

**R277. Education, Administration.**

**R277-726. Statewide Online Education Program.**

**R277-726-1. Authority, Purpose, and Oversight Category.**

(1) This rule is authorized by:

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

(b) Section 53F-4-502, which created the program to enable eligible students, through publicly funded online courses, to:

(i) earn college credit by July 1, 2025;

(ii) earn high school graduation credit; and

(iii) earn middle school credit;

(c) Section 53F-4-514, which requires the Board to make rules:

(i) providing for the administration of the applicable statewide assessments to students enrolled in online courses;

(ii) that establish a course credit acknowledgment form and procedures for completing and submitting the form to the Board; and

(iii) that establish protocols for an online course provider to obtain approval to become an authorized or certified online course provider; and

(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.

(2) The purpose of this rule is to:

(a) define necessary terms;

(b) provide and describe a program registration agreement; and

(c) provide other requirements for an LEA, the Superintendent, a parent and a student, and an authorized online course provider for program implementation and accountability.

(3) This Rule R277-726 is categorized as Category 4 as described in Rule R277-111.

**R277-726-2. Definitions.**

(1) "Actively participates" means, for purposes of an initial funding distribution described in Section 53F-4-505, the student actively participates as defined by the provider in a written standard of active participation on record with the Superintendent.

(2) "Applicable statewide assessments" means:

(a) the high school assessment described in Section 53E-4-304 and Subsection R277-404-2(7);

(b) a standards assessment as defined in Section 53E-4-303; and

(c) a Utah alternative assessment as defined in Rule R277-404.

(3) "Approved absence" means an absence permitted in accordance with Subsection 53G-6-803(5).

(4) "Authorized online course provider" or "provider" means the same as the term is defined in Section 53F-4-501.

(5) "Certified online course provider" means the same as the term is defined in Section 53F-4-501.

(6) "Course completion" means that a student has completed a course with a passing grade and the provider has transmitted the course title, course code, grade, and credit to the primary LEA of enrollment and the Superintendent.

(7) "Course Credit Acknowledgment" or "CCA" means an agreement and registration record that:

(a) uses the Statewide Online Education Program application provided by the Superintendent; and

(b) except as provided in Section 53F-4-508, is signed by the designee of the primary school of enrollment, and the qualified provider.

(8) "Effective Date" means that, notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a delayed effective date that the Board is required to provide after the school year has ended for changes in administrative rule related to the Statewide Online Education Program, as described in Subsection 53F-4-514(1).

(9)(a) "Eligible student" means the same as the term is defined in Section 53F-4-501.

(b) A student up to the age of 19 in an adult education program may be an "eligible student" if the student re-enrolls in a public or private secondary school before the student's cohort's date of graduation.

(c) "Eligible student" does not include a student receiving a scholarship under Title 53F, Chapter 6, Part 4, Utah Fits All Scholarship Program.

(10) "Enrollment confirmation" means a provider's certification that a student initially registered and actively participated, as defined under Subsections (1) and (23)(b).

(11) "Executed CCA" means a CCA that has been executed pursuant to Subsection 53F-4-508(3) and received by the Superintendent.

(12) "Fee" means the same as the term is defined in Rule R277-407.

(13) "High school" means the same as the term is defined in Section 53F-4-501.

(14) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(15) "Middle school" means the same as the term is defined in Section 53F-4-501.

(16) "Online course" means the same as the term is defined in Section 53F-4-501 regardless of whether the student participates in the online course at home, at a school, at another location, or in any combination of these settings.

(17) "Online course payment" means the amount of funds withheld from a student's primary LEA and disbursed, or otherwise paid to the designated provider following satisfaction of the requirements of the law, and as directed in Subsection 53F-4-507(2) and Section 53F-4-518.

(18) "Primary LEA of enrollment" means:

(a) the LEA reporting the student to be in regular membership, and special education membership, if applicable; and

(b) the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

(19) "Primary school of enrollment" means:

(a) a student's school of record within a primary LEA of enrollment;

(b) the school that maintains the student's cumulative file, enrollment information, individualized education program, and transcript for purposes of high school graduation; and

(c) the school responsible for oversight and implementation of the student's educational requirements under the Individuals with Disabilities Education Act.

(20) "Resident school" means the district school within whose attendance boundaries the student's custodial parent or legal guardian resides.

(21) "School" means the same as the term is defined in Rule R277-100.

(22) "Section 504" means Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

(23) "Standard of active participation" means:

(a) the measure of student engagement used by an authorized online course provider to count a student in attendance and participation at least once every ten school days for a course consistent with Section R277-419-5;

(b) a document articulating evidence validating student participation contained in a learning management system and used by an authorized online course provider to qualify to receive payment as provided in Subsection 53F-4-505(4), including determining when a student is actively participating in a course defined in Section 53F-4-501; and

(c) the measure of student engagement used to monitor program outcomes and program financial compliance in accordance with Rule R277-114.

(24) "Statewide Online Education Program" or "program" means the Statewide Online Education Program created in Section 53F-4-502.

