

1 **R277. Education, Administration.**

2 **R277-417. Prohibiting LEAs and Third Party Providers from Offering Incentives or**
3 **Disbursement for Enrollment or Participation – LEA Requirements to Supervise and**
4 **Monitor Third Party Providers.**

5 **R277-417-1. Authority and Purpose.**

6 (1) This rule is authorized by:

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

9 (b) Section [~~53A-1-401~~] 53E-3-401, which allows the Board to make rules to execute
10 the Board's duties and responsibilities under the Utah Constitution and state law.

11 (2) The purpose of this rule is:

12 (a) to provide standards and procedures for prohibiting LEAs and third party
13 providers from offering incentives for student enrollment; and

14 (b) to provide standards for an LEA working with a third party provider to ensure the
15 third party provider complies with state law and this R277-417.

16 **R277-417-2. Definitions.**

17 (1)(a) "Disbursement" means the payment of money or provision of other item of
18 value greater than \$10, per school year, offered as payment or compensation to a student
19 or to a parent or guardian for:

20 (i) a student's enrollment in an LEA; or

21 (ii) a student's participation in an LEA's program.

22 (b) "Disbursement" does not include a reimbursement paid by an LEA to a student,
23 parent or guardian, for an expenditure incurred by the student, parent or guardian on behalf
24 of the LEA if:

25 (i) the expenditure is for an item that will be the property of the LEA; and

26 (ii) the expenditure was preauthorized by the LEA, as evidenced by preauthorization
27 documentation.

28 (2) "Incentive" means one of the following given to a student or to the student's
29 parent or guardian by an LEA or by a third party provider as a condition of the student's

30 enrollment in an LEA or specific program for any length of time, during any school year:

31 (a) money greater than \$10; or

32 (b) an item of value greater than \$10.

33 (3) "Program" means a program within a school that is designed to accomplish a
34 predetermined curricular objective or set of objectives.

35 (4) "Section 504 accommodation plan" required by Section 504 of the Rehabilitation
36 Act of 1973, means a plan designed to accommodate an individual who has been
37 determined, as a result of an evaluation, to have a physical or mental impairment that
38 substantially limits one or more major life activities.

39 (5) "Third party provider" means a third party that [~~who~~] provides [~~educational~~]
40 services on behalf of an LEA.

41 **R277-417-3. LEA and Third Party Provider Use of Public Funds for Incentives and**
42 **Disbursement.**

43 (1) An LEA or a third party provider may not use public funds, as defined under
44 Subsection 51-7-3(26), to provide the following to a student, parent or guardian, individual,
45 or group of individuals:

46 (a) an incentive for a student's:

47 (i) enrollment in an LEA; or

48 (ii) participation in an LEA's program; or

49 (b) a referral bonus for a student's:

50 (i) enrollment in an LEA; or

51 (ii) participation in an LEA's program.

52 (2) An LEA or third party provider may not use public funds to provide a
53 disbursement to a student or the student's parent or guardian for:

54 (a) curriculum exclusively selected by a parent;

55 (b) instruction not provided by the LEA;

56 (c) private lessons or classes not provided by:

57 (i) an employee of the LEA; or

58 (ii) a third party provider who meets all of the requirements of R277-417-4;

- 59 (d) technology devices exclusively selected by a parent; or
60 (e) other educational expense exclusively selected by a parent.
- 61 (3) An LEA may use public funds to provide:
- 62 (a) uniforms, technology devices, curriculum, or materials and supplies to a student
63 if the uniforms, technology devices, curriculum, or materials and supplies are:
- 64 (i) available to all students enrolled in the LEA or program within the LEA; or
65 (ii) authorized by the student's college and career readiness plan, IEP, or 504
66 accommodation plan; or
- 67 (b) internet access for instructional purposes to a student:
- 68 (i) in kindergarten through grade 6; or
69 (ii) in grade 7 through grade 12 if:
- 70 (A) the internet access is provided in accordance with the fee waiver policy
71 requirements of Section R277-407-6; or
- 72 (B) failure to provide the internet access will cause economic hardship on the
73 student or parent.
- 74 (4) An LEA or third party provider shall ensure that equipment purchased or leased
75 by the LEA or third party provider remains the property of the LEA and is subject to the
76 LEA's asset policies if:
- 77 (a) the LEA or third party provider purchases equipment; and
78 (b) provides the equipment to a student or to the student's parent or guardian.

79 **R277-417-4. LEA Requirements to Supervise and Monitor Third Party Providers**
80 **[Provision of Educational Services].**

- 81 (1) An LEA that contracts with a third party provider to provide services on behalf of
82 the LEA shall:
- 83 (a) establish monitoring and compliance procedures to ensure that a third party
84 provider who provides [educational] services to a student on behalf of the LEA complies
85 with the provisions of this rule;
- 86 (b) develop a written monitoring plan to supervise the activities and services
87 provided by the third party provider;

88 (c) ensure the third party provider is complying with:

89 (i) federal law;

90 (ii) state law; and

91 (iii) Board rules;

92 (d) monitor and supervise all activities of the third party provider related to services
93 provided by the third party provider to the LEA; and

94 (e) maintain documentation of the LEA's supervisory activities consistent with the
95 LEA's administrative records retention schedule.

96 (2) [An] If an LEA contracts with a third party provider to provide[r] educational
97 services, the LEA shall:

98 (a) verify the accuracy and validity of a student's enrollment verification data, prior
99 to enrolling a student in the LEA; and

100 (b) provide a student and the student's parent or guardian with notification of the
101 student's enrollment in a school or program within the LEA.

102 (3) The Board or the Superintendent may require an LEA to repay public funds to
103 the Superintendent if:

104 (a) the LEA or the LEA's third party provider fails to comply with the provisions of this
105 rule; and

106 (b) the repayment is made in accordance with the procedures established in
107 R277-114.

108 (4) If an LEA's third party provider contracts with another third party provider to
109 perform a portions of the original third party provider's services:

110 (a) the original third party provider's third party provider is also subject to the
111 requirements of this R277-417;

112 (b) the LEA shall require the original third party provider to notify the LEA that the
113 original third party provider is outsourcing duties to an additional third party provider,
114 including providing contact information and a description of what services the additional
115 third party provider will provide; and

116 (c) the LEA shall supervise and monitor the additional third party provider as
117 required in this R277-417.

118 **KEY: student, enrollment, incentives**

119 **Date of Enactment or Last Substantive Amendment: March 14, 2017**

120 **Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; [~~53A-1-401~~] 53E-3-**

121 **401**