

1 **R277. Education, Administration.**

2 **R277-602. Carson Smith Scholarships -- Funding and Procedures.**

3 **R277-602-1. Authority and Purpose.**

4 (1) This rule is authorized by:

5 (a) [Utah Constitution Article X, Section 3](#), which vests general control and supervision  
6 of the public school system under the Board;

7 (b) Subsection [53E-3-401](#)(4), which allows the Board to make rules to execute the  
8 Board's duties and responsibilities under the Utah Constitution and state law; and

9 (c) Section [53F-4-305](#), which authorizes the Board to make rules establishing:

10 (i) the eligibility of students to participate in the scholarship program; and

11 (ii) the application process for the scholarship program.

12 (2) The purpose of this rule is to:

13 (a) outline responsibilities of a parent, an LEA, an eligible private school, and the Board  
14 in providing choice for a parent of a special needs student who chooses to have a student  
15 served in a private school; and

16 (b) provide accountability for the citizenry in the administration and distribution of the  
17 scholarship funds.

18 **R277-602-2. Definitions.**

19 (1) "Appeal" means an opportunity to discuss or contest a final administrative decision  
20 consistent with and expressly limited to the procedures of this rule.

21 (2) "Appeals Committee" means a committee comprised of:

22 (a) the Carson Smith Scholarship coordinator;

23 (b) the Board's Special Education Director;

24 (c) one individual appointed by the Superintendent; and

25 (d) two Board-designated special education advocates.

26 (3) "Assessment" means a formal testing procedure carried out under prescribed and  
27 uniform conditions that measures a student's academic progress, consistent with Subsection  
28 [53F-4-303](#)(1)(f).

29 (4) "Assessment team" means the individuals designated under Subsection 53F-4-  
30 301(1).

31 (5) "Days" means school days unless specifically designated otherwise in this rule.

32 (6) "Eligible student" means a student who meets the qualifications described in  
33 Section [53F-4-302](#).

34 (7) "Enrollment" means that:

35 (a) the student has completed the school enrollment process;

36 (b) the school maintains required student enrollment information and documentation  
37 of age eligibility;

38 (c) the student is scheduled to receive services at the school;

39 (d) the student attends regularly; and

40 (e) the school has accepted the student consistent with Rule [R277-419](#) and the  
41 student's IEP.

42 (8) "Private school that has previously served a student with a disability" means a  
43 school that:

44 (a) has enrolled a student within the last three years under the Carson Smith  
45 Scholarship program;

46 (b) has enrolled a student within the last three years who has received special  
47 education services under an Individual Services Plan (ISP) from an LEA where the school is  
48 geographically located; or

49 (c) can provide other evidence to the Board that is determinative of having enrolled a  
50 student with a disability within the last three years.

51 (9) "Warrant" means payment by check to a private school.

52 **R277-602-3. Parent Responsibilities and Payment Provisions.**

53 (1) To receive a scholarship, a parent of a student shall submit an application by the  
54 deadline described in Subsection [53F-4-302](#)(4), on a form specified by the Superintendent to:

55 (a) the LEA that the student is or was enrolled in; or

56 (b) if the student was not enrolled in an LEA in the school year prior to the school year  
57 in which the scholarship is sought, the school district that is responsible for the education of  
58 the student under the Individuals with Disabilities Education Act, [20 U.S.C. Sec. 1414](#).

59 (2) Along with the application described in Subsection (1), a parent shall submit  
60 documentation that:

61 (a) the parent is a resident of the state;

62 (b) the student is at least three years of age before September 2 of the year of  
63 enrollment;

64 (c) the student is not more than 21 years of age and has not graduated from high  
65 school; and

66 (d) the student has official acceptance at an eligible private school, as described in  
67 Section [53F-4-303](#).

68 (3) Any intentional falsification, misinformation, or incomplete information provided on  
69 the application may result in the cancellation of the scholarship to the student and non-  
70 payment to the private school.

71 (4)(a) The Superintendent shall make a scholarship payment in accordance with  
72 Section [53F-4-304](#) and this rule.

