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## MEMORANDUM

**TO:** Members, Utah State Board of Education

**FROM:** Martell Menlove, Ph.D.  
Chief Executive Officer

**DATE:** May 9, 2014

**ACTION:** R277-800 *Utah Schools for the Deaf and the Blind* (Continuation)

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### **Background:**

R277-800 *Utah Schools for the Deaf and the Blind* is due for a five-year review and continuation consistent with the Utah Administrative Rulemaking Act. The rule must be approved for continuation by the Board or it will expire on July 23, 2014. Staff has reviewed R277-800 and determined that the rule continues to be necessary. Staff is in the process of preparing amendments to R277-800 that will be proposed to the Board for consideration at a later date.

### **Key Points:**

R277-800 continues to be necessary because it provides standards and procedures for the operation of the USDB and the USDB outreach programs and services.

### **Anticipated Action:**

It is proposed that the Standards and Assessment Committee consider approving R277-800 for continuation on first reading and, if approved by the Committee, the Board consider approving R277-800 for continuation on second reading.

**Contact:** Judy Park, 801-538-7550  
Glenna Gallo, 801-538-7757

1 **R277. Education, Administration.**

2 **R277-800. Utah Schools for the Deaf and the Blind.**

3 **R277-800-1. Definitions.**

4 A. "Accessible media producer" means companies or  
5 agencies that create fully-accessible specialized,  
6 student-ready formats for curriculum materials, such as  
7 Braille, large print, audio, or digital books.

8 B. "Advisory Council" means the Advisory Council for the  
9 Utah Schools for the Deaf and the Blind with members,  
10 responsibilities, and other provisions under Section 53A-25b-  
11 203 and R277-800-4.

12 C. "Assessment" means the process of documenting, usually  
13 in measurable terms, knowledge, skills, attitudes and  
14 abilities pertaining to the fields of vision and hearing.

15 These assessments may include the following areas of focus:

16 (1) valid, reliable and appropriate assessments given to  
17 determine eligibility for placement and services by a team of  
18 qualified professionals and the student's parent(s);

19 (2) functional assessments accomplished by observation  
20 and measurement of daily living skills and functional use of  
21 vision or hearing;

22 (3) academic evaluations as part of the Utah Performance  
23 Assessment System for Student (U-PASS), criterion reference  
24 tests (CRTs), or the Utah Alternative Assessment with  
25 appropriate accommodations as indicated on the individual  
26 education program (IEP).

27 D. "Board" means the Utah State Board of Education.

28 E. "Campus-Based Program" means a program provided by  
29 USDB that offers an alternative to an outreach program for  
30 students who are blind or visually impaired, deaf or hard of  
31 hearing, or deafblind (ages three to 22). Services are  
32 provided by qualified USDB staff at a USDB site.

33 F. "The Chafee Amendment to the Copyright Act, 17 U.S.C.  
34 Section 121" (Chafee Amendment) is a federal law that allows

35 an authorized entity to reproduce or distribute copyrighted  
36 materials in specialized formats for students who are blind or  
37 have other print disabilities without the need to obtain  
38 permission of the copyright owner. Authorized entities are  
39 governmental or nonprofit organizations that have a primary  
40 mission to provide copyrighted works in specialized formats  
41 for students who are blind or have other print disabilities.

42 G. "Child Find" means activities and strategies designed  
43 to locate, evaluate and identify individuals eligible for  
44 services under the IDEA.

45 H. "Consultation" means a meeting for discussion or the  
46 seeking of advice.

47 I. "Designated LEA" means the local education agency  
48 assigned by a student's IEP or Section 504 team to have  
49 primary responsibility for ensuring that all rights and  
50 requirements regarding individual student assessment,  
51 eligibility services and procedural safeguards are satisfied  
52 consistent with the Individuals with Disabilities Education  
53 Act (IDEA) 20 U.S.C. 1400, Part B, or Section 504 of the  
54 Rehabilitation Act of 1973.

