

1 **R277. Education, Administration.**

2 **R277-407. School Fees.**

3 **R277-407-1. Authority and Purpose.**

4 (1) This rule is authorized under:

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

7 (b) Article X, Section 2 of the Utah Constitution, which provides that:

8 (i) public elementary schools shall be free; and

9 (ii) secondary schools shall be free, unless the Legislature authorizes the imposition
10 of fees;

11 (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the
12 Board's duties and responsibilities under the Utah Constitution and state law; ~~and~~

13 (d) Subsection 53G-7-503(2), which ~~authorizes~~ requires the Board to adopt rules
14 regarding student fees~~;~~; and

15 (e) Subsection 53G-7-504 which authorizes waiver of fees for eligible students with
16 appropriate documentation.

17 (2) This rule also serves to comply with the order arising from the Permanent Injunction
18 issued in Doe v. Utah State Board of Education, Civil No. 920903376 (3rd District 1994).

19 (3) The purpose of this rule is to:

20 (a) permit the orderly establishment of a system of reasonable fees;

21 (b) provide adequate notice to students and families of fees and fee waiver
22 requirements; and

23 (c) prohibit practices that would:

24 (i) exclude those unable to pay from participation in school-sponsored activities; or

25 (ii) create a burden on a student or family as to have a detrimental impact on
26 participation.

27 **R277-407-2. Definitions.**

28 (1) “Co-curricular activity” means an activity, course, or program, outside of school
29 hours, that also includes a required regular school day program or curriculum.

30 (2) “Extracurricular activity” means an activity or program for students, outside of the
31 regular school day, that:

32 (a) is sponsored, recognized, or sanctioned by an LEA; and

33 (b) supplements or compliments, but is not part of, the LEA's required program or
34 regular curriculum.

35 ~~[(4)](3)(a)~~ “Fee” means something of monetary value requested or required by an LEA
36 as a condition to a student’s participation in an activity, class, or program provided, sponsored,
37 or supported by a school.

38 (b) “Fee” includes money or something of monetary value raised by a student or the
39 student’s family through fund-raising. ~~[any charge, deposit, rental, or other mandatory~~
40 ~~payment, however designated, whether in the form of money or goods:~~

41 ~~—— (b) An admission fee, transportation charge, or similar payment to a third party is a fee~~
42 ~~if the charge is made in connection with an activity or function sponsored by or through a~~
43 ~~school.~~

44 ~~—— (c) For purposes of this rule, a charge related to the National School Lunch Program~~
45 ~~is not a fee.]~~

46 (4)(a) “Fundraiser,” “fundraising,” or “fundraising activity” means an activity or event
47 provided, sponsored, or supported by a school that uses students to generate funds to raise
48 money to:

49 (i) provide financial support to a school or any of the school’s classes, groups, teams,
50 or programs; or

51 (ii) benefit a particular charity or for other charitable purposes.

52 (b) “Fundraiser,” “fundraising,” or “fundraising activity” may include:

53 (i) the sale of goods or services;

54 (ii) the solicitation of monetary contributions from individuals or businesses; or

55 (iii) other lawful means or methods that use students to generate funds.

56 (c) "Fundraiser," "fundraising," or "fundraising activity" does not include an alternative
57 method of raising revenue without students.

58 (5) "Group fundraiser" or "group fundraising" means a fundraising activity where the
59 money raised~~[(a)]~~ is used for the mutual benefit of the group, team, or organization.~~[(b)] and~~
60 ~~[(b)] is not used to offset the fees of individual students.~~

61 (6) "Individual fundraiser" or "individual fundraising" means a fundraising activity where
62 money is raised by each individual student to pay the individual student's fees.

63 (7)(a) "Instructional equipment" means equipment or supplies required for a student to
64 use as part of a secondary course that become the property of the student upon exiting the
65 course.

66 (b) "Instructional equipment" includes course related tools or instruments.

67 ~~[(2)]~~(8) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the
68 Blind.

69 (9) "Noncurricular club" has the same meaning as that term is defined in Section 53G-
70 7-701.

71 (10) "Non-waivable charge" means a cost, payment, or expenditure that:

72 (a) is a personal discretionary charge or purchase, including:

73 (i) a charge for insurance, unless the insurance is required for a student to participate
74 in an activity, class, or program;

75 (ii) a charge for college credit related to the successful completion of:

76 (A) a concurrent enrollment class; or

77 (B) an advanced placement examination; or

78 (iii) except when requested or required by an LEA, a charge for a personal consumable
79 item such as a yearbook, class ring, letterman jacket or sweater, or other similar item;

80 (b) is subject to sales tax as described in Utah State Tax Commission Publication 35,
81 Sales Tax Information for Public and Private Elementary and Secondary Schools; or

82 (c) by Utah Code, federal law, or Board rule is designated not to be a fee, including:

83 (i) a school uniform as provided in Section 53G-7-801;

