

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
6 supervision 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 Carson Smith scholarship program;
11 and

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

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

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

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

19 (3) This Rule R277-602 is categorized as Category 4 as described in Rule [R277-111](#).

20

21 **R277-602-2. Definitions.**

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

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

25 (a) the Carson Smith Scholarship coordinator;

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

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

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

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

32 (4) "Assessment team" means the individuals designated under Subsection 53F-4-
33 301(1).

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

35 (6) "Eligible student" means ~~[a student]~~ an existing scholarship recipient who meets
36 the qualifications described in Section [53F-4-302](#).

37 (7) "Enrollment" means that:

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

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

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

42 (d) the student attends regularly; and

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

45 (8) "Private school that has previously served a student with a disability" means an
46 approved Carson Smith school that:

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

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

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

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

55

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

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

60 ~~—— (a) the LEA that the student is or was enrolled in; or~~

61 ~~—— (b) if the student was not enrolled in an LEA in the school year prior to the school~~
62 ~~year in which the scholarship is sought, the school district that is responsible for the~~
63 ~~education of the student under the Individuals with Disabilities Education Act, 20 U.S.C. Sec.~~
64 ~~1414.~~

65 ~~—— (2) Along with the application described in Subsection (1), a parent shall submit~~
66 ~~documentation that:~~

67 ~~—— (a) the parent is a resident of the state;~~

68 ~~—— (b) the student is at least three years of age before September 2 of the year of~~
69 ~~enrollment;~~

70 ~~—— (c) the student is not more than 21 years of age and has not graduated from high~~
71 ~~school; and~~

72 ~~—— (d) the student has official acceptance at an eligible private school, as described in~~
73 ~~Section 53F-4-303.~~

74 ~~—— (3) Any intentional falsification, misinformation, or incomplete information provided~~
75 ~~on the application may result in the cancellation of the scholarship to the student and non-~~
76 ~~payment to the private school.]~~

77 ~~[(4)1(a) The Superintendent shall make a scholarship payment in accordance with~~
78 ~~Section [53F-4-304](#) and this rule.~~

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

82 ~~[(5)2(a) A parent shall notify the Board in writing within five days if the student does~~
83 ~~not continue in enrollment in an eligible private school for any reason, including:~~

84 ~~(i) parent or student choice;~~

85 ~~(ii) suspension or expulsion of the student; or~~

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

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

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

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

94 (3) If a student discontinues enrollment, the student is no longer eligible to receive a
95 scholarship under the Carson Smith program.

96 ~~[(6)4]~~ A parent shall cooperate and respond within 10 days to an enrollment cross-
97 checking request from the Superintendent.

98 ~~[(7)5]~~ ~~[The]~~ A parent shall notify the Superintendent in writing by May 1 annually to
99 indicate the student's continued enrollment.

100

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

102 ~~[(1) An LEA that receives a student's scholarship application consistent with~~
103 ~~Subsection 53F-4-302(4) shall:~~

104 ~~—— (a) forward the application to the Superintendent no more than 10 days following~~
105 ~~receipt of the application;~~

106 ~~—— (b) verify enrollment of the student seeking a scholarship in a previous school year~~
107 ~~within a reasonable time following contact by the Superintendent;~~

108 ~~—— (c) verify the existence of the student's IEP and level of service to the~~
109 ~~Superintendent within a reasonable time;]~~

110 (1) An LEA that receives a request for evaluation for continued Carson Smith
111 program eligibility shall:~~[(d)]~~ provide personnel to participate on an assessment team to:

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

113 ~~[(ii)b]~~ determine whether a student who previously received a Carson Smith
114 Scholarship is entitled to receive the scholarship during the subsequent eligibility period.

115 ~~([3]2)~~ A Carson Smith Scholarship student may not participate in an extracurricular
116 or co-curricular activity at an LEA, consistent with the parent's assumption of full
117 responsibility for a student's services under Subsection [53F-4-302\(5\)](#).

118 ~~([4]3)~~ In accordance Subsection [53F-4-302\(8\)](#), a Carson Smith Scholarship student
119 may participate in the Statewide Online Education Program described in Part 5, Statewide
120 Online Education Program in the same manner as other private school students as
121 described in Section [53F-4-507](#).

122 ~~([5]4)~~ A Carson Smith Scholarship student is eligible to receive equitable services
123 under the Individuals with Disabilities Education Act.

