

R277-726 received final approval by the Utah State Board of Education on January 8, 2020. R277-726 is published in the February 1, 2020 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of March 9, 2020.

**R277. Education, Administration.**

**R277-726. Statewide Online Education Program.**

**R277-726-1. Authority and Purpose.**

(1) This rule is authorized by:

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

(b) Section 53F-4-514, which requires the Board to make rules providing for the administration of statewide assessments to students enrolled in online courses;

(c) Section 53F-4-508, which requires the Board to make rules that establish a course credit acknowledgment form and procedures for completing and submitting the form to the Board; and

(d) 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 to:

(a) define necessary terms;

(b) provide and describe a program registration agreement; and

(c) provide other requirements for an LEA, the Superintendent, a parent and a student, and a provider for program implementation and accountability.

**R277-726-2. Definitions.**

(1) "Actively participates" means the student actively participates as defined by the provider.

(2) "Course completion" means that a student has completed a course with a passing grade and the provider has transmitted the grade and credit to the primary LEA of enrollment.

(3)(a) "Course Credit Acknowledgment" or "CCA" means an agreement and registration record using the Statewide Online Education Program application provided by the Superintendent.

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(b) Except as provided in Subsection 53F-4-508(3)(h), the CCA shall be signed by the designee of the primary school of enrollment, and the qualified provider.

(4)(a) "Eligible student" means a student enrolled in grades 6-12 in a secondary environment in a course that:

(i) is offered by a public school; and

(ii) provides the student the opportunity to earn high school graduation credit.

(b) "Eligible student" does not include a student enrolled in an adult education program.

(5) "Enrollment confirmation" means the student initially registered and actively participated, as defined under Subsection(1).

(6)(a) "Executed CCA" means a CCA that has been signed by all parties as provided in Subsection 53F-4-508(3)(h) and received by the Superintendent.

(b) Following enrollment confirmation and participation, Superintendent directs funds to the provider, consistent with Sections 53F-4-505 through 53F-4-507.

(7) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(8) "Online course" means a course of instruction offered through the Statewide Online Education Program.

(9) "Online course payment" means the amount withheld from a student's primary LEA and disbursed or otherwise paid to the designated provider following satisfaction of the requirements of the law, and as directed in Subsection 53F-4-507(2).

(10) "Online course provider" or "provider" means:

(a) a school district school;

(b) a charter school;

(c) an LEA program created for the purpose of serving Utah students in grades 9-12 online; or

(d) a program of an institution of higher education described in Subsection 53F-4-504(3).

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(11) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program, and which reports the student to be in regular membership, and special education membership, if applicable.

(12) "Primary school of enrollment" means:

- (a) a student's school of record within a primary LEA of enrollment; and
- (b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.

(13) "Resident school" means the district school within whose attendance boundaries the student's custodial parent or legal guardian resides.

(14) "Statewide assessment" means a test or assessment required under Rule R277-404.

(15) "Statewide Online Education Program" or "program" means courses offered to students under Title 53F, Chapter 4, Part 5, Statewide Online Education Program Act.

(16) "Teacher of record" means the teacher who is employed by a provider and to whom students are assigned for purposes of reporting and data submissions to the Superintendent in accordance with Section R277-484-3.

(17) "Underenrolled student" means a student with less than a full course load, as defined by the LEA, during the regular school day at the student's primary school of enrollment.

(18) "USBE course code" means a code for a designated subject matter course assigned by the Superintendent.

(19) "Withdrawal from online course" means that a student withdraws or ceases participation in an online course as follows:

(a) within 20 calendar days of the start date of the course, if the student enrolls on or before the start date;

(b) within 20 calendar days of enrolling in a course, if the student enrolls after the start date; or

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(c) within 20 calendar days after the start date of the second 0.5 credit of a 1.0 credit course; or

(d) as the result of a student suspension from an online course following adequate documented due process by the provider.

### **R277-726-3. Course Credit Acknowledgment (CCA) Process.**

(1) A student, a student's parent, a counselor, or a provider may initiate a CCA.