(25) "Teacher of record" means the teacher who is assigned by a provider and to whom students are assigned for purposes of reporting and data submissions to the Superintendent in accordance with Section R277-484-3 and this rule.

(26) "Underenrolled student" means a student with less than a full course load, as defined by the LEA, during the regular school day at the student's primary school of enrollment.

(27) "USBE course code" means a code for a designated subject matter course assigned by the Superintendent.

(28) "Withdrawal from online course" means that a student withdraws from or ceases participation in an online course as follows:

(a) within 20 calendar days of the start date of the course, if the student enrolls on or before the start date;

(b) within 20 calendar days of enrolling in a course, if the student enrolls after the start date;

(c) within 20 calendar days after the start date of the second 0.5 credit of a 1.0 credit course;

(d) as the result of a student suspension from an online course following adequately documented due process by the provider; or

(e) as a result of the student losing program eligibility, including when the student moves out of state.

### **R277-726-3. Course Credit Acknowledgment (CCA) Process.**

(1) A student, a student's parent, a counselor, or a provider may initiate a CCA.

(2)(a) A counselor designated by a student's primary school of enrollment shall review the student's CCA to ensure consistency with:

(i) graduation requirements; and

(ii) the student's plan for college and career readiness.

(b) The primary school and LEA of enrollment and an online course provider shall respond to the CCA using forms and processes provided by the Superintendent within 24 business hours.

(3)(a) The primary school of enrollment is not required to meet with the student or parent for approval of a course request.

(b) The Superintendent shall notify a primary school of enrollment of a student's enrollment in the program.

(4) If an eligible student has an IEP or Section 504 plan, the eligible student's primary LEA shall provide or facilitate enrollment by:

(a) forwarding a copy of the relevant portions of the eligible student's existing IEP or Section 504 accommodation plan to the authorized online course provider in accordance with federal law and regulations;

(b) ensure the eligible student's IEP team and the authorized online course provider review a course enrollment for compliance with Subsection (1);

(c) coordinate additional IEP team reviews, as necessary, with the authorized online course provider to ensure appropriate services, supports and accommodations are in place for the eligible student; and

(d) ensure the authorized online course provider is included in an eligible student's IEP revision.

(5) Once a student's enrollment and active participation is confirmed, the Superintendent shall direct funds to the provider, consistent with Sections 53F-4-505 through 53F-4-507, and Section 53F-4-518.

#### **R277-726-4. Eligible Student and Parent Rights and Responsibilities.**

(1) An eligible student may register for program credits consistent with Section 53F-4-503 and this rule.

(2) An eligible student may exceed a full course load during a regular school year if:

(a) the student's plan for college and career readiness indicates that the student intends to complete high school graduation requirements and exit high school before the rest of the student's high school cohort; or

(b) the student's local school board or charter school governing board has a policy that allows students to enroll in additional courses.

(3)(a) Only original credit may be funded through the program.

(b) Competency-based award of credit without engagement in a course of digital, teacher-led instruction may not be funded under Statewide Online Education Program and Minimum School Program provisions.

(4)(a) An eligible student is expected to complete courses in which the student enrolls in a timely manner consistent with Section 53F-4-505 and requirements for attendance and participation in accordance with Subsection R277-726-7(15) and Subsection R277-726-2(17).

(b) If a student changes the student's enrollment in the student's primary LEA or withdraws from an online course for any reason, it is the student's or student's parent's responsibility to notify the provider immediately.

(5) A student shall enroll in online courses, or declare an intention to enroll, during the school course registration period designated by the primary LEA of enrollment for regular course registration, provided the student's LEA notifies students of the opportunity to enroll in the program as described in Section 53F-4-513.

(6)(a) A student may alter a course schedule by dropping a traditional course and adding an online course in accordance with the primary school of enrollment's same established deadline for dropping and adding traditional courses.

(b) A student may enroll in a course outside of the primary school of enrollment's established deadline for dropping and adding traditional courses if the student is not seeking to alter a course schedule by dropping a traditional course and adding an online course but is instead seeking to add courses above full-time-enrollment consistent with an approved plan for early graduation.

(7)(a) Notwithstanding Subsection (5), an underenrolled student may enroll in an online course at any time during a calendar year.

(b) If an underenrolled student enrolls in an online course as described in Subsection (7)(a), the primary school of enrollment may immediately claim the student for the adjusted portion of enrollment by entering the course into the primary LEA's student information system and increasing membership, if necessary.

(8)(a) An authorized online course provider shall reasonably accommodate a request of a student's parent to visit and observe any class the student attends, including allowing appropriate access to digital systems of course delivery, as required in Section 53G-6-803.

(b) An authorized online course provider shall reasonably accommodate and record an excused absence at the request of a student's parent as an "approved absence" as described in Subsection 53G-6-803(5) if:

(i) the parent submits a written statement at least one school day before the scheduled absence; and

(ii) the student agrees to make up coursework for school days missed for the scheduled absence in accordance with LEA policy.

