

1 **R277. Education, Administration.**

2 **R277-709. Education Programs Serving Youth in Custody.**

3 **R277-709-1. 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 of public education in the Board;

7 (b) Subsection 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) Subsection 53E-3-503(2)(b) which requires the Board to adopt rules for the  
10 distribution of funds for the education of youth in custody.

11 (2) The purpose of this rule is to specify operation standards, procedures, and  
12 distribution of funds for youth in custody programs.

13

14 **R277-709-2. Definitions.**

15 (1) "Accreditation" means the formal process for evaluation and approval from a  
16 regional accrediting body.

17 (2) "Custody" means the status of being legally subject to the control of another  
18 person or a public agency.

19 (3)(a) "Youth in custody" means a person for whom the Board is responsible to  
20 provide educational services under Subsections 53E-3-503(2)(a) and 62A-15-609(1).

21 (b) "Youth in custody" does not include a person taken into custody for the primary  
22 purpose of obtaining access to education programs provided for youth in custody.

23

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

25 (1) Each student meeting the eligibility definition of youth in custody shall have a  
26 written ~~SEOP~~ plan for college and career readiness defining the student's academic  
27 achievement, which shall specify known in-school and extra-school factors which may  
28 affect the student's school performance.

29 ~~SEOP~~ plan for college and career readiness maintained in the student's file.

30 (3) A program receiving a youth in custody student is responsible for obtaining the

31 student's evaluation records, and, in cases where the records are not current, for  
32 conducting the evaluation, which may include a special education eligibility evaluation, as  
33 quickly as possible so that unnecessary delay in developing a student's education  
34 program is avoided.

35 (4) The LEA in which a youth in custody program is located has the responsibility  
36 to conduct IDEA child find activities within the program, consistent with Section R277-  
37 750-2 and Utah State Board of Education Special Education Rule II.A.

38 (5)(a) A youth in custody program shall prepare an appropriate ~~[SEOP]~~ plan for  
39 college and career readiness and, as needed, an Individualized Education Program for  
40 each eligible youth in custody based upon the results of the student evaluation.

41 (b) A youth in custody program shall review and update the plans required under  
42 Subsection (5)(a) at least once each year or immediately following transfer of a student  
43 from one program to another, whichever is sooner.

44 (c) A youth in custody program shall develop the plans required under Subsection  
45 (5)(a) in cooperation with appropriate representatives of other service agencies working  
46 with a student.

47 (d) The plans required under Subsection (5)(a) shall specify the responsibilities of  
48 each of the agencies towards the student and shall be signed by each agency's  
49 representative.

50 (6)(a) All provisions of the IDEA and state special education rules apply to youth in  
51 custody programs.

52 (b) The USBE Special Education Department shall include youth in custody  
53 programs in annual general supervision monitoring.

54 (7)(a) An LEA shall provide an education program for the student which conforms  
55 as closely as possible to the student's education plan.

56 (b) An LEA shall provide educational services in the least restrictive environment  
57 appropriate for the student's behavior and educational performance.

58 (8) An LEA shall consider youth in custody who do not require educational  
59 services or supervision beyond students not in custody to be part of the district's regular  
60 enrollment and provided education services.

61 (9) An LEA shall not assign or allow youth in custody to remain in restrictive or  
62 non-mainstream programs simply because of:

- 63 (a) their custodial status;
- 64 (b) past behavior that does not put others at risk; or
- 65 (c) the inappropriate behavior of other students.

66 (10)(a) Education programs to which youth in custody are assigned shall meet the  
67 standards which are adopted by the Board for that type program.

68 (b) The Superintendent shall monitor compliance in periodic review visits.

69 (11) An LEA shall accept credit earned in youth in custody programs that are  
70 accredited at face value in Utah's public schools consistent with Section R277-410-9,  
71 Transfer or Acceptance of Credit.

72 (12) A youth in custody program shall sufficiently coordinate educational services  
73 with non-custody programs to enable youth in custody to continue their education with  
74 minimal disruption following discharge from custody.

75 (13)(a) A youth in custody program shall admit youth in custody to classes within  
76 five school days following arrival at a new residential placement.

77 (b) If a youth in custody program cannot complete an evaluation and ~~SEOP~~ plan  
78 for college and career readiness or IEP development within five school days, the program  
79 shall enroll the student temporarily based upon the best information available.

80 (c) A temporary schedule may be modified to meet the student's needs after the  
81 evaluation and planning process is complete.

82 (14)(a) Following a student's release from custody or transfer to a new program,  
83 the sending program shall bring all available school records up to date and forward them  
84 to the receiving program consistent with Section 53G-6-604.

85 (b) An LEA shall maintain all grades, attendance records and special education  
86 SCRAM records in the LEA's SIS system in compliance with Rule R277-484, Data  
87 Standards.