(2)(a) A counselor designated by a student's primary school of enrollment shall review the student's CCA to ensure consistency with:

- (i) graduation requirements;
- (ii) the student's plan for college and career readiness;
- (iii) the student's IEP;
- (iv) the student's Section 504 plan; or
- (v) the student's international baccalaureate program.

(b) The primary school of enrollment shall return the CCA to the Superintendent within 72 business hours.

(3)(a) The primary school of enrollment is not required to meet with the student or parent for approval of a course request.

(b) The Superintendent shall notify a primary school of enrollment of a student's enrollment in the program.

(4) If a student enrolling in the program has an IEP or a Section 504 plan, the primary LEA or school of enrollment shall forward the IEP or description of 504 accommodations to the provider within 72 business hours of receiving notice from the Superintendent that the provider has accepted the enrollment request.

(5) The Superintendent shall develop and administer procedures for facilitation of a CCA that informs all appropriate parties.

### **R277-726-4. Eligible Student and Parent Rights and Responsibilities.**

(1) An eligible student may register for program credits consistent with Section 53F-4-

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(2) An eligible student may exceed a full course load during a regular school year if:

(a) the student's plan for college and career readiness indicates that the student intends to complete high school graduation requirements and exit high school before the rest of the student's high school cohort; and

(b) the student's schedule demonstrates progress toward early graduation.

(3) In accordance with Section 53F-4-509(5), if a student enrolled in a program course exceeds a full course load during a regular school year, a primary LEA of enrollment may mark the student as an early graduate and increase membership in accordance with Section R277-419-6 and Rule R277-484 to account for credits in excess of full-time enrollment in a local Student Information System.

(4)(a) An eligible student is expected to complete courses in which the student enrolls in a timely manner consistent with Section 53F-4-505 and requirements for attendance and participation in accordance with Subsection R277-726-7(15).

(b) If a student changes the student's enrollment for any reason, it is the student's or student's parent's responsibility to notify the provider immediately.

(5) A student should enroll in online courses, or declare an intention to enroll, during the school course registration period designated by the primary LEA of enrollment for regular course registration.

(6) A student may alter a course schedule by dropping a traditional course and adding an online course in accordance with the primary school of enrollment's same established deadline for dropping and adding traditional courses.

(7)(a) Notwithstanding Subsection (6), an underenrolled student may enroll in an online course at any time during a calendar year.

(b) If an underenrolled student enrolls in an online course as described in Subsection (7)(a), the primary school of enrollment may immediately claim the student for the adjusted portion of enrollment.

#### **R277-726-5. LEA Requirements and Responsibilities.**

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(1) A primary school of enrollment shall facilitate student enrollment with any and all eligible providers selected by an eligible student consistent with course credit limits.

(2) A primary school of enrollment or a provider LEA shall use the CCA application, records, and processes provided by the Superintendent for the program.

(3) A primary school or LEA of enrollment shall provide information about available online courses and programs:

- (a) in registration materials;
- (b) on the LEA's website; and
- (c) on the school's website.

(4) A primary school or LEA of enrollment shall provide the notice required under Subsection (3) concurrent with the high school course registration period designated by the LEA for the upcoming school year to facilitate enrollment as required by Section 53F-4-513.

(5) A primary school of enrollment shall include a student's online courses in the student's enrollment records and, upon course completion, include online course grades and credits on the student's transcripts.

(6) A primary school of enrollment shall recognize credit earned by a participating secondary student through courses completed prior to grade 9 for purposes of high school graduation provided that:

(a) the student has in the student's records documentation of the student's intention to graduate early; and

(b) the student is enrolled at a middle school or junior high school and a high school accredited in accordance with Rule R277-410.

(7) A primary school of enrollment shall determine fee waiver eligibility for participating public school students.

(8) A primary school of enrollment shall provide participating students access to sports, extracurricular and co-curricular activities, and graduation services consistent with local policies governing participation irrespective of relative levels of participation in traditional courses versus Statewide Online Education courses.

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(9)(a) If a participating student's primary school of enrollment is a middle school or junior high as defined in Rule R277-700, course completions will be recorded in a student's record of credit and course completion for grade 9 to allow recognition toward grades 9-12, high school graduation requirements, and post-secondary requirements.