**R277-726-5. LEA Requirements and Responsibilities.**

(1) A primary school of enrollment shall facilitate student enrollment with any eligible providers selected by an eligible student consistent with course credit limits.

(2) A primary school of enrollment and a provider LEA shall use the CCA application, records, and processes provided by the Superintendent for the program.

(3) In accordance with Subsection 53F-4-509(5), if a student enrolled in a program course intends to graduate early and exceeds a full course load during a regular school year, a primary LEA of enrollment may mark the student as an early graduate and increase membership in accordance with Section R277-419-6, Section R277-700-6 and Rule R277-484 to account for credits in excess of full-time enrollment in a local student information system.

(4) A primary school or LEA of enrollment shall provide information about available online courses and programs:

- (a) in registration materials;
- (b) on the LEA's website; and
- (c) on the school's website.

(5) To facilitate enrollment as required by Section 53F-4-513, a primary school or LEA of enrollment shall provide the notice required under Subsection (4) concurrent with the high school course registration period designated by the LEA for the upcoming school year.

(6) A primary school of enrollment shall include a student's online courses in the student's enrollment records and, upon course completion, include online course grades and credits on the student's transcripts, including high school coursework completed before grade 9 using course title and core codes.

(7) A primary school of enrollment shall recognize credit earned toward high school graduation by a participating student through courses completed before grade 9 for purposes of high school graduation.



(8) A primary school of enrollment shall determine fee waiver eligibility for participating public school students pursuant to Rule R277-407.

(9)(a) If a participating student qualifies for a fee waiver, the student's primary LEA or school of enrollment shall provide the participating student access to an online course by:

(i) allowing a student access to necessary technology in a computer lab or other space within the school building during a school period or during the regular school day for the student to participate in an online course; or

(ii) providing a participating student technology and Wi-Fi needed for the student to participate outside of the school building.

(b) If a participating student who qualifies for a fee waiver is a home or private school student, the online course provider shall provide the participating home or private school student access to the online course.

(10) Where students access program courses using LEA-owned and managed devices, an LEA shall configure devices to participating students to form a separate user account or otherwise allow access to program provider materials using credentials supplied by a program provider.

(11) A primary school of enrollment shall provide participating students access to facilities for the student to participate in an online course during the regular school day, student leadership opportunities, sports, extracurricular and co-curricular activities, counseling, graduation, and other services offered to students generally without consideration of relative levels of participation in traditional courses versus program courses.

(12)(a) Course completions conferring high school credit shall be recorded in a student's record of credit and course completion for grade 9 to allow recognition toward grades 9-12, and high school graduation requirements.

(b) A primary LEA of enrollment accepting credit toward high school requirements is not required to independently verify:

(i) early graduation status; or

(ii) that high school courses taken through the program did not replace middle school courses for a student.

(13) When a student satisfactorily completes an online semester or quarter course:

(a) for high school credit, in accordance with the LEA's procedures, a designated counselor or registrar at the primary school of enrollment shall forward records of grades and high school graduation credit, listing core codes for each completed course; or

(b) for a student participating in the program before grade 9, the student's grade 9 primary school of enrollment shall record grades and credit per Subsection (11) once the student completes grade 8.

### **R277-726-6. Superintendent Requirements and Responsibilities.**

(1) The Superintendent shall provide a website for the program, including information required under Section 53F-4-512 and other information as determined by the Board.

(2) The Superintendent shall direct a provider to administer the Utah standards and high school assessments, as applicable, consistent with Section 53F-4-514 and Rule R277-404.

(3)(a) The Superintendent shall prepare and make available applications and program agreements for authorized online course providers.

(b) The Superintendent shall review each application within a reasonable amount of time and may invite prospective providers for interviews or further discussions of qualifications to clarify outstanding issues.

(4)(a) With the exception of the requirements of Subsection 53F-5-514(2), the Superintendent may determine space availability standards and appropriate course load standards for online courses consistent with Subsection 53F-4-512(3)(g).

(b) Course load standards may differ based on subject matter.

(5) Before approving a provider, consistent with Section 53F-4-504, the Superintendent shall:

(a) review Annual Financial Reports and state-administered test data to establish capacity of a program to serve an increased range of students while still meeting program requirements; and

(b) verify that a prospective provider:

(i) has a student information system that is compatible with USIMS;

(ii) is a 501(c)(3) non-profit entity;

(iii) demonstrates data security and privacy compliance capacity, consistent with FERPA, through submission of a report selected by the Superintendent or developed by the American International Society of Certified Public Accountants to evaluate data security controls and assess organization safeguards in place to protect sensitive data;

(iv) provides a description of the applicant's academic service experience offering general insight into the entity's:

(A) familiarity with education broadly;

(B) competency in instruction;

(C) academic philosophy; and

(v) meets other requirements identified by the Superintendent to establish the capacity of the provider to act as an LEA for purposes of program participation.

(6) The Superintendent may restrict a provider from offering coursework if the Superintendent determines that the provider demonstrates repeated low performance on statewide assessments in English Language Arts, math, or science.

