to the Board at least annually in adequate time prior to the November legislative interim meeting, or at such other time as requested by the Board.

(12) The USDB report shall contain:

(a) a financial report;

(b) a report on the activities of the superintendent and associate superintendents;

(c) a report on activities to involve parents and constituency, including LEA personnel and advocacy groups, in the governance of the school and implementation of service delivery plans for students who are deaf, hard of hearing, blind, visually impaired, and deafblind; and

(d) a report on student achievement, including student achievement data, that provides:

(i) longitudinal data for both current and previous students served by USDB;

(ii) graduation rates; and

(iii) students exiting USDB and their educational placements after exiting.

(13) USDB shall ensure that each child or student served by USDB is assigned a unique student identifier (SSID) to allow for annual data collection and reporting of achievement of current and past students.

(14) USDB shall provide the Superintendent with a listing of past and current children or students, including the assigned unique student identifier, served by USDB by September 1 of each year to facilitate the required data collection.

R277-800-4. USDB Advisory Council and Community Council.

(1) The Board shall establish the Advisory Council for USDB and appoint Advisory Council members as directed in Section 53E-8-

204.

(2) The Advisory Council shall have not more than 11 Board-appointed voting members and shall include members as qualified under Section 53E-8-204.

(3)(a) Advisory Council members shall serve two year terms and members may serve no more than three consecutive terms.

(b) Notwithstanding, Subsection (3)(a), advisory Council members serve at the pleasure of the Board.

(4) If an Advisory Council member resigns or is asked to resign, the Board shall appoint another member in a timely manner after seeking nominations.

(5) The Board shall assist the Advisory Council in developing and passing by-laws establishing procedures for:

(a) nominating Advisory Council members;

(b) recommending dismissal of Advisory Council members;

(c) ethical standards for Advisory Council members; and

(d) operation of the Advisory Council.

(6) Advisory Council bylaws may allow for representation on the Advisory Council of constituencies within the USDB community.

(7) The USDB shall establish a community council to operate in a comparable manner to a school community council under Section 53G-7-1202 through 53G-7-1203 and Rule R277-491.

(8) Members of the Advisory Council may serve as school community council members.

(9) The USDB school community council and election process shall be the same as for a district school in Section 53G-7-1202 and R277-491.

(10) The USDB may implement electronic voting and consider encouraging school community council participation through electronic meetings and technology that facilitate participation of parents of USDB students.

R277-800-5. USDB or Student's District of Residence/Charter School as Designated LEA.

(1) To be eligible to receive free services from the USDB, a student must meet the requirements of Section 53E-8-401.

(2)(a) A student's IEP or Section 504 accommodation plan shall determine a student's placement at the USDB, in a district school or charter school.

(b) USDB shall limit its services for students who are school-age to those on an IEP or Section 504 accommodation plan.

(3) Consistent with Subsection 53E-8-401(3), an IEP team or Section 504 team shall determine the appropriate placement for each blind, deaf or deafblind student consistent with Board Special Education Rules incorporated by reference in Section R277-750-2.

(4) It is the responsibility of the student's district of

residence or charter school to conduct Child Find , and to convene the initial IEP or Section 504 team meeting in order to determine a student's placement.

(a) A student's initial IEP or Section 504 accommodation plan meeting shall include a representative from the student's district of residence or charter school and a representative from the USDB.

(b) An LEA shall defer, where appropriate, to the parental preference in the IEP or Section 504 accommodation plan process consistent with Subsection 53E-8-401(3)(c).

(c) Notwithstanding, Subsection (4)(b), in compliance with the IDEA, the final placement decision, as documented on the IEP or Section 504 accommodation plan, shall document a free appropriate public education for the student and shall not be determined solely by parental preference.

(5)(a) If USDB is the designated LEA for a student, USDB has full responsibility for all services defined in the student's IEP or Section 504 accommodation plan.

(b) Notwithstanding USDB's designation as LEA for a student, a representative from the district of residence or charter school remains a required member of the IEP or Section 504 accommodation plan team.

(6) If a district of residence or charter school is the LEA designated to provide services to a student with an IEP or Section 504 accommodation plan, the district of residence or charter school has the responsibility for providing instruction and services for the student except that the USDB:

(a) may be designated by the team as a related service provider; and

(b) remains a required member of the student's IEP or 504 accommodation plan team.

(7) A student's IEP or Section 504 accommodation plan shall clearly define what services are to be provided by a related service provider.

(8) The IEP or Section 504 accommodation plan team shall determine the designated LEA for student placement.

(9) If a parent is dissatisfied with a student's placement at USDB, the student's district of residence, or charter school, the parent may access dispute resolution procedures, consistent with Utah State Board of Education Special Education Rules, adopted by the Board in Section R277-750-2

(10) If a student's IEP or Section 504 accommodation plan provides for services to be provided by both the USDB and the student's district of residence, or for the USDB and district of residence to share responsibility for serving a student, a parent may access dispute resolution procedures consistent with Utah State Board of Education Special Education Rules, adopted by the

Board in Section R277-750-2.

R277-800-6. Assessment of USDB Students Served in LEAs of Residence.

(1) An appropriate specialist shall assess a student who may be deaf, hard of hearing, blind, visually impaired, or deafblind using statewide assessment results and in compliance with Board rule and state and federal law.

(2) The USDB shall establish an assessment policy and guidelines to implement required assessments, which address:

(a) appropriate, complete, and timely evaluations of students;

(b) procedures for administration of assessments in addition to those required by the law, as determined by IEPs, Section 504 accommodation plans, and individual teachers;

(c) complete and accurate required assessments available to eligible students consistent with state and LEA assessment timelines and availability of materials for non-disabled students;

(d) staff professional development and preparation on appropriate administration of assessments and reporting of assessment results; and

(e) procedures to ensure appropriate interpretation and use of assessments and results for parents and USDB personnel.

R277-800-7. Extension Classrooms.

(1) The USDB and an LEA may negotiate to share the costs for providing more efficient, cost-effective, and convenient services to students who are deaf, blind, or deafblind in extension classrooms in locations other than the USDB campus.

(2) If the USDB and an LEA enter into an agreement in accordance with Subsection (1), the LEA shall provide:

(a) classrooms;

(b) basic instructional materials;

(c) physical education, music, media, school lunch, and other programs and services, consistent with those programs and services provided to other students within the LEA;

(d) administrative support;

(e) basic secretarial services;

(f) special education related services; and

(g) IT support.

(3) If the USDB and an LEA enter into an agreement in accordance with Subsection (1), the USDB shall provide:

(a) classroom instructors, including aides; and

(b) instructional materials specific to the disability of the students.

(4) An agreement pursuant to Subsection (1) may reassign the responsibilities of the USDB and a school district or charter

school as negotiated between the LEA and the USDB.

(5) An LEA shall claim the state WPU if the LEA provides all items or services identified in Subsection (2).

R277-800-8. USDB Fiscal Procedures.

(1) The USDB shall keep fiscal, program, and accounting records as required by the Board and shall submit reports required by the Board.

(2) The USDB shall follow state standards for fiscal procedures, auditing, and accounting, consistent with Subsection 53E-8-203(3).

(3) The USDB is a public state entity under the direction of the Board and as such is subject to state laws and exemptions consistent with Section 53E-8-203.

(4)(a) The USDB shall prepare and present an annual budget to the Board that includes no more than a five percent carryover of any one fund, including reimbursement funds from federal programs.

(b) The five percent carryover prohibition does not apply to funds received under Section 53F-2-404 and Section 12 of the Utah Enabling Act.

(5)(a) The Superintendent shall recover federal reimbursement funds (IDEA and Medicaid) quarterly during the year.

(b) The Superintendent shall identify reimbursement amounts in the current year's budget, but in no event later than the subsequent year's budget.

(6)(a) The USDB shall use the revenue from the federal trust land grant designated for the benefit of the blind and the deaf, solely for the benefit of deaf, blind, and deafblind students.

(b) The recommended or designated use of federal trust land funds is subject to review by the Board.

R277-800-9. Utah State Instructional Materials Access Center.

(1) The USIMAC shall produce core instructional materials in alternative formats to ensure that all students with print disabilities qualified under the Chafee Amendment receive their materials in a timely manner.

(2) The USIMAC shall provide materials for all students with print disabilities who are qualified under the Chafee Amendment or otherwise eligible through an IEP or Section 504 accommodation plan.

(3) The Superintendent shall oversee the operations of the USIMAC.

(4) The USDB is the fiscal agent and operates the USIMAC to the extent of funds received annually from the Utah Legislature and the Board.

(5) An LEA may purchase accessible instructional materials

using the LEA's own funding or request the production of accessible instructional materials in alternate formats from the USIMAC in accordance with established opt in procedures to ensure timely access for students with print disabilities.

(6) USIMAC shall provide a textbook in an alternate format by the beginning of the school year if requested no later than April 1 of the preceding school year by an LEA.

(7) The USDB ERC shall serve as the repository and distribution center for the USIMAC.

(8) A student qualifies for accessible instructional materials from the USIMAC, including Braille, audio, large print, or digital formats following an LEA determination that the student has a print disability in accordance with:

(a) the Chafee Amendment;

(b) IDEA; or

(c) Section 504 of the Rehabilitation Act.

(2)(a) An LEA may request textbooks for blind, vision impaired or deafblind students served by the USDB or the LEA consistent with a student's IEP or Section 504 accommodation plan.

(b)(i) When an LEA requests a core instructional textbook the USIMAC shall conduct a search for the textbook within existing resources, and if the textbook is available, the USIMAC shall send the textbook to the ERC for distribution to the LEA.

(ii) If a textbook is not available within existing resources, the USIMAC will conduct a search to determine if the textbook is available for purchase through another source.

(iii) If a textbook is available through the American Printing House for the Blind (APH), the USDB shall order the textbook using state acquired federal funds designated specifically for USIMAC materials and send the textbook to the ERC for distribution to the LEA.

(iv) If a textbook is not available from APH, but is available from another accessible media producer, the textbook shall be purchased and sent to the ERC for distribution to the LEA.

(v) If a textbook is not available for purchase, the LEA shall provide a regular print hard copy of the textbook to the USIMAC, which shall then produce the textbook and send it to the ERC for distribution.

(vi) The USIMAC shall produce a textbook in an LEA requested alternate format in accordance with the cost sharing outlined in a technical manual prepared by the Superintendent.

(c) The sharing of costs for purchases described in this R277-800-9 shall be outlined in a technical manual prepared by the Superintendent.

(3)(a) All approved textbook contracts for the state of Utah for instructional materials published after August 2006 shall

include a provision for making NIMAS file sets available through the NIMAC in accordance with the IDEA and Board Instructional Materials Contract timelines.

(b) If the USIMAC is unable to obtain the NIMAS file set from the NIMAC because the publisher fails to timely provide the NIMAS file set to the NIMAC in accordance with the IDEA and Board Instructional Materials Contract timelines, the USIMAC may:

(i) bill the textbook publisher the difference in the cost of producing the alternate format textbook without benefit of the NIMAS file set; or

(ii) request authorization from the Board to seek damages from the publisher for failure to meet contract provisions.

(c) The Superintendent shall advise publishers of the provisions of this Subsection (3).

(d) The Utah Instructional Materials Commission created under R277-469 may not approve textbooks and materials from publishers that have a pattern of not providing materials and textbooks for students with disabilities in a timely manner, consistent with the law and Board rules.

(4)(a) An LEA may request and access audio books through the USIMAC, as appropriate, or through other sources.

(b) Membership required for other sources is the responsibility of the LEA designated as the responsible entity for serving the student in the IEP or Section 504 accommodation plan.

KEY: educational administration
Date of Enactment or Last Substantive Amendment: September 21,
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-8-204; 53E-8-402; 53E-8-409

R277. Education, Administration.
R277-801. Services for Students who are Deaf, Hard of Hearing, Blind, Visually Impaired, and Deaf-Blind.
R277-801-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-8-201, which creates USDB, and authorizes USDB to provide services to qualifying students.

(2) The purpose of this rule is to establish rules for LEAs and USDB to provide services to students who are deaf, hard of hearing, blind, visually impaired, and deaf-blind.

R277-801-2. Definitions.

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

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

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

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

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

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

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

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

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

(7) "Section 504" means Section 504 of the Rehabilitation Act of 1973.

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

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

R277-801-3. Responsibilities of LEAs.

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

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

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

(i) primary disabilities;

(ii) secondary disabilities; and

(iii) other factors, including:

(A) transportation needs; and

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

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

(a) the student's previous primary instruction was in American sign language; and

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

(3) A qualifying student may receive services under:

(a) IDEA;

(b) Section 504; or

(c) a USDB Preschool Services Plan.

