R277-709 WAS APPROVED BY THE UTAH STATE BOARD OF EDUCATION ON NOVEMBER 8, 2013. R277-709 IS PUBLISHED IN THE DECEMBER 1, 2013 UTAH STATE BULLETIN, SUBJECT TO A 30-DAY COMMENT PERIOD, WITH A FIRST POSSIBLE EFFECTIVE DATE OF JANUARY 7, 2014.

R277. Education, Administration.
R277-709. Education Programs Serving Youth in Custody.
R277-709-1. Definitions.

A. "Accreditation" means the formal process for evaluation and approval under the Standards for the Northwest Accreditation Commission supported by AdvancED.

[~~A~~]B. "Board" means the Utah State Board of Education.

[~~B~~]C. "Custody" means the status of being legally subject to the control of another person or a public agency.

[~~C~~]D. "LEA" means local education agency, including local school boards/ public school districts and charter schools.

[~~E. "Student Education/Occupation Plan (SEOP)" means a plan developed by a student and the student's parent or guardian, in consultation with school counselors, teachers and administrators that:~~

~~(1) is initiated at the beginning of grade 7;~~

~~(2) identifies a student's skills and objectives;~~

~~(3) maps out a strategy to guide a student's course selection; and~~

~~(4) links a student to postsecondary options, including higher education and careers.~~]

E. "SEOP/plan for college and career readiness" means a plan for students in grades 7-12 that includes:

(1) all Board and LEA board graduation requirements;

(2) the individual student's specific course plan that will meet graduation requirements and provides a supportive sequence of courses consistent with identified post-secondary training goals;

(3) evidence of parent, student, and school representative involvement annually; and

(4) attainment of approved workplace skill competencies.

[~~D~~]F. "USOE" means the Utah State Office of Education.

[~~E~~]G. "Youth in Custody" means a person defined under Sections 53A-1-403(2)(a) and 62A-15-609 who does not have a high school diploma or a GED certificate.

R277-709-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-403(2)(b) which requires the Board to adopt rules for the distribution of funds for the education of youth in custody, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify operation standards, procedures, and distribution of funds for youth in custody programs.

R277-709-3. Student Evaluation, Education Plans, and LEA Programs.

A. Each student meeting the eligibility definition of youth

in custody shall have a written SEOP/plan for college and career readiness defining the student's academic achievement, and shall specify known in-school and extra-school factors which may affect the student's school performance.

B. Annually, the student's SEOP/plan for college and career readiness shall be reviewed by the student, school staff and parent/guardian and maintained in the student's file.

[~~C. For purposes of agency data sharing, a data matching/agency waiver release form shall be signed by the qualified student's guardian and maintained in the student's file.~~]

[~~D~~]C. The program receiving the student is responsible for obtaining the student's evaluation records, and, in cases where the records are not current, for conducting the evaluation, which may include a special education eligibility evaluation, as quickly as possible so that unnecessary delay in developing a student's education program is avoided.

[~~E~~]D. The LEA in which the program resides has the responsibility to conduct Individuals with Disabilit[~~y~~]ies Education Act (IDEA) child find activities within the program, consistent with Utah State Board of Education Special Education Rule II.A.

[~~F~~]E. Based upon the results of the student evaluation, an appropriate [~~student education~~]SEOP/plan for college and career readiness and, as needed, a special education Individualized Education Program (IEP), shall be prepared for each eligible youth in custody. The plan shall be reviewed and updated at least once each year or immediately following transfer of a student from one program to another, whichever is sooner. The plan is developed in cooperation with appropriate representatives of other service agencies working with a student. The plan shall specify the responsibilities of each of the agencies towards the student and is signed by each agency's representative.

[~~G~~]F. All provisions of the IDEA and state special education rules apply to youth in custody programs. Youth in custody programs shall be included in the USOE general supervision monitoring annually.

[~~H~~]G. LEA Youth in Custody Programs

(1) The LEA shall provide an education program for the student which conforms as closely as possible to the student's education plan. Educational services shall be provided in the least restrictive environment appropriate for the student's behavior and educational performance.

(2) Youth in custody who do not require educational services or supervision beyond students not in custody shall be considered part of the district's regular enrollment and provided education services.

(3) Youth in custody shall not be assigned to, or remain in, restrictive or non-mainstream programs simply because of their custodial status, past behavior that does not put others at risk,

or the inappropriate behavior of other students.

(4) Education programs to which youth in custody are assigned shall meet the standards which are adopted by the Board for that type program. Compliance shall be monitored by the Utah State Office of Education in periodic review visits.