- 84 (ii) a school lunch; or
- 85 (iii) a charge for a replacement for damaged or lost school equipment or supplies.
- 86 ~~[(3)](6) "Optional project" means a non-mandatory project chosen and retained by a~~
87 ~~student, for which the student covers the cost or provides the materials, in lieu of, or in addition~~
88 ~~to a mandatory classroom project otherwise available to the student which would require only~~
89 ~~school-supplied materials.]~~
- 90 ~~[(8)](11)(a) "Provided, sponsored, or supported by a school" means an activity, class,~~
91 ~~program, fundraiser, club, camp, clinic, or other event that:~~
- 92 (i) is authorized by an LEA or school, according to local education board policy; ~~and~~ or
- 93 (ii) satisfies at least one of the following conditions:
- 94 (A) the activity, class, program, fundraiser, club, camp, clinic, or other event is managed
95 or supervised by an LEA or school, or an LEA or school employee;
- 96 (B) the activity, class, program, fundraiser, club, camp, clinic, or other event uses, more
97 than inconsequentially, the LEA or school's facilities, equipment, or other school resources;
- 98 or
- 99 (C) the activity, class, program, fund-raising event, club, camp, clinic, or other event is
100 supported or subsidized, more than inconsequentially, by public funds, including the school's
101 activity funds or minimum school program dollars.
- 102 (b) "Provided, sponsored, or supported by a school" does not include an activity, class,
103 or program that meets the criteria of a noncurricular club as described in Title 53G, Chapter
104 7, Part 7, Student Clubs.
- 105 ~~[(4)](12)(a) "Provision in lieu of fee waiver" means an alternative to fee payment or~~
106 ~~waiver of fee payment.~~
- 107 (b) "Provision in lieu of fee waiver" does not include a [A] plan under which fees are
108 paid in installments or under some other delayed payment arrangement. ~~[is not a waiver or~~
109 provision in lieu of fee waiver.]
- 110 (13) "Regular school day" has the same meaning as the term "school day" described
111 in Section R277-419-2.

112 (14) "Requested or required by an LEA as a condition to a student's participation"
113 means something of monetary value that is impliedly or explicitly mandated or necessary for
114 a student, parent, or family to provide so that a student may:

115 (a) fully participate in school or in a school activity, class, or program;

116 (b) successfully complete a school class for the highest grade; or

117 (c) avoid a direct or indirect limitation on full participation in a school activity, class, or
118 program, including limitations created by:

119 (i) peer pressure, shaming, stigmatizing, bullying, or the like; or

120 (ii) withholding or curtailing any privilege that is otherwise provided to any other student.

121 ~~(14)~~(15)(a) "Something of monetary value" means a charge, expense, deposit, rental,
122 fine, or payment, regardless of how the payment is termed, described, requested or required
123 directly or indirectly, in the form of money, goods or services.

124 (b) "Something of monetary value" includes:

125 (i) charges or expenditures for a school field trip or activity trip, including related
126 transportation, food, lodging, and admission charges;

127 (ii) payments made to a third party that provide a part of a school activity, class, or
128 program;

129 (iii) classroom supplies or materials; and

130 (iv) a fine, except for a student fine specifically approved by an LEA for:

131 (A) failing to return school property;

132 (B) losing, wasting, or damaging private or school property through intentional,
133 careless, or irresponsible behavior; or

134 (C) improper use of school property, including a parking violation.

135 ~~(14)~~(16)(a) "Student supplies" means items which are the personal property of a
136 student which, although used in the instructional process, are also commonly purchased and
137 used by persons not enrolled in the class or activity in question and have a high probability of
138 regular use in other than school-sponsored activities.

139 (b) "Student supplies" include:

- 140 (i) pencils;
141 (ii) paper;
142 (iii) notebooks;
143 (iv) crayons;
144 (v) scissors;
145 (vi) basic clothing for healthy lifestyle classes; and
146 (vii) similar personal or consumable items over which a student retains ownership.
147 (c) "Student supplies" does not include items listed in Subsection ~~[(5)](16)~~(b) ~~[for~~
148 ~~which]~~ if the requirement from the school for the student supply includes specific requirements
149 such as brand, color, or a special imprint [are set] in order to create a uniform appearance not
150 related to basic function.

151 ~~[(6)](17)~~ "Supplemental Security Income for children with disabilities" or "SSI" means
152 a benefit administered through the Social Security Administration that provides payments for
153 qualified children with disabilities in low income families.

154 ~~[(7)](18)~~ "Temporary Assistance for Needy Families" or "TANF," means a program,
155 formerly known as AFDC, which provides monthly cash assistance and food stamps to low-
156 income families with children under age 18 through the Utah Department of Workforce
157 Services.

158 ~~[(8)](19)~~(a) "Textbook" means instructional material necessary for participation in a
159 course or program, regardless of the format of the material. ~~[a book, workbook, or materials~~
160 ~~similar in function, which are required for participation in a course of instruction.]~~

161 (b) "Textbook" does not include instructional equipment.

162 ~~[(10)](20)~~ "Waiver" means a full or partial release from the requirement of payment
163 of a fee and from any provision in lieu of fee payment.

