

1 **R277. Education, Administration.**

2 **R277-407. School Fees.**

3 **R277-407-1. Authority and Purpose.**

4 (1) This rule is authorized under:

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

7 (b) Article X, Section 2 of the Utah Constitution, which provides that:

8 (i) public elementary schools shall be free; and

9 (ii) secondary schools shall be free, unless the Legislature authorizes the imposition
10 of fees;

11 (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the
12 Board's duties and responsibilities under the Utah Constitution and state law;

13 (d) Subsection 53G-7-503(2), which requires the Board to adopt rules regarding student
14 fees; and

15 (e) Subsection 53G-7-504 which authorizes waiver of fees for eligible students with
16 appropriate documentation.

17 (2) This rule also serves to comply with the order arising from the Permanent Injunction
18 issued in Doe v. Utah State Board of Education, Civil No. 920903376 (3rd District 1994).

19 (3) The purpose of this rule is to:

20 (a) permit the orderly establishment of a system of reasonable fees;

21 (b) provide adequate notice to students and families of fees and fee waiver
22 requirements; and

23 (c) prohibit practices that would:

24 (i) exclude those unable to pay from participation in school-sponsored activities; or

25 (ii) create a burden on a student or family as to have a detrimental impact on
26 participation.

27 **R277-407-2. Definitions.**

28 (1) "Co-curricular activity" means an activity, course, or program, outside of school
29 hours, that also includes a required regular school day program or curriculum.

30 (2) "Extracurricular activity" means an activity or program for students, outside of the
31 regular school day, that:

32 (a) is sponsored, recognized, or sanctioned by an LEA; and

33 (b) supplements or compliments, but is not part of, the LEA's required program or
34 regular curriculum.

35 (3)(a) "Fee" means something of monetary value requested or required by an LEA as
36 a condition to a student's participation in an activity, class, or program provided, sponsored,
37 or supported by a school.

38 (b) "Fee" includes money or something of monetary value raised by a student or the
39 student's family through fund[=]raising.

40 (4)(a) "Fundraiser," "fundraising," or "fundraising activity" means an activity or event
41 provided, sponsored, or supported by a school that uses students to generate funds to raise
42 money to:

43 (i) provide financial support to a school or any of the school's classes, groups, teams,
44 or programs; or

45 (ii) benefit a particular charity or for other charitable purposes.

46 (b) "Fundraiser," "fundraising," or "fundraising activity" may include:

47 (i) the sale of goods or services;

48 (ii) the solicitation of monetary contributions from individuals or businesses; or

49 (iii) other lawful means or methods that use students to generate funds.

50 (c) "Fundraiser," "fundraising," or "fundraising activity" does not include an alternative
51 method of raising revenue without students.

52 (5) "Group fundraiser" or "group fundraising" means a fundraising activity where the
53 money raised is used for the mutual benefit of the group, team, or organization.

54 (6) "Individual fundraiser" or "individual fundraising" means a fundraising activity where
55 money is raised by each individual student to pay the individual student's fees.

56 ~~[(7)(a) "Instructional equipment" means equipment or supplies required for a student~~
57 ~~to use as part of a secondary course that become the property of the student upon exiting the~~
58 ~~course:~~

59 ~~—— (b) "Instructional equipment" includes course related tools or instruments.]~~

60 (7)(a) "Instructional equipment" means an activity, course, or program-related tool or
61 instrument that:

62 (i) is required for a student to use as part of a secondary activity, course, or program;

63 (ii) typically becomes the property of the student upon exiting the activity, course, or
64 program; and

65 (iii) is subject to fee waiver.

66 (b) "Instructional equipment" includes:

67 (i) shears or styling tools;

68 (ii) a band instrument;

69 (iii) a camera;

70 (iv) a stethoscope; and

71 (v) sports equipment, including a bat, mitt, or tennis racquet.

72 (c) "Instructional equipment" does not include school equipment.

73 (8)(a) "Instructional supply" means a consumable or non-reusable supply that is
74 necessary for a student to use as part of a secondary activity, course, or program.

75 (b) "Instructional supply" includes:

76 (i) prescriptive footwear;

77 (ii) brushes or other art supplies, including clay, paint, or art canvas;

78 (iii) wood for wood shop;

79 (iv) Legos for Lego robotics;

80 (v) film; and

81 (vi) filament used for 3D printing.

82 ~~[(8)](9) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the~~
83 ~~Blind.~~

84 ~~[(9)]~~(10) "Noncurricular club" has the same meaning as that term is defined in Section
85 53G-7-701.