(7) The Superintendent shall withhold funds from a primary LEA of enrollment and pay a provider consistent with Sections 53F-4-505 through 53F-4-507, and Section 53F-4-518.

(8) The Superintendent may refuse to provide funds under a CCA if the Superintendent finds that information has been submitted fraudulently or in violation of the law or Board rule by any of the parties to a CCA.

(9) The Superintendent shall receive and investigate complaints, and impose sanctions, if appropriate, regarding course integrity, financial mismanagement, enrollment fraud or inaccuracy, or violations of the law or this rule specific to the requirements and provisions of the program.

(10) If a Superintendent or federal entity's investigation finds that a provider has violated the IDEA or Section 504 provisions for a student taking online courses, the provider shall compensate the student's primary LEA of enrollment for costs related to compliance.

(11) The Superintendent may monitor an LEA's or program provider's compliance with any requirement of state or federal law or Board rule under the program.

(12) The Superintendent may withhold funds from a program provider for the participant's failure to comply with a reasonable request for records or information.

(13) Program records are available to the public subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(14) The Superintendent shall withhold online course payment from a primary LEA of enrollment and payments to an eligible provider at the nearest monthly transfer of funds, subject to verification of information, in an amount consistent with, and when a provider qualifies to receive payment, under Subsections 53F-4-505(4), 53F-4-507(3)(b) and 53F-4-508(2)(b).

(15) The Superintendent shall pay a provider consistent with Minimum School Program funding transfer schedules.

(16) Upon request from a primary LEA, the Superintendent shall provide an itemized report showing deductions described in Subsection 53F-4-508(2), by student and course enrolled.

(17)(a) The Superintendent may make decisions on questions or issues unresolved by Title 53F, Chapter 4, Part 5, Statewide Online Program Act or this rule on a case-by-case basis.

(b) The Superintendent shall report decisions described in Subsection (15)(a) to the Board consistent with the purposes of the law and this rule.

(18) In accordance with Title 53E, Chapter 4, Academic Standards, Assessments, and Materials, the Superintendent shall establish criteria for an authorized online course provider to submit for approval an online course that does not have an existing Board course code.

(19) The Superintendent may advise an eligible student regarding how an online course meets state graduation requirements.

(20) The Superintendent shall direct an eligible student to a counselor at the student's school for advice regarding:

(a) whether an online course meets LEA or school-specific graduation requirements; and

(b) all other counseling services.

(21) The Superintendent shall create a model cooperative agreement between a primary LEA and an authorized online course provider to be used when the primary LEA determines IEP services with costs are best provided by an authorized online course provider.

(22) The Superintendent shall organize and conduct annual mandatory training for relevant staff at a primary LEA that address program requirements for a primary LEA, including:

(a) reporting requirements and methods;

(b) uses of resources and tools to ensure adequate monitoring of an eligible student's progress;

(c) federal and state requirements for accommodating enrollments that involve special education;

(d) appropriate circumstances and methodologies for reducing an eligible student's schedule; and

(e) other necessary components as determined by the Superintendent.

(23) The Superintendent shall create a communication dashboard for the program that includes:

(a) a counselor contact list for an eligible student that is accessible to an authorized online course provider; and

(b) progress monitoring fields containing:

(i) grade progress reporting of an eligible student by an authorized online course provider;

(ii) flags for a student that is at risk of failing an online course; and

(iii) other information as determined by the Superintendent.

(24) The dashboard described in Subsection (23) shall be accessible to an eligible student's:

(a) primary LEA;

(b) school counselor;

- (c) authorized online course provider; and
- (d) parent.

**R277-726-7. Provider Requirements and Responsibilities.**

(1)(a) A provider shall administer the applicable statewide assessments to a participating private or home school student as directed by the Superintendent, including proctoring the applicable statewide assessments, consistent with Section 53F-4-510 and Rule R277-404.

(b) A provider is responsible for administrative and proctoring costs and planning for the applicable statewide assessments described in Subsection (1)(a).

(2) A provider shall:

(a) establish a procedure that a student or parent may complete online to excuse the student from statewide assessments as described in Subsection 53G-6-803(9); and

(b) record and maintain a choice to opt a student out of a statewide assessment in a manner prescribed by the Superintendent.

(3) A provider shall provide a parent or a student with email and telephone contacts for the provider during regular business hours to facilitate parent contact.

(4) A provider and any third party working with a provider shall, for all eligible students, satisfy Board requirements for:

(a) consistency with course standards as described in Sections 53F-4-514 and 53E-6-201;

(b) criminal background checks for provider employees consistent with Title 53G, Chapter 11, Part 4, Background Checks;

(c) documentation of student enrollment and participation consistent with a standard of active participation on record with the Superintendent; and

(d) compliance with:

(i) the IDEA;

(ii) Section 504; and

(iii) requirements for multilingual students.

(5) A provider shall receive payments for a student properly enrolled in the program from the Superintendent consistent with:

- (a) Board procedures;
- (b) Board timelines; and
- (c) Sections 53F-4-505 through 53F-4-508, Section 53F-4-518, and Board rule.

