

1 **R277. Education, Administration.**

2 **R277-626. Special Needs Opportunity Scholarship Program.**

3 **R277-626-1. 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) Section [53E-3-401](#)(4), which allows the Board to make rules to execute the  
8 Board's duties and responsibilities under the Utah Constitution and state law; and

9 (c) Section [53E-7-404](#), which requires the Board to make rules to implement the  
10 Special Needs Opportunity Scholarship Program.

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

14 **R277-626-2. Definitions.**

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

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

18 (3) "Qualifying school" has the same meaning as defined in Subsection [53E-7-](#)  
19 [401](#)(7).

20 (4) "Request for proposals" or "RFP" has the same meaning as defined Subsection  
21 [63G-6a-103](#)(70).

22 (5) "Scholarship expense" has the same meaning as defined in Subsection [53E-7-](#)  
23 [401](#)(10).

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

26 (7) "Scholarship student" has the same meaning as defined in Subsection [53E-7-](#)  
27 [401](#)(12).

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

30 **R277-626-3. Superintendent Responsibilities.**

31 (1) The Superintendent shall conduct an RFP for an SGO in accordance with  
32 Subsection [53E-7-404\(3\)](#).

33 ~~[The Superintendent may contract with up to two SGOs.]~~

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

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

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

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

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

45 (6)(a) The Superintendent shall:

46 (i) recommend qualifying schools to the Board for approval in accordance with  
47 Subsection [53E-7-408\(6\)](#); and

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

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

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

54 (7)(a) The Superintendent shall monitor SGO employees and officers in accordance  
55 with Subsection [53E-7-410\(2\)](#).

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

59 (i) any felony; or

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

62 **R277-626-4. SGO Responsibilities.**

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

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

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

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

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

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

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

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

79 (a) notify the Superintendent; and

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

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

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

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

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

- 89           (d) the number of first time scholarship students annually;  
90           (e) the amount disbursed for scholarship expenses annually, provided with any  
91 detail requested by the Superintendent;  
92           (f) the standards used by the SGO to determine whether a student is an eligible  
93 student;  
94           (g) data reflecting savings to the state and LEAs, if any, as a result of scholarship  
95 students exiting the public school system;  
96           (h) demographic information on scholarship students, including:  
97           (i) name  
98           (ii) date of birth;  
99           (iii) gender;  
100           (iv) race; and  
101           (v) last public school attended, if applicable;  
102           (i) whether the SGO has received complaints of discrimination, and any steps taken  
103 by the SGO to remedy the complaints; and  
104           (j) any other information requested by the Superintendent to facilitate monitoring of  
105 the program and preparation of the annual report required by Section [53E-1-202.1](#);  
106           (5) An SGO is subject to monitoring and corrective action in the same manner as  
107 a recipient under Rule R277-114.

108 **KEY: special needs opportunity scholarship**

109 **Date of Enactment or Last Substantive Amendment:**

110 **Authorizing, and Implemented, or Interpreted Law: [Art X, Sec 3; 53E-3-401\(4\); Title](#)**  
111 **[53E, Chapter 7, Part 4](#)**