

1 **R277. Education, Administration.**

2 **R277-115. LEA Supervision and Monitoring Requirements of Third Party**
3 **Providers and Contracts.**

4 **R277-115-1. Authority, ~~and~~ Purpose, and Oversight Category.**

5 (1) This rule is authorized by:

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

8 (b) Subsection [53E-3-401](#)(10), which allows the Board to direct an LEA to
9 require in a contract with a third party provider that the third party provider shall provide,
10 upon request of the LEA, information necessary for the LEA to verify that the
11 educational good or service complies with:

12 (i) Titles [53E](#), [53F](#), and [53G](#); and

13 (ii) Board rule.

14 (2) The purpose of this rule is:

15 (a) to provide standards for an LEA working with a third party provider to ensure
16 the third party provider complies with applicable law.

17 [\(3\) This Rule R277-115 is categorized as Category 2 as described In Rule R277-](#)
18 [111.](#)

19

20 **R277-115-2. Definitions.**

21 (1) "Educational good or service" means the same as that term is defined in
22 Section [53E-3-401](#).

23 (2) "Education service provider" means a third party provider that provides
24 academic instruction to students that yields grades or credit.

25 (3) "Section 504" means Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.
26 794.

27 (4) "Third party provider" means a third party who provides an educational good
28 or service on behalf of an LEA.

29

30 ~~[R277-115-3. Third Party Provider Provision of Services.~~

31 ~~—— (1) An LEA that contracts with a third party provider to provide an educational~~
32 ~~good or service on behalf of the LEA shall:~~

33 ~~—— (a) require in the LEA's contract with a third party provider that the third party~~
34 ~~provider shall provide, upon request of the LEA, information necessary for the LEA to~~
35 ~~verify that the educational good or service complies with:~~

36 ~~—— (i) Titles [53E](#), [53F](#), and [53G](#); and~~

37 ~~—— (ii) Board rule;~~

38 ~~—— (b) establish monitoring and compliance procedures to ensure that a third party~~
39 ~~provider who provides educational services to a student on behalf of the LEA complies~~
40 ~~with this rule;~~

41 ~~—— (c) develop a written monitoring plan to supervise the educational good or~~
42 ~~service provided by the third party provider;~~

43 ~~—— (d) ensure the third party provider is complying with:~~

44 ~~—— (i) federal law;~~

45 ~~—— (ii) state law; and~~

46 ~~—— (iii) Board rules;~~

47 ~~—— (e) monitor and supervise all activities of the third party provider related to the~~
48 ~~educational good or service provided by the third party provider to the LEA; and~~

49 ~~—— (f) maintain documentation of the LEA's supervisory activities consistent with the~~
50 ~~LEA's administrative records retention schedule.~~

51 ~~—— (2) An LEA shall:~~

52 ~~—— (a) verify the accuracy and validity of a student's enrollment verification data,~~
53 ~~prior to enrolling a student in the LEA; and~~

54 ~~—— (b) provide a student and the student's parent or guardian with notification of the~~
55 ~~student's enrollment in a school or program within the LEA.~~

56 ~~—— (3) In accordance with Section [63A-12-103](#), an LEA shall maintain records~~
57 ~~documenting:~~

58 ~~—— (a) services provided by third party providers; and~~

59 ~~_____ (b) payments made to third party providers.~~

60 ~~_____ (4) An LEA has direct and full responsibility for all actions of its third party~~
61 ~~providers and the third party provider's employees for actions performed in the scope of~~
62 ~~services provided on behalf of the LEA.]~~

63

64 **R277-115-[4]3. LEA Requirements of Education Service Providers.**

65 (1) An LEA shall ensure that each staff member of an education service
66 provider:

67 (a) receives a background check and has ongoing monitoring in accordance with
68 Title [53G, Chapter 11, Part 4](#) Background Checks; and

69 (b) holds appropriate license, license areas of concentration, and endorsements
70 as set forth in Rule [R277-309](#).

71 (2) An LEA shall ensure that a student identified as having a disability under the
72 IDEA or Section 504 receiving instruction from an education service provider receives a
73 free and appropriate public education.