164 **R277-407-3. Classes and Activities During the Regular School Day.**

165 (1) No fee may be charged in kindergarten through grade six ~~[sixth grades]~~ for:

166 (a) materials;

- 167 (b) textbooks;
- 168 (c) supplies, except for student supplies described in Subsection (6)~~supplies~~; or
- 169 (d) any class or regular school day activity, including assemblies and field trips.
- 170 ~~[(2) A school may charge textbook fees in grades seven through twelve.]~~
- 171 ~~[(2)(a) In accordance with the requirements of Section R277-407-4, an LEA may~~
- 172 ~~charge a fee [may be charged] in connection with an activity, class, or program provided,~~
- 173 ~~sponsored, or supported by a school for a student in kindergarten through grade six if the~~
- 174 ~~activity, class, or program provided, sponsored, or supported by a school takes place outside~~
- 175 ~~the regular school day if the fee is approved as provided in this R277-407-]~~
- 176 (2)(a) An LEA may charge a fee in connection with an activity, class, or program
- 177 provided, sponsored, or supported by a school for a student in a secondary school that takes
- 178 place during ~~or outside of~~ the regular school day if the fee is approved as provided in this
- 179 R277-407.
- 180 (b) All fees are subject to the fee waiver provisions of Section R277-407-8.
- 181 (3)(a) Notwithstanding, Subsection (1) and except as provided in Subsection (3)(b),
- 182 a school may charge a fee[s] to a student[s] in [sixth] grade six if the student attends a school
- 183 that includes any of grades seven through twelve.
- 184 (b) A school that provides instruction to students in grades other than grades six
- 185 through twelve may not charge fees for grade six unless the school follows a secondary model
- 186 of delivering instruction to the school's grade six students.
- 187 ~~(b)~~(c) If a school charges fees in accordance with Subsection (3)(a), the school shall
- 188 annually provide notice to parents that the school will collect fees from grade six [sixth grades]
- 189 students and that the fees are subject to waiver.
- 190 (4) If a class is established or approved, which requires payment of fees or purchase
- 191 of items in order for students to participate fully and to have the opportunity to acquire all skills
- 192 and knowledge required for full credit and highest grades, the fees or costs for the class shall
- 193 be subject to the fee waiver provisions of Rule R277-407-~~[6]~~8.

194 (5)(a) In project related courses, projects required for course completion shall be free
195 to all students.

196 (b) A school may require a student at any grade level to provide materials or pay for
197 an additional [optional] discretionary project[;] if the student chooses a project in lieu of, or in
198 addition to a required classroom project.

199 (c) A school shall avoid allowing high cost additional projects, particularly if
200 authorization of an additional discretionary project results in pressure on a student by teachers
201 or peers to also complete a similar high cost project.

202 ~~[(b)]~~ (d) A school may not require a student to select an additional [optional] project
203 as a condition [for enrolling in or completing] to enrolling, completing, or receiving the highest
204 possible grade for a course.

205 ~~[(b)]~~ A school shall base mandatory course projects on experiences that are free to all
206 students.

207 ~~————~~ ~~(6)(a) A school shall provide student supplies for k-6 students.~~

208 ~~————~~ ~~(b) A school may require a student to replace student supplies provided by the school,~~
209 ~~which are lost, wasted, or damaged by the student through careless or irresponsible behavior.]~~

210 ~~[(7) (a) An elementary school or teacher may provide to parents or guardians a~~
211 ~~suggested list of student supplies.~~

212 ~~————~~ ~~(b) A suggested list provided in accordance with Subsection (a) shall contain the~~
213 ~~express language in Subsection [53A-12-102] 53G-7-503(4)(c).]~~

214 (6) An elementary school or elementary school teacher may provide to a student's
215 parent or guardian, a suggested list of student supplies for use during the regular school day
216 so that a parent or guardian may furnish, on a voluntary basis, [those]student supplies for
217 student use, provided that, in accordance with Section 53G-7-503, the following notice is
218 provided with the list:

219 "NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE
220 REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A

221 VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE
222 SCHOOL.”

223 ~~[(8)](7) [Except as provided in Subsection (7)(b), a]~~ A school may require a secondary
224 student to provide student supplies, subject to the provisions of Section R277-407-~~[6]~~8.

225 ~~[(b) If a school requires a student to supply a special item because of specific~~
226 ~~requirements such as brand, style, color, or special imprint, the cost of the special item is:~~

227 ~~— (i) considered a fee; and~~

228 ~~— (ii) subject to fee waiver.]~~

229 (8) Except as provided in Subsection (9), if a school requires special shoes or items of
230 clothing that meet specific requirements, including requesting a specific color, style, fabric, or
231 imprints, the cost of the special shoes or items of clothing are:

232 (a) considered a fee; and

233 (b) subject to fee waiver.

234 (9) As provided in Subsection 53G-7-802(4), an LEA’s school uniform policy, including
235 a requirement for a student to wear a school uniform, is not considered a fee for either an
236 elementary or a secondary school if the LEA’s school uniform policy is consistent with the
237 requirements of Title 53G, Chapter 7, Part 8, School Uniforms.

238 **R277-407-4. School Activities Outside of the Regular School Day.**

239 (1) A school may charge a fee, subject to the provisions of Section R277-407-~~8~~[6], in
240 connection with any school-sponsored activity, that ~~[which]~~ does not take place during the
241 regular school day, regardless of the age or grade level of the student, if participation in the
242 activity is voluntary and does not affect a student's grade or ability to participate fully in any
243 course taught during the regular school day.

244 (2) A fee related to ~~[an] a co-curricular or extracurricular activity~~ ~~[-may not exceed limits~~
245 ~~established by the LEA governing board]~~ may not exceed the maximum fee amounts for the
246 co-curricular or extracurricular activity adopted by the LEA governing board as described in
247 Subsection R277-407-6(3).

248 (3) A school ~~[shall]~~ may only collect a fee [s] for an activity, class, or program provided,
249 sponsored, or supported by a school [school-sponsored activities] consistent with LEA policies
250 and state law.