86 ~~[(10)]~~(11) "Non-waivable charge" means a cost, payment, or expenditure that:

87 (a) is a personal discretionary charge or purchase, including:

88 (i) a charge for insurance, unless the insurance is required for a student to participate
89 in an activity, class, or program;

90 (ii) a charge for college credit related to the successful completion of:

91 (A) a concurrent enrollment class; or

92 (B) an advanced placement examination; or

93 (iii) except when requested or required by an LEA, a charge for a personal consumable
94 item such as a yearbook, class ring, letterman jacket or sweater, or other similar item;

95 (b) is subject to sales tax as described in Utah State Tax Commission Publication 35,
96 Sales Tax Information for Public and Private Elementary and Secondary Schools; or

97 (c) by Utah Code, federal law, or Board rule is designated not to be a fee, including:

98 (i) a school uniform as provided in Section 53G-7-801;

99 (ii) a school lunch; or

100 (iii) a charge for a replacement for damaged or lost school equipment or supplies.

101 ~~[(11)]~~(12)(a) "Provided, sponsored, or supported by a school" means an activity, class,
102 program, fundraiser, club, camp, clinic, or other event that:

103 (i) is authorized by an LEA or school, according to local education board policy; or

104 (ii) satisfies at least one of the following conditions:

105 (A) the activity, class, program, fundraiser, club, camp, clinic, or other event is managed
106 or supervised by an LEA or school, or an LEA or school employee;

107 (B) the activity, class, program, fundraiser, club, camp, clinic, or other event uses, more
108 than inconsequentially, the LEA or school's facilities, equipment, or other school resources;
109 or

110 (C) the activity, class, program, fund[-]raising event, club, camp, clinic, or other event
111 is supported or subsidized, more than inconsequentially, by public funds, including the school's
112 activity funds or minimum school program dollars.

113 (b) "Provided, sponsored, or supported by a school" does not include an activity, class,
114 or program that meets the criteria of a noncurricular club as described in Title 53G, Chapter
115 7, Part 7, Student Clubs.

116 ~~[(12)]~~(13)(a) "Provision in lieu of fee waiver" means an alternative to fee payment or
117 waiver of fee payment.

118 (b) "Provision in lieu of fee waiver" does not include a plan under which fees are paid
119 in installments or under some other delayed payment arrangement.

120 ~~[(13)]~~(14) "Regular school day" has the same meaning as the term "school day"
121 described in Section R277-419-2.

122 ~~[(14)]~~(15) "Requested or required by an LEA as a condition to a student's participation"
123 means something of monetary value that is impliedly or explicitly mandated or necessary for
124 a student, parent, or family to provide so that a student may:

125 (a) fully participate in school or in a school activity, class, or program;

126 (b) successfully complete a school class for the highest grade; or

127 (c) avoid a direct or indirect limitation on full participation in a school activity, class, or
128 program, including limitations created by:

129 (i) peer pressure, shaming, stigmatizing, bullying, or the like; or

130 (ii) withholding or curtailing any privilege that is otherwise provided to any other student.

131 (16) "School day" has the same meaning as defined in R277-419-2.

132 (17)(a) "School equipment" means a durable school-owned machine, equipment, or
133 tool used by a student as part of a secondary activity, course, or program.

134 (b) "School equipment" includes a saw, machine, and 3D printer.

135 ~~[(15)]~~(18)(a) "Something of monetary value" means a charge, expense, deposit, rental,
136 fine, or payment, regardless of how the payment is termed, described, requested or required
137 directly or indirectly, in the form of money, goods or services.

138 (b) "Something of monetary value" includes:

139 (i) charges or expenditures for a school field trip or activity trip, including related
140 transportation, food, lodging, and admission charges;

141 (ii) payments made to a third party that provide a part of a school activity, class, or
142 program;

143 (iii) classroom supplies or materials; and

144 (iv) a fine, except for a student fine specifically approved by an LEA for:

145 (A) failing to return school property;

146 (B) losing, wasting, or damaging private or school property through intentional,
147 careless, or irresponsible behavior; or

148 (C) improper use of school property, including a parking violation.

149 ~~[(16)]~~(19)(a) "Student supplies" means items which are the personal property of a
150 student which, although used in the instructional process, are also commonly purchased and
151 used by persons not enrolled in the class or activity in question and have a high probability of
152 regular use in other than school-sponsored activities.

153 (b) "Student supplies" include:

154 (i) pencils;

155 (ii) paper;

156 (iii) notebooks;

157 (iv) crayons;

158 (v) scissors;

159 (vi) basic clothing for healthy lifestyle classes; and

160 (vii) similar personal or consumable items over which a student retains ownership.

161 (c) "Student supplies" does not include items listed in Subsection ~~[(16)]~~(18)(b) if the
162 requirement from the school for the student supply includes specific requirements such as
163 brand, color, or a special imprint in order to create a uniform appearance not related to basic
164 function.

165 (20) "Supplemental kindergarten" means an LEA program for students in kindergarten
166 who voluntarily elect to receive additional hours of instruction beyond the LEA's regular school
167 day for kindergarten students for an additional fee.

168 ~~[(47)]~~(21) "Supplemental Security Income for children with disabilities" or "SSI" means
169 a benefit administered through the Social Security Administration that provides payments for
170 qualified children with disabilities in low income families.

171 ~~[(48)]~~(22) "Temporary Assistance for Needy Families" or "TANF," means a program,
172 formerly known as AFDC, which provides monthly cash assistance and food stamps to low-
173 income families with children under age 18 through the Utah Department of Workforce
174 Services.