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

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

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

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

(6)(a) An LEA with greater than 3% of the student population

statewide may elect to contract with USDB to provide outreach services.

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

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

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

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

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

(8) Notwithstanding Subsection (7), if a qualifying student enrolls directly with USDB in accordance with Subsection (2), USDB shall develop the student's IEP, including any assessments necessary for initial placement.

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

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

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

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

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

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

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

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

(2)(a) If USDB is designated as a qualifying student's LEA, USDB is responsible from that point on for the design and implementation of the student's IEP, 504 Plan, or USDB Preschool Service Plan.

(b) USDB shall provide all special education and related services and costs documented in an IEP for a qualifying student

described in Subsection (2)(a).

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

R277-801-5. Correlation of Responsibilities.

(1) For qualifying students currently enrolled with an LEA and receiving services through USDB outreach programs, an LEA will provide a list of students and their IEP due dates for the upcoming school year to the USDB Assistant Superintendent no later than June 30.

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

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

(b) students moving from out of state; and

(c) students transferring between LEAs.

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

(b) If a change of placement is considered:

(i) both the referring LEA and USDB will participate and establish a timeline to ensure a successful transition for the student.

(ii) both the referring LEA and USDB will participate in the IEP or 504 meeting.

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

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

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

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

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

(b) The Board shall:

(i) annually provide information to LEAs regarding the costs of accessible materials in the state; and

(ii) determine an equitable cost-sharing plan.

R277-801-6. Services for Qualifying Students.

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

(a) USDB shall include the qualifying student in all Board-required enrollment reports including:

(i) fall enrollment counts;

(ii) the child count of students with disabilities; and

(iii) the end-of-year enrollment report;

(b) Any agreements between the referring LEA and USDB shall be documented as part of a written agreement, which shall be reviewed at least annually;

(c)(i) A qualifying student's IEP team shall determine the student's transportation needs;

(ii) USDB shall provide transportation as a related service in an IEP or if required to implement a 504 plan; and

(iii) A referring LEA shall combine resources with USDB, whenever possible, to provide within-LEA transportation;

(d)(i) USDB shall annually administer all Board-required assessments.

(ii) USDB may provide alternate tests in accordance with a student's IEP and state law; and

(e) USDB shall develop and implement all programs, policies, and procedures required of an LEA by the Board and state law.

(2) If a qualifying student attends USDB extension classrooms located within an LEA:

(a) the student shall be enrolled in the general education program of the LEA school the student is attending;

(b) the LEA school shall be designated as the "school of record" for the student;

(c) the student shall be included by the LEA school or district in all required reports and uploads to UTREx;

(d) the student shall be counted in the LEA school or district total enrollment, and will be included in the calculation of all funding formulas, including Weighted Pupil Units and Minimum School Program;

(e) the student shall receive access to LEA programs and services consistent with their IEP or 504 plan, consistent with services available to other students enrolled in the student's school;

(f) the student may not be enrolled in the special education program of the LEA school the student is attending;

(g) USDB shall ensure the student receives a free appropriate public education;

(h) USDB shall ensure the student receives all special education and related services, including interpreting services, as required on the student's IEP or 504 plan;

(i) the LEA school shall generate general education funding or WPU for the student;

(j) USDB shall receive federal IDEA funding in accordance with USDB's legislative line item funding;

(k) the LEA school shall receive no state or federal special education funding for the student;

(l)(i) USDB shall provide transportation for the student as a related service when it is included in an IEP.

(ii) an LEA school shall combine resources with USDB, whenever possible, to provide within-LEA transportation; and

(m) an LEA school and USDB shall jointly ensure that any portable classrooms have access to intercom and phone service.

(3) If a qualifying student receives USDB outreach or consulting services:

(a) the student shall be enrolled in the general and special education programs of the LEA school the student attends;

(b) the LEA shall included the student in the calculation of state special education and IDEA funds for the school district or charter school; and

(c) USDB may not submit the students to UTREx and may not receive state or federal special education funding.

(4) USDB shall provide the following services free of charge to every LEA, regardless of size, exclusive of additional related services:

(a) Educational Resource Center resources, including loaner equipment;

(b) USIMAC materials;

(c) Interpreter training;

(d) Professional development;

(e) Expanded core curriculum;

(f) Enrichment programs and activities;

(g) Consultations;

(h) Psychological assessments for the Deaf and the Blind;

(i) Speech assessments for Deaf students;

(j) Behavioral intervention and supports;

(k) Deaf-Blind Specialists; and

(l) Deaf-Blind Interveners.

(5) USDB may offer to provide the following other services to LEAs for Deaf, Blind, and Deaf-Blind qualifying students, exclusive of additional related services:

(a) Teachers of the Blind and Visually Impaired or "TVI;"

(b) Orientation and Mobility or "O & M;"

(c) Educational and Assistive Technology;

(d) Vision Screenings;

(e) Low vision support and evaluations;

(f) Extended School Year services in accordance with R277-751;

(g) Teachers for the Deaf and Hard of Hearing;

(h) Audiological services; and

(i) American Sign Language/English interpreters.

(6) USDB shall provide all funded outreach services at no cost for qualifying students within an LEA with less than 3% of the student population statewide.

(7) An LEA with greater than 3% of the student population statewide shall provide services for qualifying students.

(a) An LEA may contract with USDB to provide services for students if an LEA has greater than 3% of the student population statewide.

(i) An LEA and USDB shall sign contracts prior to initiation of services.

(ii) An LEA shall make payments in two installments, in January and June.

(iii) The Board may assist USDB in collection of outstanding balances upon request.

(b) An LEA with greater than 3% of the student population statewide may opt out and transfer responsibilities for providing services to USDB subject to legislative appropriation of funds.

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

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

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

(11)(a) USDB may participate in Medicaid time studies for services provided directly by USDB.

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

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

KEY: deaf, blind, students, services
Date of Enactment or Last Substantive Amendment: June 7, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-8-401

R277. Education, Administration.
R277-910. Underage Drinking Prevention Program.
R277-910-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53G-10-406 which directs the Board to establish rules regarding:

(i) a requirement that an LEA offer the Underage Drinking Prevention Program each school year to each student in grade 7 or 8, and grade 9 or 10; and

(ii) the criteria for the board to use in selecting a provider for the Underage Drinking Prevention Program.

(2) The purpose of this rule is to establish the criteria for selecting a provider for the Underage Drinking Prevention Program and general requirements of an LEA when offering the program.

R277-910-2. Criteria for Selecting a Provider.

(1) The following criteria, along with the requirements found in 53G-10-406, shall be considered in selecting a provider for the Underage Drinking Prevention Program:

(a) a program that is evidence-based including peer reviewed journals, national registries, and research;

(b) a program that is focused on preventing underage consumption of alcohol through a curriculum, course, or program that is taught through multiple days of instruction and not a one-time presentation.

(c) a program that is delivered in the classroom by the classroom teacher or other trained professional;

(d) a program that addresses behavioral risk factors associated with underage drinking and integrates skills practice into the curriculum; and

(e) a program that aligns with the core standards of the Utah Public School system.

(2) The vendor of the Underage Drinking Prevention Program shall:

(i) have prior experience in successfully reducing underage drinking; and

(ii) be available for deployment beginning in the 2018-19 school year.

R277-910-3. Mandatory Offering of Underage Drinking Prevention

Program.

(1) An LEA shall offer to each student in grades 7 or 8 and grades 9 or 10, respectively, the Underage Drinking Prevention Program procured by the Board.

(2) An LEA shall offer the Underage Drinking Prevention Program to students of the grades in subsection (1) of this section beginning in the 2018-19 school year.

R277-910-4. Reporting Requirements.

(1) An LEA shall report to the Superintendent annually regarding the general participation and deployment of the Underage Drinking Prevention Program.

(2) The report shall be made via the Annual Assurances Document described in R277-108 and shall include:

(a) if the Underage Drinking Prevention Program was offered to students each school year in grades 7 or 8 and in grades 9 or 10;

(b) the name of the course where the Underage Drinking Prevention Program was offered including if it was offered as a stand-alone course; and

(c) if the instructor has attended the one time training, including online state level training for the Underage Drinking Prevention Program.

KEY: underage drinking prevention, substance abuse, alcohol
Date of Enactment or Last Substantive Amendment: February 7, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-10-406

R277. Education, Administration.
R277-911. Secondary Career and Technical Education.
R277-911-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah constitution and state law;

(c) Section 53E-3-507, which allows the Board to establish minimum standards for CTE programs in the public education system; and

(d) Sections 53F-2-311 and 53G-6-708, which direct the Board to distribute specific amounts and percentages for specific CTE programs and facilitate administration of various programs.

(2) This rule establishes standards and procedures for LEAs seeking to qualify for funds administered by the Board for CTE programs in the public education system.

R277-911-2. Definitions.

(1) "Aggregate membership" means the sum of all days in membership during a school year for:

(a) the student;

(b) the program;

(c) the school;

(d) the LEA; or

(e) the state.

(2) "Approved program" means a program annually approved by the Board through the consent calendar process that meets or exceeds the state program standards or outcomes for career and technical education programs.

(3) "Bureau of Apprenticeship and Training" means a branch office for apprenticeship administered by the United States Department of Labor and located in Salt Lake City.

(4)(a) "Career and technical education" or "CTE" means organized educational programs that:

(i) prepare individuals for a wide range of high-skill, high-demand careers;

(ii) provide all students with a seamless education system from public education to post-secondary education, driven by a Plan for College and Career Readiness; and

(iii) provide students competency-based instruction, hands-one experiences, and certified occupational skills, culminating in further education and meaningful employment.

(b) CTE areas of study include:

(i) agriculture;

(ii) business;
(iii) family and consumer sciences;
(iv) health science;
(v) information technology;
(vi) marketing;
(vii) skilled and technical sciences; and
(viii) technology and engineering education.

(5)(a) "CTE pathway" means a planned sequence of courses within a program of study to assure strong academic and technical preparation connecting high school course work to work beyond high school.

(b) A CTE pathway ensures that a student will be prepared to take advantage of the full range of post-secondary options, including:

(i) on-the-job training;
(ii) certification programs; and
(iii) two- and four-year college degrees.

(6)(a) "Course" means an individual CTE class structured by state-approved standards.

(b) An approved course may require one or two periods for up to one year.

(c) Courses may be completed by demonstrated competencies or by course completion.

(7)(a) "Entry-level" means a set of tasks identified and validated by workers and employers in an occupation as those of a beginner in the field.

(b) Entry-level skills are a limited subset of the total set of tasks performed by an experienced worker in the occupation.

(c) Competent performance of entry-level tasks enhances employability and initial productivity.

(8) "Extended year program" means CTE programs no longer than 12 weeks in duration, offered during the summer recess, and supported by extended-year or other CTE funds.

(9) "CTE Maintenance of Effort" or "MOE" means the expenditure plan outlined in Subsection R277-911-4(1).

(10) "Program" means a combination of CTE courses that:

(a) provides the competencies for specific job placement or continued related training; and

(b) is outlined in the Plan for College and Career Readiness using all available and appropriate high school courses.

(11) "Program completion" means the student completion of a sequence of approved courses, work-based learning experiences, or other prescribed learning experiences as determined by the Plan for College and Career Readiness.

(12) "Regional consortium" means the LEAs, applied technology colleges, colleges and universities within the regions that approve CTE programs.

(13) "Registered apprenticeship" means a training program that:

(a) includes on-the-job training in a specific occupation combined with related classroom training; and

(b) has approval of the Bureau of Apprenticeship and Training.

(14) "Related training" means a course or program that is:

(a) directly related to an occupation;

(b) compatible with apprenticeship training;

(c) taught in a classroom; and

(d) approved by the Bureau of Apprenticeship and Training.

(15) "Scope and sequence" means the organization of all CTE courses and related academic courses into programs within the high school curriculum that lead to:

(a) specific skill certification;

(b) job placement;

(c) continued education; or

(d) training.

(16)(a) "Skill certification" means a verification of competent task performance.

(b) Skills certification is provided by an approved state or national program certification process.

(17) "Weighted pupil unit" or "WPU" means the basic unit used to calculate the amount of state funds for which an LEA is eligible.

(18) "Work-based learning" or "WBL" means a continuum of awareness, exploration, preparation, and training activities that combine structured learning and authentic work experiences implemented through industry and education partnerships.

R277-911-3. CTE Program Approval.

(1)(a) The Superintendent shall approve CTE programs based on verified training needs of the area and the competencies necessary to provide occupational opportunities for students.

(b) Programs are supported by a data base, including:

(i) local, regional, state, and federal manpower projections;

(ii) student occupational/interest surveys;

(iii) regional job profile;

(iv) advisory committee information; and

(v) follow-up evaluation and reports.

(2) LEA CTE directors shall meet the requirements specified in R277-911.