55 J. "Deafblindness" or "deafblind" means written  
56 verification provided by a medical professional stating that  
57 an individual has concomitant hearing and visual impairments,  
58 the combination of which causes such severe communication and  
59 other developmental and educational needs that they cannot be  
60 accommodated in special education programs solely for students  
61 with deafness or students with blindness. The definition of  
62 deafblindness also includes the provisions of 53A-25b-102 and  
63 301.

64 K. "Educational Resource Center" (ERC) is a center under  
65 the direction of the USDB that provides information,  
66 technology, and instructional materials to assist Utah  
67 children with sensory impairments in progressing in the  
68 curriculum. It is also the mission of the ERC to facilitate

69 access to materials, information and training for teachers and  
70 parents of children with sensory impairments.

71 L. "Hearing impairment/deafness" ('hard of hearing' for  
72 purposes of this rule) is defined as follows:

73 (1) Hearing impairment is an impairment in hearing,  
74 whether permanent or fluctuating, that adversely affects a  
75 student's educational performance but that is not included  
76 under the definition of deafness.

77 (2) Deafness is a hearing impairment that is so severe  
78 that the student is impaired in processing linguistic  
79 information through hearing, with or without amplification,  
80 and that adversely affects a student's educational  
81 performance.

82 M. "Local education agency" (LEA) means an agency that  
83 has administrative control and direction for public education.  
84 School districts, charter schools, and the USDB are LEAs.

85 N. "National Instructional Materials Access Center  
86 (NIMAC) is a central national repository that receives file  
87 sets in the NIMAS from publishers to maintain, catalogue and  
88 house for future reference file sets for states to use with  
89 students who have print disabilities and require accessible  
90 alternate formats.

91 O. "National Instructional Materials Accessibility  
92 Standard" (NIMAS) means the electronic standard that enables  
93 all producers of alternate formats for students with print  
94 disabilities to work from one standard format available from  
95 publishers for this purpose.

96 P. "Outreach program" is a program provided by the USDB  
97 that offers an alternative to a campus-based program for  
98 students who are blind or visually impaired, deaf or hard of  
99 hearing, or deafblind (ages three to 22). Services are  
100 provided at a student's resident school or at a designated  
101 school by a qualified teacher of the blind or visually  
102 impaired, deaf or hard of hearing, or deafblind.

103 Q. "Related services" means those supportive services  
104 that are necessary for the appropriate implementation of the  
105 IEP. These may include but are not limited to speech  
106 pathology, audiology, low vision services, orientation and  
107 mobility, school counselor, transportation, school nurse,  
108 occupational therapy, or physical therapy.

109 R. "Section 504 accommodation plan" required by Section  
110 504 of the Rehabilitation Act of 1973 means a plan designed to  
111 accommodate an individual who has been determined, as a result  
112 of an evaluation, to have a physical or mental impairment that  
113 substantially limits one or more major life activities.

114 S. "Technical assistance" means assistance to public  
115 education employees or licensed educators, and parents and  
116 families in significant areas of need by someone who has the  
117 expertise necessary to give council and training in designated  
118 areas.

119 T. "USDB" means the Utah Schools for the Deaf and the  
120 Blind.

121 U. "USOE" means the Utah State Office of Education.

122 V. "Utah State Instructional Materials Access Center  
123 (USIMAC) is a center that receives NIMAS electronic file sets  
124 and produces them in the accessible alternate format required  
125 by students with print disabilities.

126 W. Visual impairment (including blindness) is an  
127 impairment in vision that, even with correction, adversely  
128 affects a student's educational performance. The term includes  
129 both partial sight and blindness that adversely affects a  
130 student's educational performance.

131 X. "WPU" means weighted pupil unit, the basic unit used  
132 to calculate the amount of state funds for which a school  
133 district or charter school is eligible.

134 **R277-800-2. Authority and Purpose.**

135 A. This rule is authorized by Utah Constitution Article

136 X, Section 3 which vests general control and supervision of  
137 public education in the Board, Section 53A-25B-201 which  
138 describes the authority of the Board regarding the USDB,  
139 Section 53A-25b-203 which directs the Board to appoint  
140 Advisory Council members and assign a USOE staff member as a  
141 liaison between the Board and the Advisory Council, Section  
142 53A-25b-302 which directs the Board to establish entrance  
143 policies and procedures to be considered, consistent with  
144 IDEA, for student placement recommendations at the USDB,  
145 Section 53A-25b-501 to establish USIMAC and outline  
146 collaboration and operating procedures for USIMAC and USDB  
147 resources, and Section 53A-1-401(3) which allows the Board to  
148 adopt rules in accordance with its responsibilities.

