

1 **R277. Education, Administration.**

2 **R277-121. Board Waiver of Administrative Rules.**

3 **R277-121-1. Authority and Purpose.**

4 (1) This rule is authorized by:

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

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

9 (c) Section [53G-7-202](#), which allows the Board to grant an LEA's request for a
10 waiver from a Board rule.

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

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14 **R277-121-2. Procedures for Waiver Requests.**

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

17 (b) Except for a request for a waiver due to snow, inclement weather, or other
18 emergency school closure described in Section R277-121-5, a written request under
19 Subsection (1)(a) shall include:

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

22 (ii) data that support the requested waiver, which may include:

23 (A) student achievement data;

24 (B) community, staff, or student survey data;

25 (C) student enrollment data; or

26 (D) data demonstrating the cost effectiveness of the waiver request;

27 (iii) a proposed agreement with the Board that includes:

28 (A) a proposed effective date;

29 (B) provisions for public review and accountability;

- 30 (C) data gathering and reporting timelines; and
31 (D) a sunset date; and
32 (iv) in the case of a charter school, a recommendation from the board of the
33 school's authorizer.
- 34 (2) An LEA board may not request a waiver from a Board rule:
35 (a) that is required by or adopts criteria from a federal statute, federal regulation,
36 or state law;
37 (b) that would negatively affect the health, safety, or welfare of public education
38 students;
39 (c) that could reasonably result in discrimination or harassment of public school
40 students or employees;
41 (d) that would benefit one element of the public education system to the
42 detriment of another; or
43 (e) when the concerns giving rise to an LEA board's request could be addressed
44 through means other than waiver of Board rules.

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

- 47 (1) The Superintendent shall:
48 (a) review an LEA's waiver request; and
49 (b) may provide a recommendation to the Board.
- 50 (2) The Board Executive Committee may assign a waiver request made under
51 this Rule R277-121 to a Board standing committee.
- 52 (3) The standing committee assigned in accordance with Subsection (2):
53 (a) may solicit additional information or testimony;
54 (b) shall review the request in an open meeting; and
55 (c) shall make a recommendation for consideration by the full Board.
- 56 (4) The Board Executive Committee may consolidate consideration of duplicate
57 or similar requests.

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

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

62 (1) The Board may request an LEA that receives a waiver from Board rule in
63 accordance with this R277-121 for more than one year to report the following to a Board
64 committee:

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

66 (b) data related to the data the LEA presented as apart of the LEA's request for
67 waiver.

68 (2) During a review described in Subsection (1), the Board may, with notice to the
69 LEA, move to rescind or modify the waiver, unless the waiver agreement explicitly
70 states otherwise.

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72 **R277-121-5. Snow, Inclement Weather, or Other Emergency School Closure Days.**

73 (1) An LEA may seek a waiver directly from the Superintendent from the 180 day
74 requirement described in Subsection R277-419-4(1) if:

75 (a) the LEA closes a school due to excessive snow, inclement weather, or an
76 other emergency; and

77 (b) the school closure will result in the LEA not meeting the 180 day requirement
78 described in Section [R277-419-4](#).

79 (2) The Superintendent may grant a waiver due to excessive snow, inclement
80 weather, or other emergency without Board approval if the LEA has provided contingency
81 school days and hours into the LEA's calendar as required in Subsection [R277-419-4\(5\)](#),
82 or has another plan in place to minimize the negative impact on the educational process
83 caused by the waiver.

84 (3)(a) An LEA may request the Superintendent to waive the school day and hour
85 requirement pursuant to a directive from the Utah State Health Department or a local

86 health department, that results in the closure of a school in the event of a pandemic or
87 other public health emergency.

88 (b) A waiver described in this Subsection (3) may be for a designated time period,
89 for a specific area, or for a specific LEA in the state, as determined by the health
90 department directive.

91 (c) A waiver may allow an LEA to continue to receive state funds for pupil services
92 and reimbursements.

93 (d) A waiver granted by the Superintendent as described in this Subsection (3)
94 shall direct an LEA to provide as much notice to students and parents of the suspension
95 of school services, as is reasonably possible.

96 (e) A waiver granted as described in this Subsection (3) shall direct an LEA to
97 comply with health department directives, but to continue to provide any services to
98 students that are not inconsistent with the directive.

99 (f) The Superintendent may encourage an LEA to provide electronic or distance
100 learning services to affected students for the period of the pandemic or other public health
101 emergency to the extent of personnel and funds available.

102 (4) An LEA request for a waiver due to snow, inclement weather, or other
103 emergency school closure described in this Section is not required to include the
104 information described in Subsections R277-121-2(1)(b)(ii) through (iv) unless requested
105 by the Superintendent.

106 (5) If the Superintendent denies an LEA's request described in this Section, the
107 LEA may appeal the Superintendent's decision by making the request of the full Board.

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109 **KEY: Utah State Board of Education, waivers, administrative rules**

110 **Date of Enactment or Last Substantive Amendment: April 9, 2020**

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