

R277-417 received final approval by the Utah State Board of Education on April 4, 2019. R277-417 is published in the May 1, 2019 Utah State Bulletin, subject to a 30-day comment period, with an effective date of July 2, 2019.

**R277. Education, Administration.**

**R277-417. Prohibiting LEAs and Third Party Providers from Offering Incentives or Disbursement for Enrollment or Participation.**

**R277-417-1. Authority and Purpose.**

(1) This rule is authorized by:

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

(b) 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[~~:~~

~~—(a)] to provide standards and procedures for prohibiting LEAs and third party providers from offering incentives for student enrollment.[~~]; and~~~~

~~—(b) to provide standards for an LEA working with a third party provider to ensure the third party provider complies with this R277-417.]~~

**R277-417-2. Definitions.**

(1)(a) "Disbursement" means the payment of money or provision of other item of value greater than \$10, per school year, offered as payment or compensation to a student or to a parent or guardian for:

(i) a student's enrollment in an LEA; or

(ii) a student's participation in an LEA's program.

(b) "Disbursement" does not include a reimbursement paid by an LEA to a student, parent or guardian, for an expenditure incurred by the student, parent or guardian on behalf of the LEA if:

(i) the expenditure is for an item that will be the property of the LEA; and

(ii) the expenditure was preauthorized by the LEA, as evidenced by preauthorization documentation.

(2) "Educational good or service" means the same as that term is defined in Section

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53E-3-401.

~~[(2)]~~ (3) "Incentive" means one of the following given to a student or to the student's parent or guardian by an LEA or by a third party provider as a condition of the student's enrollment in an LEA or specific program for any length of time, during any school year:

- (a) money greater than \$10; or
- (b) an item of value greater than \$10.

~~[(3)]~~ (4) "Program" means a program within a school that is designed to accomplish a predetermined curricular objective or set of objectives.

~~[(4)]~~ (5) "Section 504 accommodation plan" required by Section 504 of the Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

~~[(5)]~~ (6) "Third party provider" means a third party who provides an educational good or service[s] on behalf of an LEA.

**R277-417-3. LEA and Third Party Provider Use of Public Funds for Incentives and Disbursement.**

(1) An LEA or a third party provider may not use public funds, as defined under Subsection 51-7-3(26), to provide the following to a student, parent or guardian, individual, or group of individuals:

- (a) an incentive for a student's:
  - (i) enrollment in an LEA; or
  - (ii) participation in an LEA's program; or
- (b) a referral bonus for a student's:
  - (i) enrollment in an LEA; or
  - (ii) participation in an LEA's program.

(2) An LEA or third party provider may not use public funds to provide a disbursement to a student or the student's parent or guardian for:

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- (a) curriculum exclusively selected by a parent;
- (b) instruction not provided by the LEA;
- (c) private lessons or classes not provided by:
  - (i) an employee of the LEA; or
  - (ii) a third party provider who meets all of the requirements of ~~[R277-417-4]~~ R277-115;
- (d) technology devices exclusively selected by a parent; or
- (e) other educational expense exclusively selected by a parent.
- (3) An LEA may use public funds to provide:
  - (a) uniforms, technology devices, curriculum, or materials and supplies to a student if the uniforms, technology devices, curriculum, or materials and supplies are:
    - (i) available to all students enrolled in the LEA or program within the LEA; or
    - (ii) authorized by the student's college and career readiness plan, IEP, or Section 504 accommodation plan; or
  - (b) internet access for instructional purposes to a student:
    - (i) in kindergarten through grade 6; or
    - (ii) in grade 7 through grade 12 if:
      - (A) the internet access is provided in accordance with the fee waiver policy requirements of Section R277-407-8[6]; or
      - (B) failure to provide the internet access will cause economic hardship on the student or parent.
- (4) An LEA or third party provider shall ensure that equipment purchased or leased by the LEA or third party provider remains the property of the LEA and is subject to the LEA's asset policies if:
  - (a) the LEA or third party provider purchases equipment; and
  - (b) provides the equipment to a student or to the student's parent or guardian.

~~**[R277-417-4. Third Party Provider Provision of Educational Services.]**~~

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~~—— (1) An LEA that contracts with a third party provider to provide services on behalf of the LEA shall:~~

~~—— (a) establish monitoring and compliance procedures to ensure that a third party provider who provides educational services to a student on behalf of the LEA complies with the provisions of this rule;~~

~~—— (b) develop a written monitoring plan to supervise the activities and services provided by the third party provider;~~

~~—— (c) ensure the third party provider is complying with:~~

~~—— (i) federal law;~~

~~—— (ii) state law; and~~

~~—— (iii) Board rules;~~

~~—— (d) monitor and supervise all activities of the third party provider related to services provided by the third party provider to the LEA; and~~

~~—— (e) maintain documentation of the LEA's supervisory activities consistent with the LEA's administrative records retention schedule.~~

~~—— (2) An LEA shall:~~

~~—— (a) verify the accuracy and validity of a student's enrollment verification data, prior to enrolling a student in the LEA; and~~

~~—— (b) provide a student and the student's parent or guardian with notification of the student's enrollment in a school or program within the LEA.~~

~~—— (3) The Board or the Superintendent may require an LEA to repay public funds to the Superintendent if:~~

~~—— (a) the LEA or the LEA's third party provider fails to comply with the provisions of this rule; and~~

~~—— (b) the repayment is made in accordance with the procedures established in R277-114.]~~

**KEY: student, enrollment, incentives**

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**Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4)**