(b) A primary LEA of enrollment accepting credit toward high school requirements is not required to independently verify:

(i) early graduation status; or

(ii) the non-supplanting nature of SOEP courses.

(10) When a student satisfactorily completes an online semester or quarter course, in accordance with the LEA's procedures, a designated counselor or registrar at the primary school of enrollment shall forward records of grades and credit for students participating prior to grade 9 to the student's grade 9 primary school of enrollment for recording grades and credit per Subsection R277-726-5(8) once a student completes grade 8.

#### **R277-726-6. Superintendent Requirements and Responsibilities.**

(1) The Superintendent shall provide a website for the program, including information required under Section 53F-4-512 and other information as determined by the Board.

(2) The Superintendent shall direct a provider to administer statewide assessments consistent with Rule R277-404 and Section 53F-4-514 for identified courses using LEA-adopted and state-approved assessments.

(3)(a) The Board may determine space availability standards and appropriate course load standards for online courses consistent with Subsection 53F-4-512(3)(d).

(b) Course load standards may differ based on subject matter.

(4) The Board shall withhold funds from a primary LEA of enrollment and make payments to a provider consistent with Sections 53F-4-505 through 53F-4-507.

(5) The Board may refuse to provide funds under a CCA if the Board finds that information has been submitted fraudulently or in violation of the law or Board rule by any of the parties to a CCA.

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(6) The Superintendent shall receive and investigate complaints, and impose sanctions, if appropriate, regarding course integrity, financial mismanagement, enrollment fraud or inaccuracy, or violations of the law or this rule specific to the requirements and provisions of the program.

(7) If a Board investigation finds that a provider has violated the IDEA or Section 504 provisions for a student taking online courses, the provider shall compensate the student's primary LEA of enrollment for all costs related to compliance.

(8)(a) The Superintendent may audit, at the Board's sole discretion, an LEA's or program participant's compliance with any requirement of state or federal law or Board rule under the program.

(b) All participants shall provide timely access to all records, student information, financial data or other information requested by the Board, the Board's auditors, or the Superintendent upon request.

(9) The Board may withhold funds from a program participant for the participant's failure to comply with a reasonable request for records or information.

(10) Program records are available to the public subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(11) The Superintendent shall withhold online course payment from a primary LEA of enrollment and payments to an eligible provider at the nearest monthly transfer of funds, subject to verification of information, in an amount consistent with, and at the time a provider qualifies to receive payment, under Subsection 53F-4-505(4).

(12) The Superintendent shall pay a provider consistent with Minimum School Program funding transfer schedules.

(13)(a) The Superintendent may make decisions on questions or issues unresolved by Title 53F, Chapter 4, Part 5, Statewide Online Program Act or this rule on a case-by-case basis.

(b) The Superintendent shall report decisions described in Subsection (13)(a) to the Board consistent with the purposes of the law and this rule.

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**R277-726-7. Provider Requirements and Responsibilities.**

(1)(a) A provider shall administer statewide assessments as directed by the Superintendent, including proctoring statewide assessments, consistent with Section 53F-4-415 and Rule R277-404.

(b) A provider shall pay administrative and proctoring costs for all statewide assessments.

(2) A provider shall provide a parent or a student with email and telephone contacts for the provider during regular business hours to facilitate parent contact.

(3) A provider and any third party working with a provider shall, for all eligible students, satisfy all Board requirements for:

- (a) consistency with course standards;
- (b) criminal background checks for provider employees;
- (c) documentation of student enrollment and participation; and
- (d) compliance with:
  - (i) the IDEA;
  - (ii) Section 504; and
  - (iii) requirements for ELL students.

(4) A provider shall receive payments for a student properly enrolled in the program from the Superintendent consistent with:

- (a) Board procedures;
- (b) Board timelines; and
- (c) Sections 53F-4-505 through 53F-4-508.

(5)(a) A provider may charge a fee consistent with other secondary schools.