73 (b) The Superintendent may distribute a scholarship payment to a private school  
74 through electronic transfer after the Superintendent is able to verify the scholarship student's  
75 attendance at the private school through a Board provided software application.

76 (5)(a) A parent shall notify the Board in writing within five days if the student does not  
77 continue in enrollment in an eligible private school for any reason, including:

78 (i) parent or student choice;

79 (ii) suspension or expulsion of the student; or

80 (iii) the student has unexcused absences during all of the prior 10 consecutive school  
81 days.

82 (b) In accordance with Subsection [53F-4-304](#)(4), if a student does not continue in  
83 enrollment, the Superintendent may:

84 (i) modify the payment to the private school; or

85 (ii) if payment has already been made for that quarter, request reimbursement from the  
86 private school for an amount equal to the portion of the scholarship attributable to the number  
87 of remaining days in the quarter.

88 (6) A parent shall cooperate and respond within 10 days to an enrollment cross-  
89 checking request from the Superintendent.

90 (7) The parent shall notify the Superintendent in writing by ~~May 1~~ June 15 annually  
91 to indicate the student's continued enrollment.

92 **R277-602-4. LEA Responsibilities.**

93 (1) An LEA that receives a student's scholarship application consistent with Subsection  
94 [53F-4-302](#)(4) shall:

95 (a) forward the application to the Superintendent no more than 10 days following  
96 receipt of the application;

97 (b) verify enrollment of the student seeking a scholarship in a previous school year  
98 within a reasonable time following contact by the Superintendent;

99 (c) verify the existence of the student's IEP and level of service to the Superintendent  
100 within a reasonable time;

101 (d) provide personnel to participate on an assessment team to:

102 (i) make the determination described in Section [53F-4-302](#); or

103 (ii) determine whether a student who previously received a Carson Smith Scholarship  
104 is entitled to receive the scholarship during the subsequent eligibility period.

105 (3) A Carson Smith Scholarship student may not participate in an extracurricular or co-  
106 curricular activity at an LEA, consistent with the parent's assumption of full responsibility for a  
107 student's services under Subsection [53F-4-302](#)(5).

108 (4) In accordance Subsection [53F-4-302](#)(8), a Carson Smith Scholarship student may  
109 participate in the Statewide Online Education Program described in Part 5, Statewide Online  
110 Education Program in the same manner as other private school students as described in  
111 Section [53F-4-507](#).

112 (5) A Carson Smith Scholarship student is eligible to receive equitable services under  
113 the Individuals with Disabilities Education Act.

114 (6) An LEA shall cooperate with the Superintendent in cross-checking Carson Smith  
115 Scholarship student enrollment information to ensure scholarship payments are not  
116 erroneously made.

117 (7)(a) An LEA shall provide written notice to a parent of a student who has an IEP of  
118 the availability of a scholarship to attend a private school in accordance with Subsection [53F-4-](#)  
119 [302](#)(10).

120 (b) The written notice shall consist of the following statement: A local education agency  
121 is required by Utah law, Subsection [53F-4-302](#)(10), to inform parents of students with IEPs  
122 enrolled in public schools, of the availability of a scholarship to attend a private school through  
123 the Carson Smith Scholarship Program.

124 **R277-602-5. State Board of Education Responsibilities.**

125 (1) No later than April 1, the Superintendent shall provide an application containing  
126 acknowledgments required under Subsection [53F-4-302](#)(5), for a parent seeking a Carson  
127 Smith Scholarship:

- 128 (a) online;
- 129 (b) at the Board office; and
- 130 (c) at LEA offices.

131 (2) The Superintendent shall provide a determination that a private school meets the  
132 eligibility requirements of Section [53F-4-303](#) as soon as possible but no more than 30 calendar  
133 days after the private school submits an application and completes documentation of eligibility.

