

1 **R277. Education, Administration.**

2 **R277-926. Certification of Residential Treatment Center Special Education**
3 **Program.**

4 **R277-926-1. Authority and Purpose.**

5 (1) This rule is authorized by:

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

8 (b) Subsection [53E-3-401\(4\)](#), which allows the Board to make rules to execute the
9 Board's duties and responsibilities under the Utah Constitution and State of Utah law.

10 (2) The purpose of this rule is to provide a certification process and procedure for
11 residential treatment centers where IEP teams place an in-state or out-of-state special
12 education students for purposes of receiving a free and appropriate public education.

13

14 **R277-926-2. Definitions.**

15 (1) "Nonsectarian" means a nonpublic school or agency that is not owned,
16 operated, controlled by, or formally affiliated with a religious group or sect, whatever might
17 be the actual character of the education program or the primary purpose of the facility.

18 (2)(a) "Residential Treatment Center" or "RTC" means a private, or nonsectarian
19 establishment that provides related services necessary for a student with special needs to
20 benefit educationally from the student's IEP.

21 (b) "Residential Treatment Center" or "RTC" does not include an organization or
22 agency that operates as a public agency or offers public service, including:

23 (i) a state or local agency;

24 (ii) an affiliate of a state or local agency including:

25 (A) a private, nonprofit corporation established or operated by a state or local
26 agency;

27 (B) a public university or college; or

28 (C) a public hospital.

29 (3) "Qualified personnel" means an in-classroom staff member who:

- 30 (a) provides assistance with a student's education;
- 31 (b) has met requirements for federal and state certification, licensing, registration,
- 32 or other comparable training requirements that apply to the area in which the staff member
- 33 is providing related services, including board approved or recognized requirements; and
- 34 (c) actively adheres to the standards of professional practice established in federal
- 35 and State of Utah law or regulation.

36

37 **R277-926-3. Certification of a Residential Treatment Center.**

38 (1) An RTC shall have the RTC's special needs program certified by the

39 Superintendent before providing services for a free and appropriate public education to

40 in-state or out-of-state students with special education needs and a current IEP from an

41 LEA.

42 (2) An RTC seeking certification shall apply for an initial or renewal certification in

43 a form prescribed by the Superintendent.

44 (3) An RTC's application shall include:

45 (a) a detailed description of the RTC's special education program provided,

46 including:

47 (i) minimum instructional minutes for each grade level served;

48 (ii) specially designed instruction for:

49 (A) social skills;

50 (B) counseling; and

51 (C) parent training;

52 (iii) evidence of age appropriate core curriculum that aligns with the Utah core

53 standards or aligns with the core standards of the student's state of origin;

54 (iv) for grades K-8, evidence showing the use of at least one resource, including a

55 textbook or curricular program, adopted by the student's state of origin or Utah for each

56 core standard subject including:

57 (A) English language arts;

58 (B) Math; and

- 59 (C) Science;
- 60 (v) for grades 9-12, evidence showing alignment of curriculum for core standard
61 subjects with an LEA's curriculum in Utah or the student's state of origin;
- 62 (b) evidence, including educator licenses or employee resumes, of qualified
63 personnel for each subject area including:
- 64 (i) English language arts;
- 65 (ii) Math; and
- 66 (iii) Science;
- 67 (c) evidence that each aide assisting in a student's education has received training
68 in appropriate behavior as regulated by the Utah Department of Human Services and
69 academic content areas specific to an aide's classroom assignment, including training
70 required by state of Utah and federal law;
- 71 (d) an assurance that each student, aged 14 years and above, has a transition
72 plan as described in Subsection R277-926-4(3)(a);
- 73 (e) evidence that an RTC is collaborating with a student's LEA of origin's fully
74 constituted IEP team to:
- 75 (i) carry out the specific requirements of the student's IEP, including the general
76 requirements described in Subsection R277-926-4(3)(b);
- 77 (ii) facilitate an annual IEP review; and
- 78 (iii) when necessary, participate in the student's triennial evaluation, including:
- 79 (A) an outlined process for the evaluation;
- 80 (B) the ability to allow on-site accessibility to third parties required for evaluation
81 participation; and
- 82 (C) collaborate with the LEA of origin for the administration of the assessment.
- 83 (f) a description of the RTC's behavior intervention plan, including the incident
84 management procedures and reporting requirements described in Subsection
85 R277-926-4(3)(c);
- 86 (g) evidence of how meaningful parental involvement is facilitated;
- 87 (h) documentation showing all staff at the RTC have been fingerprinted and have

88 passed state and federal criminal background checks before being allowed to have
89 contact with any student;

90 (i) an assurance showing participation in the LEA of origin with federal Child Find
91 mandates as outlined in [20 U.S.C. 1412\(a\)\(3\)](#);

92 (j) an assurance that the RTC is a nonsectarian RTC; and

93 (k) if applicable, a copy of the Private School Affidavit filed with a student's state of
94 origin.

95 (4) Except as provided in Subsection (7), an RTC may apply for an initial
96 certification and receive notification of certification approval or denial within 60 days.

97 (5) An RTC shall apply for certification renewal no later than June 1st for the
98 upcoming school year.