251 (4) An LEA that provides, sponsors, or supports an activity, class, or program outside
252 of the regular school day or school calendar is subject to the provisions of this rule regardless
253 of the time or season of the activity, class, or program.

254 **R277-407-5. Fee-Waivable Activities, Classes, or Programs Provided, Sponsored, or**
255 **Supported by a School.**

256 Fees for the following are waivable:

257 (1) an activity, class, or program that is:

258 (a) primarily intended to serve school-age children; and

259 (b) taught or administered, more than inconsequentially, by a school employee as part
260 of the employee's assignment;

261 (2) an activity, class, or program that is explicitly or implicitly required:

262 (a) as a condition to receive a higher grade, or for successful completion of a school
263 class or to receive credit, including a requirement for a student to attend a concert or museum
264 as part of a music or art class for extra credit; or

265 (b) as a condition to participate in a school activity, class, program, or team, including,
266 a requirement for a student to participate in a summer camp or clinic for students who seek
267 to participate on a school team, such as cheerleading, football, soccer, dance, or another
268 team;

269 (3) an activity or program that is promoted by a school employee, such as a coach,
270 advisor, teacher, school-recognized volunteer, or similar person, during school hours where
271 it could be reasonably understood that the school employee is acting in the employee's official
272 capacity;

273 (4) an activity or program where full participation in the activity or program includes:

274 (a) travel for state or national educational experiences or competitions;

- 275 (b) debate camps or competitions; or
276 (c) music camps or competitions; and
277 (5) a concurrent enrollment, CTE, or AP course.

278 **R277-407-[5]6. [General Provisions] LEA Requirements to Establish a Fee Schedule –**
279 **Maximum Fee Amounts – Notice to Parents.**

280 (1) An LEA, school, school official, or employee may not charge or assess a fee or
281 request or require something of monetary value in connection with [any] an activity, class, or
282 program provided, sponsored, or supported by a school [school-sponsored or supported
283 activity,] including [an] for a co-curricular or extracurricular activity, unless the fee:

284 (a) has been set and approved by the LEA's governing board;

285 (b) is equal to or less than the maximum fee amount established by the LEA governing
286 board as described in Subsection (3); and

287 (c) is included in [distributed in] an approved fee schedule or notice in accordance with
288 this rule.

289 ~~[(2)](2)(a)~~ If an LEA charges a fee, on or before April 1 and in consultation with
290 stakeholders, [An]the LEA governing board shall annually adopt[ed] a fee schedule and fee
291 policies for the LEA [at least once each year] in a regularly scheduled public meeting.

292 (b) Before approving the LEA's fee schedule described in this Section, an LEA shall
293 provide an opportunity for the public to comment on the proposed fee schedule during a
294 minimum of two public LEA governing board meetings.

295 ~~[(b)](c)~~ An LEA shall:

296 (i) provide public notice of the meetings described in Subsections (2)(a) and (b) in
297 accordance with Title 52, Chapter 4, Open and Public Meetings Act; and

298 (ii) [shall] encourage public participation in the development of fee schedules and
299 waiver policies.

300 (d) In addition to the notice requirements of Subsection(2)(c), an LEA shall provide
301 notice to parents and students of the meetings described in Subsections (2)(a) and (b) using

302 the same form of communication regularly used by the LEA to communicate with parents,
303 including notice by e-mail, text, flyer, or phone call.

304 ~~(c)~~(e) An LEA shall keep minutes of meetings during which fee and waiver policies
305 are developed or adopted, together with copies of approved policies, in accordance with
306 Section 52-4-203.

307 (3)(a) As part of an LEA's fee setting process, the LEA shall establish a per student
308 annual maximum fee amount that the LEA's schools may charge a student for the student's
309 participation in all courses, programs, and activities provided, sponsored, or supported by a
310 school for the year.

311 (b) An LEA shall establish:

312 (i) a maximum fee amount per student for each activity; and

313 (ii) a maximum total aggregate fee amount per student per school year.

314 (c) The amount of revenue raised by a student through an individual fundraiser shall
315 be included as part of the maximum fee amount per student for the activity and maximum total
316 aggregate fee amount per student.

317 (4) As part of an LEA's fee setting process described in this Section, the LEA may
318 review and consider the following per school:

319 (a) the school's cost to provide the activity, class, or program;

320 (b) the school's student enrollment;

321 (c) the median income of families:

322 (i) within the school's boundary; or

323 (ii) enrolled in the school;

324 (d) the number and monetary amount of fee waivers, designated by individual fee,
325 annually granted within the prior three years;

326 (e) the historical participation and school interest in certain activities;

327 (f) the prior year fee schedule;

328 (g) the amount of revenue collected from each fee in the prior year;

329 (h) fund-raising capacity;