(b) If a provider intends to charge a fee of any kind, the provider:

(i) shall notify the primary school of enrollment with whom the provider has the CCA of the purpose for fees and amounts of fees;

(ii) shall provide timely notice to a parent of required fees and fee waiver opportunities;

(iii) shall post fees on the provider website;

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(iv) shall be responsible for fee waivers for an eligible student, including all materials for a student designated fee waiver eligible by a student's primary school of enrollment;

(v) shall satisfy all requirements of Rule R277-407, as applicable; and

(vi) shall provide fee waivers to home school or private school students who meet fee waiver eligibility at the provider's expense.

(6) A provider shall maintain a student's records and comply with the federal Family Educational Rights and Privacy Act, Title 53E, Chapter 9, Part 3, Utah Family Educational Rights and Privacy Act, and Rule R277-487, including:

(a) protecting the confidentiality of a student's records and providing a parent and an eligible student access to records[-]; and

(b) providing a parent or student documentation of educational performance, including:

(i) test scores;

(ii) grades;

(iii) progress and performance measures; and

(iv) completion of credit.

(7) Except as otherwise provided in this Rule R277-726, a provider shall submit a student's credit and grade to the Superintendent, using processes and applications provided by the Superintendent for this purpose, to a designated counselor or registrar at the primary school of enrollment, and the student's parent no later than:

(a) 30 days after a student satisfactorily completes an online semester or quarter course; or

(b) June 30 of the school year.

(8) A provider may not withhold a student's credits, grades, or transcripts from the student, parent, or the student's school of enrollment for any reason.

(9)(a) If a provider suspends or expels a student from an online course for disciplinary reasons, the provider shall notify the student's primary LEA of enrollment by placing the student on disciplinary withdrawal.

(b) A provider is responsible for all due process procedures for student disciplinary actions in the provider's online program.

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(c)(i) A provider shall notify the Superintendent of a student's administrative withdrawal, if the student is ~~[suspended]~~ inactive in a course for more than ten days, using forms and processes developed by the Superintendent for this purpose.

(ii) If a student, parent, or counselor fails to request reinstatement following notification under Subsection (c)(i), the provider shall formally withdraw the student within 72 hours and notify the student, parent, and primary LEA of the action.

(10) If a student entitled to services under the IDEA is removed from an online program, the primary LEA shall work with the student and the student's parents to identify alternatives to provide a free and appropriate public education.

(1[0]1)(a) A provider shall provide to the Superintendent a list of course options using USBE-provided course codes.

(b) All program courses shall be coded as semester or quarter courses.

(c) A provider shall update the provider's course offerings annually.

(1[4]2) A provider shall serve a student on a first-come-first-served basis who desires to take courses and who is designated eligible by a primary school of enrollment if desired courses have space available.

(1[2]3) A provider shall provide all records maintained as part of a public online school or program, including:

(a) financial and enrollment records; and

(b) information for accountability and audit purposes upon request by the Superintendent and the provider's external auditors.

(1[3]4) A provider shall maintain ~~[documentation of student work, including dates of submission, for program audit purposes.]~~ the following for at least five calendar years after the student exits the provider's or third party's program:

(a) test scores;

(b) student grades;

(c) completion of credit; and

(d) other progress and performance measures

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(1[4]5)(a) A provider is responsible for complete and timely submissions of record changes to executed CCAs and submission of other reports and records as required by the Superintendent.

(b) A provider shall update CCAs to the nearest credit value earned by June 30 annually.

(c) A provider may only maintain an CCA open after June 30 if a student remains actively engaged in coursework, meeting the provider's standard of active participation.

(1[5]6) A provider shall inform a student and the student's parent of expectations for active participation ~~[in]~~ prior to the inception of course work.

(1[6]7)(a) An LEA may participate in the program as a provider by offering a school or program consistent with the provisions of Rule R277-115 to a Utah secondary student[s] in grades 6-12 who is not a resident student of the LEA and a regularly-enrolled student of the LEA consistent with Sections 53F-4-501 and 53F-4-503.