(3) Within available resources, instructional materials, including textbooks, reference materials, and media, shall reflect current technology, processes, and information for the CTE programs.

(4)(a) An LEA shall provide CTE guidance, counseling, and Board approved testing for students enrolled in CTE programs.

(b) An LEA shall develop a written plan for placement services with the assistance of local advisory committees, business and industry, and the Department of Workforce Services.

(c) An LEA shall develop a Plan for College and Career Readiness for all students, which shall include:

(i) a student's education occupation plans (grades 7-12), including job placement when appropriate;

(ii) all Board, local board and local charter board graduation requirements;

(iii) evidence of annual parent, student, and school representative involvement;

(iv) attainment of approved workplace skill competencies; and

(v) identification of a CTE post-secondary goal and an approved sequence of academic and CTE courses.

(5)(a) An LEA shall use curricula and instruction that is directly related to business and industry validated competencies.

(b) An LEA shall use a valid skill certification process to verify successful completion of competencies.

(c) An LEA shall provide instruction in proper and safe use of any equipment required for skill certification within the approved program.

(6) An LEA shall provide and safely maintain equipment and facilities, consistent with the validated competencies identified in the instruction standard and applicable state and federal laws.

(7)(a) Counselors and instructional staff shall hold valid Utah teaching licenses with endorsements appropriate for the programs they teach.

(b) Licenses and endorsements required under Subsection (7)(a) may be obtained through an institutional recommendation or through occupational and educational experience verified by the Board's licensure process.

(c) CTE program instructors shall keep technical and professional skills current through business and industry involvements in order to ensure that students are provided accurate state-of-the-art information.

(8) An LEA shall conduct CTE programs consistent with Board policies and state and federal laws and regulations on access that prohibit discrimination on the basis of:

(a) race;

(b) creed;

(c) color;

(d) national origin;

(e) religion;

(f) age;

(g) sex; and
(h) disability.
(9)(a) An LEA shall establish an active advisory council to review all CTE programs annually.
(b) An advisory council may serve several LEAs or a region.
(c) An advisory council reviews:
(i) program offerings;
(ii) quality of programs; and
(iii) equipment needs.
(10) A program advisory committee made up of individuals who are working in the occupational area shall support each state-funded approved CTE program at the LEA or regional level.
(11) LEAs are encouraged to make training available through nationally-chartered CTE student leadership organizations in each area of study.
(12) An LEA, with oversight by local program advisory committee members, shall make an annual evaluation of its CTE programs.

R277-911-4. Disbursement and Expenditure of CTE Funds -- General Standards.
(1) To be eligible for state CTE program funds, an LEA shall first expend for CTE programs an amount equivalent to the regular WPU for students in approved CTE programs, grades nine through twelve, based on prior year aggregate membership in funded CTE programs, times the current year WPU value, less the amount for:
(a) college and career awareness;
(b) work-based learning; and
(c) comprehensive counseling and guidance.
(2) An LEA may thereafter expend State CTE program funds only for approved CTE programs, grades nine through twelve.
(3) An LEA that does not meet MOE may be subject to a corrective action plan and potential reduction of funds or penalty in accordance with R277-114.

R277-911-5. Disbursement of Funds -- Added Cost Funds.
(1)(a) WPUs shall be allocated for the added instructional costs of approved CTE programs operated or contracted by an LEA.
(b) Programs and courses provided through technical colleges and higher education institutions do not qualify for added cost funds except for specific contractual arrangements approved by the Board.
(2)(a) Computerized or manually produced records for CTE programs shall be kept by:
(i) teacher;
(ii) class; and
(iii) core code.

(b) Records described in Subsection (2)(a) shall show clearly and accurately the entry and exit date of each student and whether a student has been absent from a CTE class ten consecutive days.

(3) Added cost funds shall not be generated:

(a) during bus travel;

(b) until a student starts attending an approved CTE course;

(c) when a student has been absent, without excuse, for the previous 10 days.

(4) Approved CTE programs shall receive funds determined by prior year hours of membership for approved programs.

(5) Allocations under this R277-911-5 are computed using grades nine through twelve aggregate membership in approved programs for the previous year with a growth factor applied to LEAs experiencing growth of one percent or greater in grades nine through twelve except as provided by R277-462 and R277-916.

(6) Added cost funds shall be used to cover the added CTE program instructional costs of LEA programs.

(7) An LEA that does not comply with the requirements of this Subsection may be subject to a corrective action plan and potential reduction of funds or penalty in accordance with R277-114.

R277-911-6. Disbursement of Funds -- Skill Certification.

(1) An LEA that demonstrates approved student skill certification may receive additional compensation.

(2)(a) To be eligible for skill certification compensation, an LEA shall show its student completer has demonstrated mastery of standards, as established by the Board.

(b) An authorized test administrator shall verify student mastery of the skill standards.

(3) The Superintendent may only disburse skill certification compensation if an approved skill certification assessment is developed for the program.

R277-911-7. Disbursement of Funds -- CTE Leadership Organization Funds.

(1) Participating LEAs sponsoring CTE leadership organizations shall be eligible for a portion of funds set aside for these organizations.

(2) Qualifying CTE leadership organizations shall be nationally chartered and include:

(a) SkillsUSA (an association of Skilled and Technical Sciences Education students);

(b) DECA (Distributive Education Clubs of America);

(c) FFA (Future Farmers of America);

(d) HOSA (Health Occupations Students of America);

(e) FBLA (Future Business Leaders of America);

(f) FCCLA (Family, Career and Community Leaders of America); and

(g) TSA (Technology Students Association).

(3) Up to 1% of the state CTE appropriation for LEAs shall be allocated to eligible LEAs based on documented prior year student membership in approved CTE leadership organizations.

(4)(a) A portion of funds allocated to an LEA for CTE leadership organizations shall be used to pay the LEA's portion of statewide administrative and national competition costs.

(b) An LEA shall use the remaining amount available for the LEA's CTE leadership organization expenses.

R277-911-8. Disbursement of Funds -- School District and Charter School WPUs.

(1) The Superintendent shall allocate WPUs for costs of administration of CTE programs as described in this section.

(2)(a) The Superintendent shall distribute Twenty (20) WPUs to a school district for costs associated with the administration of CTE.

(b) To qualify, a school district shall employ a minimum one-half time CTE director.

(3)(a) To encourage multidistrict CTE administrative services, the Superintendent shall distribute 25 WPUs to a school district that consolidates CTE administrative services with one or more other school districts;

(b) To qualify, a participating school district shall employ a full-time CTE director.

(4)(a) The Superintendent shall distribute Twenty-five (25) WPUs to a single charter school acting as fiscal agent, to provide CTE administrative services to a group of at least 10 charter schools offering CTE pathways, grades 9-12.

(b) If more than 10 charter schools offer CTE pathways, the Superintendent shall distribute an additional 5 WPUs for each additional charter school over 10.

(c) To qualify, the charter school acting as fiscal agent must employ a full-time CTE director.

(5)(a) A district or charter school receiving additional WPUs under Subsection (3)(a) or (4)(a) shall annually submit to the Superintendent a Memorandum of Understanding with each partnering district or school, which shall include:

(i) a scope of work to be performed by the full-time CTE director for each LEA or school involved;

(ii) provisions for sharing data under the agreement, including provisions for protecting the privacy of student education records under FERPA;

(iii) maintenance of effort requirements; and

(iv) other information as directed by the Superintendent.

(b) The Superintendent may withhold funds from a district or charter school under Rule R277-114 for failure to submit a memorandum of understanding as required by this rule.

(6)(a) The Superintendent shall distribute 10 WPUs to a small school district consisting of only necessarily existent small high school(s), where multi-district CTE administration is not feasible.

(b) To qualify, a small school district shall assign a CTE director to a minimum of part-time CTE administration.

(7) To qualify for 10, 20 or 25 CTE administrative WPUs as provided in this Subsections (1) through (6), a CTE director shall:

(a) hold or be in the process of completing requirements for a Education Leadership License Area of Concentration described in R277-505;

(b) have an endorsement in at least one career and technical area listed in Rule R277-518; and

(c)(i) have four years of experience as a full-time career and technical educator; or

(ii) complete a prescribed professional development program provided by the Superintendent within a period of two years following board appointment as an LEA CTE director.

(8) In addition to WPUs appropriated under Subsections (1) through (6), the Superintendent shall allocate funds to each approved high school as described in Subsections (9) through (16):

(9) The Superintendent shall distribute 10 WPUs to a high school that:

(a) conducts approved programs in a minimum of two CTE areas specified in Subsection R277-911-1(4)(b);

(b) conducts a minimum of six different state-approved CTE courses including at least one CTE pathway; and

(c) has at least one approved career and technical student leadership organization.

(10) Consolidated courses in small schools may count as more than one course as approved by the Superintendent.

(11) The Superintendent shall distribute 15 WPUs to a high school that:

(a) conducts approved programs in a minimum of three CTE areas specified in Subsection R277-911-2(4)(b);

(b) conducts a minimum of nine different state-approved CTE courses including at least one CTE pathway; and

(c) has at least one approved CTE student leadership organization.

(12) Consolidated courses in small schools may count as more than one course as approved by the Superintendent.

(13) The Superintendent shall distribute 20 WPUs to a high

school that:

(a) conducts approved programs in a minimum of four CTE areas specified in Subsection R277-911-2(4)(b);

(b) conducts a minimum of twelve different state-approved CTE courses including at least two CTE pathways; and

(c) has at least two approved CTE student leadership organization.

(14) Consolidated courses in small schools may count more than one course as approved by the Superintendent.

(15) The Superintendent shall distribute 25 WPUs to a high school that:

(a) conducts approved programs in a minimum of five CTE areas specified in Subsection R277-911-2(4)(b);

(b) conducts a minimum of fifteen different state-approved CTE courses including at least two CTE pathways; and

(c) has at least three approved CTE student leadership organizations.

(16) Consolidated courses in small schools may count more than one course as approved by the Superintendent.

(17)(a) A maximum of one approved alternative high school, as outlined in Rule R277-730, per school district may qualify for funds under Subsection (12).

(b) LEAs sharing an alternative school shall receive a prorated share.

(18) Programs and courses provided through school district technical centers may not receive funding under this section.

R277-911-9. Disbursement of Funds -- School District Technical Centers.

(1)(a) The Superintendent may award a maximum of forty WPUs for each school district operating an approved school district center.

(b) To qualify under the approved school district technical center provision, the school district shall:

(i) provide at least one facility other than an existing high school as a designated school district technical center;

(ii) employ a full-time CTE administrator for the center;

(iii) enroll a minimum of 400 students in the school district technical center;

(iv) prevent unwarranted duplication by the school district technical center of courses offered in existing high schools, applied technology colleges, and higher education institutions;

(v) centralize high-cost programs in the school district technical center;

(vi) conduct approved programs in a minimum of five CTE areas specified in Subsection R277-911-1(4)(b); and

(vii) conduct a minimum of fifteen different state-approved

CTE courses.

R277-911-10. Disbursement of Funds -- Summer CTE Agriculture Programs.

(1)(a) To receive state summer CTE agriculture program funds, an LEA shall submit to the Superintendent, an application for approval of the LEA's program.

(b) An LEA shall submit its application prior to the annual due date specified by the Superintendent each year.

(c) The Superintendent shall send notification of approval of an LEA's program within ten calendar days of receiving the application.

(2) A teacher of a summer CTE agriculture program shall:

(a) hold a valid Utah teaching license, with an endorsement in agriculture, as outlined in Subsection R277-911-3(7);

(b) develop a calendar of activities which shall be approved by LEA administration and reviewed by the Superintendent;

(c)(i) work a minimum of eight hours a day in the summer CTE agriculture program;

(ii) An LEA may approve exceptions which shall be reflected in the calendar of activities;

(d) not engage in other employment, including self-employment, which conflicts with the teacher's performance in the summer CTE agriculture program;

(e) develop and file a weekly schedule and a monthly report outlining accomplishments related to the calendar of activities with:

(i) the school principal;

(ii) the LEA CTE director; and

(iii) the Superintendent; and

(f) visit the participating students a minimum of two times during the summer program with a minimum average of four on-site visits to students.

(3) College interns may be approved to conduct summer CTE agriculture programs upon approval by the Superintendent.

(4) Students enrolled in the summer CTE agriculture program shall:

(a) have on file in the LEA office the student's Plan for College and Career Readiness goal related to agriculture;

(b) in conjunction with the student's parent or employer and the teacher, develop an individual plan of activities, including a supervised occupational experience program;

(c) have completed the eighth grade; and

(d) have not have graduated from high school.

(5)(a) The Superintendent shall collect data from the program and staff of each LEA to ensure compliance with approved standards.