- 330 (i) prior year community donors; and
- 331 (j) other resources available, including through donations and fundraising.
- 332 ~~[(3)](5)(a)~~ An LEA shall [adopt procedures to reasonably ensure that the] annually
- 333 provide written notice to a parent or guardian of each [child] student who attends a school
- 334 within the LEA [receives written notice] of all current and applicable fee schedules and fee
- 335 waiver policies.
- 336 (6)(a) [An LEA]If an LEA charges a fee, the LEA shall [annually]:
- 337 (i) annually publish the LEA’s fee waiver policies and fee schedule, including the fee
- 338 maximums described in Subsection (3), on each of the LEA’s schools’ websites; [and]
- 339 (ii) annually include a copy of the LEA’s fee schedule and fee waiver policies with the
- 340 LEA’s registration materials; and
- 341 (iii) provide a copy of the LEA’s fee schedule and fee waiver policies to a student’s
- 342 parent who enrolls a student after the initial enrollment period.
- 343 (b) If an LEA’s student or parent population in a single language other than English
- 344 exceeds 20%, the LEA shall also publish the LEA’s fee schedule and fee waiver policies in the
- 345 language of those families.
- 346 (c) An LEA representative shall meet personally with each student’s parent or family
- 347 and make available an interpreter for the parent to understand the LEA’s fee waiver schedules
- 348 and policies if:
- 349 (i) the student or parent’s first language [:(t)] is a language other than English; and
- 350 [:(ii) doesn’t meet the benchmark described in Subsection (6)(b)]
- 351 (ii) the LEA hasn’t published the LEA’s fee schedule and fee waiver policies in the
- 352 parent’s first language.
- 353 (7) A notice described in Subsection (6)(a) shall:
- 354 (a) be in a form approved by the Board; and
- 355 (b) include the following:
- 356 (i) for a school serving elementary students:
- 357 (A) School Fees Notice for Families of Children in Elementary School;

- 358 (B) Fee Waiver applications (Elementary School);
359 (C) Fee Waiver Decision and Appeals Form; and
360 (D) the Board's elementary school poster; and
361 (ii) for a school serving secondary students:
362 (A) School Fees Notice For Families of Students in a Secondary School;
363 (B) Fee Waiver Application (Secondary School);
364 (C) Application for Fee Waivers and Community Service (Secondary School);
365 ~~(D) Community Service Obligations (Secondary School);~~
366 (D) Community Service Assignments and Notice of Appeal Rights;
367 (E) Appeal of Community Service Assignment; and
368 (F) the Board's secondary school poster.
369 ~~(b)~~ (8)(a) An LEA policy shall include easily understandable procedures for obtaining
370 a fee waiver and for appealing an LEA's denial of a fee waiver, as soon as possible before
371 ~~[prior to the time when]~~ the fee[s] becomes due.
372 (b) If an LEA denies a student or parent request for a fee waiver, the LEA shall provide
373 the student or parent:
374 (i) the LEA's decision to deny a waiver; and
375 (ii) the procedure for the appeal in the form approved by the Board.
376 ~~(4) An LEA shall include a copy of the schedules and waiver policies with registration~~
377 ~~materials provided to potential or continuing students.]~~
378 ~~(5)~~ (9)(a) A school may not deny a present or former student receipt of transcripts or
379 a diploma, nor may a school refuse to issue a grade for a course for failure to pay school fees.
380 (b) A school may impose a reasonable charge to cover the cost of duplicating, [or]
381 mailing, or transmitting transcripts and other school records.
382 (c) A school may not charge for duplicating, [or] mailing, or transmitting copies of
383 school records to an elementary or secondary school in which a former student is enrolled or
384 intends to enroll.

385 ~~[(6)]~~ (10) To preserve equal opportunity for all students and to limit diversion of money
386 and school and staff resources from the basic school program, each LEA's fee policies shall
387 be designed to limit student expenditures for school-sponsored activities, including
388 expenditures for activities, uniforms, clubs, clinics, travel, and subject area and vocational
389 leadership organizations, whether local, state, or national.

390 **R277-407-7. Donations in lieu of Fees.**

391 ~~[(7)]~~ (1)(a) A school may not request or accept a donation in lieu of a fee from a student
392 or parent unless the activity, class, or program for which the donation is solicited will otherwise
393 be fully funded by the LEA and receipt of the donation will not affect participation by an
394 individual student.

395 (b) A donation is a fee if a student or parent is required to make the donation as a
396 condition to the student's participation in an activity, class, or program.

397 (c) An LEA may solicit and accept a donation or contribution in accordance with the
398 LEA's policies, but all such requests must clearly state that donations and contributions by a
399 student or parent are voluntary.

400 ~~[(b) A donation is a fee if a student is required to make a donation in order to~~
401 ~~participate in an activity.]~~

402 (2) If an LEA solicits donations, the LEA:

403 (a) shall solicit and handle donations in accordance with policies established by the
404 LEA; and

405 (b) may not place any undue burden on a student or family in relation to a donation.

406 (3) An LEA may raise money to offset the cost to the LEA attributed to fee waivers
407 granted to students through the LEA's foundation.

408 (4) An LEA shall direct donations provided to the LEA through the LEA's foundation in
409 accordance with the LEA's policies governing the foundation.

410 (5) An LEA may not accept a donation that would create a significant inequity among
411 the schools within the LEA.

412 **R277-407-[6]8. Fee Waivers.**

413 (1)(a) All fees are subject to waiver.

414 (b) Fees charged for an activity, class, or program held outside of the regular school
415 day, during the summer, or outside of an LEA's regular school year are subject to waiver.

416 (c) Non-waivable charges are not subject to waiver.

417 (2)(a) Except as provided in Subsection (2)(b), beginning with the 2020-21 school
418 year, an LEA may not use revenue collected through fees to offset the cost of fee waivers by
419 requiring students and families who do not qualify for fee waivers to pay an increased fee
420 amount to cover the costs of students and families who qualify for fee waivers.

421 (b) An LEA may notify students and families that the students and families may
422 voluntarily pay an increased fee amount or provide a donation to cover the costs of other
423 students and families.