134 (3) The Superintendent may:

135 (a) provide reasonable timelines within the application for satisfaction of private school  
136 requirements;

137 (b) issue letters of warning;

138 (c) require the school to take corrective action within a time frame set by the  
139 Superintendent;

- 140 (d) suspend the school from the program consistent with Section [53F-4-306](#);
- 141 (e) establish an appropriate penalty for a private school that fails to comply with  
142 requirements described in Title 53F, Chapter 4, Part 3, Carson Smith Scholarships for  
143 Students with Special Needs, including:
- 144 (i) providing an affidavit under Section [53F-4-306](#);
- 145 (ii) administering assessments or reporting an assessment to a parent or assessment  
146 team under Subsection [53F-4-303](#)(1)(f);
- 147 (iii) employing teachers with credentials required under Subsection [53F-4-303](#)(g);
- 148 (iv) providing to a parent relevant credentials of teachers under Subsection [53F-4-303](#)(i);
- 149 or
- 150 (v) requiring a completed criminal background and ongoing monitoring under [Title 53G,](#)  
151 [Chapter 11, Part 4, Background Checks](#) and take appropriate action consistent with  
152 information received; or
- 153 (f) initiate a complaint and hold an administrative hearing, as appropriate, and  
154 consistent with this rule.
- 155 (4) The Superintendent shall make a list of eligible private schools updated annually  
156 and available no later than June 1 of each year.
- 157 (5) On or before July 1, the Superintendent shall annually publish information regarding  
158 the level of funding available for scholarships for the fiscal year.
- 159 (6) The Superintendent may mail a scholarship payment directly to a private school in  
160 accordance with Subsection [53F-4-304](#)(8) as soon as reasonably possible.

161 **R277-602-6. Responsibilities of Private Schools that Receive Carson Smith**  
162 **Scholarships.**

- 163 (1) To be eligible to enroll a scholarship student, a private school shall:
- 164 (a) meet the criteria described in Section [53F-4-303](#); and
- 165 (b) submit an application and appropriate documentation by the deadline established  
166 in Section [53F-4-303](#) to the Superintendent on a form designated by the Superintendent.
- 167 (2) A private school shall annually:

168 (a) obtain an audit and report from a licensed independent certified public accountant  
169 that conforms with the following requirements:

170 (i) the audit shall be performed in accordance with generally accepted auditing  
171 standards;

172 (ii) the financial statements shall be presented in accordance with generally accepted  
173 accounting principles; and

174 (iii) the audited financial statements shall be as of a period within the last 12 months;

175 or

176 (b) contract with an independent licensed certified public accountant to conduct an  
177 agreed upon procedures engagement described in Subsection (4);

178 (3) The Superintendent shall annually publish:

179 (a) an agreed upon procedures document for a new private school to apply for eligibility  
180 to accept Carson Smith Scholarship students; and

181 (b) an agreed upon procedures document for a continuing private school to apply for  
182 continued eligibility to accept Carson Smith Scholarship students.

183 (4) A private school that seeks to enroll Carson Smith Scholarship students shall  
184 submit an agreed upon procedures document described in Subsection (3):

185 (a) for a new private school seeking eligibility to accept Carson Smith Scholarship  
186 students for the first time, by the May 1 prior to the fiscal year that the private school is seeking  
187 eligibility; and

188 (b) for a school seeking continued eligibility to accept Carson Smith Scholarship  
189 students, by the November 30 prior to the school year in which they are reapplying.

190 (5)(a) A private school that seeks to enroll a Carson Smith Scholarship student shall,  
191 in concert with the parent seeking a Carson Smith Scholarship for a student, initiate the  
192 assessment team meetings required under Section [53F-4-302](#).

193 (b) A private school shall schedule a meeting at a time and location mutually  
194 acceptable to the private school, the applicant parent, and participating public school  
195 personnel.

196 (c)(i) A private school and public school shall confidentially maintain documentation  
197 regarding an assessment team meeting, including documentation of:

198 (A) a meeting for a student denied a scholarship or service; and

199 (B) a student admitted into a private school and the student's level of service.