124 ~~([6]5)~~ An LEA shall cooperate with the Superintendent in cross-checking Carson
125 Smith Scholarship student enrollment information to ensure scholarship payments are not
126 erroneously made.

127 ~~([7]a)6)~~ An LEA shall provide written notice to a parent of a student who has an
128 IEP of the availability of a scholarship to attend a private school in accordance with
129 Subsection [53F-4-302\(10\)](#).

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

134 (7) As set forth in Subsection [53F-4-302\(11\)](#), after the 2023-24 school year, neither
135 an LEA, nor the Superintendent may accept a new application for Carson Smith program
136 participation.

137

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

139 ~~[(1) No later than April 1, the Superintendent shall provide an application containing~~
140 ~~acknowledgments required under Subsection 53F-4-302(5), for a parent seeking a Carson~~
141 ~~Smith Scholarship:~~

142 ~~——(a) online;~~

143 ~~——(b) at the Board office; and~~

144 ~~_____ (c) at LEA offices.~~

145 ~~_____ (2) The Superintendent shall provide a determination that a private school meets~~
146 ~~the eligibility requirements of Section 53F-4-303 as soon as possible but no more than 30~~
147 ~~calendar days after the private school submits an application and completes documentation~~
148 ~~of eligibility.]~~

149 ([3]1) The Superintendent may:

150 (a) provide reasonable timelines [~~within the application~~] for satisfaction of private
151 school requirements;

152 (b) issue letters of warning;

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

155 (d) suspend the school from the program consistent with Section [53F-4-306](#);

156 (e) establish an appropriate penalty for a private school that fails to comply with
157 requirements described in [Title 53F, Chapter 4, Part 3](#), Carson Smith Scholarships for
158 Students with Special Needs, including:

159 (i) providing an affidavit under Section [53F-4-306](#);

160 (ii) administering assessments or reporting an assessment to a parent or
161 assessment team under Subsection [53F-4-303\(1\)\(f\)](#);

162 (iii) employing teachers with credentials required under Subsection [53F-4-303\(g\)](#);

163 (iv) providing to a parent relevant credentials of teachers under Subsection [53F4-](#)
164 [303\(i\)](#); or

165 (v) requiring a completed criminal background and ongoing monitoring under [Title](#)
166 [53G, Chapter 11, Part 4](#), Background Checks and take appropriate action consistent with
167 information received; or

168 (f) initiate a complaint and hold an administrative hearing, as appropriate, and
169 consistent with this rule.

170 ([4]2) The Superintendent shall make a list of eligible private schools updated
171 annually and available no later than June 1 of each year.

172 ([5]3) On or before July 1, the Superintendent shall annually publish information
173 regarding the level of funding available for scholarships for the fiscal year.

174 ([6]4) The Superintendent may mail a scholarship payment directly to a private
175 school in accordance with Subsection [53F-4-304](#)(8) as soon as reasonably possible.

176

177 **R277-602-6. Responsibilities of Private Schools that Receive Carson Smith**
178 **Scholarships.**

179 (1) To be eligible to enroll a scholarship student, a private school shall[:

180 ~~—(a)] meet the criteria described in Section [53F-4-303](#)]; and~~

181 ~~—(b) submit an application and appropriate documentation by the deadline~~
182 ~~established in Section [53F-4-303](#) to the Superintendent on a form designated by the~~
183 ~~Superintendent].~~

184 (2) A private school shall annually:

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

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

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

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

192 or

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

195 (3) The Superintendent shall annually publish:

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

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

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

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

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

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

210 ~~——(b)]~~ A private school who receives notification of pending eligibility shall schedule a
211 meeting at a time and location mutually acceptable to the private school, the applicant
212 parent, and participating public school personnel.

213 ([e]b)(i) A private school and public school shall confidentially maintain
214 documentation regarding an assessment team meeting, including documentation of:

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

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

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

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

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

225 (a) parent or student choice;

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

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

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

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

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

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

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

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

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

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

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

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

251

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

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

255 (i) an alleged violation by the Superintendent of Sections [53F-4-301](#) through 308 or
256 this rule; or

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

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

260 (2) The Appeals Committee may not grant an appeal contrary to Sections [53F-4-](#)
261 [301](#) through 53F-4-308.

262 (3) A parent shall submit an appeal:

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

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

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

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

272 (5) The Appeals Committee shall:

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

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

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

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

279

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

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

282 **Notice of Continuation: July 14, 2020**

283 **Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-3-401\(4\)](#); [53F-4-](#)
284 [3](#)**