(5) Credit earned in youth in custody programs that are accredited shall be accepted at face value in Utah's public schools consistent with R277-410-9, Transfer or Acceptance of Credit.

(6) Educational services shall be sufficiently coordinated with non-custody programs to enable youth in custody to continue their education with minimal disruption following discharge from custody.

[~~I~~]H. Youth in custody shall be admitted to classes within five school days following arrival at a new residential placement. If evaluation and SEOP/plan for college and career readiness or IEP development are delayed beyond that period, the student shall be enrolled temporarily based upon the best information available. The temporary schedule may be modified to meet the student's needs after the evaluation and planning process has been completed.

[~~J~~]I. Following a student's release from custody or transfer to a new program, the sending program shall bring all available school records up to date and forward them to the receiving program consistent with Section 53A-11-504.

[~~K. Student demographic information, copies of birth certificates, standardized test records, including special education IEP documents, shall be scanned into the youth in custody database (YICopia) as records become available.~~]

[~~L~~]J. All grades, attendance records and special education SCRAM records shall be maintained in the LEA's SIS system in compliance with R277-484, Data Standards.

R277-709-4. Program Fiscal and Accountability Procedures.

A. State funds appropriated for youth in custody, including the Utah State Hospital, are allocated in accordance with Section 53A-1-403 and Section 62A-15-609.

B. Funds appropriated for youth in custody programs shall be subject to Board accounting, auditing, and budgeting rules and policies.

C. Board Contracts for Youth in Custody Services

(1) the Board shall, through an annually submitted and approved state application/plan, contract with LEAs to provide educational services for youth in custody. The respective responsibilities of the Board, LEAs, and other local service providers for education shall be established in the contract. An LEA may subcontract with local non-district educational service providers for the provision of educational services;

(2) the Board may contract through an RFP process with an appropriate entity only if the Board determines that the LEA where the facility is located is unable or unwilling to provide adequate

education services.

(3) Youth in custody students receiving education services by or through an LEA are students of that LEA.

D. State funds appropriated for youth in custody are allocated on the basis of an annually submitted and approved application made by the LEA where a youth in custody program resides.

E. The share of funds distributed to an LEA is based upon criteria which include the number of youth in custody served [~~in the district~~]by the LEA, the type of program required for the youth, the setting for providing services, and the length of the program.

F. Funds approved for youth in custody projects shall be expended solely for the purposes described in the respective funding application.

G. The USOE may retain no more than five percent of the total youth in custody annual legislative appropriation for administration, oversight, monitoring, and evaluation of youth in custody programs and their compliance with law and this rule.

H. Up to three percent of the five percent of administrative funds allowed under R277-709-4[~~F~~]G may be withheld by the USOE and directed to students attending youth in custody programs for short periods of time or to new or beginning youth in custody programs or initiatives benefitting youth in custody students.

I. Funds, state (flow through or state contract) or federal (reimbursement) or both, may be withheld or terminated for noncompliance with state policy and procedures and associated reporting timelines as defined by the Board.

J. The Board or its designee shall develop uniform forms, deadlines, reporting and accounting procedures and guidelines to govern the youth in custody school-based programs and Utah State Hospital funded programs.

R277-709-5. Youth in Custody Programs and Students with Disabilities.

A. The youth in custody program is separate from and not conducted under the state's education program for students with disabilities. Custodial status alone does not qualify a youth in custody student as a student with a disability under laws regulating education for students with disabilities.

B. Youth in custody students may be eligible for special education funding and services based upon special education rules and regulations.

C. Youth in custody students qualifying for special education services shall receive educational instruction as defined in R277-750, Education Programs for Students with Disabilities.

D. Special education procedural safeguards shall apply to all IDEA eligible youth in custody students regardless of instructional location.

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E. Special education programs provided through youth in custody programs shall be monitored on an annual basis as defined by special education rules and policies.

R277-709-6. Youth in Custody Program Staffing and Monitoring.

A. Education staff assigned to youth in custody shall be qualified and appropriate for their assignments as defined in R277-503, Licensing Routes.

B. Youth in custody programs shall maintain accreditation as part of the LEA where the programs are located consistent with R277-410, Accreditation of Schools.

C. The USOE shall evaluate youth in custody programs through regular site monitoring visits and monthly desk monitoring, as directed by the USOE.

D. Monitored programs shall prepare and submit to the USOE a written corrective action plan for each monitoring finding as requested by the USOE.

E. A youth in custody program's failure to resolve audit/monitoring findings as soon as possible, and, in no case, later than one calendar year from date of notice, may result in the termination of state funding as provided in R277-114, Corrective Action and Withdrawal or Reduction of Program Funds.

