

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 53A-1-403.5, 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://schools.utah.gov/file/1eb2bdb7-5a1f-4341-9df0-74f44fdc82b4>; 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.

(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 WPU's 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 core 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

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Authorizing, 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