149 B. The purpose of this rule is to provide standards and  
150 procedures for the operation of the USDB and the USDB outreach  
151 programs and services.

152 **R277-800-3. Board Authority Over and Support for USDB.**

153 A. Consistent with Section 53A-25b-201, The Board is the  
154 governing board of the USDB.

155 B. The USDB superintendent, appointed consistent with  
156 Section 53A-25b-201(2), is subject to the direction of the  
157 Board and its executive officer, the State Superintendent of  
158 Public Instruction.

159 C. The Board shall appoint the USDB superintendent on the  
160 basis of outstanding qualifications.

161 (1) The USDB superintendent's term of office is for two  
162 years and until a successor is appointed and qualified.

163 (2) The Board shall set the USDB superintendent's  
164 compensation for services.

165 (3) The USDB superintendent shall have, at a minimum, an  
166 annual evaluation, as directed by the Board.

167 (4) The USDB superintendent qualifications shall be  
168 established by the Board.

169 (5) The duties of the USDB superintendent shall be  
170 established by the Board.

171 D. The Board shall direct the USOE to support, provide  
172 assistance and work cooperatively with the USDB in providing  
173 services to designated Utah students.

174 E. The Board shall assign a liaison to provide  
175 appropriate supervision to the USDB to ensure compliance with  
176 the law.

177 F. The Board and USOE staff, as assigned, shall assist  
178 the USDB and its superintendent and associate superintendents  
179 in adopting policies and preparing an annual budget that are  
180 consistent with the law.

181 (1) The Board shall approve the annual budget and  
182 expenditures of USDB.

183 (2) The USDB superintendent shall, subject to the  
184 approval of the Board, appoint an associate superintendent to  
185 administer the Utah School for the Deaf and an associate  
186 superintendent to administer the Utah School for the Blind.  
187 Qualifications of the associate superintendents shall be  
188 aligned with the requirements of Section 53A-25b-201.

189 (3) The USDB superintendent and associates may hire staff  
190 and teachers as needed for the USDB. Teachers and related  
191 service providers shall be appropriately licensed and  
192 credentialed or both for their specific assignments and  
193 support staff properly trained and supervised for their  
194 assignment.

195 (4) In employment practices and decisions, the USDB and  
196 the USDB superintendent shall maintain the accreditation of  
197 the USDB school and programs.

198 (5) The USDB superintendent and associates shall  
199 communicate regularly and effectively with the USOE and  
200 provide a written report to the Board at least annually in  
201 adequate time prior to the November legislative interim  
202 meeting or as requested by the Board.

203 (6) The USDB report shall contain:  
204 (a) a financial report;  
205 (b) a report on the activities of the superintendent and  
206 associate superintendents;  
207 (c) a report on activities to involve parents and  
208 constituency, including school district and charter school  
209 personnel and advocacy groups, in the governance of the school  
210 and implementation of service delivery plans for students with  
211 sensory impairments; and  
212 (d) a report on student achievement including student  
213 achievement data that provides longitudinal data for both  
214 current and previous students served by USDB, graduation  
215 rates, and students exiting USDB and their educational  
216 placements after exiting.  
217 (7) USDB shall ensure that each child/student served by  
218 USDB is assigned a unique student identifier (SSID) to allow  
219 for annual data collection and reporting of achievement of  
220 current and past students.  
221 (8) USDB shall provide the USOE with a listing of past  
222 and current children/students, including the assigned unique  
223 student identifier, served by USDB by September 1 of each year  
224 to facilitate the required data collection.