(b) An LEA shall submit to the Superintendent a final program report, on forms provided by the Superintendent on the annual due date specified by the Superintendent.

(6)(a) The Superintendent shall allocate Summer CTE agricultural funding to each LEA conducting an approved program for a minimum of 35 students lasting nine weeks.

(b) An LEA may receive funding for no more than nine weeks or 35 students.

(7) An LEA operating a program with fewer than 35 students per teacher or for fewer than nine weeks may only receive a prorated share of the summer CTE agricultural allocation.

R277-911-11. Disbursement of Funds - Comprehensive Counseling and Guidance; College and Career Awareness, and Work-Based Learning Programs.

(1) The Superintendent shall distribute funds to LEAs consistent with Section 53F-2-311.

(2) An LEA shall spend funds distributed for comprehensive guidance consistent with Subsection 53E-2-304(2)(b) and R277-462, which explain the purpose and criteria for student Plans for College and Career Readiness.

(3) An LEA may spend funds allocated under this section to fund work-based learning programs consistent with Rules R277-915 and R277-916.

(4) An LEA may spend funds allocated under this section to fund College and Career Awareness programs consistent with Rule R277-916.

KEY: career and technical education
Date of Enactment or Last Substantive Amendment: August 7, 2017
Notice of Continuation: June 6, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-507; 53F-2-311; 53G-6-708

R277. Education, Administration.
R277-912. Law Enforcement Related Incident Reporting.
R277-912-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-516 which directs the Board to establish rules regarding a collaborative annual report meeting all the requirements of Subsection 53E-3-516(2).

(2) The purpose of this rule is to generate the report required by Subsection 53E-3-516 and the form that the report may be accessed.

R277-912-2. LEA Reporting Requirements.

(1) An LEA shall work with the Superintendent and the relevant law enforcement agencies and school personnel to collect the following incident data that occurred on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities as defined in Section 53E-3-516(1);

(c) disciplinary actions as defined in section 53E-3-516(1); and

(d) all other data as outlined in subsection 53E-3-516(3) and (4).

(2) An LEA shall collect the data in a form agreed upon by the Superintendent and the relevant law enforcement agencies.

(3) An LEA shall report the data required to the Superintendent in a timely manner;

(4) Beginning in the 2020-21 school year, an LEA shall report the data compiled for each school year to the Superintendent on or before September 1st of the year in which the school year ended.

(5) An LEA shall report the data to the Superintendent as prescribed by the Superintendent.

R277-912-3. Annual Report Content and Access.

(1) The Superintendent shall compile the data to form an aggregated report consistent with the requirements of Subsection 53E-3-516(3), (4) and (5).

(2) The report shall exclude all identifiable student information and data.

(3) The report shall be compiled no later than November 1st

of each year in which the school year ended and provided to the board.

(4) An external entity may request access to the data used to compile the report consistent with Utah Code Title 63G, Chapter 2, Government Records Access Management Act.

(5) The Superintendent shall respond to the request within 15 business days and provide the report within 30 business days of the request by providing the most recent data set available at the time of the request, so long as the data set is aggregated and no student identifiable information is included in the data set.

(6) If the request is for the data being used for an upcoming report that is more than 30 days from being compiled, the Superintendent may wait longer than 30 days to provide the requested report.

KEY: incident reporting; law enforcement
Date of Enactment or Last Substantive Amendment: February 7, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(3); 53E-3-516

R277. Education, Administration.
R277-914. Career and Technical Student Organizations.
R277-914-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-507(1), which directs the Board to establish minimum standards for career and technical programs in the public education system;

(c) Subsection 53E-3-507(3), which directs the Board to cooperate with federal and state governments to administer programs which promote and maintain career and technical education; and

(d) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) make Career and technical student organizations fiscally accountable to the Board; and

(b) provide procedures and supervision toward that end.

R277-914-2. Definitions.

(1) "Career and technical education" or "CTE" means organized educational programs that:

(a) prepare individuals for a wide range of high-skill, high-demand careers;

(b) provide students with a seamless education system from public education to post-secondary education, driven by a Plan for College and Career Readiness; and

(c) provide students competency-based instruction, hands-on experiences, or certified occupational skills, culminating in further education and meaningful employment.

(2) "CTE areas of study" include:

(a) agriculture;

(b) business;

(c) family and consumer sciences;

(d) health science;

(e) information technology;

(f) marketing;

(g) skilled and technical sciences; and

(h) technology and engineering education.

(3) "Career and technical student organization" or "CTSO" means a designated student organization that:

(a) places emphasis on leadership and skill development;

(b) is integral to the career and technical programs at the secondary and postsecondary levels of instruction; and

(c) has local, state and national affiliation.

(4)(a) "CTSO advisor" means a professional in identified program areas designated by the Superintendent to direct a career and technical student leadership organization statewide.

(b) A CTSO advisor is most commonly a teacher in the program area and is paid a stipend by the Superintendent to administer and advise in a specific program area.

(5) "Funds designated for management of student organizations at the state level" means up to one percent (1%) of the CTE add-on fund allowed to be used for the management and operation of CTSOs at the state and local level as described in Subsection 53F-2-311(2)(d).

R277-914-3. Student Organization Advisory Boards.

(1) Each student organization designated by the Superintendent shall establish a statewide advisory board of not less than three members, one of which must be the Superintendent.

(2) Each program area CTSO shall develop and follow organization by-laws.

(3) Each CTSO advisory board shall have advisory fiscal oversight for the organization.

(4) Each CTSO advisory board shall conduct an annual performance evaluation of the work performed by the respective CTSO advisor.

R277-914-4. Fiscal Oversight of Student Organizations.

(1) A CTSO advisory board shall act consistent with fiscal procedures provided by the Superintendent.

(2) A CTSO advisory board shall submit all required financial records for auditing on a schedule established by the Superintendent.

(3) If requested by the Superintendent or the Board, a CTSO's financial records shall be submitted for auditing whenever there is a change in the CTSO advisor.

(4)(a) The Superintendent shall designate a school district or institution to act as the fiscal agent for a CTSO's fiscal account.

(b) The Superintendent shall work with the designated fiscal agent to provide oversight and accounting procedures for the CTSO fiscal account.

(5) The funds designated for management of student organizations at the state level shall be dispersed by the designated state fiscal agent for CTSOs through separate accounts for salaries, operating expenses and national conference travel.

KEY: secondary education, career and technical education
Date of Enactment or Last Substantive Amendment: November 7, 2016

Notice of Continuation: September 15, 2016
Authorizing, and Implemented or Interpreted Law: 53E-3-507(1); 53E-3-507(3); 53E-3-401(4)

R277. Education, Administration.
R277-915. Work-based Learning Programs.
R277-915-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53G-7-902, which allows schools to offer WBL programs in accordance with Board rules.

(2) The purpose of this rule is to provide standards for WBL programs.

R277-915-2. Definitions.

(1) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(2)(a) "Participant" means a student enrolled in a school-sponsored work experience and career exploration program under Section 53G-7-902 involving both classroom instruction and work experience with a cooperating employer, for which the student may or may not receive compensation.

(b) Participant may include a student completing an apprenticeship.

(c) Participant does not include a student on work release.

(3) "School-based enterprise" means a business set up and run by supervised students learning to apply practical skills in the production of goods or services for sale or use by others.

(4) "Work site" or "workplace" means the actual location where employment occurs for a particular occupation, or an environment that simulates all aspects or elements of that employment, including school-based enterprises.

(5) "Work-based learning" or "WBL" means a continuum of awareness, exploration, preparation, and training activities that combine structured learning and authentic work experiences implemented through industry and education partnerships.

R277-915-3. Mandatory LEA Policy.

An LEA that has WBL programs that include assigning students to act as participants at off-campus sites or in on-campus simulations shall establish a policy which includes the following:

(1) training for student participants, student participant supervisors, and cooperating employers regarding health hazards and safety procedures in the workplace;

(2) standards and procedures for approval of off-campus work sites;

(3) transportation options for students to and from the work site;

(4) appropriate supervision by employers at the work site;

(5) adequate insurance coverage provided and identified either by the student, the program, or the LEA;

(6) appropriate supervision and assessment of the student by the LEA;

(7) appropriate involvement and approval by the student's parents in the WBL program;

(8) provision for risk or liability inherent in the WBL program developed in consultation with State Risk Management or the LEA's insurance provider; and

(9) a requirement that any WBL credit awarded maintains the integrity and rigor expected for high school graduation, as determined by the Board.

R277-915-4. Disbursement of Funds.

(1) The Superintendent shall align public elementary, secondary, and postsecondary or adult schools by LEA.

(2) The proportion of total WBL funding allocated for a participating LEA shall remain the same as the previous year unless:

(a) the LEA discontinues the program;

(b) the LEA does not meet program standards; or

(c) LEA proportions are adjusted by the Board.

(3) A participating LEA shall provide an equal match in funds to state appropriated WBL funds.

R277-915-5. Standards.

(1) WBL shall be integrated into all levels of the educational delivery system and shall be coordinated within the LEA and among regions.

(2) To be eligible for WBL funds, an LEA shall:

(a) have the program approved by the LEA board;

(b) employ licensed WBL coordination personnel with salaries and benefits matched by the local recipient of funds;

(c) document that a WBL committee representing all schools within the LEA:

(i) has been created;

(ii) is functioning effectively; and

(iii) regularly addresses WBL issues;

(d) conduct WBL activities utilizing information from:

(i) business and industry;

(ii) administrators;

(iii) teachers;

(iv) counselors;

(v) parents; and

(vi) students;

(e) develop work-based preparation, participation, and assessment activities for students and teachers involved in all WBL LEA activities;

(f) maintain evidence that WBL components have been integrated and coordinated with:

(i) elementary career awareness;

(ii) secondary career exploration;

(iii) integrated core activities;

(iv) College and Career Awareness; and

(v) comprehensive guidance and counseling;

(g) maintain evidence of WBL activities and assurances in each LEA developed in coordination with a student's:

(i) IEP;

(ii) Plan for College and Career Readiness; and

(iii) 504 requirements;

(h) require the inclusion of all student groups within the LEA in career development and preparation;

(i) demonstrate WBL coordination with employers and with other school and community development activities.

(j) verify that sufficient budget for a WBL coordinator, facilities, materials, equipment, and support staff is available;

(k) participate in initial state-sponsored WBL coordinated professional development and in periodic ongoing coordination and professional development activities;

(l) require that the WBL team utilize a database system developed by the LEA for the LEA's specific needs; and

(m) participate in the CTE Program Approval evaluation every three years.

R277-915-6. Consistency with Law and State and LEA Board Rules and Policies.

(1) A WBL experience shall be consistent with the provisions of the Fair Labor Standards Act, 29 U.S.C. Sec. 201, et seq.

(2) WBL programs shall operate consistently with Board rules and LEA polices, including:

(a) student transportation;

(b) credit toward graduation;

(c) attendance; and

(d) fee waivers.

KEY: public schools, work-based learning
Date of Enactment or Last Substantive Amendment: February 7, 2017
Notice of Continuation: December 14, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-7-902; 53E-3-401(4)

R277. Education, Administration.
R277-916. College and Career Awareness.
R277-916-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Section 53E-3-507, which allows the Board to establish minimum standards for career and technical education programs in the public education system; and

(d) Section 53F-2-311, which directs the Board to distribute specific funds to LEAs.

(2) The purpose of this rule is to establish standards and procedures for LEAs seeking to qualify for College and Career Awareness Program funds administered by the Board.

R277-916-2. Definitions.

(1)(a) "College and Career Awareness" means a 7th grade core course comprised of activities encouraging students to explore college and career opportunities.

(b) "College and Career Awareness" is coordinated with the Comprehensive Counseling and Guidance program.

(2) "Weighted Pupil Unit" or "WPU" means the unit of measure that is computed in accordance with Section 53F-2-306, for the purpose of determining the costs of a program on a uniform basis for each LEA.

(3) "Work-Based Learning" or "WBL" means a continuum of awareness, exploration, preparation, and training activities that combine structured learning and authentic work experiences implemented through industry and education partnerships.

R277-916-3. Disbursement of Funds.

(1)(a) An LEA shall utilize College and Career Awareness funds to purchase and maintain needed equipment and supplies for the course, subject to the following:

(i) LEA expenditures shall be reasonable and necessary to sustain the College and Career Awareness program;

(ii) LEA expenditures shall be adequately documented;

(iii) an LEA may not use funds to cover the cost of goods and services for personal use;

(iv) an LEA may not use funds for costs associated with:

(A) entertainment;

(B) amusement;

(C) diversion; and

(D) social activities; and

(v) an LEA may only use funds for costs that will directly achieve program outcomes for students.

