

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

26 [\(b\) An SGO may not be a qualifying school.](#)

27 (7) "Scholarship student" has the same meaning as defined in Subsection [53E-7-](#)
28 [401](#)(12).

29 (8) "Special Needs Opportunity Scholarship Program" or "the program" means the

30 scholarship grant program established in Section 53E-7-402.

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

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

34 ~~[(2) The Superintendent may contract with up to two SGOs.]~~

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

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

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

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

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

46 (6)(a) The Superintendent shall:

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

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

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

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

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

57 (b) The Superintendent shall initiate corrective action against an SGO if an
58 employee or officer of the SGO is facing charges for, or has been convicted or pled guilty

59 or no contest to a violation of the following state laws or laws of another jurisdiction:

60 (i) any felony; or

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

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

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

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

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

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

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

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

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

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

80 (a) notify the Superintendent; and

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

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

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

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

- 88 (c) the number of scholarship students from each school district of residence
89 annually;
90 (d) the number of first time scholarship students annually;
91 (e) the amount disbursed for scholarship expenses annually, provided with any
92 detail requested by the Superintendent;
93 (f) the standards used by the SGO to determine whether a student is an eligible
94 student;
95 (g) data reflecting savings to the state and LEAs, if any, as a result of scholarship
96 students exiting the public school system;
97 (h) demographic information on scholarship students, including:
98 (i) name
99 (ii) date of birth;
100 (iii) gender;
101 (iv) race; and
102 (v) last public school attended, if applicable;
103 (i) whether the SGO has received complaints of discrimination, and any steps taken
104 by the SGO to remedy the complaints; and
105 (j) any other information requested by the Superintendent to facilitate monitoring of
106 the program and preparation of the annual report required by Section 53E-1-202.1.
107 (5) An SGO may not have a personal or professional relationship with a qualifying
108 school or an employee of a qualifying school that would create a conflict of interest,
109 favoritism, or bias in making awards from program donations.
110 ([5]6) An SGO is subject to monitoring and corrective action in the same manner
111 as a recipient under Rule R277-114.

112 **KEY: special needs opportunity scholarship**

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

114 **Authorizing, and Implemented, or Interpreted Law: Art X, Sec 3; 53E-3-401(4); Title**
115 **53E, Chapter 7, Part 4**