88

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

90 (1) The Superintendent shall allocate state funds appropriated for youth in

91 custody, including the Utah State Hospital, in accordance with Section 53E-3-503 and  
92 Section 62A-15-609.

93 (2) Funds appropriated for youth in custody programs shall be subject to Board  
94 accounting, auditing, and budgeting rules and policies.

95 (3) The Superintendent shall, through an annually submitted and approved state  
96 application and plan, contract with LEAs to provide educational services for youth in  
97 custody.

98 (a) A contract required by Subsection (3) shall include the respective  
99 responsibilities of the Board, LEAs, and other local service providers for education.

100 (b) An LEA may subcontract with local non-district educational service providers  
101 for the provision of educational services.

102 (4) The Superintendent may only contract through an RFP process with an  
103 appropriate entity if the Superintendent determines that the LEA where the facility is  
104 located is unable or unwilling to provide adequate education services.

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

107 (6) Notwithstanding the procedures for determining an alternative district of  
108 residency in Rule R277-621, an LEA may not create an alternative district of residency for  
109 a student who has been placed in custody primarily in an attempt to receive services in a  
110 state funded youth in custody program.

111 (7) The Superintendent shall allocate state funds appropriated for youth in custody  
112 on the basis of an annually submitted and approved application made by the LEA where  
113 a youth in custody program resides.

114 (8) The Superintendent shall base the share of funds distributed to an LEA upon  
115 criteria, which include:

116 (a) the number of youth in custody served by the LEA;

117 (b) the type of program required for the youth;

118 (c) the setting for providing services; and

119 (d) the length of the program.

120 (9) A youth in custody program shall expend funds approved for youth in custody

121 projects solely for the purposes described in the respective funding application.

122 (10) The Superintendent may retain no more than five percent of the total youth in  
123 custody annual legislative appropriation for administration, oversight, monitoring, and  
124 evaluation of youth in custody programs and their compliance with law and this rule.

125 (11) Up to three percent of the five percent of administrative funds allowed under  
126 Subsection (9) may be withheld by the Superintendent and directed to students attending  
127 youth in custody programs for short periods of time or to new or beginning youth in  
128 custody programs or initiatives benefitting youth in custody students.

129 (12) The Superintendent may withhold federal or state funds for noncompliance  
130 with state policy and procedures and associated reporting timelines in accordance with  
131 Rule R277-114.

132 (13) The Superintendent shall develop uniform forms, deadlines, reporting and  
133 accounting procedures and guidelines to govern the youth in custody school-based  
134 programs and Utah State Hospital funded programs.

135

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

137 (1) The youth in custody program is separate from and not conducted under the  
138 state's education program for students with disabilities.

139 (2) Custodial status alone does not qualify a youth in custody student as a student  
140 with a disability under laws regulating education for students with disabilities.

141 (3) Youth in custody students may be eligible for special education funding and  
142 services based upon special education rules and regulations.

143 (4) Youth in custody students qualifying for special education services shall  
144 receive educational instruction as defined in Rule R277-750, Education Programs for  
145 Students with Disabilities.

146 (5) Special education procedural safeguards shall apply to all IDEA eligible youth  
147 in custody students regardless of instructional location.

148 (6) The Superintendent shall monitor special education programs provided  
149 through youth in custody programs on an annual basis in accordance with special  
150 education rules and policies.

151

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

153 (1) Education staff assigned to youth in custody shall be qualified and appropriate  
154 for their assignments in accordance with Board licensing rules.

155 (2) Youth in custody programs shall maintain accreditation as part of the LEA  
156 where the programs are located consistent with Rule R277-410, Accreditation of Schools.

157 (3) The Superintendent shall evaluate youth in custody programs through regular  
158 site monitoring visits and monthly desk monitoring.

159 (4) Monitored programs shall prepare and submit to the Superintendent a written  
160 corrective action plan for each monitoring finding, as requested by the Superintendent.

161 (5) A youth in custody program's failure to resolve monitoring findings as soon as  
162 possible, and, in no case, later than one calendar year from date of notice, may result in  
163 the termination of state funding as provided in Rule R277-114.

164 (6) The Superintendent may review LEA or State Hospital records and practices  
165 for compliance with the law and this rule.