225 **R277-800-4. USDB Advisory Council.**

226 A. The Board shall establish the Advisory Council for  
227 USDB and appoint and support Advisory Council members as  
228 directed in Section 53A-25b-201. The purpose of the Advisory  
229 Council is to provide advice and recommendations to the Board  
230 and USDB administration regarding the instruction of students  
231 and the needs of children and students with sensory  
232 impairments served statewide by USDB.

233 B. The Advisory Council shall have not more than 11  
234 Board-appointed voting members and shall include members as  
235 qualified under Section 53A-25b-201.

236 C. Advisory Council members shall be appointed for two  
237 year terms and may serve no more than three consecutive terms.  
238 Advisory Council members serve at the pleasure of the Board.

239 D. If an Advisory Council member resigns or is asked to  
240 resign, the Board shall appoint another member in a timely  
241 manner by seeking nominations.

242 E. The Board shall assist the Advisory Council in  
243 developing and passing by-laws establishing procedures for  
244 nominating and recommending dismissal of Advisory Council  
245 members, and setting ethical standards for Advisory Council  
246 members.

247 (1) The bylaws shall include operating procedures for the  
248 Advisory Council; and

249 (2) the bylaws may allow for representation on the  
250 Advisory Council of constituencies within the USDB community.

251 F. Advisory Council membership and school community  
252 council membership:

253 (1) Members of the Advisory Council may serve as school  
254 community council members under Section 53A-1a-108(4) and  
255 R277-491.

256 (2) The USDB school community council and election  
257 process shall be consistent with Section 53A-1a-108 and R277-  
258 491.

259 (3) The USDB may implement electronic voting and consider  
260 encouraging school community council participation through  
261 electronic meetings and technology that facilitate  
262 participation of parents of USDB students in voting and school  
263 community council meetings.

264 **R277-800-5. USDB or Student's District of Residence/Charter**  
265 **School as Designated LEA.**

266 A. To be eligible to receive services from the USDB, a  
267 student must be a resident of Utah and meet requirements of  
268 Section 53A-25b-301.

269 B. A student's placement at USDB, in a school/school  
270 district or charter school shall be determined by the  
271 student's IEP under IDEA or Section 504 accommodation plan.  
272 USDB services for students who are school-age shall be limited  
273 to those on an IEP or Section 504 accommodation plan.

274 C. Consistent with Section 53A-25b-301(3)(c), an IEP team  
275 or Section 504 team shall determine the appropriate placement  
276 for each blind, deaf or deafblind student consistent with IDEA  
277 using the Blind/Visually Impaired Guidelines, Deaf/Hard of  
278 Hearing Guidelines, or Deafblind Guidelines, as guidance. The  
279 USDB Guidelines are hereby incorporated by reference and  
280 included with this rule.

281 D. It is the responsibility of the student's district of  
282 residence or charter school to conduct Child Find under R277-  
283 800-1F, and to convene the initial IEP or Section 504 team  
284 meeting in order to determine a student's placement.

285 (1) A representative from the student's district of  
286 residence or charter school and a representative from the USDB  
287 shall be invited to the student's initial IEP or Section 504  
288 accommodation plan meeting.

289 (2) The parental preference shall be considered in the  
290 IEP or Section 504 accommodation plan process consistent with  
291 Section 53A-25b-301(3)(c). The final placement decision, as  
292 documented on the IEP or Section 504 accommodation plan, shall  
293 document a free appropriate public education (FAPE) for the  
294 student and shall not be determined solely by parent  
295 preference.

296 E. When USDB is the designated LEA, USDB has full  
297 responsibility for all services defined in the IEP/Section 504  
298 accommodation plan. A representative from the district of  
299 residence or charter school remains a required member of the  
300 IEP or Section 504 accommodation team.

301 F. When the district of residence or charter school is  
302 the LEA designated to provide services to a student with an

303 IEP or Section 504 accommodation plan, the district of  
304 residence or charter school has the responsibility for  
305 providing instruction and services for the student except that  
306 the USDB may be designated by the team as a related service  
307 provider. The USDB remains a required member of the student's  
308 IEP or 504 accommodation plan team.

309 G. The IEP or Section 504 accommodation plan shall  
310 clearly define what services are to be provided by the related  
311 service provider(s).