(b) Notwithstanding, Subsection (1)(a), an LEA may use up to 15% of available funds for teachers, counselors, and administrators to participate in on-going professional development sponsored by the Board.

(2) An LEA shall meet all requirements of this R277-916 in order to receive College and Career Awareness funding.

(3) College and Career Awareness funds shall be allocated to an LEA for an approved school using a base amount per school.

(4) The Superintendent shall distribute funds remaining after funds are distributed under Subsection (3), based on enrollment in grade 7 to approved schools based on the prior year's October 1 enrollment report for the previous year.

(5) An LEA shall annually complete a funding application with assurances of each school meeting College and Career Awareness standards.

(6) The Superintendent shall annually provide training to personnel from each school receiving funds under this Subsection (3).

(7) The Superintendent shall allocate continued funding to an LEA based on the LEA's success in meeting established standards.

R277-916-4. Standards.

(1) An LEA may qualify for College and Career Awareness funds consistent with the following:

(a) College and Career Awareness program funds may not be used for personnel costs;

(b) a school shall teach 180 days of College and Career Awareness as a stand alone course with distinct credit, incorporating each element set forth in Subsection R277-916-2(1);

(c) College and Career Awareness teachers and counselors shall have appropriate licenses and endorsements;

(d) a school shall utilize the services of a WBL coordinator, where available, to integrate grade level appropriate WBL activities into College and Career Awareness.

(e) if a WBL coordinator is not available, the College and Career Awareness team shall plan and provide WBL activities;

(f) a school shall integrate career development applications into the College and Career Awareness program and use the services of a counselor in the program;

(g) an LEA shall support staff development activities relevant to the core College and Career Awareness content adopted by the Board;

(h) College and Career Awareness personnel in a school shall

fully participate in:

(i) evaluating the current program;

(ii) recommending changes or modifications; and

(iii) pilot testing and implementing new activities, materials, and resources; and

(i) College and Career Awareness personnel shall participate in the CTE Program Approval evaluation every three years.

KEY: college and career awareness, public schools
Date of Enactment or Last Substantive Amendment: April 10, 2017
Notice of Continuation: February 14, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-507; 53F-2-311

R277. Education, Administration.
R277-920. School Improvement - Implementation of the School Turnaround and Leadership Development Act.
R277-920-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development Act, which requires the Board to make rules to establish:

(i) an appeal process for the denial of a school turnaround plan;

(ii) provisions regarding funding distributed to a low performing school;

(iii) criteria for granting an extension to a low performing school;

(iv) criteria for exiting a school that has demonstrated sufficient improvement;

(v) criteria for approving a teacher recruitment and retention plan;

(vi) implications for a low performing school; and

(vii) eligibility criteria, application procedures, selection criteria, and procedures for awarding incentive pay for the School Leadership Development Program.

(2) The purpose of this rule is to:

(a) enact provisions governing school improvement efforts; and

(b) implement and administer the School Turnaround and Leadership Development Act.

R277-920-2. Definitions.

(1) "Appeal committee" means the committee established by Section R277-920-5.

(2) "Committee" means a school turnaround committee established in accordance with Subsections 53E-5-303(1) or 53E-5-304(4).

(3) "Eligible school" means the same as that term is defined in Section 53E-5-307.

(4) "Low performing school" means a school that is for two consecutive school years in the lowest performing:

(a) 3% of the high schools statewide according to the percentage of possible points earned under the school accountability system; or

(b) 3% of the elementary, middle, and junior high schools statewide according to the percentage of possible points earned under the school accountability system.

(5) "High performing charter school" means the same as that term is defined in Section 53E-5-306.

(6) "Local education board" means a local school board or charter school governing board.

(7) "School improvement grant" means a Title I grant under the Elementary and Secondary Education Act, 20 U.S.C. Sec. 6303(g).

(8) "Schools in critical needs status" means a school that has been identified under Subsection R277-920-3(1).

(9) "School leader" means the same as that term is defined in Section 53E-5-309.

(10) "Title I school" means a school that receives funds under the Elementary and Secondary Education Act of 1965, Title I, 20 U.S.C. Sec. 6301 et seq.

R277-920-3. Superintendent's Identification of Schools for Critical Needs Status -- Readiness Review.

(1) Subject to Subsection (2), on or before September 30, the Superintendent shall identify schools for critical needs status if the school is a:

(a) low performing school;

(b) high school with a four-year adjusted cohort graduation rate of less than or equal to 67% for two consecutive school years;

(c) Title I school with chronically underperforming student groups as described in Section R277-920-11; or

(d) Title I school that:

(i) has not been identified under Subsection (1)(a), (b), or (c); and

(ii) performed in the lowest 5% of Title I schools over the past three years on average according to the percentage of points earned under the school accountability system.

(2) The Superintendent shall make the identification under:

(a) Subsection (1)(b) beginning with the 2018-2019 school accountability results and every two years thereafter;

(b) Subsection (1)(c) beginning with the 2022-2023 school accountability results and every three years thereafter; and

(c) Subsection (1)(d) beginning with the 2021-2022 school accountability results and every three years thereafter.

(3)(a) Except as provided in Subsection (3)(b), schools in critical needs status are required to comply with the provisions of Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development Act.

(b) Schools that are identified under Subsections (1)(b),

(1)(c), and (1)(d) are exempt from the requirement to contract with an independent school turnaround expert described in Section 53E-5-305.

R277-920-4. School Turnaround Plan Submission and Approval Process.

(1) In addition to the requirements described in Subsection 53E-5-303(5), a plan shall include at least the following:

(a) if the school in critical needs status is a district school, a request to the local school board and district superintendent for:

(i) additional resources;

(ii) personnel; or

(iii) exemptions from district policy that may be contributing to the low performance of the district school; and

(b) a plan for management of school personnel, including:

(i) recruitment of an educator or school leader; and

(ii) professional development for an educator or school leader.

(2) A local education board shall include in the plan a strategy for sustaining school improvement efforts after a school exits critical needs status.

(3)(a) A local education board may approve or deny a plan in whole or in part, if the part of the plan the board denies is severable from the part of the plan the board approves.

(b) A local education board shall give a reason for a denial of each part of a plan.

(4) On or before January 15, a local education board of a low performing school shall submit a proposal described in Subsection 53E-5-303(1) or Subsection 53E-5-304(4) to the Superintendent for approval.

(5) A local education board shall submit a plan in accordance with Subsection 53E-5-303(7) or Subsection 53E-5-304(9) to the Board.

(6) In accordance with Subsection 53E-5-305(3), the Board may review and approve or deny a plan in whole or in part, if the part of the plan the Board denies is severable from the part of the plan the Board approves.

R277-920-5. Funding.

(1) The Superintendent shall annually designate an amount of funds available for distribution under this section, taking into consideration:

(a) variability in the number of schools that are identified on an annual basis;

(b) encumbered funds; and

(c) other program obligations.

(2) Subject to availability of funds, on or before January 30 of the school year in which a low performing school is identified, the Superintendent shall distribute at least $240,000 per low performing school to each local education board of a low performing school.

(3) Subject to availability of funds, in addition to the amount distributed under Subsection (2), the Superintendent shall distribute an amount equal to $30,000 for each of the following criteria that a school meets:

(a) the school is located in a county with a county seat that is over 100 miles away from Salt Lake City;

(b) the school is located within San Juan County; or

(c) the school:

(i)(A) has over 75 full time equivalent educators; and

(B) includes grade 12; or

(ii)(A) has over 37 full time equivalent educators; and

(B) does not include grade 12.

(4) The Superintendent shall distribute any funds available for distribution under Subsection (1) after the allocation of funds described in Subsections (2) and (3) to local education boards of low performing schools on a prioritized basis taking need for the funds, as demonstrated by the needs assessment conducted in accordance with Section 53E-5-302, into account.

(5)(a) The local education board shall use the funding distributed under this section to contract with an independent school turnaround expert, including travel costs, in accordance with Sections 53E-5-303 and 53E-5-304.

(b) A local education board shall use funding available after the allocation of funds under Subsection (5)(a) only for interventions identified in a school turnaround plan.

(6) The Superintendent may review uses of funds and contracts with independent school turnaround experts.

R277-920-6. Teacher Recruitment and Retention.

(1) As used in this section, "matching funds" means funds that are not allocated to a school under Section R277-920-5.

(2) In accordance with Section 53E-5-308, a local education board of a low performing school may seek and receive matching funds from the state to implement strategies for teacher recruitment and retention identified in a plan described in Subsection (3).

(3) To qualify for matching funds under this section, on or before January 15, a local education board of a low performing school shall submit a plan to the Superintendent that:

(a) includes a strategy for teacher recruitment and retention for the school in critical needs status;

(b)(i) except as provided in Subsection (3)(b)(ii), is

responsive to the needs assessment conducted in accordance with Section 53E-5-302; or

(ii) if the school was identified as a low performing school based on 2014-2015 school accountability results, includes a root cause analysis of the school's teacher recruitment and retention challenges, including:

(A) a clear definition of the problem to be solved;

(B) hypotheses for the causes of the problem;

(C) strategies to address the root causes of the problem;

(D) current data on teacher retention rates; and

(E) current recruitment and retention strategies;

(c) includes the amount of matching funds the local education board is requesting from the state;

(d) includes assurances that the local education board will allocate matching funds; and

(e) may include a stipend for educators who work non-contract hours to develop or implement strategies identified in a school improvement plan.

(4) The Superintendent shall:

(a) approve a plan that meets the criteria described in Subsection (3); and

(b) on or before March 1, distribute matching funds to a local education agency that has submitted an approved plan in an amount not to exceed:

(i) $1000 per teacher for schools identified based on 2014-2015 school accountability results; or

(ii) $1500 per teacher for schools identified based on 2016-17 school accountability results and each year thereafter.

R277-920-7. Appeal Process for Denial of a School Turnaround Plan.

(1) As used in this section "plan" means a school turnaround plan described in Subsection 53E-5-303(5).

(2) A committee or local education board may appeal the denial of a plan, in whole or in part, by following the procedures and requirements of this section.

(3) An appeal authorized by this rule:

(a) is an informal adjudicative proceeding under Section 63G-4-203; and

(b) shall be resolved by the date specified in Subsection 53E-5-305(6)(b).

(4)(a) A principal, on behalf of a committee, may request that the local education board reconsider the denial of a plan:

(i) by electronically filing the request:

(A) with the chair of the local education board; and

(B) on a form provided on the Board website; and

(ii) within 5 calendar days of the denial.

(b) The reconsideration request may include a modification to the plan if the committee approves the modification.

(c) The local education board shall respond to the request within 10 calendar days by:

(i) refusing to reconsider its action;

(ii) approving a plan, in whole or in part; or

(iii) denying a plan modification.

(d) The principal may appeal the denial of a plan under this Subsection (3):

(i) by electronically filing an appeal with the Superintendent on a form provided on the Board website; and

(ii) within 5 calendar days of the denial.

(e) An appeal filed under this subsection shall be resolved in accordance with Subsections (5) and (6).

(5) A district superintendent, on behalf of a local school board, or a charter school governing board chair, on behalf of a charter school governing board, may appeal the Board's denial of a plan:

(a) by electronically filing an appeal with the Superintendent on a form provided on the Board website; and

(b) within 5 calendar days of the denial.

(6)(a) At least three members of a Board committee, appointed by the Board as the appeal committee, shall review the written appeal.

(b) The appeal committee may ask the principal, district superintendent, local school board chair, or charter school governing board chair to:

(i) provide additional written information; or

(ii) appear personally and provide information.

(c) The appeal committee shall make a written recommendation within 5 business days of receipt of the appeal request to the Board to accept, modify, or reject the plan and give a reason for the recommendation.

(7) The Board may accept or reject the appeal committee's recommendation and the Board's decision is the final administrative action.

R277-920-8. Exit Criteria for a School in Critical Needs Status -- Extensions -- More Rigorous Interventions.

(1)(a) Except as provided in Subsection (1)(b), to exit critical needs status, a school shall demonstrate that the school no longer meets the criteria for which the school was identified:

(i) for the second and third years, consecutively, after which the school was identified for critical needs status; or

(ii) for two consecutive years by the end of the extension period described in Subsection (3).

(b) A school that was identified based on 2014-15 school

accountability results is required to improve performance by at least one letter grade, as determined by comparing the school's letter grade for the 2014-15 school year to the school's letter grade for the 2017-18 school year.

(2) In determining whether a school has met the criteria described in Subsection (1), the Superintendent shall apply the indicators, weightings, and threshold scores described in the version of Title 53E, Chapter 5, Part 2, School Accountability System that was in place at the time the school was identified.