175 ~~[(49)]~~(23)(a) "Textbook" means instructional material necessary for participation in a
176 course or program, regardless of the format of the material.

177 ~~[(b) "Textbook" does not include instructional equipment.]~~

178 (b) "Textbook" includes:

179 (i) hardcopy book or printed pages of instructional material, including a consumable
180 workbook;

181 (ii) computer hardware, software, or digital content;

182 (iii) the cost of wifi to access school required digital content; and

183 (iv) the maintenance costs of school equipment.

184 (c) "Textbook" ~~does/~~does not include:

185 (i) instructional equipment; or

186 (ii) instructional supplies.

187 ~~[(20)]~~(24) "Waiver" means a full ~~[or partial]~~ release from the requirement of payment
188 of a fee and from any provision in lieu of fee payment.

189 **R277-407-3. Classes and Activities During the Regular School Day.**

190 (1) No fee may be charged in kindergarten through grade six for:

191 (a) materials;

192 (b) textbooks;

193 (c) supplies, except for student supplies described in Subsection (6); or

194 (d) any class or regular school day activity, including assemblies and field trips.

195 (2)(a) An LEA may charge a fee in connection with an activity, class, or program
196 provided, sponsored, or supported by a school for a student in a secondary school that takes
197 place during the regular school day if the fee is approved as provided in this R277-407.

198 (b) All fees are subject to the fee waiver provisions of Section R277-407-8.

199 (3)(a) Notwithstanding, Subsection (1) and except as provided in Subsection (3)(b),
200 a school may charge a fee to a student in grade six if the student attends a school that
201 includes any of grades seven through twelve.

202 (b) A school that provides instruction to students in grades other than grades six
203 through twelve may not charge fees for grade six unless the school follows a secondary model
204 of delivering instruction to the school's grade six students.

205 (c) If a school charges fees in accordance with Subsection (3)(a), the school shall
206 annually provide notice to parents that the school will collect fees from grade six students and
207 that the fees are subject to waiver.

208 (4) If a class is established or approved, which requires payment of fees or purchase
209 of items in order for students to participate fully and to have the opportunity to acquire all skills
210 and knowledge required for full credit and highest grades, the fees or costs for the class shall
211 be subject to the fee waiver provisions of Rule R277-407-8.

212 (5)(a) In project related courses, projects required for course completion shall be free
213 to all students.

214 (b) A school may require a student at any grade level to provide materials or pay for
215 an additional discretionary project if the student chooses a project in lieu of, or in addition to
216 a required classroom project.

217 (c) A school shall avoid allowing high cost additional projects, particularly if
218 authorization of an additional discretionary project results in pressure on a student by teachers
219 or peers to also complete a similar high cost project.

220 (d) A school may not require a student to select an additional project as a condition to
221 enrolling, completing, or receiving the highest possible grade for a course.

222 (6) An elementary school or elementary school teacher may provide to a student's
223 parent or guardian, a suggested list of student supplies for use during the regular school day

224 so that a parent or guardian may furnish, on a voluntary basis, student supplies for student
225 use, provided that, in accordance with Section 53G-7-503, the following notice is provided with
226 the list:

227 "NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE
228 REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A
229 VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE
230 SCHOOL."

231 (7) A school may require a secondary student to provide student supplies, subject to
232 the provisions of Section R277-407-8.

233 (8) Except as provided in Subsection (9), if a school requires special shoes or items of
234 clothing that meet specific requirements, including requesting a specific color, style, fabric, or
235 imprints, the cost of the special shoes or items of clothing are:

- 236 (a) considered a fee; and
- 237 (b) subject to fee waiver.

238 (9) As provided in Subsection 53G-7-802(4), an LEA's school uniform policy, including
239 a requirement for a student to wear a school uniform, is not considered a fee for either an
240 elementary or a secondary school if the LEA's school uniform policy is consistent with the
241 requirements of Title 53G, Chapter 7, Part 8, School Uniforms.

242 **R277-407-4. School Activities Outside of the Regular School Day.**

243 (1) A school may charge a fee, subject to the provisions of Section R277-407-8, in
244 connection with any school-sponsored activity, that does not take place during the regular
245 school day, regardless of the age or grade level of the student, if participation in the activity
246 is voluntary and does not affect a student's grade or ability to participate fully in any course
247 taught during the regular school day.

248 (2) A fee related to a co-curricular or extracurricular activity may not exceed the
249 maximum fee amounts for the co-curricular or extracurricular activity adopted by the LEA
250 governing board as described in Subsection R277-407-6(3).

251 (3) A school may only collect a fee for an activity, class, or program provided,
252 sponsored, or supported by a school consistent with LEA policies and state law.

253 (4) An LEA that provides, sponsors, or supports an activity, class, or program outside
254 of the regular school day or school calendar is subject to the provisions of this rule regardless
255 of the time or season of the activity, class, or program.