(6)(a) A provider may charge a fee consistent with other secondary schools and in accordance with Title 53G, Chapter 7, Part 5, Student Fees, and Rule R277-407.

(b) If a provider intends to charge a fee of any kind, the provider:

(i) shall notify the primary school of enrollment with whom the provider has the CCA of the purpose for fees and amounts of fees;

(ii) shall provide timely notice to a parent of required fees and fee waiver opportunities;

(iii) shall post fees on the provider website and disclose fees in course notes provided to the Superintendent as part of the provider's annual submission of course lists;

(iv) shall be responsible for fee waivers for an eligible student, including materials for a student designated fee waiver eligible by a student's primary school of enrollment;

(v) shall satisfy the requirements of Rule R277-407, as applicable; and

(vi) shall provide fee waivers to home school or private school students who meet fee waiver eligibility at the provider's expense.

(7) A provider shall maintain a student's records and comply with the federal Family Educational Rights and Privacy Act, Title 53E, Chapter 9, Part 3, Student Data Protection, and Rule R277-487, including:

(a) protecting the confidentiality of a student's records and providing a parent and an eligible student access to records; and

(b) providing a parent or student timely documentation of and access to evidence and records of educational performance, including:

(i) test scores;

(ii) grades;

(iii) progress and performance measures; and

(iv) completion of credit.

(8) Except as otherwise provided in this rule, a provider shall, using processes and applications provided by the Superintendent within five business days following the 20 school day statutory period allowed for student withdrawal:

- (a) confirm a student to be in active participation in a course; or
- (b) record a student's lack of confirmation.

(9) Following confirmation of a student's active participation, a provider shall:

(a) routinely update course records to reflect student participation as determined by student credit accruals;

(b) submit a student's credit and grade to the Superintendent, providing for each included course:

(i) the core code and short course description provided by the Superintendent associated with the course in program enrollment applications;

(ii) as necessary, the unique title a provider utilizes to identify a course to a designated counselor or registrar at the primary school of enrollment, and the student's parent; and

(c) complete the submissions required under Subsection (9)(b):

(i) 30 days after a student satisfactorily completes an online semester or quarter course; or

(ii) by June 30 annually.

(10) A provider may not withhold a student's credits, grades, or transcripts from the student, parent, or the student's school of enrollment for any reason.

(11)(a) If a provider suspends or expels a student from an online course for disciplinary reasons, the provider shall notify the student's primary LEA of enrollment by placing the student on disciplinary withdrawal.

(b) A provider is responsible for due process procedures for student disciplinary actions in the provider's online program.

(c)(i) A provider shall notify the Superintendent of a student's administrative withdrawal, if the student is inactive in a course for more than ten days, using forms and processes developed by the Superintendent for this purpose.



(ii) If a student, parent, or counselor fails to request reinstatement following notification under Subsection (c)(i), the provider shall formally withdraw the student within 72 hours and notify the student, parent, and primary LEA of the action.

(12) If a student entitled to services under the IDEA is removed from an online program, the primary LEA shall work with the student and the student's parents to identify alternatives to provide a free and appropriate public education.

(13)(a) A provider shall provide to the Superintendent a list of course options using USBE-provided course codes.

(b) Beginning with the 2024-25 school year, a provider may only code program courses as semester or quarter courses.

(c) A provider shall update the provider's course offerings annually.

(14) A provider shall serve a student on a first-come-first-served basis who desires to take courses and who is designated eligible by a primary school of enrollment if desired courses have space available.

(15) A provider shall maintain and provide records and systems as part of a public online school or program, including:

(a) financial and enrollment records;

(b) information for accountability, program monitoring, and audit purposes; and

(c) providing timely documentation of student participation, enrollment, educator credentials, and additional data for other purposes including giving a student's primary school of enrollment access to the student's records to appropriately support the student.

(16) A provider shall maintain the following for at least five calendar years after the student graduates:

(a) test scores;

(b) student grades;

(c) completion of credit; and

(d) other progress and performance measures.

(17)(a) A provider is responsible for complete and timely submissions of record changes to executed CCAs and submission of other reports and records as required by the Superintendent.

(b) A provider shall update CCAs to the nearest credit value earned by June 30 annually.

(c) A provider may only maintain an CCA open after June 30 if a student remains actively engaged in coursework, meeting the provider's standard of active participation.

(18)(a) Before the inception of coursework, as a component of the provider's initial communication of provisions of the provider's standard of active participation, a provider shall inform a student and the student's parent of travel expectations to fulfill course requirements.

(b) Travel expectations to fulfill course requirements as described in Subsection (18)(a) include a requirement to participate in a proctored assessment or other proctored or assessment requirement outside a student's home, including travel to participate in statewide assessments at a secure testing site.

(19)(a) An LEA may participate in the program as a provider by offering a school or program consistent with Rule R277-115 to a Utah student in grades 6-12 who is not a resident student of the LEA and a regularly-enrolled student of the LEA consistent with Sections 53F-4-501 and 53F-4-503.

