

R277-723 received final approval by the Utah State Board of Education on July 9, 2020. R277-723 will be published in the August 1, 2020 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of September 8, 2020.

R277. Education, Administration.

R277-723. Start Smart Utah Program.

R277-723-1. 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; and

(c) Section [53G-9-205.1\(3\)](#) which directs the Board to create a waiver application, submission, review, and approval process.

(2) The purpose of this rule is to provide the process to apply for and receive a waiver from the requirements of [53G-9-205.1\(2\)](#).

R277-723-2. Definitions.

(1) "Alternative breakfast service model" means the same as the term is defined in Subsection [53G-9-205.1\(1\)\(a\)](#).

(2) "Financial hardship" means a school cannot maintain a positive financial balance in the School food service account due to the operation of an alternative breakfast service model or school breakfast program.

(3) "Logistical hardship" means a school lacks any capacity or resources to perform the required duties and work flow to support an alternative breakfast service model or school breakfast program.

(4) "Nonprofit school food service account" means the same as the term is defined in [7 CFR 210.12](#)

(5) "Undue hardship" means a logistical or financial hardship.

R277-723-3. Procedures for Waiver Requests.

(1)(a) An LEA board may request a waiver from some or all of the requirements of Subsection [53G-9-205.1\(2\)](#) by filing a written request.

(b) A written request under Subsection (1)(a) shall include:

(i) verification that the LEA board voted to request the waiver in an open

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meeting;

(ii) the requirements as described in Subsection 53G-9-205.1(2) for which the LEA is seeking a waiver;

(iii) documentation demonstrating the logistical or financial hardship resulting in the need for a waiver including:

(A) cost benefit analysis showing reimbursement will not fully cover anticipated costs;

(B) facility capacity unable to support food service needs;

(C) documentation related to recommendations as outlined in Subsection 53G-9-205(1)(b); or

(D) other data demonstrating logistical or financial hardship;

(iv) possible solutions to mitigate the future need for a waiver; and

(v) alternative practices to ensure the LEA's free and reduced lunch student population has the most access possible to nutrition programs during regular school hours.

(2) An LEA shall submit a separate waiver for each school within the LEA that the LEA seeks to exempt from the requirements of Subsection 53G-9-205.1(2).

(3) An LEA that satisfies the requirements of Subsection 53G-9-205.1(2)(d)(ii) is exempt from needing to apply for a waiver.

(4) The Superintendent shall establish a review committee that consists of three or more members from relevant staff.

(5) The review committee shall review a waiver request for approval or denial within 30 days of receipt of the waiver request.

(6) If the review committee denies an LEA's waiver request, an LEA may appeal to the Board in writing within 10 calendar days of notice of denial.

(7) A waiver granted under R277-723 expires at the end of the school year for which the waiver was granted.

(8) An LEA may create an implementation plan as part of the LEA's efforts to mitigate the need for a future waiver.

(9) The Superintendent may provide additional supports and resources to an LEA for the purposes of creating an implementation plan.

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(10) An LEA may implement alternative breakfast service models before the LEA's waiver has expired.

R277-723-4. Corrective Action Plan

(1) If an LEA is found to be non-compliant with Section 53G-9-205.1 and has not applied for a waiver pursuant to R277-723, the LEA may be placed on a corrective action plan described in R277-114.

KEY: Start Smart Utah; breakfast after the bell; breakfast

Date of Enactment or Last Substantive Amendment: 2020

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