256 (5)(a) An LEA may charge a charge fee related to a student's enrollment in
257 supplemental kindergarten.

258 (b) An LEA's fee for supplemental kindergarten described in Subsection (5)(a) is
259 subject to fee waiver.

260 **R277-407-5. Fee-Waivable Activities, Classes, or Programs Provided, Sponsored, or**
261 **Supported by a School.**

262 Fees for the following are waivable:

263 (1) an activity, class, or program that is:

264 (a) primarily intended to serve school-age children; and

265 (b) taught or administered, more than inconsequentially, by a school employee as part
266 of the employee's assignment;

267 (2) an activity, class, or program that is explicitly or implicitly required:

268 (a) as a condition to receive a higher grade, or for successful completion of a school
269 class or to receive credit, including a requirement for a student to attend a concert or museum
270 as part of a music or art class for extra credit; or

271 (b) as a condition to participate in a school activity, class, program, or team, including,
272 a requirement for a student to participate in a summer camp or clinic for students who seek
273 to participate on a school team, such as cheerleading, football, soccer, dance, or another
274 team;

275 (3) an activity or program that is promoted by a school employee, such as a coach,
276 advisor, teacher, school-recognized volunteer, or similar person, during school hours where
277 it could be reasonably understood that the school employee is acting in the employee's official
278 capacity;

- 279 (4) an activity or program where full participation in the activity or program includes:
280 (a) travel for state or national educational experiences or competitions;
281 (b) debate camps or competitions; or
282 (c) music camps or competitions; and
283 (5) a concurrent enrollment, CTE, or AP course.

284 **R277-407-6. LEA Requirements to Establish a Fee Schedule – Maximum Fee Amounts**
285 **– Notice to Parents.**

286 (1) An LEA, school, school official, or employee may not charge or assess a fee or
287 request or require something of monetary value in connection with an activity, class, or
288 program provided, sponsored, or supported by a including for a co-curricular or extracurricular
289 activity, unless the fee:

290 (a) has been set and approved by the LEA's governing board;
291 (b) is equal to or less than the maximum fee amount established by the LEA governing
292 board as described in Subsection (3); and

293 (c) is included in an approved fee schedule or notice in accordance with this rule.

294 (2)(a) If an LEA charges a fee, on or before April 1 and in consultation with
295 stakeholders, the LEA governing board shall annually adopt a fee schedule and fee policies
296 for the LEA in a regularly scheduled public meeting.

297 (b) Before approving the LEA's fee schedule described in this Section, an LEA shall
298 provide an opportunity for the public to comment on the proposed fee schedule during a
299 minimum of two public LEA governing board meetings.

300 (c) An LEA shall:

301 (i) provide public notice of the meetings described in Subsections (2)(a) and (b) in
302 accordance with Title 52, Chapter 4, Open and Public Meetings Act; and

303 (ii) encourage public participation in the development of fee schedules and waiver
304 policies.

305 (d) In addition to the notice requirements of Subsection(2)(c), an LEA shall provide
306 notice to parents and students of the meetings described in Subsections (2)(a) and (b) using

307 the same form of communication regularly used by the LEA to communicate with parents,
308 including notice by e-mail, text, flyer, or phone call.

309 (e) An LEA shall keep minutes of meetings during which fee and waiver policies are
310 developed or adopted, together with copies of approved policies, in accordance with Section
311 52-4-203.

312 (3) After the fee schedule described in Subsection (2)(a) is adopted, an LEA may
313 amend the LEA's fee schedule if the LEA follows the process described in Subsection (2)
314 before approving the amended fee schedule.

315 ~~[(3)](4)(a)~~ As part of an LEA's fee setting process, the LEA shall establish a per student
316 annual maximum fee amount that the LEA's schools may charge a student for the student's
317 participation in all courses, programs, and activities provided, sponsored, or supported by a
318 school for the year.

319 (b) An LEA shall establish:

320 (i) a maximum fee amount per student for each activity; and

321 (ii) a maximum total aggregate fee amount per student per school year.

322 (c) The amount of revenue raised by a student through an individual fundraiser shall
323 be included as part of the maximum fee amount per student for the activity and maximum total
324 aggregate fee amount per student.

325 (d) An LEA may establish a reasonable number of activities, courses, or programs that
326 will be covered by the annual maximum fee amount described in Subsection (4)(a).

