

R277-919 received final approval by the Utah State Board of Education on October 6, 2022. R277-919 was published in the November 15, 2022, Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of December 22, 2022.

## **R277. Education, Administration.**

### **R277-919. Regulatory Sandbox Innovation Schools.**

#### **R277-919-1. 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) Subsection 53G-7-221(9), which requires the Board to make rules establishing the reporting and monitoring requirements for an approved innovation school program;

(c) Subsection 53G-7-222(4), which requires the Board to make rules establishing the approval criteria and process for the use of restricted funds in funding an approved innovation school program; 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 provide:

(a) criteria the state board will use to:

(i) evaluate an innovation plan's progress; and

(ii) terminate an innovation plan;

(b) requirements and process for reporting on a plan's progress; and

(c) the approval process for a plan's funding if using the flexible funds option outlined in Section 53G-7-222.

#### **R277-919-2. Definitions.**

(1) "Approved innovation plan" or "plan" means the same as the term is defined in Subsection 53G-7-221(1).

(2) "Innovation school" means the same as the term is defined in Subsection 53G-7-221(1).

(3) "Local approving body" means the same as the term is defined in Subsection 53G-7-221(1).

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### **R277-919-3. Reporting Requirements, Progress Monitoring, and Plan**

#### **Termination.**

(1) A local approving body that submits an approved innovation plan to the Board as described in Subsection 53G-7-221(7) shall:

(a) provide the information in a form and method prescribed by the Superintendent;

(b) include the information described in Subsection 53G-7-221(3) and a detailed budget for successful implementation;

(c) provide a detailed plan of benchmarked progress including the projected timeline for each benchmark that has been agreed upon by the innovation school and local approving body;

(d) provide a suggested reporting schedule between the approved innovation school and the Superintendent; and

(e) provide additional information as requested by the Superintendent at the time of plan submission.

(2) The Superintendent may request changes to the reporting scheduled described in Subsection (1)(d) if a different schedule is needed to facilitate adequate monitoring of all approved innovation school plans.

(3) The Superintendent shall use the following to determine if sufficient progress is being made:

(a) data and metrics described in Subsection 53G-7-221(3)(e);

(b) the agreed upon benchmarks and performance outcome measures; and

(c) appropriate use of funds if budgetary flexibility has been granted pursuant to this rule and Section 53G-7-222.

(4) If the Superintendent determines sufficient progress is not being made, a notice of remediation will be sent to the local approving body and the approved innovation school.

(5) The notice of remediation shall include:

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(a) the benchmarks or general progress that has not been made and how that determination was made using the approved performance metrics and agreed upon benchmarks;

(b) the required corrections needed to no longer be in remediation and a remediation timeline which may not be shorter than 180 days; and

(c) the form and method in which the remediation monitoring shall be reported to the Superintendent.

(6) If an approved innovation school fails to meet the requirements and timeline outlined in the notice of remediation, the approved innovation school and the local approval body will be notified within 15 days after the required remediation deadline and be subject to an innovation plan termination review by the Board.

(7) The Board's innovation plan termination review shall take place in a Board meeting no later than 30 days after the approved innovation school has been notified of the innovation school's failure to remediate.

(8) The Board shall consider all elements of the innovation plan when conducting its review including:

(a) the approved innovation plan application including outcomes and performance metrics;

(b) the agreed upon benchmarks and timelines;

(c) implementation efforts of the innovation school for the plan;

(d) efforts made to adhere to the remediation requirements and timelines;

(e) any efforts made by the innovation school to amend the plan; and

(f) any waived Board rule or LEA policies that were intended to facilitate successful implementation of the plan.

(9) As part of the innovation plan termination review, the Superintendent shall provide a recommendation to the Board to:

(a) provide an additional remediation period with additional or new requirements and timelines; or

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(b) terminate the approved innovation school's plan including a timeline for the innovation school to return to regular compliance and budgetary requirements that may have been waived or made flexible as part of the innovation plan.

(10) The Superintendent shall provide notice of the Board's decision to the innovation school and the local approving body within 10 days of the decision being made.

(11) The local approving body shall ensure that the approved innovation school returns to regular compliance and budgetary requirements in the timeline approved by the Board and notify the Board when this has been achieved.

#### **R277-919-4. Flexibility of Restricted Funds.**

(1) An innovation school with an approved innovation plan may apply to the Board for budgetary flexibility as described in Section 53G-7-222.

(2) The application for budgetary flexibility shall be created by the Superintendent and include:

(a) an itemized budget detailing the expenditures needed to fund the innovation plan;

(b) the current restricted funds that will be used including how much of each fund will be used for the innovation plan; and

~~[(c) a detailed description of how the originating programs supported by the restricted funds will remain in operation and not be unduly hindered by the budgetary flexibility;~~

~~—(d) if the innovation plan will positively impact any outcomes related to the originating programs the restricted funds support; and]~~

~~[(e)]~~ (c) a plan for ~~[regular]~~ annually reporting to the Superintendent regarding budgetary expenditures from restricted funds to ensure compliance.

(3) The Board shall approve an application for budgetary flexibility unless the application is in violation of state law on budget and funding matters.

(4) If an approved innovation school receives approval from the Board for budgetary flexibility, the approved innovation school shall report expenditures and

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evidence in form prescribed by the Superintendent including any unlawfully adverse effect on an originating program.

(5) The Board may terminate an innovation plan for violation of the approved budget including:

(a) the failure of any originating program from which restricted funds have been diverted as defined by state law;

(b) failure to match expenditures with approved budget; and

(c) failure to provide evidence of expenditures in the format required by the Superintendent.

**KEY: innovation; regulatory sandbox; restricted funds**

**Date of Last Change: [~~October 11,~~] 2022**

**Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53G-7-221(9); 53G-7-222(4); 53E-3-401(4)**