(b) An LEA program created in accordance with Subsection (20)(a) for serving students in grades 9-12 online must partner with an accredited school and shall:

- (i) report grades and credit earned by a student to the Superintendent; and
- (ii) record educator assignments consistent with Rule R277-484.

(20) A program school or program shall:

(a) be accredited consistent with Rule R277-410;

(b) have a designated administrator who meets the requirements of Rule R277-309;

(c) ensure that a student who qualifies for a fee waiver receives services offered by and through the public schools consistent with Section 53G-7-504 and Rule R277-407;

(d) maintain student records consistent with:

(i) the federal Family Educational Rights and Privacy Act, 20 U.S.C. 1232g and 34 CFR Part 99;

(ii) Rule R277-487;

(iii) this rule; and

(e) shall offer course work:

(i) aligned with Utah Core standards as described in Sections 53E-4-202, 53F-4-505, and 53F-4-514;

(ii) in accordance with program requirements; and

(iii) in accordance with Rules R277-700 and R277-404;

(f) may not issue transcripts under the name of a third party provider; and

(g) shall record teaching assignments by November 15 annually consistent with Rule R277-484 and Section R277-312-3, either directly or through a partner school in accordance with Subsection (20)(b).

(21) An LEA that offers an online program or school as a provider under the program:

(a) shall employ only educators licensed in Utah as teachers;

(b) may not employ an individual whose educator license has been suspended or revoked;

(c) shall require employees to meet requirements of Title 53G, Chapter 11, Part 4, Background Checks, before the provider offering services to a student;

(d) may only employ teachers who meet the requirements of Section 53E-6-201, Section 53F-4-504, and Rule R277-309;

(e) for a provider that provides an online course, including to a private or home school student, shall agree to administer and, before approval as an authorized online course provider, have the capacity to proctor and carry out the applicable statewide assessments, consistent with Sections 53E-4-302, 53F-2-103, and Rule R277-404;

(f) in accordance with Section R277-726-8, shall provide services to a student consistent with requirements of the IDEA, Section 504, and Title VI of the Civil Rights Act of 1964 for multilingual students;

(g) shall submit CCAs to the Superintendent before the provider initiating instruction of a student;

(h) may not begin offering instruction to a student until the Superintendent issues a notice of enrollment, and the provider follows other enrollment procedures as

prescribed by the Superintendent for the student, and for each course the student participates in; and

(i) shall agree that funds may be withheld by the Superintendent consistent with Sections 53F-4-505, 53F-4-506, 53F-4-508, and 53F-4-518.

(22) A provider shall post required information online on the provider's individual website including required assessment and accountability information.

(23) A provider contracting with a third party to provide educational services to students participating with the provider through the Statewide Online Education Program shall develop a written monitoring plan to supervise the activities and services provided by the third party provider to ensure:

(a) a third party provider is complying with:

(i) federal law;

(ii) state law; and

(iii) Board rules;

(b) curriculum provided by a third party provider is aligned with the Board's core standards and rules;

(c) a third party provider has access to curriculum for alignment and adjustment to ensure the curriculum is consistent with the Utah core standards in Rule R277-700 and a Board approved core code;

(d) supervision of third party facilitation by an educator licensed in Utah:

(i) assigned by the provider; and

(ii) reported as teacher of record per Section R277-484-3 and Subsection R277-726-2(3); and

(e) consistent with the LEA's administrative records retention schedule, maintenance of documentation of the LEA's supervisory activities.

(24) A provider shall offer courses consistent with standards outlined in an applicable Statewide Services Agreement, which may be updated or amended to reflect changes in law, rule, or recommended practice.

(25) All authorized online course providers are subject to the same approval and annual performance review as described for a certified online course provider in Section

R277-726-11 while utilizing the applicable applications for an authorized online course provider described in Subsections R277-726-3(1)(a) and (b).

(26) A provider utilizing a third party shall establish contractual and procedural safeguards:

(a) retaining legal and procedural authority to open coursework to a participating student only upon issuance of a notice of enrollment regarding a particular course and credit;

(b) signifying the provider's authority to interact instructionally with a student not regularly-enrolled in an LEA, but participating in SOEP courses with approval of the student's primary LEA of enrollment; and

(c) including acceptance of financial responsibility by a primary LEA of enrollment.

(27) A provider is not required to independently verify:

(a) early graduation status; or

(b) that high school courses taken through the Statewide Online Education Program did not replace Middle School courses.

(28)(a) A provider shall adhere to requirements to remain certified and in good standing within the program, including:

(b) before providing services to students, ensuring that 100% of all educators assigned as teacher of record for all course sections shall be appropriately licensed, endorsed and aligned with core code describing course assignment; and

(c) complying with requirements applicable to an authorized online course provider described in this Rule R277-726, including the requirement to maintain a course completion rate of at least 80%.

(29) If the Superintendent finds that an authorized online course provider is out of compliance with Subsection (28), the Superintendent shall provide the provider with a list of violations and a reasonable timeline for provider to cure the non-compliance.