327 ~~[(4)](5)~~ As part of an LEA's fee setting process described in this Section, the LEA may
328 review and consider the following per school:

329 (a) the school's cost to provide the activity, class, or program;

330 (b) the school's student enrollment;

331 (c) the median income of families:

332 (i) within the school's boundary; or

333 (ii) enrolled in the school;

334 (d) the number and monetary amount of fee waivers, designated by individual fee,
335 annually granted within the prior three years;

- 336 (e) the historical participation and school interest in certain activities;
337 (f) the prior year fee schedule;
338 (g) the amount of revenue collected from each fee in the prior year;
339 (h) fund-raising capacity;
340 (i) prior year community donors; and
341 (j) other resources available, including through donations and fundraising.
- 342 ~~(5)~~(6)(a) An LEA shall annually provide written notice to a parent or guardian of each
343 student who attends a school within the LEA of all current and applicable fee schedules and
344 fee waiver policies.
- 345 ~~(6)~~(7)(a) If an LEA charges a fee, the LEA shall:
- 346 (i) annually publish the LEA's fee waiver policies and fee schedule, including the fee
347 maximums described in Subsection ~~(3)~~(4), on each of the LEA's schools' websites;
348 (ii) annually include a copy of the LEA's fee schedule and fee waiver policies with the
349 LEA's registration materials; and
350 (iii) provide a copy of the LEA's fee schedule and fee waiver policies to a student's
351 parent who enrolls a student after the initial enrollment period.
- 352 (b) If an LEA's student or parent population in a single language other than English
353 exceeds 20%, the LEA shall also publish the LEA's fee schedule and fee waiver policies in the
354 language of those families.
- 355 (c) An LEA representative shall meet personally with each student's parent or family
356 and make available an interpreter for the parent to understand the LEA's fee waiver schedules
357 and policies if:
- 358 (i) the student or parent's first language is a language other than English; and
359 (ii) the LEA hasn't published the LEA's fee schedule and fee waiver policies in the
360 parent's first language.
- 361 ~~(7)~~(8) A notice described in Subsection (6)(a) shall:
- 362 (a) be in a form approved by the Board; and
363 (b) include the following:
364 (i) for a school serving elementary students:

- 365 (A) School Fees Notice for Families of Children in Elementary School;
366 (B) Fee Waiver applications (Elementary School);
367 (C) Fee Waiver Decision and Appeals Form; and
368 (D) the Board's elementary school poster; and
369 (ii) for a school serving secondary students:
370 (A) School Fees Notice For Families of Students in a Secondary School;
371 (B) Fee Waiver Application (Secondary School);
372 (C) Application for Fee Waivers and Community Service (Secondary School);
373 (D) Community Service Assignments and Notice of Appeal Rights;
374 (E) Appeal of Community Service Assignment; and
375 (F) the Board's secondary school poster.
- 376 ~~(8)~~(9)(a) An LEA policy shall include easily understandable procedures for obtaining
377 a fee waiver and for appealing an LEA's denial of a fee waiver, as soon as possible before the
378 fee becomes due.
- 379 (b) If an LEA denies a student or parent request for a fee waiver, the LEA shall provide
380 the student or parent:
- 381 (i) the LEA's decision to deny a waiver; and
382 (ii) the procedure for the appeal in the form approved by the Board.
- 383 ~~(9)~~(10)(a) A school may not deny a present or former student receipt of transcripts
384 or a diploma, nor may a school refuse to issue a grade for a course for failure to pay school
385 fees.
- 386 (b) A school may impose a reasonable charge to cover the cost of duplicating, mailing,
387 or transmitting transcripts and other school records.
- 388 (c) A school may not charge for duplicating, mailing, or transmitting copies of school
389 records to an elementary or secondary school in which a former student is enrolled or intends
390 to enroll.
- 391 ~~(10)~~(11) To preserve equal opportunity for all students and to limit diversion of money
392 and school and staff resources from the basic school program, each LEA's fee policies shall
393 be designed to limit student expenditures for school-sponsored activities, including

394 expenditures for activities, uniforms, clubs, clinics, travel, and subject area and vocational
395 leadership organizations, whether local, state, or national.

396 **R277-407-7. Donations in lieu of Fees.**

397 (1)(a) A school may not request or accept a donation in lieu of a fee from a student or
398 parent unless the activity, class, or program for which the donation is solicited will otherwise
399 be fully funded by the LEA and receipt of the donation will not affect participation by an
400 individual student.

401 (b) A donation is a fee if a student or parent is required to make the donation as a
402 condition to the student's participation in an activity, class, or program.

403 (c) An LEA may solicit and accept a donation or contribution in accordance with the
404 LEA's policies, but all such requests must clearly state that donations and contributions by a
405 student or parent are voluntary.

406 (2) If an LEA solicits donations, the LEA:

407 (a) shall solicit and handle donations in accordance with policies established by the
408 LEA; and

409 (b) may not place any undue burden on a student or family in relation to a donation.

410 (3) An LEA may raise money to offset the cost to the LEA attributed to fee waivers
411 granted to students through the LEA's foundation.

412 (4) An LEA shall direct donations provided to the LEA through the LEA's foundation in
413 accordance with the LEA's policies governing the foundation.

414 (5) An LEA may not accept a donation that would create a significant inequity among
415 the schools within the LEA.

416 **R277-407-8. Fee Waivers.**

417 (1)(a) All fees are subject to waiver.

418 (b) Fees charged for an activity, class, or program held outside of the regular school
419 day, during the summer, or outside of an LEA's regular school year are subject to waiver.

420 (c) Non-waivable charges are not subject to waiver.

