

R277. Education, Administration.

R277-625. Mental Health Screening Program.

R277-625-1. 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;

(b) Section 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;

(c) Section 53F-2-522 which directs the board to make rules regarding the selection of mental health screening programs and financial aid for qualifying parents.

(2) The purpose of this rule is to:

(a) provide the approval process for mental health screening programs chosen by an LEA; and

(b) establish the approval and distribution of funds for a qualifying parent to receive financial assistance for related mental health services.

R277-625-2. Definitions.

(1) "Division of Substance Abuse and Mental Health" or "DSAMH" means the same as the term is defined in Subsection 62A-15-103.

(2) "Mental health screening program" or "screening program" means the same as the term is defined in Subsection 53F-2-522(1)(e).

(3) "Qualifies for financial assistance" means a qualifying parent that has a student receiving educational services through an LEA who:

(a) receives free or reduced lunch; or

(b) as recommended by the local mental health authority, demonstrates need including being:

(i) uninsured;

(ii) underinsured;

(iii) ineligible for Medicaid to cover part or all of any recommended mental health treatments; or

(iv) demonstrates a high need for interventions based upon results of the LEA's mental health screening program.

(4) "Qualifying parent" means the same as the term is defined in Subsection 53F-2-522(1)(d).

(5) "Relevant services" means mental health services provided to a student that are directly related to mental health needs identified by a student's mental health screening.

R277-625-3. Approval of Mental Health Screening Programs.

(1)(a) The Superintendent, in consultation with DSAMH, shall publish annually a list of pre-approved mental health screening programs to the Board's website.

(b) the published pre-approved list shall include:

(i) the name or brand of the mental health screening program including a link to the screening program's website;

(ii) the recommended ages for the mental health screening program;

(ii) any limitations of the mental health screening program including the typical level of false positives;

(iii) the mental health conditions the mental health screening program can detect; and

(iv) the scientific data or research used to verify a screening program is evidence-based.

(2) The Board shall approve:

(a) the pre-approved mental health screening program list; and

(b) the mental health conditions for which a screening program can be used.

(3) All pre-approved mental health screening programs shall comply with the requirements as described in Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

(4) Except as provided for in Subsection (4)(c) and (d), an LEA shall notify the Superintendent by May 1:

(a) if the LEA plans to:

(i) use a mental health screening program from the pre-approved list; or

(ii) apply to the Superintendent for approval of a mental health screening program that is not on the pre-approved list;

(b) whether an LEA elects to participate in providing a qualifying parent with financial assistance;

(c) In accordance with Subsections (4)(a) and (b) and for the 2020-2021 school year, an LEA shall notify the Superintendent by August 15; and

(d) An LEA is not required to comply with Subsection (4) if the LEA chooses not to offer a mental health screening program.

(5) If the LEA chooses to apply for use of a mental health screening program that is not on the pre-approved list, the LEA shall submit an application in a form prescribed by the Superintendent specifying:

(a) the mental health screening program proposed for use by the LEA;

(b) the reason for choosing the mental health screening program;

(c) the approved mental health conditions the mental health screening program measures;

(d) how the mental health screening program complies with all state and federal data privacy laws; and

(e) the scientific data or research demonstrating the mental health screening program is evidence based and meets industry standards;

(f) why the mental health screening program is age appropriate for each grade the screening program is administered; and

(g) why the mental health screening program is an effective tool for identifying whether a student has a mental health condition that requires intervention.

(6) The Superintendent shall review the application in consultation with DSAMH and approve or deny the application within 30 days of receipt.

(7) If the application is approved, the Superintendent shall submit the approved application to the Board for final approval.

(8) Subject to legislative appropriation, the Superintendent shall provide annually a maximum reimbursement amount an LEA may receive for use of a mental health screening program.

(9) An LEA may request in writing a reimbursement from the Superintendent in an amount not to exceed the amount described in Subsection (8).

(10)(a) An LEA shall require relevant staff, who will be administering a mental health screening program, to attend an annual mental health screening program training provided by the Superintendent in collaboration with DSAMH;

(b) the training described in Subsection (10)(a) shall provide an LEA with information needed for appropriate parental consent including:

(i) consent shall be obtained:

(A) within 8 weeks prior to administration of the mental health screening program;

and

(B) in accordance with Subsection 53E-9-203(4);

(ii) the consent form shall be provided separately from other consent forms given to a parent pursuant to other state or federal laws;

(iii) additional variables that might influence a screening program's results; and

(iv) a statement that:

(A) the mental health screener is optional;

(B) a screening program is not a diagnostic tool;

(C) a parent has the right to seek outside resources or opinions; and

(D) specifies which board approved mental health conditions the mental health screening program measures.

(11) An LEA may not administer a mental health screening program if the LEA has not attended the annual mental health screening program training described in Subsection (10).

(12) An LEA shall report annually to the Superintendent aggregate data regarding the types of LEA provided mental health interventions, referrals, or other actions taken based on screening program results.

R277-625-4. Data Privacy.

(1) An LEA shall ensure all data collected or stored by a mental health screening program complies with all state and federal data privacy laws and requirements, including those described in Subsection R277-625-3(3).

(2) An LEA shall provide a parent with a list of all data potentially collected by the mental health screening program prior to consenting to a student's mental health screening.

(3) An LEA shall provide the parent of a screened student with:

(a) results as described in Subsection 53F-2-522(4)(d);

(b) applicable available resources; and

(c) who has access to the screening program data

(4) If an LEA has received parental consent, an LEA may share data collected from the mental health screening program with a school's multi-disciplinary team.

R277-625-5. Financial Assistance for a Qualifying Parent.

(1) An LEA that has elected to participate as described in Subsection R277-625-3(4)(b), may receive reimbursement for relevant services obtained by a qualifying parent that qualifies for financial assistance.

(2) An LEA may not receive reimbursement for a qualifying parent if:

(a) the qualifying parent's student has begun to receive relevant services outside of the school setting prior to seeking reimbursement;

(b) the LEA can provide the relevant services, including relevant services provided by a third party through a contract with the LEA;

(c) except for as provided in Subsection (d), the qualifying parent has received reimbursement for the same relevant services within one year from the date the relevant services began for the student; or

(d) an LEA may provide reimbursement to a qualifying parent for the same relevant services within one year from the date relevant services began for the student if:

(i) the LEA has no other qualifying parents seeking reimbursement by April 1 and;

(ii) has reimbursement funds remaining.

(3) An LEA may not receive reimbursements that exceed the LEA's award amount as described in Subsection (4).

(4) An LEA that has elected to participate as described in Subsection R277-625-3(4)(b), shall receive a total award amount based on need as determined by the Superintendent.

(5) The Superintendent shall determine a participating LEA's need by considering the LEA's ability to support and provide mental health services for a student including:

- (a) the availability of mental health services within the LEA;
- (b) the availability of mental health services within the LEA's surrounding community;
- (c) the overall accessibility of mental health services for students within the LEA;
- (d) the current student demand for mental health services within an LEA; and
- (e) capacity of the LEA to meet existing and future student demands for mental health services.

KEY: mental health screening program, mental health, prevention

Date of Enactment or Last Substantive Amendment: August 12, 2020

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-522