200 (ii) Upon request by the Superintendent, a private school and public school shall  
201 provide the documentation described in Subsection (3)(c)(i) to the Superintendent for purposes  
202 of determining student scholarship eligibility or for verification of compliance.

203 (6) A private school that receives a scholarship payment shall provide complete  
204 student records in a timely manner to another private school or a public school that requests  
205 student records if a parent transfers a student under Subsection [53F-4-302\(7\)](#).

206 (7) A private school shall notify the Board within five days if the student does not  
207 continue in enrollment in an eligible private school for any reason, including:

208 (a) parent or student choice;

209 (b) suspension or expulsion of the student; or

210 (c) the student has unexcused absences during all of the prior ten consecutive school  
211 days.

212 (8) A private school shall satisfy health and safety laws and codes required by  
213 Subsection [53F-4-303\(1\)\(d\)](#), including:

214 (a) the adoption of emergency preparedness response plans that include training for  
215 school personnel and parent notification for fire drills, natural disasters, and school safety  
216 emergencies; and

217 (b) compliance with Rule [R392-200](#), Design, Construction, Operation, Sanitation, and  
218 Safety of Schools.

219 (9)(a) An approved eligible private school that changes ownership shall submit a new  
220 application for eligibility to receive a Carson Smith Scholarship payment from the  
221 Superintendent:

222 (i) that demonstrates that the school continues to meet the eligibility requirements of  
223 Section [53F-4-303](#) and this rule; and

224 (ii) within 60 calendar days of the date that an agreement is signed between previous  
225 owner and new owner.

226 (b) If the Superintendent does not receive the application within the time described in  
227 Subsection (7)(a)(ii):

228 (i) the new owner of the school is presumed ineligible to receive continued Carson  
229 Smith Scholarship payments from the Superintendent;

230 (ii) at the discretion of the Board, the Superintendent may reclaim any payments made  
231 to a school within the previous 60 calendar days; and

232 (iii) the private school shall submit a new application for eligibility to enroll Carson Smith  
233 Scholarship students consistent with the requirements and timelines of this rule.

234 **R277-602-7. Carson Smith Scholarship Appeals.**

235 (1)(a) A parent of an eligible student or a parent of a prospective eligible student may  
236 appeal only the following actions under this rule:

237 (i) an alleged violation by the Superintendent of [~~Sections 53F-4-301 through 308~~]Title  
238 53F, Chapter 4, Part 3, [Carson Smith Scholarship Program](#) or this rule; or

239 (ii) an alleged violation by the Superintendent of a required timeline.

240 (b) An appellant has no right to additional elements of due process beyond the specific  
241 provisions of this rule.

242 (2) The Appeals Committee may not grant an appeal contrary to [~~Sections 53F-4-301~~  
243 ~~through 308~~]Title 53F, Chapter 4, Part 3, [Carson Smith Scholarship Program](#).

244 (3) A parent shall submit an appeal:

245 (a) in writing to the Board's Carson Smith Scholarship Coordinator at: Utah State  
246 Board of Education, 250 East 500 South, P.O. Box 144200, Salt Lake City, UT 84114-4200;  
247 and

248 (b) within 15 calendar days of written notification of the final administrative action  
249 described in Subsection (1)(a).

250 (4)(a) The appeal opportunity does not include an investigation required under or  
251 similar to an IDEA state complaint investigation.

252 (b) Nothing in the appeals process established under this rule shall be construed to  
253 limit, replace, or adversely affect parental appeal rights available under IDEA.

254 (5) The Appeals Committee shall:

255 (a) consider an appeal within 15 calendar days of receipt of the written appeal;

256 (b) transmit the decision to a parent no more than ten calendar days following  
257 consideration by the Appeals Committee; and

258 (c) finalize an appeal as expeditiously as possible in the joint interest of schools and  
259 students involved.

260 (6) The Appeals Committee's decision is a final administrative action.

261 **KEY: special needs students, scholarships**

262 **Date of Enactment or Last Substantive Amendment: October 16, 2018**

263 **Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-3-401\(4\)](#); [53F-4-305](#)**