421 (2)(a) Except as provided in Subsection (2)(b), beginning with the 2020-21 school
422 year, an LEA may not use revenue collected through fees to offset the cost of fee waivers by
423 requiring students and families who do not qualify for fee waivers to pay an increased fee
424 amount to cover the costs of students and families who qualify for fee waivers.

425 (b) An LEA may notify students and families that the students and families may
426 voluntarily pay an increased fee amount or provide a donation to cover the costs of other
427 students and families.

428 (c) For an LEA with multiple schools, the LEA shall distribute the impact of fee waivers
429 across the LEA so that no school carries a disproportionate share of the LEA's total fee
430 waiver burden.

431 (3) An LEA shall provide, as part of any fee policy or schedule, for adequate waivers
432 or other provisions in lieu of fee waivers to ensure that no student is denied the opportunity
433 to participate in a class or school-sponsored or supported activity because of an inability to pay
434 a fee.

435 (4) An LEA shall designate at least one person at an appropriate administrative level
436 in each school to review and grant fee waiver requests.

437 (5) An LEA shall administer the process for obtaining a fee waiver or pursuing an
438 alternative fairly, objectively, without delay, and in a manner that avoids stigma,
439 embarrassment, undue attention, and unreasonable burdens on students and parents.

440 (6) An LEA may not treat a student receiving a fee waiver or provision in lieu of a fee
441 waiver differently from other students.

442 (7) A school may not identify a student on fee waiver to students, staff members, or
443 other persons who do not need to know.

444 (8)(a) An LEA shall ensure that a fee waiver or other provision in lieu of fee waiver is
445 available to any student whose parent is unable to pay a fee.

446 (b) A school or LEA administrator shall verify fee waivers consistent with this rule.

447 (9) An LEA shall submit school fee compliance forms to the Superintendent for each
448 school that affirm compliance with the permanent injunction, consistent with Doe v. Utah State
449 Board of Education, Civil No. 920903376 (3rd District 1994).

450 (10) An LEA shall adopt a fee waiver policy for review and appeal of fee waiver
451 requests which:

452 (a) provides parents the opportunity to review proposed alternatives to fee waivers;

453 (b) establishes a timely appeal process, which shall include the opportunity to appeal
454 to the LEA or its designee; and

455 (c) suspends any requirement that a given student pay a fee during any period for
456 which the student's eligibility for waiver is under consideration or during which an appeal of
457 denial of a fee waiver is in process.

458 (11) An LEA may pursue reasonable methods for collecting student fees, but may not,
459 as a result of unpaid fees:

460 (a) exclude a student from a school, an activity, class, or program that is provided,
461 sponsored, or supported by a school during the regular school day;

462 (b) refuse to issue a course grade; or

463 (c) withhold official student records, including written or electronic grade reports,
464 diplomas or transcripts.

465 (12)(a) A school may withhold student records in accordance with Subsection 53G-8-
466 212(2)(a).

467 (b) Notwithstanding Subsection (12)(a), a school may not withhold any records
468 required for student enrollment or placement in a subsequent school.

469 (13) A school is not required to waive a non-waivable charge.

470 **R277-407-9. Service In Lieu of Fees -- Voluntary Requests for Installment Plans.**

471 (1) Subject to the provisions of Subsection (2), an LEA may allow a student to perform
472 community service in lieu of a fee, but community service in lieu of a fee may not be required.

473 (2) An LEA may allow a student to perform community service in lieu of a fee if:

474 (a) the LEA establishes a community service policy that ensures that a community
475 service assignment is appropriate to the:

476 (i) age of the student;

477 (ii) physical condition of the student; and

- 478 (iii) maturity of the student;
- 479 (b) the LEA's community service policy is consistent with state and federal laws,
480 including:
- 481 (i) Section 53G-7-504; and
- 482 (ii) the Federal Fair Labor Standards Act, 29 U.S.C. §201;
- 483 (c) the community service can be performed within a reasonable period of time; and
- 484 (d) the service is at least equal to the minimum wage for each hour of service.
- 485 (3)(a) A student who performs community service may not be treated differently than
486 other students who pay a fee.
- 487 (b) The community service may not create an unreasonable burden for a student or
488 parent and may not be of such a nature as to demean or stigmatize the student.
- 489 (4) An LEA shall transfer a student's community service credit to:
- 490 (a) another school within the LEA; or
- 491 (b) another LEA upon request of the student.
- 492 (5)(a) An LEA may make an installment payment plan available to a parent or student
493 to pay for a fee.
- 494 (b) An installment payment plan described in Subsection (5)(a) may not be instigated
495 by the school but must be voluntarily requested by the student or parent.
- 496 (6) An LEA that charges fees shall adopt policies that include at least the following:
- 497 (a) a process for obtaining waivers or pursuing alternatives that is administered fairly,
498 objectively, and without delay, and avoids stigma and unreasonable burdens on students and
499 families;
- 500 (b) a process with no visible indicators that could lead to identification of fee waiver
501 applicants;
- 502 (c) a process that complies with the privacy requirements of The Family Educational
503 Rights and Privacy Act of 1974, 20 U.S.C. §123g (FERPA);
- 504 (d) a student may not collect fees or assist in the fee waiver approval process;
- 505 (e) a standard written decision and appeal form is provided to every applicant; and
- 506 (f) during an appeal the requirement that the fee be paid is suspended.