312 H. The IEP or Section 504 team shall determine the  
313 designated LEA for student placement.

314 I. Parent complaints regarding student placement at  
315 district of residence or USDB:

316 (1) If a parent is dissatisfied with a student's  
317 placement at USDB or district of residence or charter school,  
318 the parent may access dispute resolution procedures,  
319 consistent with Utah State Board of Education Special  
320 Education Rules, August 2007.

321 (2) If a student's IEP or Section 504 accommodation plan  
322 provides for services to be provided by both the USDB and  
323 district of residence, or for the USDB and district of  
324 residence to share responsibility for serving a student, the  
325 parent may access dispute resolution procedures consistent  
326 with Utah State Board of Education Special Education Rules,  
327 August 2007.

328 **R277-800-6. LEA and Board Interagency Agreement.**

329 A. The Board, USOE and LEAs, with assistance from the  
330 USDB shall develop an Interagency Agreement that further  
331 explains roles, services, and financial obligations to  
332 students and participating entities and a basic process for  
333 resolving disagreements among the parties to the Agreement.

334 B. The Board shall also designate a USOE arbitrator or a  
335 panel of arbitrators to resolve disagreements among the USOE,

336 the USDB, and LEAs regarding services to blind, visually  
337 impaired, deaf, hard of hearing, and deafblind students in  
338 order to provide services.

339 **R277-800-7. USDB Programs and Services-Student Eligibility.**

340 A. The USDB shall provide services and resources only for  
341 students who are deaf, blind or deafblind.

342 (1) A student with multiple disabilities whose  
343 disabilities include blindness, deafness or deafblindness may  
344 receive USDB services consistent with the student's IEP.

345 (2) Non-disabled preschool-age children may participate  
346 in USDB funded preschool programs consistent with the  
347 requirements of IDEA that students with disabilities must be  
348 served in the least restrictive environment and that groups or  
349 classes of students with disabilities must include non-  
350 disabled peers. Non-disabled children participating in these  
351 programs shall pay fees or tuition or both in order to  
352 participate.

353 B. When the USDB is the designated LEA, the USDB shall  
354 provide all appropriate services to the student consistent  
355 with the student's IEP or Section 504 accommodation plan.  
356 Services may include:

357 (1) USDB instructional supports:

358 (a) assessments for eligibility, placement, and  
359 educational programming and evaluation;

360 (b) Utah Augmentative Communication Team (UAAACT)  
361 assessments to determine assistive technology needs;

362 (c) augmentative communication devices;

363 (d) assistive technology as needed;

364 (e) educational technology as needed;

365 (f) access to ERC;

366 (g) extended school year as determined by the IEP team;

367 (2) USDB related services to support student needs:

368 (a) audiology services as needed;

369 (b) behavior intervention;  
370 (c) low vision services;  
371 (d) nursing;  
372 (e) occupational therapy;  
373 (f) orientation and mobility;  
374 (g) psychology;  
375 (h) physical therapy;  
376 (i) speech and language therapy;  
377 (j) social work as needed;  
378 (k) transportation, consistent with the USDB  
379 transportation policy.

380 (3) Services for students who are deaf/hard of hearing:

381 (a) American Sign Language/English bilingual instruction;  
382 (b) auditory/oral instruction;  
383 (c) auditory therapy;  
384 (d) cued speech transliteration;  
385 (e) American Sign Language interpretation;  
386 (f) oral transliteration.

387 (4) Services for students who are blind/visually  
388 impaired:

389 (a) Braille instruction;  
390 (b) instruction in the expanded core curriculum;  
391 (c) environmental awareness;  
392 (d) orientation and mobility support.

393 (5) Services for students who are deafblind:

394 (a) deafblind consultant;  
395 (b) communication intervener.