(3) If a school does not meet the exit criteria described in Subsection (1)(a), the school may qualify for an extension to continue current school improvement efforts for up to two years if the school:

(a)(i) has cut the difference by 50% between:

(A) the percentage of points earned in the school year in which the school was identified; and

(B) the percentage of points necessary to meet the exit criteria described in Subsection (1)(a); or

(ii) has met the exit criteria described in Subsection (1)(a) for only one year; and

(b) electronically files an extension request with the Superintendent within 15 days of the release of school accountability results, that provides rationale justifying an extension.

(4)(a) The Superintendent shall conduct an in-depth analysis of the alignment of the school's curriculum to the Utah core standards:

(i) in each school that qualifies for an extension under Subsection (3); and

(ii) that is individualized to each teacher.

(b) The Superintendent may require a local education board or school to:

(i) take actions to remedy issues identified in the analysis described in Subsection (4)(a); or

(ii) revise the school turnaround plan.

(5) If a school identified for critical needs status does not meet the exit criteria described in Subsection (1) or qualify for an extension as described in Subsection (3) the following groups shall make a recommendation to the Board on what action the Board should take:

(a) a state review panel, described in Subsection (7);

(b) if the school is a district school, the local school board, with input from the community as described in Subsection (8); and

(c) if the school is a charter school, the charter school authorizer with input from the community as described in Subsection (8).

(6) The groups described in Subsection (5) shall make a recommendation within 90 days of the release of school accountability results on whether the Board should:

(a) require personnel changes, including replacement of school leaders or teachers;

(b) if the school is a district school:

(i) require involuntary transfers of school leaders or teachers;

(ii) require the local school board to change school boundaries;

(iii) temporarily appoint a public or non-profit entity other than the local school board to manage and operate the school; or

(iv) permanently transfer control of a school to a public or non-profit entity other than the local education board;

(c) if the school is a charter school:

(i) require that the charter school governing board be replaced; or

(ii) require that the charter school authorizer close the school; or

(c) if the school is a charter school, require that the charter school authorizer:

(i) replace some or all members of the charter school governing board;

(ii) transfer operation and control of the charter school to:

(A) a high performing charter school; or

(B) the school district in which the charter school is located; or

(iii) close the school; or

(d) take other action.

(7)(a) The Superintendent shall appoint members of the state review panel subject to Subsection (7)(b).

(b) The state review panel shall include at least three members who each have demonstrated expertise in two or more of the following fields:

(i) leadership at the school district or school level;

(ii) standards-based elementary or secondary curriculum instruction and assessment;

(iii) instructional data management and analysis;

(iv) educational program evaluation;

(v) educational program management;

(vi) teacher leadership;

(vii) change management;

(viii) organizational management; or

(ix) school budgeting and finance.

(c) The state review panel shall critically evaluate at

least:

(i) whether the local education agency has the capacity to implement the changes necessary to improve school performance;

(ii) whether the school leadership is adequate to implement change to improve school performance;

(iii) whether the school has sufficient authority to implement change;

(iv) whether the plan is being implemented with fidelity;

(v) whether the state and local education board provided sufficient resources to the school to support school improvement efforts, including whether the local school board prioritized school district funding and resources to the school in accordance with Section 53E-5-303;

(vi) the likelihood that performance can be improved within the current management structure and staffing; and

(vii) the necessity that the school remain in operation to serve students.

(8) A local school board and charter school authorizer shall develop recommendations under this section in collaboration with:

(a) parents of students currently attending the school;

(b) teachers, principals, and other school leaders at the school;

(c) stakeholders representing the interests of students with disabilities, English learners, and other vulnerable student populations; and

(d) other community members and community partners.

R277-920-9. School Leadership Development Program.

(1) A school leader may apply to participate in the School Leadership Development Program if the school leader:

(a) is assigned to a school in critical needs status; or

(b) is nominated by the school leader's district superintendent or charter school governing board to participate.

(2) A school leader who meets the requirements of Subsection (1) may apply to participate in the School Leadership Development Program by electronically submitting an application to the Superintendent on a form provided on the Board website by the date specified on the Board website.

(3)(a) The Superintendent shall select a school leader to participate in the School Leadership Development Program based on the following selection criteria:

(i) First priority shall be given to a school leader who is assigned to a low performing school;

(ii) second priority is given to a school leader who is assigned to a school in critical needs status that is not a low performing school; and

(iii) third priority is given to a school leader who is

nominated by the school leader's district superintendent or charter school governing board.

(b) Notwithstanding Subsection (3)(a), the Superintendent may give priority to a school leader who has not received prior leadership training before selecting a school leader who has received prior leadership training.

(4)(a) In accordance with Subsection 53E-5-309(4), the Superintendent shall award incentive pay to a school leader within 30 days after the school leader:

(i) completes the School Leadership Development Program; and

(ii) submits a written agreement to the Superintendent to work as described in Subsection 53E-5-309(4).

(b) The Superintendent shall evenly divide the appropriation among the school leaders who meet the requirements of this Subsection (4).

(5) The Superintendent may award incentive pay to a school leader described in Subsection (5) for up to five years.

R277-920-10. School Recognition and Reward Program.

(1) The Superintendent shall distribute school recognition and reward program money to the principal of an eligible school:

(a) in accordance with Section 53E-5-307; and

(b) within 30 days of the Board's official release of school grades for the year the eligible school is eligible for an award of money.

(2) The Superintendent shall notify the principal of an eligible school within 15 days of the Board's official release of school grades:

(a) that the eligible school is eligible for an award of money pursuant to Section 53E-5-307; and

(b) of the amount of the award that the eligible school will receive.

(3) In accordance with Section 53E-5-307, the principal shall distribute the money received under Subsection (1):

(a) to each educator assigned to the school for all of the years the school was identified as a low performing school; and

(b) in a pro-rated manner to each educator assigned to the school for less time than the school was identified as a low performing school.

R277-920-11. Superintendent's Identification of Schools for Targeted Needs Status.

(1) As used in this section, "student groups" means a group of 10 or more students:

(a) who are economically disadvantaged;

(b) with disabilities;

(c) who are English learners;

(d) who are African American;
(e) who are American Indian;
(f) who are Asian;
(g) who are Hispanic;
(h) who are Multiple races;
(i) who are Pacific Islander; or
(j) who are White.

(2)(a) Subject to Subsection (2)(b), the Superintendent shall identify for targeted needs status any school with one or more student groups who:

(i) for two consecutive years, is assigned a percentage of points in the state's accountability system that is equal to or below the percentage of points associated with the lowest rating in the state's accountability system; and

(ii) is not currently identified for critical needs status under Section R277-920-3.

(b) The Superintendent shall make the identification under Subsection (2)(a) beginning with the 2018-2019 school accountability results and every year thereafter.

(3) A school identified under Subsection (2) shall develop and implement a plan to improve performance of the student group that was the subject of the identification under Subsection (2), in accordance with the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(4) To exit targeted needs status, a school shall demonstrate that the school no longer meets the criteria for which the school was identified for two consecutive years within four school years after the month in which the school was identified.

(5) The Superintendent shall identify a school that does not meet the exit criteria described in Subsection (4) as a school with chronically underperforming student groups as described in Section R277-920-3.

KEY: principals, school improvements, school leaders
Date of Enactment or Last Substantive Amendment: January 9, 2018
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-401(4); Title 53E, Chapter 5, Part 3

R277. Education, Administration.
R277-921. Strengthening College and Career Readiness Program.
R277-921-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests the general control and supervision of the public education system in the Board;

(b) Subsection 53E-3-401(4), which authorizes the Board to adopt rules in accordance with its responsibilities; and

(c) Section 53F-5-204, which requires the Board to make rules regarding the program.

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

(a) procedures and criteria for applying for and awarding a grant; and

(b) reporting requirements for a grantee.

R277-921-2. Definitions.

(1) "Certificate" means the certificate described in Subsection 53F-5-204(3)(a) that a school counselor may receive through participation in the program.

(2) "Grant" means payment of a course fee for a course required to earn the certificate.

(3) "Program" means the Strengthening College and Career Readiness Program created in Section 53F-5-204.

(4) "School counselor" means a person who:

(a) holds a Utah School Counselor License;

(b) has a master's degree or higher from an accredited institution;

(c) is an employee of an LEA who provides counseling and information to a student about an educational or career choice;

(d) has received an evaluation as effective or higher through the LEA's evaluation system; and

(e) is recommended to participate in the program by a supervisor.

R277-921-3. Grant Application.

(1) An LEA may apply for a grant on behalf of a school counselor by submitting an application:

(a) provided on USOE's website;

(b) to the Superintendent; and

(c) except as provided in Subsection (2), on or before June 30.

(2) If the annual appropriation for the program exceeds the grant requests, the Superintendent may extend the deadline specified in Subsection (1)(c) by posting a new deadline on USOE's website.

R277-921-4. Procedure and Criteria for Awarding Grant.

(1) If the grant applications exceed the annual appropriation for the program, the Superintendent shall give preference in awarding a grant to an applicant if:

(a) the school where the school counselor works has a state approved Comprehensive Counseling and Guidance Program;

(b) the school where the school counselor works meets the school counselor-to-student ratio of 1:350, according to Rule R277-462; and

(c) the school counselor is licensed as a school counselor according to Rule R277-506.

(2) A school counselor who fails to complete a course that is paid for by a grant shall repay the course fee to the Superintendent.

R277-921-5. Reporting Requirements for Grantee.

After completing the course work necessary to receive the certificate, the school counselor shall submit to the Superintendent:

(1) an action plan to implement the skills developed through earning the certificate to improve students' college and career readiness; and

(2) an application that is provided on USOE's website to add the certificate to the school counselor's license.

KEY: counseling, grant programs, college and career readiness
Date of Enactment or Last Substantive Amendment: December 8, 2015
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-401(4); 53F-5-204

R277. Education, Administration.
R277-922. Digital Teaching and Learning Grant Program.
R277-922-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-2-510, Digital Teaching and Learning Grant Program, which requires the Board to:

(i) establish a qualifying grant program; and

(ii) adopt rules related to administration of the Digital Teaching and Learning Grant Program.

(2) The purpose of this rule is to:

(a) establish an application and grant review committee and process;

(b) give direction to LEAs participating in the Digital Teaching and Learning Program.

R277-922-2. Definitions.

(1) "Advisory committee" means the Digital Teaching and Learning Advisory Committee:

(a) established by the Board as required in Section 53F-2-510; and

(b) required to perform the duties described in R277-922-5.

(2) "LEA plan" has the same meaning as that term is defined in Section 53F-2-510.

(3) "Master plan" means Utah's Master Plan: Essential Elements for Technology-Powered Learning incorporated by reference in R277-922-3.

(4) "Program" has the same meaning as that term is defined in Section 53F-2-510.

(5) "Participating LEA" means an LEA that:

(a) has an LEA plan approved by the Board; and

(b) receives a grant under the program.

R277-922-3. Incorporation of Utah's Master Plan by Reference.

(1) This rule incorporates by reference Utah's Master Plan: Essential Elements for Technology-Powered Learning, October 9, 2015, which establishes:

(a) the application process for an LEA to receive a grant under the program; and

(b) a more detailed description of the requirements of an LEA plan.

(2) A copy of the Master Plan is located at:

(a) https://www.uen.org/digital-learning/downloads/Utah_Essential_Elements_Technology_Powered_Learning.pdf#a=; and

(b) the Utah State Board of Education, 250 East 500 South, Salt Lake City, Utah 84111.

R277-922-4. LEA Planning Grants.

(1) An LEA may apply for a planning grant in lieu of preparing an LEA plan and receiving a Digital Teaching and Learning Grant as described in this rule.

(2) A planning grant awarded under Subsection (1) shall be in the amount of $5,000.

(3) In order to qualify for a planning grant, an LEA shall:

(a) send an LEA representative to a pre-grant submission training conducted by the Superintendent; and

(b) complete the readiness assessment required in Section 53F-2-510.

(4)(a) If an LEA receives a planning grant, the LEA shall submit an LEA plan as set forth in Section R277-922-8 for the subsequent school year.

(b) An LEA that fails to submit an LEA plan in the subsequent year shall reimburse funds awarded under Subsection (2) to the program.

R277-922-5. Digital Teaching and Learning Advisory Committee Duties.

(1) The advisory committee shall include the following individuals who will serve as non-voting chairs:

(a) the Deputy Superintendent of Instructional Services or designee; and

(b) the Director of the Utah Education and Telehealth Network or designee.

(2) In addition to the chairs described in Subsection (1), the Board shall appoint five members to the advisory committee as follows:

(a) the Digital Teaching and Learning Coordinator;

(b) one member who represents a school district with expertise in digital teaching and learning;

(c) one member who represents a charter school with expertise in digital teaching and learning; and

(d) two members that have earned a national certification in education technology, that may include a certification from the Certified Education Technology Leader from the Consortium for School Networking (CoSN).