(30) If an authorized online course provider fails to correct a violation identified under Subsection (29) within the time provided, the Superintendent may remove the provider from participation in the program.

**R277-726-8. Services to Students with Disabilities and other Unique Learning Needs Participating in the Program.**

(1)(a) If a student wishes to receive services under Section 504 of the Rehabilitation Act of 1973, the student shall make a request with either the student's primary school of enrollment or a provider.

(b) Responsibility for ensuring a request is evaluated in accordance with federal law, Utah Code, and Board Rule resides with a primary school of enrollment.

(c) If a student's request for services is initially directed to a provider, the provider shall immediately contact the 504 coordinator of the student's primary school of enrollment.

(d) Under the direction of the primary school of enrollment where feasible, the student's primary school of enrollment and the provider shall jointly evaluate a student's request under Subsection (1)(a) and determine if the student is eligible for related aids, accommodations, and services under Section 504.

(e) The provider shall implement the Section 504 plan in accordance with Subsection (1)(d).

(2) If a student's request for services is initially directed to a provider and a good faith effort at cooperation with the student's primary school of enrollment is unsuccessful, the provider may determine student eligibility and provide services.

(3) If a student with an existing Section 504 plan for related aids, accommodations, or services newly enrolls in online courses or requests amendments related to an existing plan for related aids, accommodations, and services:

(a) the primary school of enrollment and the provider shall jointly prepare a Section 504 plan in accordance with Subsection (4); and

(b) the provider shall implement the Section 504 plan and provide related aids, accommodations, and services to the student in accordance with the student's Section 504 plan.

(4) To prepare or amend a 504 plan for related aids, accommodations, and services under Section 504 of the Rehabilitation Act of 1973, the committee evaluating the student shall:

(a) be drawn jointly from the student's primary school of enrollment and the provider; and

(b) include persons knowledgeable about the student, the meaning of the evaluation data, and placement options available in a virtual environment.

(5) If a home or private school student requests services under Section 504 of the Rehabilitation Act of 1973, a provider may determine student eligibility, prepare a 504 plan for the home or private school student's online program, and provide related aids, accommodations, and services.

(6) For a student enrolled in a primary LEA of enrollment, if a student participating in the program qualifies to receive services under the IDEA:

(a) the student's primary LEA of enrollment shall:

(i) forward a copy of an existing IEP or relevant sections to a provider;

(ii) working with a provider LEA representative, review and determine implementation of an IEP for the student within a timeline consistent with IDEA requirements;

(iii) working with a provider LEA representative, review and revise, as the IEP determines appropriate an existing IEP with necessary accommodations and services, considering the courses selected by the student;

(iv) provide the IEP described in Subsection (6)(a)(i) to the provider within 24 business hours of completion of the student's IEP or within a timeline consistent with IDEA requirements; and

(v) continue to claim the student in the primary LEA of enrollment's membership; and

(b) the provider shall provide special education services and accommodations to the student in accordance with the student's IEP.

(7) If a home or private school student requests an evaluation for eligibility to receive special education services:

(a) the home or private school student's resident school shall:

(i) evaluate the student's eligibility for services under the IDEA;

(ii) if eligible, the student may enroll in the LEA that will prepare an IEP for the student, with input from the provider LEA, in accordance with the timelines required by the IDEA;

(iii) provide the IEP described in Subsection (7)(a)(ii) to the provider within 72 business hours of completion of the student's IEP; and

(b) the provider shall provide special education services and accommodations to the student in accordance with the student's IEP described in Subsection (7)(a)(i) including in cases where the provider utilizes a third party provider for delivery of educational or other services.

(8)(a) A provider shall implement a Section 504 plan for an eligible student as directed by the primary LEA or school of enrollment.

(b) If a student with an existing Section 504 plan newly enrolls in online courses or requests amendments to an existing plan, the primary school of enrollment and the provider, working jointly, shall prepare a revised Section 504 plan, as appropriate.

(c) If the student's request for services is initially directed to a provider and a good faith effort at cooperation with the student's primary school of enrollment is unsuccessful, the provider may determine student eligibility and provide services.

(d) When preparing or amending a Section 504 plan, the evaluation committee shall include individuals from the student's primary school of enrollment and the provider, including persons knowledgeable about the student, the meaning of the evaluation data, and placement options available in a virtual environment.

(9)(a) A provider shall administer a home language survey upon initial student registration.

(b) If a provider suspects that a student qualifies for alternative language services or other Title III services, a provider shall contact the Title III Coordinator at the student's primary LEA or primary school of enrollment.

(c) A provider shall implement an individual learning plan as directed by the primary LEA or primary school of enrollment for a student who is eligible for alternative language services of Title II services.

