

1 **R277. Education, Administration.**

2 **R277-107. Educational Services Outside of an Educator's Regular Employment.**

3 **R277-107-~~[2]~~1. Authority and Purpose.**

4 ~~[A:]~~(1) This rule is authorized by:

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

7 (b) Subsection 53E-3-401(4), which permits the Board to adopt rules to carry out its
8 duties and responsibilities under the Utah Constitution and state law; and

9 (c) Section ~~[53A-1-402.5]~~ 53E-3-512, which directs the Board to make rules that
10 establish basic ethical conduct standards for employees who provide public education-
11 related services or activities outside of their regular employment~~[, and 53A-1-401(3) which~~
12 ~~permits the Board to adopt rules in accordance with its responsibilities]~~.

13 ~~[B:]~~(1) The purpose of this rule is to provide direction and parameters for employees
14 who provide or participate in public education-related services or activities outside of their
15 regular public education employment.

16 ~~[C:]~~(2) The Board recognizes that public school educators have expertise and
17 training in various subjects and skills and should have the opportunity to enrich the
18 community with their skills and expertise while still respecting the unique public trust that
19 public educators have.

20 **R277-107-~~[4]~~2. Definitions.**

21 ~~[A:]~~(1) "Activity sponsor" means a private or public individual or entity that employs
22 an employee in any program in which public school students participate.

23 ~~[B. "Board" means the Utah State Board of Education.]~~

24 ~~[C:]~~(2) "Extracurricular activity" means an activity for students recognized or
25 sanctioned by an LEA, which may supplement or compliment, but is not part of, the LEA's
26 required program or regular curriculum.

27 ~~[D:]~~(3) "LEA" ~~[or "local education agency" means a school district, charter school~~
28 ~~or;] includes,~~ for purposes of this rule, the Utah Schools for the Deaf and the Blind.

29 ~~[E:]~~(4) "Public education employee" or "[~~f~~]employee~~]~~" means a person who is

30 employed on a full-time, part-time, or contract basis by an[y] LEA.

31 [F(1)](5)(a) "Private, but public education-related activity" means any type of activity
32 for which:

33 ([a]i) a public education employee receives compensation; and

34 ([b]ii) the principle clients are students at the school where the employee works.

35 ([2]b) "Private, but public education-related activity" may include:

36 ([a]i) tutoring;

37 ([b]ii) lessons;

38 ([c]iii) clinics;

39 ([d]iv) camps; or

40 ([e]v) travel opportunities.

41 ~~**R277-107-3. LEA Responsibility.**~~

42 ~~—— An LEA may have policies providing for the following, consistent with the provisions~~
43 ~~of this R277-107 and the law:~~

44 ~~—— A. sponsorship or specific non-sponsorship of extracurricular activities; or~~

45 ~~—— B. opportunities for students.]~~

46 **R277-107-[4]3. LEA Relationship to Activities Involving Educators.**

47 [A](1) An LEA may sponsor extracurricular activities or opportunities for students.

48 (2) Extracurricular activities are subject to:

49 (a) [Utah's] school fee laws and rules, including the provisions of R277-407[-];

50 (b) fee waivers[-];

51 (c) procurement laws[-]; and

52 (d) all other applicable laws and rules.

53 [B-](3) An employee that participates in a private, but public education-related
54 activity, is subject to the following requirements:

55 ([1]a) [the] An employee's participation in the activity shall be separate and
56 distinguishable from the employee's public employment [as required by this rule];

57 ([2](b)) [the] An employee may not, in promoting [the] private, but public education-

58 related activity:

59 (a) contact students at ~~the~~ a public school[s], except as permitted by this rule; or

60 (b) use education records, resources, or information obtained through the
61 employee's public employment unless the records, resources, or information are readily
62 available to the general public[;].

63 ~~(3)4~~ ~~the~~ An employee may not use school time to discuss, promote, or prepare
64 for:

65 (a) a private activity; or

66 (b) a private, but public education-related activity[;].

67 ~~(4)5~~ ~~the~~ An employee may:

68 (a) offer private, but public education-related services, programs or activities to
69 students provided that they are not advertised or promoted by the employee during school
70 time;

71 (b) discuss a private, but public education-related activity with students or parents
72 outside of the classroom and the regular school day;

73 (c) use student directories or online resources which are available to the general
74 public; and

75 (d) use student or school publications in which commercial advertising is allowed,
76 to advertise and promote the activity.

77 ~~C.](6) An employee may not condition~~ ~~C.]~~ credit and participation in a public school
78 program or activity ~~[may not be conditioned]~~ on a student's participation in such activities
79 as clinics, camps, private programs, or travel activities, which are not equally and freely
80 available to all students.