(3) The advisory committee shall:

(a) oversee review of an LEA plan to determine whether the LEA plan meets the criteria described in Section R277-922-8;

(b) make a recommendation to the Superintendent and the Board on whether the Board should approve or deny an LEA plan;

(c) make recommendations to an LEA on how the LEA may improve the LEA's plan; and

(d) perform other duties as directed by:

(i) the Board; or

(ii) the Superintendent.

(4) The advisory committee may select additional LEA plan reviewers to assist the advisory committee with the work described in Subsection (3).

(5) The advisory committee, or the Superintendent on behalf of the advisory committee, shall present the advisory committee's recommendations on whether to approve or deny each LEA plan to the Board for the Board's approval.

R277-922-6. Board Approval or Denial of LEA Plans.

(1) The Board will either approve or deny each LEA plan submitted by the advisory committee.

(2) If the Board denies an LEA's plan, the LEA may amend and re-submit the LEA's plan to the advisory committee until the Board approves the LEA plan.

R277-922-7. Pre-LEA Plan Submission Requirements.

(1) Before an LEA submits an LEA plan to the advisory committee for approval by the Board, an LEA shall:

(a) have an LEA representative participate in a pre-grant submission training conducted by the Superintendent;

(b) require the following individuals to participate in a leadership and change management training conducted by the Superintendent:

(i) a representative group of school leadership from schools participating in the program;

(ii) the school district superintendent or charter school executive director;

(iii) the LEA's technology director; and

(iv) the LEA's curriculum director; and

(c) complete the readiness assessment required in Section 53F-2-510.

(2) A member of an LEA's local school board or charter school governing board and other staff identified by the LEA may participate in:

(a) a pre-grant submission training conducted by the Superintendent as described in Subsection (1)(a); or

(b) a leadership and change management training conducted by the Superintendent as described in Subsections (1)(b).

R277-922-8. LEA Plan Requirements.

(1) An LEA shall develop a five-year LEA plan in cooperation with educators, paraeducators, and parents,

(2) An LEA plan shall include:

(a) an LEA's results on the readiness assessment required in Section 53F-2-510;

(b) a statement of purpose that describes the learning outcomes, and metrics of success an LEA will accomplish by implementing the program, including the following outcomes:

(i) a 5% increase in an LEA's growth or proficiency on the statewide accountability metrics by the end of the fifth year of the LEA's implementation of the program; or

(ii) a school level outcome:

(A) selected by the LEA;

(B) included in the LEA's plan; and

(C) approved by the advisory committee;

(c) long-term, intermediate, and direct outcomes as defined in the Master Plan and identified in an LEA's five-year plan;

(d) an implementation process structured to yield an LEA's school level outcomes;

(e) a plan for infrastructure needs and refreshment cycle;

(f) a description of necessary high quality digital primary instructional materials, as defined in Section R277-469-2, in relation to the outcomes provided for in Subsection R277-922-8(b)(i) including:

(i) providing special education students with appropriate software;

(ii) the recommended usage requirements of the software provider; and

(iii) the best practices recommended by the software or hardware provider;

(g) a detailed plan for student engagement in personalized learning;

(h) technical support standards for implementation and maintenance of the program that removes technical support burdens from the classroom teacher;

(i) proposed security policies, including security audits, student data privacy as referenced in R277-487, and remediation of identified lapses;

(j) a disclosure by an LEA of the LEA's current technology expenditures;

(k) the LEA's overall financial plan, including use of additional LEA non-grant funds, to be utilized to adequately fund the LEA plan;

(l) a description of how an LEA will provide high quality professional learning for educators, administrators, and support staff participating in the program, including ongoing periodic coaching;

(m) a plan for digital citizenship curricula and implementation; and

(n) a plan for how an LEA will monitor student and teacher usage of the program technology.

(2) An LEA's approved LEA plan is valid for five years, and may be required to be reapproved by the advisory committee and the Board after five years of implementation.

(3) An LEA is not required to implement the program in kindergarten through grade 4.

R277-922-9. Distribution of Grant Money to Participating LEAs.

(1) If an LEA's plan is approved by the Board, the Superintendent shall distribute grant money to the participating LEA as described in this section.

(2)(a) The amount available to distribute to participating charter schools is an amount equal to the product of:

(i) October 1 headcount in the prior year at charter schools statewide, divided by October 1 headcount in the prior year in public schools statewide; and

(ii) the total amount available for distribution under the program.

(b) The Superintendent shall distribute to participating charter schools the amount available for distribution to participating charter schools in proportion to each participating charter school's enrollment as a percentage of the total enrollment in participating charter schools in the prior year.

(c) A new LEA or new charter school satellite campus shall be funded based on the new LEA or new charter school satellite campus's projected October 1 headcount.

(3) The Superintendent shall distribute grant money to the Utah Schools for the Deaf and the Blind in an amount equal to the product of:

(a) October 1 headcount in the prior year at the Utah Schools for the Deaf and the Blind, divided by October 1 headcount in the prior year in public schools statewide; and

(b) the total amount available for distribution under this section.

(4) Of the funds available for distribution under the program after the allocation of funds for the Utah Schools for the Deaf and the Blind and participating charter schools, the Superintendent shall distribute grant money to participating LEAs that are school districts as follows:

(a) the Superintendent shall distribute 10 percent of the total funding available for participating LEAs that are school districts to the participating LEAs as a base amount on an equal basis; and

(b) the Superintendent shall distribute the remaining 90% of

the funds to the participating LEAs on a per-student basis, based on the October 1 headcount in the prior year.

(5)(a) If an LEA's plan is not approved during year one of the program, the advisory committee and the Digital Teaching and Learning Coordinator shall provide additional supports to help the LEA become a qualifying LEA.

(b) The Superintendent shall redistribute the funds an LEA would have been eligible to receive, in accordance with the distribution formulas described in this section, to other qualifying LEAs if the LEA's plan is not approved:

(i) after additional support described in Subsection (5)(a) is given; and

(ii) by no later than December 31 of the school year for which the grant is being awarded.

(6) A non-qualifying LEA may reapply for grant money in subsequent years based on the LEA's plan being approved by the Board.

R277-922-10. Prohibited Uses of Grant Money.

A participating LEA may not use grant money:

(1) to fund nontechnology programs;

(2) to purchase mobile telephones;

(3) to fund voice or data plans for mobile telephones; or

(4) to pay indirect costs charged by the LEA.

R277-922-11. Participating LEA Reporting Requirements.

Beginning with the school year after a participating LEA's first year implementation of an LEA plan, a participating LEA shall annually:

(1) review how the participating LEA:

(a) redirected funds through the participating LEA's implementation of the LEA plan; and

(b) made progress toward implementation; and

(2) on or before October 1, report the potential savings identified in Subsection (1) to the Superintendent.

R277-922-12. Evaluation of LEA Program Implementation.

(1) An evaluation conducted by the independent evaluator described in Section 53F-2-510 shall include a review of:

(a) a participating LEA's implementation of the program in accordance with the participating LEA's LEA plan;

(b) a participating LEA's progress toward meeting the school level outcomes in the participating LEA's LEA plan.

(2) After an evaluation described in Subsection (1), if the Superintendent determines that a participating LEA is not meeting the requirements of the participating LEA's LEA plan the Superintendent:

(a) shall:

(i) provide assistance to the participating LEA; and

(ii) recommend changes to the LEA's LEA plan; or

(b) after at least two findings of failure to meet the requirements of the participating LEA's LEA plan, may recommend that the Board terminate the participating LEA's grant money.

KEY: digital teaching and learning, grant programs
Date of Enactment or Last Substantive Amendment: January 9, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-510

R277. Education, Administration.
R277-923. American Indian and Alaskan Native Education State Plan Pilot Programs.
R277-923-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Section 53F-5-603, which provides that the Board may make rules related to the pilot programs; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

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

(a) criteria for evaluating grant applications; and

(b) procedures for:

(i) a school district to apply to the Board to receive grant money; and

(ii) the review of the use of grant money.

R277-923-2. Definitions.

(1) "American Indian and Alaskan Native concentrated school" has the same meaning as that term is defined in Section 53F-5-601.

(2) "Program site" means the school where an LEA plans to use grant money and implement the LEA's program.

R277-923-3. Grant Application.

(1) An LEA may apply for a grant described in Section 53F-5-603 by submitting an application to the Superintendent on or before the last Friday in May.

(2) The Superintendent shall develop a grant application and make the grant application available to LEAs that meet the eligibility as an American Indian and Alaskan Native concentrated school.

R277-923-4. Procedure and Criteria for Awarding a Grant.

(1) The Superintendent shall award:

(a) one American Indian and Alaskan Native Education State Plan Pilot Program grant to an LEA to serve one or more program sites for the five-year pilot program created in Subsection 53F-5-602(1); and

(b) one grant to an LEA to serve one or more program sites for the four-year pilot program created in Subsection 53F-5-602(2).

(3) The Superintendent shall award a grant described in Subsection (1) to an LEA based on the following criteria:

(a) up to 20 points will be awarded based on the percentage

of American Indian and Alaskan Native students enrolled in the program sites;

(b) up to 15 points will be awarded based on the educator recruiting and retention needs of the program sites;

(c) up to 15 points will be awarded based on the strength of the LEA's program design plan;

(d) up to 10 points will be awarded based on the LEA's plan to objectively evaluate the success of the LEA's program design plan; and

(e) up to 10 points will be awarded based on the strength of the LEA's proposed budget and how many educators the LEA plans to serve.

KEY: Native Americans, Alaskan Natives, grant programs, teacher retention
Date of Enactment or Last Substantive Amendment: August 7, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-5-603; 53E-3-401(4)

R277. Education, Administration.
R277-924. Partnerships for Student Success Grant Program.
R277-924-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Section 53F-5-406, which requires the Board to make rules to administer the Partnerships for Student Success Grant Program; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

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

(a) criteria for evaluating grant applications; and

(b) procedures for:

(i) an eligible partnership to apply to the Board to receive grant money; and

(ii) the evaluation of an eligible partnership's use of grant money.

R277-924-2. Definitions.

(1) "Eligible partnership" means the same as that term is defined in Section 53F-5-401.

(2) "Eligible school feeder pattern" means the same as that term is defined in Section 53F-5-401.

(3) "Grant program" means the Partnerships for Student Success Grant Program established in Section 53F-5-402.

(4) "Lead applicant" means an LEA or local nonprofit organization designated by an eligible partnership to act as the lead applicant for a grant described in Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program and this Rule.

R277-924-3. Grant Application.

(1) The Superintendent shall:

(a) develop a grant application that allows an eligible partnership, through the lead applicant, to apply to participate in the grant program; and

(b) make the grant application available on the Board's website.

(2) An eligible partnership may apply for a grant described in Section 53F-5-402 by submitting an application to the Superintendent:

(a) on or before September 1, 2016; or

(b) on or before the date published on the Board's website.

(3)(a) An eligible partnership or lead applicant may notify the Superintendent of the eligible partnership's intention to

apply for a grant at any time.

(b) If an eligible partnership intends to be considered for a grant for the upcoming school year, the eligible partnership shall submit a letter of intent by the deadline established by the Superintendent and published on the Board's website.

(4) For each year the Superintendent is authorized to solicit grant applications, the Superintendent shall publish a timeline on the Board's website by March 1, including a date for the application release, and due dates for the LEA to submit required materials.

(5) The Superintendent shall evaluate each application using the criteria described in Section R277-924-4 to determine if the applying partnership is an eligible partnership.

(6) The Superintendent shall notify the lead applicant of successful receipt of a grant by July 1.

R277-924-4. Procedure and Criteria for Awarding a Grant.

(1) The Superintendent shall award grants to eligible partnerships based on the amount of funding available for the grant program.

(2) The Superintendent shall award the grant described in Subsection (1) to an eligible partnership based on the following criteria:

(a) the percentage of students who live in families with an income at or below 185% of the federal poverty level enrolled in schools within the eligible school feeder pattern;

(b) the comprehensive needs assessment of the eligible partnership, including the shared goals, outcomes and measurement practices based on the unique community needs and interests;

(c) the proposed program services to be implemented based on the comprehensive needs assessment described in Subsection (2)(b), including how the eligible partnership's plan aligns with:

(i) the five- and ten-year plan to address intergenerational poverty described in Section 35A-9-303; and

(ii) if the eligible partnership has a low performing school within the eligible partnership's school feeder pattern, the school turnaround plans of the low performing schools;

(d) how the eligible partnership will:

(i) improve educational outcomes for low income students through the formation of cross-sector partnerships; and

(ii) improve efforts focused on student success;

(e) the outcome-based measures selected by the eligible partnership, including the eligible partnership's plan to:

(i) objectively assess the success of the eligible partnership's program design plan; and

(ii) make changes to the eligible partnership's plan based on the assessment described in Subsection (2)(e)(i);

(f) the strength of the eligible partnership's commitment to:

(i) the establishment and maintenance of data systems that inform program decisions;

(ii) sharing of information and collaboration with third party evaluators; and

(iii) meeting annual reporting requirements;

(g) the eligible partnership's budget, including:

(i) identifying the estimated cost per student for the program;

(ii) an explanation for each proposed expenditure and how each expenditure aligns with the eligible partnership's proposed program; and

(iii) providing matching funds as required in Section 53F-5-403.

