

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
13 Opportunity Scholarship Program.

14

15 **R277-626-2. Definitions.**

16 (1) "Eligible student" has the same meaning as defined in [~~Subsection~~] [Section](#)
17 [53E-7-401\[\(+\)\]](#).

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

20 (3) "Qualifying school" has the same meaning as defined in [~~Subsection~~] [Section](#)
21 [53E-7-401\[\(7\)\]](#).

22 (4) "Request for proposals" or "RFP" has the same meaning as defined
23 [~~Subsection~~] [Section](#) [63G-6a-103\[\(70\)\]](#).

24 (5) "Scholarship expense" has the same meaning as defined in Subsection 53E-
25 7-401(10).

26 (6)(a) "Scholarship granting organization" or "SGO" has the same meaning as
27 defined in [~~Subsection~~] [Section](#) [53E-7-401\[\(+\)\]](#).

28 (b) An SGO may not be a qualifying school.

29 (7) "Scholarship student" has the same meaning as defined in ~~[Subsection]~~
30 Section 53E-7-401~~[(12)]~~.

31 (8) "Special Needs Opportunity Scholarship Program" or "the program" means the
32 scholarship grant program established in Section 53E-7-402.

33

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

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

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

39 (3) The Superintendent shall provide a tax credit certificate form, in accordance
40 with Subsection 53E-7-~~404(2)(a)~~ 407(1) for use by an approved SGO.

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

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

46 (b) The Superintendent may recommend remedial action against an SGO in
47 accordance with Rule R277-114 and Subsection 53E-7-404~~[(5)]~~(4).

48 (6)(a) The Superintendent shall:

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

51 (ii) require, as a condition for approval, that a qualifying school reimburse
52 scholarship money to an SGO if an eligible student discontinues enrollment early~~[-]; and~~

53 (iii) establish agreed upon procedures for required monitoring or auditing of an
54 SGO.

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

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

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

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

64 (i) any felony; or

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

67

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

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

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

73 (b) An SGO may not commingle the scholarship funds with any other funds and may
74 only use funds from the account to cover scholarship expenses.

75 (3)(a) An SGO may only award scholarship funds for a scholarship expense at a
76 qualifying school.

77 (b)(i) Prior to an SGO paying expenses for tuition and fees, a parent of an eligible
78 student shall personally approve a funds transfer to the qualifying school.

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

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

83 ([b]c) An SGO may disburse reimbursements to an eligible student's parent upon
84 proof of payment of other approved scholarship expenses.

85 (~~3~~4) If an eligible student discontinues enrollment in a qualifying school, the SGO
86 shall:

- 87 (a) notify the Superintendent; and
- 88 (b) obtain reimbursement of scholarship money from the qualifying school.

89 (~~4~~5) An SGO shall provide the following information to the Superintendent
90 ~~[biannually by January 31 and July 31]~~ quarterly by deadlines set by the Superintendent:

91 (a) the amount of tuition and fees each qualifying school charges ~~[for the 2020-21~~
92 ~~through the 2023-24 school years]~~ annually;

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

95 (c) the number of scholarship students from each school district of residence
96 annually;

97 (d) the number of first time scholarship students annually;

98 (e) the amount disbursed for scholarship expenses annually, provided with any
99 detail requested by the Superintendent;

100 (f) the standards used by the SGO to determine whether a student is an eligible
101 student;

102 (g) data reflecting savings to the state and LEAs, if any, as a result of scholarship
103 students exiting the public school system;

104 (h) demographic information on scholarship students, including:

105 (i) name

106 (ii) date of birth;

107 (iii) gender;

108 (iv) race; ~~[and]~~

109 (v) student SSID number; and

110 (vi) last public school attended, if applicable;

111 (i) whether the SGO has received complaints of discrimination, and any steps
112 taken by the SGO to remedy the complaints; and

113 (j) any other information requested by the Superintendent to facilitate monitoring
114 of the program and preparation of the annual report required by Section [53E-\[1-202.1\] 7-](#)
115 [404](#).

116 ([5]6) An SGO may not have a personal or professional relationship with a
117 qualifying school or an employee of a qualifying school that would create a conflict of
118 interest, favoritism, or bias in making awards from program donations.

119 ([6]7) An SGO is subject to monitoring and corrective action in the same manner
120 as a recipient under Rule [R277-114](#).

121

122 **KEY: special needs opportunity scholarship**

123 **Date of Enactment or Last Substantive Amendment: January 8, 2021**

124 **Authorizing, and Implemented, or Interpreted Law: [Art X, Sec 3](#); [53E-3-401\(4\)](#); [Title](#)
125 [53E, Chapter 7, Part 4](#)**