507 **R277-407-10. Individual and Group Fundraising Requirements.**

508 (1) An LEA governing board shall establish a fundraising policy that includes a
509 fundraising activity approval process.

510 (2) An LEA's fundraising policy described in Subsection (1):

511 (a) may not authorize, establish, or allow for required individual fundraising;

512 (b) may provide optional individual fundraising opportunities for students to raise money
513 to offset the cost of the student's fees;

514 (c) may allow for required group fundraisers;

515 (d) shall prohibit denying a student membership ~~[in or participation]~~ on a team or group
516 or in an activity based on the student's non-participation in a fundraiser; and

517 (e) shall require compliance with the requirements of Rule R277-113 when using
518 alternative methods of raising revenue that do not include students.

519 **R277-407-11. Fee Waiver Eligibility.**

520 (1) A student is eligible for fee waiver if an LEA receives verification that:

521 (a) based on the family income levels established by the Superintendent as described
522 in Subsection (2), ~~the student qualifies for free school lunch under United States Department~~
523 ~~of Agriculture child nutrition program regulations~~];

524 (b) the student to whom the fee applies receives SSI;

525 (c) the family receives TANF funding;

526 (d) the student is in foster care through the Division of Child and Family Services; or

527 (e) the student is in state custody.

528 (2) The Superintendent shall annually establish income levels for fee waiver eligibility
529 and publish the income levels on the Board's website.

530 (3) In lieu of income verification, an LEA may require alternative verification under the
531 following circumstances:

532 (a) If a student's family receives TANF, an LEA may require a letter of decision
533 covering the period for which a fee waiver is sought from the Utah Department of Workforce
534 Services;

535 (b) If a student receives SSI, an LEA may require a benefit verification letter from the
536 Social Security Administration;

537 (c) If a student is in state custody or foster care, an LEA may rely on the youth in care
538 required intake form and school enrollment letter or both provided by a case worker from the
539 Utah Division of Child and Family Services or the Utah Juvenile Justice Department.

540 (d) An LEA may not subject a family to unreasonable demands for re-qualification.

541 ~~[(4) An LEA shall ensure that the LEA's school]facilitate the fee waiver verification~~
542 ~~process for the LEA's schools if the LEA has two or more schools] is conducted at the same~~
543 ~~time as the LEA determines a student's free or reduced priced lunch eligibility].]~~

544 ~~[(3)](4)~~ A school may grant a fee waiver to a student, on a case by case basis, who
545 does not qualify for a fee waiver under Subsection (1), but who, because of extenuating
546 circumstances is not reasonably capable of paying the fee.

547 ~~[(4)](5)~~ An LEA may charge a proportional share of a fee or reduced fee if
548 circumstances change for a student or family so that fee waiver eligibility no longer exists.

549 **R277-407-12. Fees for Textbooks and Remediation.**

550 (1) Beginning with the ~~[2020-21]~~2022-23 school year, an LEA may not charge a fee for:

551 (a) a textbook as provided in Section 53G-7-603, except for a textbook used for a
552 concurrent enrollment or advanced placement course as described in Subsection (2); or

553 (b) a remediation course, if, as described in Subsection 53G-7-504(1)(b):

554 (i) the student or the student's parent is financially unable to pay the fee;

555 (ii) the fee for remediation would constitute an extreme financial hardship on the student
556 or student's parent; or

557 (iii) the student has suffered a long-term illness, death in the family, or other major
558 emergency.

559 (2)(a) An LEA may charge a fee for a textbook used for a concurrent enrollment or
560 advanced placement.

561 (b) A fee for a textbook used for a concurrent enrollment or advanced placement
562 course is fee waivable as described in Section R277-407-8.

563 **R277-407-13. Budgeting and Spending Revenue Collected Through Fees – Fee Revenue**
564 **Sharing Requirements.**

565 (1) An LEA shall follow the general accounting standards described in Rule R277-113
566 for treatment of fee revenue.

567 (2) An LEA shall:

568 (a) establish a spend plan for the revenue collected from each fee charged; and

569 (b) if the LEA has two or more schools within the LEA, share revenue lost due to fee
570 waivers across the LEA.

571 (3)(a) Financial inequities or disproportional impact of fee waivers may not fall
572 inequitably on any one school within an LEA.

573 (b) An LEA that has multiple schools shall establish a procedure to identify and address
574 potential inequities due to the impact of the number of students who receive fee waivers within
575 each of the LEA's schools.

576 **R277-407-14. Fee Waiver Reporting Requirements.**

577 (1) An LEA shall attach the following to the LEA's annual year end report for inclusion
578 in the Superintendent's annual report:

579 (a) a summary of:

580 (i) the number of students in the LEA given fee waivers;

581 (ii) the number of students who worked in lieu of a waiver; and

582 (iii) the total dollar value of student fees waived by the LEA;

583 (b) a copy of the LEA's fee and fee waiver policies;

584 (c) a copy of the LEA's fee schedule for students; and

585 (d) the notice of fee waiver criteria provided by the LEA to a student's parent or
586 guardian.