396 C. When the USDB is determined by the IEP or Section 504  
397 accommodation plan team to act as the outreach program  
398 provider, the USDB shall provide technical assistance,  
399 consultation, and professional development on issues related  
400 to sensory disabilities available to LEAs from the USDB at no  
401 charge. Services consistent with the student's IEP or Section  
402 504 accommodation plan may include:

- 403 (1) assessments for eligibility, placement, and  
404 educational programming and evaluation;  
405 (2) assistive and educational technology;  
406 (3) technology demonstration labs;  
407 (4) transition planning;  
408 (5) audiology services as needed;  
409 (6) instructional strategies;  
410 (7) instructional materials;  
411 (8) Braille or large print or both;  
412 (9) communication methodologies;  
413 (10) accommodations as necessary for educational gain;  
414 (11) modifications as necessary for educational gain;  
415 (12) educational interventions;  
416 (13) low vision services;  
417 (14) occupational therapy;  
418 (15) physical therapy;  
419 (16) psychology;  
420 (17) speech/language pathology;  
421 (18) vision and hearing screening;  
422 (19) interpreter training.

423 D. The following services shall be provided by the USDB  
424 to the LEA of a student with sensory disabilities at no cost  
425 to the LEA:

- 426 (1) deafblind services (as determined through the IEP):  
427 (a) consultation with the student's teacher, parent and  
428 the student;  
429 (b) communication intervener.  
430 (2) orientation and mobility;  
431 (3) diagnostic services:  
432 (a) Utah Augmentative Communication Team (UAACT)  
433 assessments to determine assistive technology needs;  
434 (b) deafblind state assessment and coaching team.

435 E. The following designated services shall be available  
436 from USDB at no charge for LEAs with less than three percent

437 of the total Utah student population:

438 (1) outreach teacher:

439 (a) sensory-specific services to students:

440 (i) instruction;

441 (ii) assessments for eligibility, placement, and  
442 educational programming and evaluation;

443 (iii) monitoring of student progress.

444 (b) supports to classroom teacher:

445 (i) consultation;

446 (ii) technical assistance.

447 (2) Related services to support the student:

448 (a) audiology;

449 (b) low vision services.

450 (3) The USOE shall designate annually the LEAs that meet  
451 the three percent eligibility standards for specific  
452 identified services.

453 F. LEAs may contract with USDB to provide the following  
454 services, if qualified personnel are available:

455 (1) outreach teacher;

456 (2) related services;

457 (3) ASL interpretation;

458 (4) assessment;

459 (5) assistive and educational technology instruction.

460 G. The following materials are available to LEAs on loan  
461 from the USDB. The duration of the loan and immediate  
462 availability of resources may vary:

463 (1) ERC:

464 (a) textbooks (Braille, large print);

465 (b) teaching aids;

466 (c) library materials;

467 (d) professional library;

468 (e) described and captioned media.

469 (2) technology loan programs (limited to 30 days):

470 (a) assistive and adaptive technology loan program;

471 (b) related services technology loan program.

472 (3) The USDB shall develop a policy and process for  
473 publishing annually a list of materials available for loan,  
474 LEAs to whom materials may be loaned, and loan periods.

475 (a) The policy shall emphasize communication among LEAs  
476 and the USDB about availability of resources. Resources shall  
477 be determined by a student's IEP or Section 504 accommodation  
478 plan; the origin of the resources may be determined between an  
479 LEA and the USDB.

480 (b) The USDB shall develop a protocol for use in  
481 reviewing and ordering materials not immediately available  
482 when requested, as part of a student's education program.

483 (c) Students/parents/guardians are on notice that  
484 materials are loaned for the use of the student for a  
485 designated period for educational purposes. If loaned  
486 materials are lost, stolen, or damaged intentionally or due to  
487 student negligence, the student/parent/guardian shall be  
488 responsible to reimburse the LEA or USDB for the costs of the  
489 materials.

490 **R277-800-8. Payment by LEAs for USDB Services Beyond USDB**  
491 **Obligation.**

492 A. Certain services provided by USDB personnel, employees  
493 or contract employees are identified in R277-800-7 and shall  
494 be provided to LEAs at no cost consistent with the student's  
495 IEP or Section 504 accommodation plan.

496 B. Other services and resources may be available to LEAs  
497 from the USDB for a reasonable charge or fee paid by the LEA,  
498 to the extent of resources or personnel available. These  
499 services include:

- 500 (1) outreach teachers;
- 501 (2) related services;
- 502 (3) American Sign Language;
- 503 (4) student assessment; and

504 (5) assistive and educational technology instruction.

