

R277-626 received final approval by the Utah State Board of Education on November 5, 2020. R277-626 will be published in the December 1, 2020 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of January 7, 2021.

R277. Education, Administration.

R277-626. Special Needs Opportunity Scholarship Program.

R277-626-1. 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 53E-7-404, which requires the Board to make rules to implement the Special Needs Opportunity Scholarship Program.

(2) The purpose of this rule is to provide guidelines for contracted scholarship granting organizations and the Superintendent to implement the Special Needs Opportunity Scholarship Program.

R277-626-2. Definitions.

(1) "Eligible student" has the same meaning as defined in Subsection 53E-7-401(1).

(2) "Program donation" means a donation to a scholarship granting organization in accordance with Section 53E-7-405.

(3) "Qualifying school" has the same meaning as defined in Subsection 53E-7-401(7).

(4) "Request for proposals" or "RFP" has the same meaning as defined Subsection 63G-6a-103(70).

(5) "Scholarship expense" has the same meaning as defined in Subsection 53E-7-401(10).

(6)(a) "Scholarship granting organization" or "SGO" has the same meaning as defined in Subsection 53E-7-401(11).

(b) An SGO may not be a qualifying school.

(7) "Scholarship student" has the same meaning as defined in Subsection 53E-7-401(12).

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(8) "Special Needs Opportunity Scholarship Program" or "the program" means the scholarship grant program established in Section 53E-7-402.

R277-626-3. Superintendent Responsibilities.

(1) The Superintendent shall conduct an RFP for an SGO in accordance with Subsection 53E-7-404(3).

(2) The Superintendent shall provide all information required to the Utah State Tax Commission in accordance with Subsection 53E-7-404(4)(c).

(3) The Superintendent shall provide a tax credit certificate form, in accordance with Subsection 53E-7-404(2)(a) for use by an approved SGO.

(4) The Superintendent shall annually recommend to the Board a program donations cap for approval in accordance with Subsection 53E-7-407(4).

(5)(a) The Superintendent shall monitor an SGO chosen under Subsection (1) to ensure compliance with state law, including Title 53E, Chapter 7, Part 4, Special Needs Opportunity Scholarship Program and this Rule R277-626.

(b) The Superintendent may recommend remedial action against an SGO in accordance with Rule R277-114 and Subsection 53E-7-404(5).

(6)(a) The Superintendent shall:

(i) recommend qualifying schools to the Board for approval in accordance with Subsection 53E-7-408(6); and

(ii) require, as a condition for approval, that a qualifying school reimburse scholarship money to an SGO if an eligible student discontinues enrollment early.

(b) The Superintendent shall post a list of approved qualifying schools on the Board website.

(c) The Superintendent may monitor eligible schools for on-going compliance with the requirements of Section 53E-7-408.

(7)(a) The Superintendent shall monitor SGO employees and officers in accordance with Subsection 53E-7-410(2).

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(b) The Superintendent shall initiate corrective action against an SGO if an employee or officer of the SGO is facing charges for, or has been convicted or pled guilty or no contest to a violation of the following state laws or laws of another jurisdiction:

(i) any felony; or

(ii) an offense involving fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

R277-626-4. SGO Responsibilities.

(1) An SGO approved in accordance with Subsection R277-626-3(1) shall administer the program in accordance with Section 53E-7-405.

(2)(a) An SGO shall maintain separate accounts for all scholarship donations, including any interest or other income from the scholarship funds.

(b) An SGO may not commingle the scholarship funds with any other funds and may only use funds from the account to cover scholarship expenses.

(3)(a)(i) Prior to an SGO paying expenses for tuition and fees, a parent of an eligible student shall personally approve a funds transfer to the qualifying school.

(ii) A student may not approve a funds transfer under a power of attorney from the student's parent.

(iii) After approval as required under Subsection (3)(a)(i), an SGO shall pay costs for tuition and school fees for an eligible student directly to a qualifying school.

(b) An SGO may disburse reimbursements to an eligible student's parent upon proof of payment of other approved scholarship expenses.

(3) If an eligible student discontinues enrollment in a qualifying school, the SGO shall:

(a) notify the Superintendent; and

(b) obtain reimbursement of scholarship money from the qualifying school.

(4) An SGO shall provide the following information to the Superintendent biannually by January 31 and July 31:

(a) the amount of tuition and fees each qualifying school charges for the 2020-21 through the 2023-24 school years;

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_____ (b) financial records of the SGO annually, including administrative costs incurred by the SGO to administer the program;

_____ (c) the number of scholarship students from each school district of residence annually;

_____ (d) the number of first time scholarship students annually;

_____ (e) the amount disbursed for scholarship expenses annually, provided with any detail requested by the Superintendent;

_____ (f) the standards used by the SGO to determine whether a student is an eligible student;

_____ (g) data reflecting savings to the state and LEAs, if any, as a result of scholarship students exiting the public school system;

_____ (h) demographic information on scholarship students, including:

_____ (i) name

_____ (ii) date of birth;

_____ (iii) gender;

_____ (iv) race; and

_____ (v) last public school attended, if applicable;

_____ (i) whether the SGO has received complaints of discrimination, and any steps taken by the SGO to remedy the complaints; and

_____ (j) any other information requested by the Superintendent to facilitate monitoring of the program and preparation of the annual report required by Section 53E-1-202.1.

_____ (5) An SGO may not have a personal or professional relationship with a qualifying school or an employee of a qualifying school that would create a conflict of interest, favoritism, or bias in making awards from program donations.

_____ (6) An SGO is subject to monitoring and corrective action in the same manner as a recipient under Rule R277-114.

KEY: special needs opportunity scholarship

Date of Enactment or Last Substantive Amendment:

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Authorizing, and Implemented, or Interpreted Law: Art X, Sec 3; 53E-3-401(4); Title 53E, Chapter 7, Part 4