(b) An LEA program created in accordance with Subsection (17)(a) for serving students in grades 9-12 online must partner with an accredited school and shall:

(i) report grades and credit earned by a student to the Superintendent; and

(ii) record educator assignments consistent with Rule R277-484.

(1[7]8) A program school or program shall:

(a) be accredited by the accrediting entity adopted by the Board consistent with Rule R277-410;

(b) have a designated administrator who meets the requirements of Rule R277-520;

(c) ensure that a student who qualifies for a fee waiver shall receive all services offered by and through the public schools consistent with Section 53G-7-504 and Rule R277-407;

(d) maintain student records consistent with:

(i) the federal Family Educational Rights and Privacy Act, 20 U.S.C. Sec 1232g and 34 CFR Part 99; ~~[and]~~

(ii) Rule R277-487; and

(iii) this Rule R277-726; and

(e) shall offer course work:

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- (i) aligned with Utah Core standards;
- (ii) in accordance with program requirements; and
- (iii) in accordance with the provisions of Rules R277-700 and R277-404; ~~[and]~~
- (f) shall not issue transcripts under the name of a third-party provider~~[-];~~ and
- (g) shall record teaching assignments by November 15 annually consistent with Rule

R277-484 and Section R277-512-7, either directly or through a partner school in accordance with Subsection (17)(b).

(1~~8~~9) An LEA that offers an online program or school as a provider under the program:

- (a) shall employ only educators licensed in Utah as teachers;
- (b) may not employ an individual whose educator license has been suspended or revoked;
- (c) shall require all employees to meet requirements of Title 53G, Chapter 11, Part 4, Background Checks, prior to the provider offering services to a student;
- (d) may only employ teachers who meet the requirements of Rule R277-510, Educator Licensing - Highly Qualified Assignment;
- (e) shall agree to administer and have the capacity to carry out statewide assessments, including proctoring statewide assessments, consistent with Sections ~~[53F-4-514]~~ 53E-4-302, 53F-2-103, and Rule R277-404;
- (f) in accordance with Section R277-726-8, shall provide services to a student consistent with requirements of the IDEA, Section 504, and Title VI of the Civil Rights Act of 1964 for English Language Learners (ELL);
- (g) shall maintain copies of all CCAs for audit purposes; and
- (h) shall agree that funds shall be withheld by the Superintendent consistent with Sections 53F-4-505, 53F-4-506, and 53F-4-508.

(~~19~~20) A provider shall cooperate with the Superintendent in providing timely documentation of student participation, enrollment, educator credentials, and other additional data consistent with Board directives and procedures and as requested.

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(2[0]1) A provider shall post required information online on the provider's individual website including required assessment and accountability information.

(2[4]2)(a) A provider contracting with a third-party to provide educational services to students participating with the provider through the Statewide Online Education Program shall:

(b) develop a written monitoring plan to supervise the activities and services provided by the third-party provider to ensure:

(i) a third-party provider is complying with:

(A) federal law;

(B) state law; and

(C) Board rules;

(ii) curriculum provided by a third-party provider is aligned with the Board's core standards and rules;

(iii) a third-party provider has access to curriculum for alignment and adjustment to ensure the curriculum is consistent with the Utah core standards in Rule R277-700 and a Board approved core code;

(i[iv]v) supervision of third-party facilitation and instruction by an educator licensed in Utah:

(A) employed by the provider, and

(B) reported as teacher of record per Section R277-484-3 and Subsection R277-726-2(3); and

(iv) consistent with the LEA's administrative records retention schedule, maintenance of documentation of the LEA's supervisory activities.

(2[2]3) A provider shall offer courses consistent with standards outlined in an applicable Statewide Services Agreement, which may be updated or amended to reflect changes in law, rule or recommended practice.

(24) A provider utilizing a third party shall establish contractual and procedural safeguards:

(a) retaining legal and procedural authority to open coursework to a participating student only upon issuance of a Notice of Enrollment regarding a particular course and credit;

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(b) signifying the provider's authority to interact instructionally with a student not regularly enrolled in the LEA but participating in SOEP courses with approval of the student's primary LEA of enrollment; and

(c) including acceptance of financial responsibility by a primary LEA of enrollment.