424 (c) For an LEA with multiple schools, the LEA shall distribute the impact of fee waivers
425 across the LEA so that no school carries a disproportionate share of the LEA's total fee
426 waiver burden.

427 ~~[(1)](3)~~ An LEA shall provide, as part of any fee policy or schedule, for adequate
428 waivers or other provisions in lieu of fee waivers to ensure that no student is denied the
429 opportunity to participate in a class or school-sponsored or supported activity because of an
430 inability to pay a fee.

431 ~~[(2)An LEA shall waive textbook fees for eligible students in accordance with~~
432 ~~Subsection 53G-7-603(2).]~~

433 ~~[(3)](4)~~ An LEA shall designate at least one person at an appropriate administrative
434 level in each school to review and grant fee waiver requests.

435 ~~[(4)](5)~~ An LEA shall administer the process for obtaining a fee waiver or pursuing an
436 alternative fairly, objectively, without delay, and in a manner that avoids stigma,
437 embarrassment, undue attention, and unreasonable burdens on students and parents.

438 ~~[(5)](6)~~ An LEA may not treat a student receiving a fee waiver or provision in lieu of a
439 fee waiver differently from other students.

440 ~~[(6)](7)~~ A school may not identify a student on fee waiver to students, staff members,
441 or other persons who do not need to know.

442 ~~[(7)](8)~~(a) An LEA shall ensure that a fee waiver or other provision in lieu of fee waiver
443 is available to any student whose parent is unable to pay a fee.

444 (b) A school or LEA administrator shall verify fee waivers consistent with this rule.

445 ~~[(8)](9)~~ An LEA shall submit school fee [waiver] compliance forms to the
446 Superintendent for each school that affirm compliance with the permanent injunction,
447 consistent with Doe v. Utah State Board of Education, Civil No. 920903376 (3rd District 1994)
448 ~~[that affirm compliance with the permanent injunction].~~

449 ~~[(9)](10)~~ An LEA shall adopt a fee waiver policy for review and appeal of fee waiver
450 requests which:

451 (a) ~~[gives]~~ provides parents the opportunity to review proposed alternatives to fee
452 waivers;

453 (b) establishes a timely appeal process, which shall include the opportunity to appeal
454 to the LEA or its designee; and

455 (c) suspends any requirement that a given student pay a fee during any period for
456 which the student's eligibility for waiver is under consideration or during which an appeal of
457 denial of a fee waiver is in process.

458 ~~[(10)]The granting of waivers and provisions in lieu of fee waivers in an LEA may not~~
459 ~~produce significant inequities through unequal impact on individual schools.]~~

460 ~~[(11)](11)~~ An LEA may pursue reasonable methods for collecting student fees, but may
461 not, as a result of unpaid fees:

462 (a) exclude a student from a school, an activity, class, or program that is provided,
463 sponsored, or supported by a school;

464 (b) refuse to issue a course grade; or

465 (c) withhold official student records, including written or electronic grade reports,
466 diplomas or transcripts.

467 ~~[(12)]~~(12)(a) A school may withhold student records in accordance with Subsection
468 53G-8-212(2)(a).

469 (b) Notwithstanding Subsection ~~[(12)]~~(12)(a), a school may not withhold any records
470 required for student enrollment or placement in a subsequent school.

471 ~~[(13)]~~(13) A school is not required to waive a non-waivable charge. ~~[fees for class~~
472 ~~rings, letter jackets, school photos, or yearbooks, which are not required for participation in a~~
473 ~~class or activity.~~

474 ~~(14) Expenditures for uniforms, costumes, clothing, or accessories, other than items~~
475 ~~of typical student dress, which are required for school attendance or participation in school~~
476 ~~activities, and expenditures for student travel as part of a school team, student group, or other~~
477 ~~school-approved trip, are fees requiring approval of the LEA, and are subject to the provisions~~
478 ~~of this section.]~~

479 **R277-407-9. Service In Lieu of Fees -- Voluntary Requests for Installment Plans.**

480 (1) Subject to the provisions of Subsection (2), an LEA may allow a student to perform
481 community service in lieu of a fee, but community service in lieu of a fee may not be required.

482 (2) An LEA may allow a student to perform community service in lieu of a fee if:

483 (a) the LEA establishes a community service policy that ensures that a community
484 service assignment is appropriate to the:

485 (i) age of the student;

486 (ii) physical condition of the student; and

487 (iii) maturity of the student;

488 (b) the LEA's community service policy is consistent with state and federal laws,
489 including:

490 (i) Section 53G-7-504; and

491 (ii) the Federal Fair Labor Standards Act, 29 U.S.C. §201;

492 (c) the community service can be performed within a reasonable period of time; and

493 (d) the service is at least equal to the minimum wage for each hour of service.

494 (3)(a) A student who performs community service may not be treated differently than
495 other students who pay a fee.

496 (b) The community service may not create an unreasonable burden for a student or
497 parent and may not be of such a nature as to demean or stigmatize the student.

498 (4) An LEA shall transfer a student's community service credit to:

499 (a) another school within the LEA; or

500 (b) another LEA upon request of the student.

501 (5)(a) An LEA may make an installment payment plan available to a parent or student
502 to pay for a fee.

503 (b) An installment payment plan described in Subsection (5)(a) may not be instigated
504 by the school but must be voluntarily requested by the student or parent.