587 (e) a fee waiver compliance form approved by the Superintendent for each school and
588 LEA.

589 **R277-407-15. Superintendent and LEA Policy and Training Requirements.**

590 (1) The Superintendent shall provide ongoing training, informational materials, and
591 model policies, as available, for use by LEAs.

592 (2) The Superintendent shall provide online training and resources for LEAs regarding:

593 (a) an LEA's fee approval process;

594 (b) LEA notification requirements;

595 (c) LEA requirements to establish maximum fees;

596 (d) fundraising practices;

597 (e) fee waiver eligibility requirements, including requirements to maintain student and
598 family confidentiality; and

599 (f) community service or fundraising alternatives for students and families who qualify
600 for fee waivers.

601 (3) An LEA governing board shall annually review the LEA's policies on school fees,
602 fee waivers, fundraising, and donations.

603 (4) An LEA shall develop a plan for, at a minimum, annual training of LEA and school
604 employees on fee related policies enacted by the LEA specific to each employee's job
605 function.

606 **R277-407-16. Enforcement.**

607 (1) The Superintendent shall monitor LEA compliance with this rule:

608 (a) through the compliance reports provided in Section R277-407-14; and

609 (b) by such other means as the Superintendent may reasonably request at any time.

610 (2) If an LEA fails to comply with the terms of this rule or request of the Superintendent,
611 the Superintendent shall send the LEA a first written notice of non-compliance, which shall
612 include a proposed corrective action plan.

613 (3) Within 45 days of the LEA's receipt of a notice of non-compliance, the LEA shall:

614 (a) respond to the allegations of noncompliance described in Subsection (2); and

615 (b) work with the Superintendent on the Superintendent's proposed corrective action
616 plan to remedy the LEA's noncompliance.

617 (4)(a) Within fifteen days after receipt of a proposed corrective action plan described

618 in Subsection (3)(b), an LEA may request an informal hearing with the Superintendent to
619 respond to allegations of noncompliance or to address the appropriateness of the proposed
620 corrective action plan.

621 (b) The form of an informal hearing described in Subsection (4)(a) shall be as directed
622 by the Superintendent.

623 (5) The Superintendent shall send an LEA a second written notice of non-compliance
624 and request for the LEA to appear before a Board standing committee if:

625 (a) the LEA fails to respond to the first notice of non-compliance within 60 days; or

626 (b) the LEA fails to comply with a corrective action plan described in Subsection (3)(b)
627 within the time period established in the LEA's corrective action plan.

628 (6) If an LEA that failed to respond to a first notice of non-compliance receives a
629 second written notice of non-compliance, the LEA may:

630 (a)(i) respond to the notice of non-compliance described in Subsection (5); and

631 (ii) work with the Superintendent on a corrective action plan within 30 days of receiving
632 the second written notice of non-compliance; or

633 (b) seek an appeal as described in Subsection (8)(b).

634 (7) If an LEA that failed to respond to a first notice of non-compliance fails to comply
635 with either of the options described in Subsection (6), the Superintendent shall impose one of
636 the financial consequences described in Subsection (10).

637 (8)(a) Prior to imposing a financial consequence described in Subsection (10), the
638 Superintendent shall provide an LEA thirty days' notice of any proposed action.

639 (b) The LEA may, within fifteen days after receipt of a notice described in Subsection
640 (8)(a), request an appeal before the Board.

641 (9) If the LEA does not request an appeal described in Subsection (8)(b), or if after the
642 appeal the Board finds that the allegations of noncompliance are substantially true, the
643 Superintendent may continue with the suggested corrective action, formulate a new form of
644 corrective action or additional terms and conditions which must be met and may proceed with
645 the appropriate remedy which may include an order to return funds improperly collected.

646 (10) A financial consequence may include:

647 (a) requiring an LEA to repay an improperly charged fee, commensurate with the level
648 of non-compliance;

649 (b) withholding all or part of an LEA's monthly Minimum School Program funds until the
650 LEA comes into full compliance with the corrective action plan; and

651 (c) suspending the LEA's authority to charge fees for an amount of time specified by
652 the Superintendent or Board in the determination.

653 (11) The Board's decision described in Subsection (9) is final and no further appeals
654 are provided.

655 **R277-407-17. Effective Date.**

656 (1) This rule will be effective beginning January 1, 2020.

657 **KEY: education, school fees**

658 **Date of Enactment or Last Substantive Amendment:**

659 **Notice of Continuation: July 19, 2017**

660 **Authorizing, and Implemented or Interpreted Law: Art X Sec 2; Art X Sec 3;**

661 **Subsection 53E-3-401(4); 53G-7-503; Doe v. Utah State Board of Education, Civil No.**

662 **920903376**