(25) A provider is not required to independently verify:

(a) early graduation status; or

(b) the non-supplanting nature of SOEP courses.

### **R277-726-8. Services to Students with Disabilities Participating in the Program.**

(1)(a) If a student wishes to receive services under Section 504 of the Rehabilitation Act of 1973, the student shall make a request with the student's primary school of enrollment.

(b) The primary school of enrollment shall evaluate a student's request under Subsection (1)(a) and determine if a student is eligible for Section 504 accommodations.

(c) If the primary school of enrollment determines the student is eligible, the school shall prepare a Section 504 plan and implement the plan in accordance with Subsection (2)(b).

(2)(a) If a student requests services related to an existing Section 504 accommodation, a provider shall:

(i) except as provided in Subsection (2)(b), review and implement the plan for the student; and

(ii) provide the services or accommodations to the student in accordance with the student's Section 504 plan.

(b) An LEA of enrollment shall provide a Section 504 plan of a student to a provider within 72 business hours if:

(i) the student is enrolled in a primary LEA of enrollment; and

(ii) the primary LEA of enrollment has a current Section 504 plan for the student.

(2) For a student enrolled in a primary LEA of enrollment, if a student participating in the program qualifies to receive services under the IDEA:

(a) the student's primary LEA of enrollment shall:

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(i) working with a provider LEA representative, review or develop an IEP for the student within ten days of enrollment;

(ii) working with a provider LEA representative, update an existing IEP with necessary accommodations and services, considering the courses selected by the student;

(iii) provide the IEP described in Subsection (2)(a)(i) to the provider within 72 business hours of completion of the student's IEP; and

(iv) continue to claim the student in the primary LEA of enrollment's membership; and

(b) the provider shall provide special education services and accommodations to the student in accordance with the student's IEP described in Subsection (2)(a)(i).

(3) If a home or private school student requests an evaluation for eligibility to receive special education services:

(a) the home or private school student's resident school shall:

(i) evaluate the student's eligibility for services under the IDEA;

(ii) if eligible, prepare an IEP for the student, with input from the provider LEA, in accordance with the timelines required by the IDEA;

(iii) provide the IEP described in Subsection (4)(a)(ii) to the provider within 72 business hours of completion of the student's IEP; and

(iv) claim the student in the resident school's membership; and

(b) the provider shall provide special education services and accommodations to the student in accordance with the student's IEP described in Subsection (4)(a)(i) including in cases where the provider utilizes a third party provider for delivery of educational or other services.

### **R277-726-9. Home and Private School Appropriation.**

(1) The Superintendent shall allocate the annual appropriation for home and private school tuition, along with any carryover or unobligated funds, as follows:

~~[(a) 50% of the total appropriation for home school students; and~~

~~— (b) 50% of the total appropriation for private school students.~~

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~~—(2) The Superintendent shall receive and accept enrollment requests on a first come, first served basis until all available funds are obligated.]~~

(a) Prior to December 1 annually, the Superintendent shall accommodate home school students with at least 50% of the total appropriation for home and private school students, unless the home school demand is less.

(b) After December 1 annually, until available funds are obligated, the Superintendent shall:

(i) receive and accept enrollment requests on a first come, first served basis; and  
(ii) offer preference to home school students in the event demand exceeds available funding.

(3) If home school or private school student funds remain by ~~[March]~~ December 1, the Superintendent may release the funds for any pending enrollment requests.

#### **R277-726-10. Other Information.**

(1) A primary school of enrollment shall set reasonable timelines and standards.

(2) A provider shall adhere to timelines and standards described in Subsection (1) for student grades and enrollment in online courses for purposes of:

(a) school awards and honors;

(b) Utah High School Activities Association participation; and

(c) high school graduation.

**KEY: statewide online education program**

**Date of Enactment or Last Substantive Amendment: May 23, 2019**

**Notice of Continuation: December 15, 2015**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~[53A-15-1210]~~53F-4-510;  
[53A-15-1213]53F-4-514; [53A-1-401]53E-3-401**

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