166

167 ~~**R277-709-7. Utah State Hospital.**~~

168 ~~——(1) Funding for the education programs at the Utah State Hospital shall be~~  
169 ~~contingent upon a legislative appropriation.~~

170 ~~——(2)(a) State education contract funds appropriated for State Hospital youth in~~  
171 ~~custody are allocated to the LEA on a reimbursement basis.~~

172 ~~——(b) The State Hospital shall annually submit requests for reimbursement.~~

173 ~~——(3) Funding shall be distributed to the LEA on a reimbursement basis subject to~~  
174 ~~required documentation that supports expenditures.~~

175 ~~——(4) Funds may be withheld or terminated for noncompliance with state and federal~~  
176 ~~policies and procedures and associated reporting requirements and timelines as defined~~  
177 ~~by the Superintendent and in accordance with Rule R277-114.~~

178 ~~——(5) The Utah State Hospital shall serve all students qualifying for special~~  
179 ~~education services in accordance with the special education standards adopted in the~~  
180 ~~Special Education Rules and Rule R277-750.]~~

181

182 **R277-709-~~[8]~~7. Youth in Custody/LEA Fiscal Procedures.**

183 (1) Ten percent ~~[or \$50,000, whichever is less,]~~ of state youth in custody funds or  
184 educational contract funds not expended in the current fiscal year may be carried over by  
185 eligible LEAs and spent in the next fiscal year with written approval of the Superintendent.

186 (2) An LEA shall submit a request to carry over funds for approval by August 1.

187 (3) If approved, an LEA shall detail carry over amounts in a revised budget  
188 submitted to the Superintendent no later than October 1 in the year requested.

189 (4) The Superintendent may consider excess funds in determining the LEA's  
190 allocation for the next fiscal year.

191 (5)(a) The Superintendent shall annually recapture fund balances in excess of ten  
192 percent ~~[or \$50,000]~~ no later than February 1.

193 (b) The Superintendent shall reallocate funds recaptured in accordance with  
194 Subsection (5)(a) to the youth in custody programs based on the criteria and procedures  
195 provided by this rule.

196

197 **R277-709-~~[9]~~8. Program, Curriculum, Outcomes and Student Mastery.**

198 (1) Youth in custody programs shall offer courses consistent with the Utah Core  
199 standards under Rule R277-700.

200 (2) A youth in custody program may modify or adjust Utah core standards and  
201 teaching strategies to meet the individual needs of youth in custody students.

202 (3) Youth in custody programs shall stress course content mastery rather than  
203 completion of predetermined seat time in a classroom.

204 (4) The Superintendent shall make available written course descriptions for GED  
205 Test preparation for youth in custody students who consider pursuing GED Tests as an  
206 alternative to traditional Carnegie diploma courses.

207

208 **R277-709-~~[10]~~9. Confidentiality.**

209 (1) An LEA shall issue transcripts and diplomas prepared for youth in custody in  
210 the name of an existing LEA, which also serves non-custodial youth and shall not bear

211 references to custodial status.

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

215 (3)(a) Members of the interagency team which design and oversee student  
216 education plans shall have access, through team member representatives of the  
217 participating agencies, to relevant records of the various agencies.

218 (b) The records and information obtained from the records remain the property of  
219 the supplying agency and shall not be transferred or shared with other persons or  
220 agencies without the permission of the supplying agency, the student's legal guardian, or  
221 the eligible student, as defined under 20 U.S.C. 1232g(d).

222 (4) Youth in custody programs shall comply with all state and federal privacy  
223 requirements for student records.

224

225 **R277-709-1~~1~~0. Coordinating Council.**

226 (1)(a) The Department of Human Services and the Board shall appoint a  
227 coordinating council in accordance with Subsection 53E-3-503(6)(a) to plan, coordinate,  
228 and recommend budget, policy, and program guidelines for the education and treatment  
229 of persons in the custody of the Division of Juvenile Justice Services and the Division of  
230 Child and Family Services.

231 (b) The coordinating council shall operate under guidelines developed and  
232 approved by the Department of Human Services and the Board.

233 (2) Coordinating council membership shall include a representative of the  
234 following:

235 (a) the Department of Human Services;

236 (b) the Division of Substance Abuse and Mental Health;

237 (c) the Division of Juvenile Justice Services;

238 (d) the Division of Child and Family Services;

239 (e) the Board;

240 (f) the Administrative Office of the Courts;

241 (g) school district superintendents; and

242 (h) a Native American tribe.

243

244 **R277-709-1~~2~~1. Advisory Councils.**

245 (1)(a) Each LEA serving youth in custody shall establish a local interagency  
246 advisory council which shall be responsible for advising member agencies concerning  
247 coordination of youth in custody programs.

248 (b) Members of council required under Subsection (1)(a) shall include, if  
249 applicable to the LEA, the following:

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

251 (ii) a representative of the Division of Juvenile Justice Services;

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

254 (iv) a representative of community-based alternative programs for custodial  
255 juveniles; and

256 (v) a representative of the LEA.

257 (2) A local interagency advisory council required under Subsection (1)(a) shall:

258 (a) adopt by-laws for its operation; and

259 (b) meet at least quarterly.

260

261 **KEY: students, education, juvenile courts**

262 **Date of Enactment or Last Substantive Amendment: ~~April 9, 2018~~2019**

263 **Notice of Continuation: February 26, 2018**

264 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~53A-1-403(1)~~ 53E-  
265 3-401(4); ~~53A-1-401~~ 53E-3-503(2)(b)**