99 (6) Except as provided in Subsection (7), the Superintendent shall provide the
100 RTC notice of the Superintendent's approval or denial of the RTC's application for
101 certification within 60 days of receipt of the RTC's application.

102 (7) For an application received before January 1, 2020, the Superintendent shall
103 notify an RTC of the Superintendent's approval or denial of the RTC's request for
104 certification within 45 days.

105 (8) An RTC with a pending application shall be subject to an on-site review by the
106 Superintendent within 45 days of the RTC submitting the RTC's application.

107 (9) An RTC's application for certification and on-site review shall be reviewed
108 collectively by the Superintendent in considering approval or denial of certification.

109 (10) If approved, an RTC's certification lasts for two years from the date of
110 approval and is subject to monitoring protocols as described in Subsection R277-926-4.

111 (11) If the Superintendent denies an RTC's application for certification, the
112 Superintendent shall provide the reason for the denial in writing to the RTC.

113 (12) If an RTC operates a special needs program at more than one site, the RTC
114 shall submit a separate certification application for each site.

115

116 **R277-926-4. Certification Maintenance and General Monitoring.**

117 (1) An RTC that has been certified is subject to periodic monitoring and review.

118 (2) An RTC shall ensure general compliance with the requirements of this rule,
119 state law, and federal law by providing the Superintendent with:

120 (a) documentation, including:

121 (i) applicable student and program records; and

122 (ii) information for which the Board is responsible;

123 (b) access to on-site visits at any time; and

124 (c) any combination of Subsections (a) and (b).

125 (3) An RTC that has been certified shall comply with all requirements of this rule,
126 State of Utah law and federal law, including the following requirements:

127 (a) collaborating with an LEA of origin to maintain and facilitate a transition plan for
128 each student served by the RTC that includes:

129 (i) a list of a relevant course of study related to needs and ability of the student;

130 (ii) a list of all required transition assessments needed;

131 (iii) a plan for transitions to and from restrictive placement; and

132 (iv) age of majority documentation in a form approved by the Superintendent;

133 (b) collaborating with the LEA of origin on a student's IEP through:

134 (i) timely and appropriate IEP progress monitoring;

135 (ii) documentation of a student's specially designed instruction and related
136 services including:

137 (A) service provisions;

138 (B) treatment notes; and

139 (C) service logs;

140 (iii) sign-in or attendance sheets for each IEP meeting held for a student; and

141 (iv) adhering to all other applicable state and federal laws;

142 (c) when appropriate, establishing a discipline guide consistent with IDEA that
143 includes a behavior intervention plan with the following minimum components:

144 (i) general behavior goals;

145 (ii) crisis de-escalation and restraint training and training frequency;

146 (iii) restraint and seclusion policies and procedures consistent with state and
147 federal law; and

148 (iv) parental notification policies requiring notice within at least 24-hours.

149 (4) An RTC shall notify the Superintendent within 30 days if the RTC makes any
150 material change to the RTC's special education program.

151 (5) If a certified RTC is found to be noncompliant with a provision of R277-926,
152 State of Utah law, or federal law, the Superintendent may suspend or revoke the RTC's
153 certification as outlined in Subsection R277-926-5.

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155 **R277-926-5. Revocation of Certification.**

156 (1) The Superintendent may revoke an RTC's certification at any time if the RTC
157 fails to comply with the requirements of R277-926, State of Utah law, or federal law.

158 (2) The Superintendent shall provide the reason for revocation of the RTC's
159 certification in writing to the RTC and provide a 30-day cure period before revocation may
160 occur.

161 (3) If an RTC does not cure identified non-compliance described in Subsection (2)
162 within the 30-day cure period, the Superintendent shall revoke the RTC's certification.

163 (4) If an RTC's certification is revoked, the RTC:

164 (a) may not receive new students into the RTC's special education program; and

165 (b) may maintain the students currently attending the RTC's special education
166 program.

167 (5) An RTC may reapply for certification within 12 months following the RTC's
168 completed corrective action in response to the Superintendent's reasons for revocation
169 described in Subsection (2).

170

171 **R277-926-6. Request for Review.**

172 (1) A public education agency that contracts with a certified RTC may request the
173 Superintendent to review the status of the RTC's certification.

174 (2) The Superintendent shall establish a mechanism for referrals, complaints, and

175 information related to the status of an RTC's certification.

176 (3) The Superintendent shall conduct a review pursuant to this in accordance with
177 all requirements in Sections R277-926-4 and R277-926-5.

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179 **R277-926-7. RTC Appeal of Certification Application Denial or Certification**
180 **Revocation.**

181 (1) An RTC may file an appeal to the Board of an adverse decision of the
182 Superintendent resulting in the denial of application or revocation of a certification.

183 (2) An appeal pursuant to this rule shall be an informal adjudication.

184 (3) An appeal described in Subsection (1) shall be made in writing and within 30
185 days of the date of the Superintendent's action.

186 (4) The Board may:

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

188 (b) refer the appeal to the Board's audit committee to make a recommendation to
189 the Board for action.

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191 **KEY: residential treatment centers, special education, certification**

192 **Date of Enactment or Last Substantive Amendment: July 2, 2019**

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