74 (3) An LEA shall require each education service provider provide the LEA with
75 information about any student receiving services that the education service provider
76 suspects of having a disability, so that the LEA can conduct child find responsibilities
77 under the IDEA.

78 (4)(a) An LEA shall register all students receiving services from an education
79 service provider.

80 (b) An education service provider may not [enroll or](#) register ~~[, or assign]~~ a
81 student ~~[for enrollment or registration]~~ ~~[on behalf of]~~ [at](#) an LEA.

82 (5) An LEA shall pay an education service provider on a reimbursement basis.

83 [\(6\) An LEA shall:](#)

84 [_____ \(a\) ensure appropriate coding of expenditures to an education service provider](#)
85 [for IDEA services; and](#)

86 [_____ \(b\) ensure that expenditures classified under Subsection \(a\) are reportable to the](#)
87 [LEA and the SEA.](#)

88 (f) An LEA may not record education service provider staff as teachers with
89 an assignment in CACTUS or USIMS.

90 (8) An LEA may not utilize or encumber WPU funds for students receiving
91 services from education service providers for expenses or projects that span longer
92 than the length of the LEA's contract with the provider, including termination clauses.

93

94 **R277-115-4. Third Party Provider Provision of Services.**

95 (1) An LEA that contracts with a third party provider to provide an educational
96 good or service on behalf of the LEA shall:

97 (a) require in the LEA's contract with a third party provider that the third party
98 provider shall provide, upon request of the LEA, information necessary for the LEA to
99 verify that the educational good or service complies with:

100 (i) Titles 53E, 53F, and 53G; and

101 (ii) Board rule;

102 (b) establish monitoring and compliance procedures to ensure that a third party
103 provider who provides educational services to a student on behalf of the LEA complies
104 with this rule;

105 (c) develop a written monitoring plan to supervise the educational good or
106 service provided by the third party provider;

107 (d) ensure the third party provider is complying with:

108 (i) federal law;

109 (ii) state law; and

110 (iii) Board rules;

111 (e) monitor and supervise all activities of the third party provider related to the
112 educational good or service provided by the third party provider to the LEA;

113 (f) maintain documentation of the LEA's supervisory activities consistent with the
114 LEA's administrative records retention schedule; and

115 (g) review the plan described in Subsection (c) and any documentation of
116 supervisory activities with the LEA's audit committee no less than annually.

- 117 (2) An LEA shall:
- 118 (a) verify the accuracy and validity of a student's enrollment verification data,
119 prior to enrolling a student in the LEA; and
- 120 (b) provide a student and the student's parent or guardian with notification of the
121 student's enrollment in a school or program within the LEA.
- 122 (3) In accordance with Section [63A-12-103](#), an LEA shall maintain records
123 documenting:
- 124 (a) services provided by third party providers; and
- 125 (b) payments made to third party providers.
- 126 (4) In the event an LEA cancels a contract with an educational service provider,
127 the LEA shall:
- 128 (a) continue to provide educational goods or services to enrolled students for the
129 remainder of the school year; and
- 130 (b) notify parents of the following information:
- 131 (i) the planned elimination of the specific educational good or service provided by
132 the educational service provider;
- 133 (ii) the status of the student's enrollment; and
- 134 (iii) any steps required of a student to transfer or unenroll.
- 135 (5) When an LEA terminates a contract with an educational service provider, the
136 LEA may incur a loss of hold harmless funds for the loss in student count the next fiscal
137 year.
- 138 (6) An LEA has direct and full responsibility for all actions of its third party
139 providers and the third party provider's employees for actions performed in the scope of
140 services provided on behalf of the LEA.

141

142 **R277-115-5. Corrective Action.**

143 The Board or the Superintendent may withhold funds or require an LEA to repay
144 public funds to the Superintendent if:

- 145 (1) the LEA fails to comply with this rule or the law; and

Blue Text – Additions
~~Red Text – Deletions~~

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146 (2) the repayment is made in accordance with the procedures established in

147 Rule [R277-114](#).

148

149 **KEY: third party providers, contracts, monitoring**

150 **Date of Last Change: April 7, 2023**

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

152 **(10)**