505 (6) An LEA that charges fees shall adopt rules policies that include at least the
506 following:

507 (a) a process for obtaining waivers or pursuing alternatives that is administered fairly,
508 objectively, and without delay, and avoids stigma and unreasonable burdens on students and
509 families;

510 (b) a process with no visible indicators that could lead to identification of fee waiver
511 applicants;

512 (c) a process that complies with the privacy requirements of The Family Educational
513 Rights and Privacy Act of 1974, 20 U.S.C. § 123g (FERPA);

514 (d) a student may not collect fees or assist in the fee waiver approval process;

515 (e) a standard written decision and appeal form is provided to every applicant; and

516 (f) during an appeal the requirement that the fee be paid is suspended.

517 **R277-407-10. Individual and Group Fundraising Requirements.**

518 (1) An LEA governing board shall establish a fundraising policy that includes a
519 fundraising activity approval process.

520 (2) An LEA's fundraising policy described in Subsection (1):

- 521 (a) may not authorize, establish, or allow for required individual fundraising;
522 (b) may provide optional individual fundraising opportunities for students to raise money
523 to offset the cost of the student's fees;
524 (c) may allow for group fundraisers;
525 (d) shall prohibit denying a student membership in or participation on a team or group
526 or in an activity based on the student's non-participation in a fundraiser; and
527 (e) shall require compliance with the requirements of Rule R277-113 when using
528 alternative methods of raising revenue that do not include students.

529 **R277-407-~~[7]~~11. Fee Waiver Eligibility.**

- 530 (1) A student is eligible for fee waiver if an LEA receives verification that:
531 (a) based on family income, the student qualifies for free school lunch under United
532 States Department of Agriculture child nutrition program regulations;
533 (b) the student to whom the fee applies receives SSI;
534 (c) the family receives TANF funding;
535 (d) the student is in foster care through the Division of Child and Family Services; or
536 (e) the student is in state custody.
537 (2) In lieu of income verification, an LEA may require alternative verification under the
538 following circumstances:
539 (a) If a student's family receives TANF, an LEA may require a letter of decision
540 covering the period for which a fee waiver is sought from the Utah Department of Workforce
541 Services;
542 (b) If a student receives SSI, an LEA may require a benefit verification letter from the
543 Social Security Administration;
544 (c) If a student is in state custody or foster care, an LEA may rely on the youth in care
545 [custody] required intake form and school enrollment letter or both provided by a case worker
546 from the Utah Division of Child and Family Services or the Utah Juvenile Justice Department.
547 (d) An LEA may not subject a family to unreasonable demands for re-qualification.

548 (3) A school may grant a fee waiver to a student, on a case by case basis, who does
549 not qualify for a fee waiver under Subsection (1), but who, because of extenuating
550 circumstances is not reasonably capable of paying the fee.

551 (4) An LEA may charge a proportional share of a fee or reduced fee if circumstances
552 change for a student or family so that fee waiver eligibility no longer exists.

553 **R277-407-[8]12. Fees for Textbooks and Remediation.**

554 (1) [An] Beginning with the 2020-21 school year, an LEA may not charge a fee for:

555 (a) a textbook as provided in Section 53G-7-603, except for a textbook used for a
556 concurrent enrollment or advanced placement course as described in Subsection (2); or

557 (b) a remediation course, if, as described in Subsection 53G-7-504(1)(b):

558 (i) the student or the student's parent is financially unable to pay the fee;

559 (ii) the fee for remediation would constitute an extreme financial hardship on the
560 student or student's parent; or

561 (iii) the student has suffered a long-term illness, death in the family, or other major
562 emergency.

563 (2)(a) ~~[Except as provided in Subsection (2)(b), an]~~An LEA may charge a fee for a
564 textbook used for a concurrent enrollment or advanced placement course~~[and the fee is~~
565 ~~waivable as described in Section R277-407-8].~~

566 (b) ~~[An LEA shall waive a]~~A fee for a textbook used for a concurrent enrollment or
567 advanced placement course [if:]is fee waivable as described in Section R277-407-8.

568 ~~[(i) the student or the student's parent is financially unable to pay the fee;~~

569 ~~—(ii) the fee would constitute an extreme financial hardship on the student or student's~~
570 ~~parent; or~~

571 ~~—(iii) the fee would create a hardship on the student or the student's family due to a~~
572 ~~compelling personal or family circumstance.]~~

573 **R277-407-13. Budgeting and Spending Revenue Collected Through Fees – Fee Revenue**

574 **Sharing Requirements.**

575 (1) An LEA shall follow the general accounting standards described in Rule R277-113
576 for treatment of fee revenue.

577 (2) An LEA shall:

578 (a) establish a spend plan for the revenue collected from each fee charged; and

579 (b) if the LEA has two or more schools within the LEA, share revenue ~~[loss]~~lost due to
580 fee waivers across the LEA.

581 (3)(a) Financial inequities or disproportional impact of fee waivers may not fall
582 inequitably on any one school within an LEA.

583 (b) An LEA that has multiple schools shall establish a procedure to identify and address
584 potential inequities due to the impact of the number of students who receive fee waivers within
585 each of the LEA's schools.