F. The USOE may review LEA or State Hospital records and practices for compliance with the law and this rule.

R277-709-7. Utah State Hospital.

A. Funding for the education programs at the Utah State Hospital shall be contingent upon a legislative appropriation.

B. State education contract funds appropriated for State Hospital youth in custody are allocated to the LEA on a reimbursement basis. The State Hospital shall annually submit requests for reimbursement.

C. Funding shall be distributed to the LEA on a reimbursement basis subject to required documentation that supports expenditures.

D. Funds may be withheld or terminated for noncompliance with state and federal policies and procedures and associated reporting requirements and timelines as defined by the USOE.

E. All students qualifying for special education services shall be served by the special education standards defined in R277-750.

F. Staff providing special education services shall comply with all state special education rules, policies and procedures, including SCRAM reporting, child find, assessment and financial accountability, as defined by the Board.

R277-709-8. Youth in Custody/LEA Fiscal Procedures.

A. Ten percent or $50,000, whichever is less, of state youth in custody funds or educational contract funds (State Hospital) not expended in the current fiscal year may be carried over by eligible

LEAs and spent in the next fiscal year with written approval of the USOE.

B. A request to carry over funds shall be submitted for approval by August 1. Approved carry over amounts shall be detailed in a revised budget submitted to the USOE no later than October 1 in the year requested.

C. Excess funds may be considered in determining the LEA's allocation for the next fiscal year.

D. Annually, fund balances in excess of ten percent or $50,000 shall be recaptured by the USOE no later than February 1 and reallocated to the youth in custody programs based on the criteria and procedures provided by the USOE.

R277-709-9. Program, Curriculum, Outcomes and Student Mastery.

A. Youth in custody programs shall offer courses consistent with the Utah Core standards under R277-700.

B. The Utah core standards and teaching strategies may be modified or adjusted to meet the individual needs of youth in custody students.

C. Course content mastery shall be stressed rather than completion of predetermined seat time in a classroom.

D. Written course descriptions for GED Test preparation shall be made available for youth in custody students who consider pursuing GED Tests as an alternative to traditional Carnegie diploma courses.

R277-709-10. Confidentiality.

A. Transcripts and diplomas prepared for youth in custody shall be issued in the name of an existing LEA which also serves non-custodial youth and shall not bear references to custodial status.

B. School records which refer to custodial status, juvenile court records, and related matters shall be kept separate from permanent school records, but are nonetheless student records if retained by the LEA.

C. Members of the interagency team which design and oversee student education plans shall have access, through team member representatives of the participating agencies, to relevant records of the various agencies. The records and information obtained from the records remain the property of the supplying agency and shall not be transferred or shared with other persons or agencies without the permission of the supplying agency, the student's legal guardian, or the eligible student under 20 U.S.C. 1232g(d).

D. All information maintained in permanent form on a student from whatever source derived or received, is a student record under the Family Educational Rights and Privacy Act, [~~34 C.F.R., Part 99~~]20 U.S.C. 1232g.

E. All confidentiality provisions that pertain to eligible students with disabilities under IDEA apply.

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R277-709-11. Coordinating Council.

A. The Department of Human Services and the Board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services. The Council shall operate under the guidelines developed and approved by the Department of Human Services and the Board.

B. Council membership shall include a representative of the following:

(1) Department of Human Services;

[~~(2) Division of Substance Abuse and Mental Health;~~]

([~~3~~]2) Division of Juvenile Justice Services;

([~~4~~]3) Division of Child and Family Services;

([~~5~~]4) Utah State Office of Education;

(5) Administrative Office of the Courts; and

[~~(6) Utah State Hospital administration;~~

~~(7) LEAs;~~

~~(8) juvenile courts;~~

~~(9) community-based private providers;~~

~~(10) foster parents;~~]

([~~11~~]6) a Native American tribe[~~; and~~

~~(12) Guardian ad Litem's Office~~].

R277-709-12. Advisory Councils.

A. Each LEA serving youth in custody shall establish a local interagency advisory council which shall be responsible for advising member agencies concerning coordination of youth in custody programs. Members of the council shall include, if applicable to the LEA, the following:

(1) a representative of the Division of Child and Family Services;

(2) a representative of the Division of Juvenile Justice Services;

(3) directors of agencies located in an LEA such as detention centers, secure lockup facilities, observation and assessment units, and the Utah State Hospital;

(4) a representative of community-based alternative programs for custodial juveniles; and

(5) a representative of the LEA.

B. The council shall adopt by-laws for its operation.

C. Local interagency advisory councils shall meet at least quarterly.

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1-403(1); 53A-1-401(3)