(3) Additional points will be awarded to an eligible partnership that:

(a) includes a low performing school as defined in Section 53E-5-301; or

(b) includes community and parent engagement as a part of the eligible partnership's plan.

(4) The Superintendent shall administer and oversee the evaluation of the program as provided in Section 53F-5-405.

KEY: Partnerships for Student Success, grant programs, community, non-profit organizations
Date of Enactment or Last Substantive Amendment: October 11, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-5-406; 53E-3-401(4)

R277. Education, Administration.
R277-925. Effective Teachers in High Poverty Schools Incentive Program.
R277-925-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53A-17a-173, which requires the Board to make rules for the administration of the Effective Teachers in High Poverty Schools Incentive Program.

(2) The purpose of this rule is to provide standards and procedures for the administration of the Effective Teachers in High Poverty Schools Incentive Program.

R277-925-2. Definitions.

(1) "Eligible teacher" means the same as that term is defined in Section 53A-17a-173.

(2) "High poverty school" means the same as that term is defined in Section 53A-17a-173.

(3) "Local education agency" or "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(4) "Median growth percentile" or "MGP" means the same as that term is defined in Section 53A-17a-173.

(5) "Program" means the Effective Teachers in High Poverty Schools Incentive Program.

(6) "Standards assessment" means the same as that term is defined in Section 53A-1-604.

(7) State-assessed subject" means English language arts, mathematics, and science.

R277-925-3. Administration of the Program.

(1) On or before December 1, the Superintendent shall:

(a) identify high poverty schools and eligible teachers in accordance with Subsection (2);

(b) distribute a list of eligible teachers to LEAs; and

(c) inform LEAs of program requirements and the timeline for applying on behalf of an eligible teacher.

(2) The Superintendent shall identify:

(a) high poverty schools based on the proportion of students who:

(i) qualify for free or reduced lunch in the current school year, based on the October 1 enrollment headcounts; and

(ii) are classified as children affected by

intergenerational poverty, as determined by the Utah Department of Workforce Services, for the most recent year data is available; and

(b) eligible teachers by determining whether the teacher's MGP was greater than or equal to 70:

(i) for at least one state-assessed subject taught by the teacher;

(ii) as measured by student performance on a standards assessment;

(iii) two years before the current school year; and

(iv) excluding subjects or teachers with less than 10 tested students.

(3) To receive matching funds for the program, on or before January 15, an LEA shall:

(a) apply on behalf of an eligible teacher; and

(b) provide assurances that the LEA will pay half of the:

(i) teacher salary bonus; and

(ii) employer-paid benefits described in Section 53A-17a-173.

(4)(a) On or before June 1, the Superintendent shall:

(i) ensure that a teacher who was determined eligible under Subsection (1) and (2) taught at a high poverty school for the full school year; and

(ii) distribute to an LEA that meets the criteria described in Subsection (3) half of the:

(A) teacher salary bonus; and

(B) employer-paid benefits described in Section 53A-17a-173.

(b) Consistent with Section 53A-17a-173, the Superintendent may distribute the funds on a pro rata basis if the number of eligible applicants exceeds the amount of available funds.

(5)(a) An LEA or an eligible teacher may appeal eligibility to the Superintendent on the basis that the teacher:

(i) is teaching at a high poverty school;

(ii) is an eligible teacher; or

(iii) has less than 10 tested students, but can demonstrate extenuating circumstances that merit an exception.

(b) An LEA or eligible teacher shall provide documentation to the Superintendent to assist the Superintendent in deciding on the appeal.

KEY: teachers, poverty schools, incentives
Date of Enactment or Last Substantive Amendment: September 21,
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401; 53A-17a-173

R277. Education, Administration.
R277-926. Certification of Residential Treatment Center Special Education Program.
R277-926-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board; and

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and State of Utah law.

(2) The purpose of this rule is to provide a certification process and procedure for residential treatment centers where IEP teams place an in-state or out-of-state special education students for purposes of receiving a free and appropriate public education.

R277-926-2. Definitions.

(1) "Nonsectarian" means a nonpublic school or agency that is not owned, operated, controlled by, or formally affiliated with a religious group or sect, whatever might be the actual character of the education program or the primary purpose of the facility.

(2)(a) "Residential Treatment Center" or "RTC" means a private, or nonsectarian establishment that provides related services necessary for a student with special needs to benefit educationally from the student's IEP.

(b) "Residential Treatment Center" or "RTC" does not include an organization or agency that operates as a public agency or offers public service, including:

(i) a state or local agency;

(ii) an affiliate of a state or local agency including:

(A) a private, nonprofit corporation established or operated by a state or local agency;

(B) a public university or college; or

(C) a public hospital.

(3) "Qualified personnel" means an in-classroom staff member who:

(a) provides assistance with a student's education;

(b) has met requirements for federal and state certification, licensing, registration, or other comparable training requirements that apply to the area in which the staff member is providing related services, including board approved or recognized requirements; and

(c) actively adheres to the standards of professional practice established in federal and State of Utah law or regulation.

R277-926-3. Certification of a Residential Treatment Center.

(1) An RTC shall have the RTC's special needs program certified by the Superintendent before providing services for a free and appropriate public education to in-state or out-of-state students with special education needs and a current IEP from an LEA.

(2) An RTC seeking certification shall apply for an initial or renewal certification in a form prescribed by the Superintendent.

(3) An RTC's application shall include:

(a) a detailed description of the RTC's special education program provided, including:

(i) minimum instructional minutes for each grade level served;

(ii) specially designed instruction for:

(A) social skills;

(B) counseling; and

(C) parent training;

(iii) evidence of age appropriate core curriculum that aligns with the Utah core standards or aligns with the core standards of the student's state of origin;

(iv) for grades K-8, evidence showing the use of at least one resource, including a textbook or curricular program, adopted by the student's state of origin or Utah for each core standard subject including:

(A) English language arts;

(B) Math; and

(C) Science;

(v) for grades 9-12, evidence showing alignment of curriculum for core standard subjects with an LEA's curriculum in Utah or the student's state of origin;

(b) evidence, including educator licenses or employee resumes, of qualified personnel for each subject area including:

(i) English language arts;

(ii) Math; and

(iii) Science;

(c) evidence that each aide assisting in a student's education has received training in appropriate behavior as regulated by the Utah Department of Human Services and academic content areas specific to an aide's classroom assignment, including training required by state of Utah and federal law;

(d) an assurance that each student, aged 14 years and above, has a transition plan as described in Subsection R277-926-4(3)(a);

(e) evidence that an RTC is collaborating with a student's LEA of origin's fully constituted IEP team to:

(i) carry out the specific requirements of the student's IEP, including the general requirements described in Subsection R277-926-4(3)(b);

(ii) facilitate an annual IEP review; and

(iii) when necessary, participate in the student's triennial evaluation, including:

(A) an outlined process for the evaluation;

(B) the ability to allow on-site accessibility to third parties required for evaluation participation; and

(C) collaborate with the LEA of origin for the administration of the assessment.

(f) a description of the RTC's behavior intervention plan, including the incident management procedures and reporting requirements described in Subsection R277-926-4(3)(c);

(g) evidence of how meaningful parental involvement is facilitated;

(h) documentation showing all staff at the RTC have been fingerprinted and have passed state and federal criminal background checks before being allowed to have contact with any student;

(i) an assurance showing participation in the LEA of origin with federal Child Find mandates as outlined in 20 U.S.C. 1412(a)(3);

(j) an assurance that the RTC is a nonsectarian RTC; and

(k) if applicable, a copy of the Private School Affidavit filed with a student's state of origin.

(4) Except as provided in Subsection (7), an RTC may apply for an initial certification and receive notification of certification approval or denial within 60 days.

(5) An RTC shall apply for certification renewal no later than June 1st for the upcoming school year.

(6) Except as provided in Subsection (7), the Superintendent shall provide the RTC notice of the Superintendent's approval or denial of the RTC's application for certification within 60 days of receipt of the RTC's application.

(7) For an application received before January 1, 2020, the Superintendent shall notify an RTC of the Superintendent's approval or denial of the RTC's request for certification within 45 days.

(8) An RTC with a pending application shall be subject to an on-site review by the Superintendent within 45 days of the RTC submitting the RTC's application.

(9) An RTC's application for certification and on-site review shall be reviewed collectively by the Superintendent in considering approval or denial of certification.

(10) If approved, an RTC's certification lasts for two years from the date of approval and is subject to monitoring protocols as described in Subsection R277-926-4.

(11) If the Superintendent denies an RTC's application for certification, the Superintendent shall provide the reason for the

denial in writing to the RTC.

(12) If an RTC operates a special needs program at more than one site, the RTC shall submit a separate certification application for each site.

R277-926-4. Certification Maintenance and General Monitoring.

(1) An RTC that has been certified is subject to periodic monitoring and review.

(2) An RTC shall ensure general compliance with the requirements of this rule, state law, and federal law by providing the Superintendent with:

(a) documentation, including:

(i) applicable student and program records; and

(ii) information for which the Board is responsible;

(b) access to on-site visits at any time; and

(c) any combination of Subsections (a) and (b).

(3) An RTC that has been certified shall comply with all requirements of this rule, State of Utah law and federal law, including the following requirements:

(a) collaborating with an LEA of origin to maintain and facilitate a transition plan for each student served by the RTC that includes:

(i) a list of a relevant course of study related to needs and ability of the student;

(ii) a list of all required transition assessments needed;

(iii) a plan for transitions to and from restrictive placement; and

(iv) age of majority documentation in a form approve by the Superintendent;

(b) collaborating with the LEA of origin on a student's IEP through:

(i) timely and appropriate IEP progress monitoring;

(ii) documentation of a student's specially designed instruction and related services including:

(A) service provisions;

(B) treatment notes; and

(C) service logs;

(iii) sign-in or attendance sheets for each IEP meeting held for a student; and

(iv) adhering to all other applicable state and federal laws;

(c) when appropriate, establishing a discipline guide consistent with IDEA that includes a behavior intervention plan with the following minimum components:

(i) general behavior goals;

(ii) crisis de-escalation and restraint training and training frequency;

(iii) restraint and seclusion policies and procedures consistent with state and federal law; and

(iv) parental notification policies requiring notice within at least 24-hours.

(4) An RTC shall notify the Superintendent within 30 days if the RTC makes any material change to the RTC's special education program.

(5) If a certified RTC is found to be noncompliant with a provision of R277-926, State of Utah law, or federal law, the Superintendent may suspend or revoke the RTC's certification as outlined in Subsection R277-926-5.

R277-926-5. Revocation of Certification.

(1) The Superintendent may revoke an RTC's certification at any time if the RTC fails to comply with the requirements of R277-926, State of Utah law, or federal law.

(2) The Superintendent shall provide the reason for revocation of the RTC's certification in writing to the RTC and provide a 30-day cure period before revocation may occur.

(3) If an RTC does not cure identified non-compliance described in Subsection (2) within the 30-day cure period, the Superintendent shall revoke the RTC's certification.

(4) If an RTC's certification is revoked, the RTC:

(a) may not receive new students into the RTC's special education program; and

(b) may maintain the students currently attending the RTC's special education program.

(5) An RTC may reapply for certification within 12 months following the RTC's completed corrective action in response to the Superintendent's reasons for revocation described in Subsection (2).

R277-926-6. Request for Review.

(1) A public education agency that contracts with a certified RTC may request the Superintendent to review the status of the RTC's certification.

(2) The Superintendent shall establish a mechanism for referrals, complaints, and information related to the status of an RTC's certification.

(3) The Superintendent shall conduct a review pursuant to this in accordance with all requirements in Sections R277-926-4 and R277-926-5.

R277-926-7. RTC Appeal of Certification Application Denial or Certification Revocation.

(1) An RTC may file an appeal to the Board of an adverse decision of the Superintendent resulting in the denial of

application or revocation of a certification.

(2) An appeal pursuant to this rule shall be an informal adjudication.

(3) An appeal described in Subsection (1) shall be made in writing and within 30 days of the date of the Superintendent's action.

(4) The Board may:

(a) review the appeal as a full board; or

(b) refer the appeal to the Board's audit committee to make a recommendation to the Board for action.

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