586 **R277-407-~~[8]~~14. Fee Waiver Reporting Requirements.**

587 (1) An LEA shall attach the following to the LEA's ~~[its]~~ annual ~~[S-3 statistical]~~year end
588 report for inclusion in the ~~[State]~~ Superintendent's ~~[of Public Instruction's]~~ annual report ~~[the~~
589 following]:

590 (a) a summary of:

591 (i) the number of students in the LEA given fee waivers;

592 (ii) the number of students who worked in lieu of a waiver; and

593 (iii) the total dollar value of student fees waived by the LEA;

594 (b) a copy of the LEA's fee and fee waiver policies;

595 (c) a copy of the LEA's fee schedule for students; and

596 (d) the notice of fee waiver criteria provided by the LEA to a student's parent or
597 guardian.

598 (e) a fee waiver compliance form approved by the Superintendent for each school and
599 LEA.

600 **R277-407-15. Superintendent and LEA Policy and Training Requirements.**

601 (1) The Superintendent shall provide ongoing training, informational materials, and
602 model policies, as available, for use by LEAs.

603 (2) The Superintendent shall provide online training and resources for LEAs regarding:

604 (a) an LEA's fee approval process;

605 (b) LEA notification requirements;

606 (c) LEA requirements to establish maximum fees;

607 (d) fundraising practices;

608 (e) fee waiver eligibility requirements, including requirements to maintain student and
609 family confidentiality; and

610 (f) community service or fundraising alternatives for students and families who qualify
611 for fee waivers.

612 (3) An LEA governing board shall annually review the LEA's policies on school fees,
613 fee waivers, fundraising, and donations.

614 (4) An LEA shall develop a plan for, at a minimum, annual training of LEA and school
615 employees on fee related policies enacted by the LEA specific to each employee's job
616 function.

617 **R277-407-16. Enforcement.**

618 (1) The Superintendent shall monitor LEA compliance with this rule:

619 (a) through the compliance reports provided in Section R277-407-14; and

620 (b) by such other means as the Superintendent may reasonably request at any time.

621 (2) If an LEA fails to comply with the terms of this rule or request of the Superintendent,
622 the Superintendent shall send the LEA a first written notice of non-compliance, which shall
623 include a proposed corrective action plan.

624 (3) Within 45 days of the LEA's receipt of a notice of non-compliance, the LEA shall:

625 (a) respond to the allegations of noncompliance described in Subsection (2); and

626 (b) work with the Superintendent on the Superintendent's proposed corrective action

627 plan to remedy the LEA's noncompliance.

628 (4)(a) Within fifteen days after receipt of a proposed corrective action plan described
629 in Subsection (3)(b), an LEA may request an informal hearing with the Superintendent to
630 respond to allegations of noncompliance or to address the appropriateness of the proposed
631 corrective action plan.

632 (b) The form of an informal hearing described in Subsection (4)(a) shall be as directed
633 by the Superintendent.

634 (5) The Superintendent shall send an LEA a second written notice of non-compliance
635 and request for the LEA to appear before a Board standing committee if:

636 (a) the LEA fails to respond to the first notice of non-compliance within 60 days; or

637 (b) the LEA fails to comply with a corrective action plan described in Subsection (3)(b)
638 within the time period established in the LEA's corrective action plan.

639 (6) If an LEA that failed to respond to a first notice of non-compliance receives a
640 second written notice of non-compliance, the LEA may:

641 (a)(i) respond to the notice of non-compliance described in Subsection (5); and

642 (ii) work with the Superintendent on a corrective action plan within 30 days of receiving
643 the second written notice of non-compliance; or

644 (b) seek an appeal as described in Subsection (8)(b).

645 (7) If an LEA that failed to respond to a first notice of non-compliance fails to comply
646 with either of the options described in Subsection (6), the Superintendent shall impose one of
647 the financial consequences described in Subsection (10).

648 (8)(a) Prior to imposing a financial consequence described in Subsection (10), the
649 Superintendent shall provide an LEA thirty days' notice of any proposed action.

650 (b) The LEA may, within fifteen days after receipt of ~~such~~a notice described in
651 Subsection (8)(a), request an appeal before the Board.

652 (9) If the LEA does not request ~~a hearing~~an appeal described in Subsection (8)(b), or
653 if after ~~a hearing~~the appeal the ~~Superintendent~~Board finds that the allegations of
654 noncompliance are substantially true, the Superintendent may continue with the suggested

655 corrective action, formulate a new form of corrective action or additional terms and conditions
656 which must be met and may proceed with the appropriate remedy which may include an order
657 to return funds improperly collected.

658 (10) A financial consequence may include:

659 (a) requiring an LEA to repay an improperly charged fee, commensurate with the level
660 of non-compliance;

661 (b) withholding all or part of an LEA's monthly Minimum School Program funds until the
662 LEA comes into full compliance with the Superintendent's corrective action plan; and

663 (c) suspending the LEA's authority to charge fees for an amount of time specified by
664 the Superintendent or Board in the determination.

665 (11) The Superintendent's Board's decision described in Subsection (9) is final and no
666 further appeals are provided.

667 **R277-407-17. Effective Date.**

668 (1) This rule will be effective beginning January 1, 2020.

669 **KEY: education, school fees**

670 **Date of Enactment or Last Substantive Amendment: September 21, 2017**

671 **Notice of Continuation: July 19, 2017**

672 **Authorizing, and Implemented or Interpreted Law: Art X Sec 2; Art X Sec 3;**

673 **Subsection 53E-3-401(4); 53G-7-503; Doe v. Utah State Board of Education, Civil No.**

674 **920903376**