505 C. The USOE, USDB and LEAs shall determine appropriate  
506 fees, consistent statewide, for services subject to review by  
507 the Board, and notice to LEAs and parents of children  
508 currently receiving services from the USDB. The USDB shall  
509 review and publish its fee schedule for services to LEAs  
510 annually.

511 **R277-800-9. Assessment of USDB Students with Visual and**  
512 **Hearing Impairments Served in LEAs of Residence.**

513 A. Students shall be assessed consistent with Section  
514 53A-1-601 et seq., R277-402, R277-700, R277-705, IDEA, Section  
515 504 of the Rehabilitations Act, and Section 53A-25B-304.

516 B. The USDB shall establish an assessment policy and  
517 guidelines to implement required assessments and address:

518 (1) appropriate, complete and timely evaluations of  
519 students;

520 (2) procedures for administration of assessments in  
521 addition to those required by the law, as determined by IEPs,  
522 Section 504 accommodation plans and individual teachers;

523 (3) complete and accurate required assessments available  
524 to eligible students consistent with state and school district  
525 assessment timelines and availability of materials for non-  
526 disabled students;

527 (4) staff training and preparation on appropriate  
528 administration of assessments and reporting of assessment  
529 results; and

530 (5) procedures to ensure appropriate interpretation of  
531 assessments and results for parents and use of assessment  
532 results by USDB personnel.

533 **R277-800-10. Outreach Programs.**

534 A. The USDB and school districts or charter schools may  
535 negotiate to share the costs for providing more efficient,

536 cost-effective, and convenient services to students who are  
537 deaf, blind, or deafblind in public school classrooms in  
538 locations other than the USDB campus.

539 B. School districts or charter schools shall provide:

540 (1) classroom(s);

541 (2) basic instructional materials;

542 (3) physical education, music, media, school lunch, and  
543 other programs and services, consistent with those programs  
544 and services provided to other students within the school  
545 district or charter school;

546 (4) administrative support;

547 (5) basic secretarial services;

548 (6) special education related services.

549 C. The USDB shall provide:

550 (1) classroom instructors, including aides;

551 (2) instructional materials specific to the disability of  
552 the students.

553 D. The responsibilities of the USDB and a school district  
554 or charter school may be reassigned as negotiated between the  
555 school district or charter school and the USDB.

556 E. A school district or charter school shall claim the  
557 state WPU if the school district or charter school provides  
558 all items or services identified in R277-800-10B.

559 **R277-800-11. USDB Fiscal Procedures.**

560 A. The USDB shall keep fiscal, program and accounting  
561 records as required by the Board and shall submit reports  
562 required by the Board.

563 B. The USDB shall follow state standards for fiscal  
564 procedures, auditing and accounting, consistent with Section  
565 53A-25b-105.

566 C. The USDB is a public state entity under the direction  
567 of the Board and as such is subject to state laws identified  
568 in Section 53A-25b-105 including State Money Management Act,

569 Open and Public Meetings Act, Risk Management, State Building  
570 Board and Division of Facilities Construction and Management,  
571 Information Technology Services, Archives and Records  
572 Services, Utah Procurement Code, Budgetary Procedures Act, and  
573 Utah State Personnel Management Act.

574 D. The USDB shall prepare and present an annual budget to  
575 the Board that includes no more than a five percent carryover  
576 of any one fund, including reimbursement funds from federal  
577 programs.

578 E. Federal reimbursement funds (IDEA and Medicaid) shall  
579 be recovered quarterly during the year. Reimbursement amounts  
580 shall be identified in the current year's or no later than the  
581 subsequent year's budget.

582 F. The revenue from the federal land grant designated for  
583 the maintenance of the School for the Blind and for the School  
584 for the Deaf shall be used solely for the benefit of USDB  
585 students and the recommended or designated use of the fund is  
586 subject to review by the Board.