(10) For a student needing alternative language services, who is multilingual, an immigrant, or a refugee:



(a) the provider and the primary LEA or primary school of enrollment shall develop an individual learning plan in cooperation with persons knowledgeable about the student, the meaning of the evaluation data, and the placement options available for the student in a virtual environment, which outline a student's current level of ability, and identifies specific goals for future attainment, progress, and exit criteria ;

(b) the primary LEA or primary school of enrollment shall identify the need for alternative language services through administration of a home language survey and WIDA testing; and

(c) the primary LEA or primary school of enrollment shall administer a language instruction Educational Program in which a student learning English is placed for developing and attaining English proficiency, while meeting state standards.

#### **R277-726-9. Limited Appropriations for Special Populations.**

(1) The Superintendent shall allocate the annual appropriation for home and private school tuition, along with any carryover or unobligated funds.

(2) The Superintendent shall distribute funds appropriated to the Statewide Online Education Program to support students from small high schools, home schools, or private schools based on the needs of the eligible students.

(3)(a) Subject to legislative appropriations available for this purpose, for each public high school with a student population of less than 1,000 students, the Superintendent shall incentivize program use by small schools by prioritizing small schools to the extent of funding available for this purpose.

(b) The Superintendent shall carry forward unallocated funds to meet the needs of eligible students.

(4) The Superintendent shall determine student and LEA eligibility using prior-year UTREx end of year data.

#### **R277-726-10. Other Information.**

(1) A primary school of enrollment shall communicate with a provider, where necessary, to set reasonable timelines and standards and shall inform providers of timelines necessary for reporting grades and credit for graduating seniors.

(2) A provider shall adhere to timelines and standards described in Subsection (1) for student grades and enrollment in online courses for purposes of:

- (a) school awards and honors;
- (b) Utah High School Activities Association participation; and
- (c) high school graduation.

(3) If a student is at risk of academic failure or at risk of not graduating with the student's graduation cohort, a provider shall utilize automated notices or other means to:

(a) inform counselors at the student's primary school of enrollment that student is at risk of academic or other failure; and

(b) before quarter 4 a student's senior school year, inform counselors at the student's primary school of enrollment that the senior student is at risk of failure.

#### **R277-726-11. Certified and Authorized Online Course Provider Application Approval, Program Requirements, and Fees.**

(1) An entity other than an authorized online course provider may become a certified online course provider if the entity submits an application on a form provided by the Superintendent.

(2) An entity shall submit an application on or before the annual deadline established by the Superintendent.

(3) The Superintendent shall review each application within a reasonable amount of time and may invite prospective providers for interviews or further discussion of qualifications to clarify outstanding issues.

(4) If the Superintendent finds the application submitted is satisfactory, including a demonstration of the entity's ability to adhere to requirements within the application, this rule, and state law, the Superintendent shall forward the application to the Board for final approval.

(5) Once approved by the Board, an entity shall become a certified online course provider.

(6) A certified online course provider shall adhere to the following requirements to remain certified and in good standing within the program, including:

(a) complying with a process within existing state systems to provide the Superintendent with the provider's educator's licensing, endorsement, certification, and assignment information;

(b) if the provider's educator is teaching an online course for the provider, the educator's online course assignments shall be listed in CACTUS or USIMS under an employing school;

(c) if an authorized online course provider that is not a certified online course provider forwards an educator to the Board for a provider-specific license as described in Sections 53F-4-514 and 53E-6-201, the educator's employment and online course assignments shall be listed in CACTUS or USIMS;

(d) before providing services to students, 100% of the provider's educators assigned as teacher of record for all course sections shall be appropriately licensed and endorsed for any course assignment as required in Rule R277-309;

(e) requirements applicable to an online course provider described in this rule, including the requirement to maintain a course completion rate of at least 80%;

(f) additional requirements prescribed in the application; and

(g) state laws applicable to an online course provider, including Sections 53F-4-501 et. seq. and Sections 53F-4-504 and 53F-4-514.

(7) If the Superintendent finds the certified online course provider is not in compliance with any requirement as outlined in Subsection (6) the Superintendent shall provide the certified online course provider with a list of non-compliance issues and a reasonable timeline for the certified online course provider to cure the instances of non-compliance.

(8) If a certified online course provider fails to correct instances of non-compliance within the allotted timeline as described in Section 53F-4-504, the certified online course provider shall be removed from the program.

(9) A certified online course provider that has been removed from the program may apply in the application round following removal from the program for re-admission to the program using an application provided by the Superintendent.

(10) A certified online course provider shall remit fees to the Superintendent for participation in the program as follows:

(a) 5% of revenue collected for the first \$200,000 received pursuant to Section 53F-4-505; and

(b) 1% of revenue collected after the first \$200,000 received pursuant to Sections 53F-4-505 and 53F-4-514.

**R277-726-12. Online Concurrent Enrollment.**

For a student enrolled in a concurrent enrollment course through an SOEP provider, to the extent there is a conflict between this rule and Title 53F, Chapter 4, Part 5, Statewide Online Education Program, and Title 53E, Chapter 10, Part 3, Concurrent Enrollment, the concurrent enrollment code provisions shall govern.

**KEY: statewide online education program**

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**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-4-510; 53F-4-514; 53E-3-401**