81 ~~D.](7) No employee may state or imply to any person that participation in a regular~~
82 school activity or program is conditioned on participation in a private activity.

83 ~~E.](8) No provision of this rule shall preclude a student from requesting or~~
84 petitioning an ~~[teacher or school]~~ LEA for approval of credit based on an extracurricular
85 educational experience consistent with LEA policy.

86

87 **R277-107-~~5]4. Advertising.~~**

88 [A-](1) An employee may purchase advertising space to advertise an activity or
89 service in a publication, whether or not sponsored by the public schools, that accepts paid
90 or community advertising.

91 [B-](2) [The] A paid advertisement in a school publication may identify the activity,
92 participants, and leaders or service providers by name, provide non-school contact
93 information, and provide details of the employee's employment experience and
94 qualification.

95 [C-](3) An employee may post or distribute [P]posters or brochures [~~may be posted~~
96 ~~or distributed~~] in the same manner as could be done by a member of the general public,
97 advertising [~~an employee's~~] private services, consistent with LEA policy.

98 [D-](4) Unless an activity is sponsored by the LEA, [~~the~~] a paid advertisement in a
99 school publication shall state clearly and distinctly that the activity is NOT sponsored by the
100 LEA.

101 [E-](5) The name of an LEA may not be used in [~~the~~] an advertisement [~~except as~~]
102 unless the LEA's name [~~may~~] relates to the employee's employment history or if school
103 facilities have been rented for the activity.

104 [F-](6) If the name of [~~the~~] an employee offering [~~the~~] a service or participating in
105 [~~the~~] an activity is stated in any advertisement sent to the employee's students, or is posted,
106 distributed, or otherwise made available in the employee's school, the advertisement shall
107 state that the activity is not school sponsored.

108 **R277-107-[6]5. Public Education Employees.**

109 [A-](1) A [P]public education employee[s] shall comply with Title 63G, Chapter 6a,
110 Utah Procurement Code.

111 [B-](2) A [P]public education employee[s] shall comply with Title 67, Chapter 16,
112 Public Officers' and Employees' Ethics Act.

113 [C-](3) Except as provided in [~~R277-107-6D~~] Subsection (4), consistent with Section
114 63G-6a-2404 and Title 67, Chapter 16, Public Officers' and Employees' Ethics Act, a public
115 education employee may not solicit or accept gifts, incentives, honoraria, or stipends from
116 private sources:

117 ([1]a) for the employee's personal or family use;
118 ([2]b) in exchange for payment for advertising placed by the employee; or
119 ([3]c) in exchange for payment for securing agreements, contracts or purchases
120 between private company and public education employer, programs or teams.

121 [D-](4) A public education employee may accept a gift, incentive, honoraria, or
122 stipend from a private source if the gift, incentive, honoraria, or stipend is:

123 [(4)](a) of nominal value and is for birthdays, holidays, or teacher appreciation
124 occasions; or

125 (b) a public award in recognition of public service; and

126 ([2]c) consistent with school or LEA policies and the Utah Public Employees' Ethics
127 Act.

128 [E-](5) A public education employee who holds a Utah educator license [shall] may
129 be subject to license discipline [(including license suspension or revocation)] for violation
130 of this Rule R277-107 and [applicable] related provisions of Utah law.

131 **R277-107-[7]6. Public Education Employee/Sponsor Agreements or Contracts.**

132 [A-](1) An agreement between an employee and a sponsor of a[n] private, but public
133 education-related activity [sponsor] shall be signed by the employee and include [a
134 statement that reads substantially] the following acknowledgments:

135 (a) [t] the parties understand that [this] the activity is not sponsored by an LEA[;];

136 (b) [that my] the employee's responsibilities to the activity sponsor are outside the
137 scope of and unrelated to any public duties or responsibilities [t] the employee may have
138 as a public education employee[;]; and

139 (c) [t] the employee agrees to comply with laws and rules of the state and policies
140 regarding [my] advertising and employee participation.

141 [B-](2) An employee shall provide the LEA business administrator, superintendent,
142 or charter school director with a signed copy of all contracts between the employee and a
143 sponsor of a private, but public-education related activity [sponsor].

144 [C-](3) An LEA shall maintain a copy of a contract described in [R277-107-7B]
145 Subsection (2) in the employee's personnel file.

146 **KEY: school personnel**
147 **Date of Enactment or Last Substantive Amendment: August 26, 2015**
148 **Notice of Continuation: June 25, 2015**
149 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; [~~53A-1-402.5~~] 53E-3-**
150 **512; [~~53A-1-401(3)] 53E-3-401(4)~~**