587 **R277-800-12. Utah State Instructional Materials Access Center**  
588 **(USIMAC).**

589 A. The Board authorizes the establishment of the USIMAC  
590 to produce core instructional materials in alternative formats  
591 to ensure that all students with print disabilities qualified  
592 under the Chafee Amendment receive their materials in a timely  
593 manner.

594 B. The USIMAC shall provide materials for all students  
595 with print disabilities who are qualified under the Chafee  
596 Amendment or otherwise eligible through an IEP or Section 504  
597 accommodation plan.

598 C. The USOE shall oversee the operations of the USIMAC.

599 D. The USDB is the fiscal agent and operates the USIMAC  
600 to the extent of funds received annually from the Utah  
601 Legislature.

602 E. LEAs may purchase accessible instructional materials  
603 using their own funding or request the production of  
604 accessible instructional materials in alternate formats from  
605 the USIMAC in accordance with established procedures to ensure  
606 timely access for students with print disabilities.

607 F. For LEA textbook requests submitted by April 1 of the  
608 preceding school year, the USIMAC shall provide the textbook  
609 in the requested alternate format by the beginning of the  
610 following school year.

611 G. The USDB ERC shall serve as the repository and  
612 distribution center for the USIMAC.

613 H. Operation of the USIMAC

614 (1) Qualifying students: A student qualifies for  
615 accessible instructional materials from USIMAC (Braille,  
616 audio, large print, digital formats) following LEA  
617 determination that the student has a print disability in  
618 accordance with the Chafee Amendment, IDEA, or Section 504 of  
619 the Rehabilitation Act.

620 (2) Costs for developing core instructional materials:

621 (a) Textbooks for blind, vision impaired or deafblind  
622 students served by the USDB or LEAs shall be requested by the  
623 LEA consistent with the student's IEP or Section 504  
624 accommodation plan.

625 (b) When an LEA requests a core instructional textbook  
626 that was published before August 2006, the USIMAC shall  
627 conduct a search for the textbook within existing resources  
628 and, if available, the textbook shall be sent to the ERC for  
629 distribution to the LEA.

630 (i) If the textbook is not available within existing  
631 resources, the USIMAC will conduct a search to determine if  
632 the textbook is available for purchase through another source.

633 (ii) If the textbook is available through the American  
634 Printing House for the Blind (APH) the textbook shall be  
635 ordered and sent to the ERC for distribution to the LEA.

636 (iii) If the textbook is not available from APH, but is  
637 available from another accessible media producer, the textbook  
638 shall be purchased and sent to the ERC for distribution to the  
639 LEA.

640 (iv) If the textbook is not available for purchase, the  
641 USIMAC will produce the textbook and send it to the ERC for  
642 distribution.

643 (A) The USIMAC shall purchase the LEA-requested textbook  
644 in accordance with copyright law. The cost of the student  
645 edition textbook shall be charged to the requesting LEA.

646 (B) The USIMAC shall produce the textbook in the LEA  
647 requested alternate format in accordance with the cost sharing  
648 outlined in the Interagency Agreement described in R277-800-6.

649 (c) The sharing of costs for purchases described in R277-  
650 800-12 shall be outlined in the Interagency Agreement  
651 described in R277-800-6.

652 (d) For textbooks published since August 2006, the USIMAC  
653 shall follow the same procedures outlined in R277-800-  
654 12H(2)(b). If the USIMAC is unable to obtain the NIMAS file  
655 set in a timely manner as a result of publisher negligence,  
656 the Board shall authorize USIMAC to seek damages from  
657 publisher(s) as a result of the failure to meet contract  
658 provisions.

659 (3) Textbook publishers required to meet NIMAS  
660 requirements:

661 (a) All approved textbook contracts for the state of Utah  
662 for instructional materials published since August 2006 shall  
663 include a provision for making NIMAS file sets available  
664 through the NIMAC in accordance with IDEA and USOE  
665 Instructional Materials Contract timelines.

666 (b) If the USIMAC is unable to obtain the NIMAS file set  
667 from the NIMAC because the publisher fails to provide the  
668 NIMAS file set to the NIMAC in accordance with IDEA and USOE  
669 Instructional Materials Contract timelines, the USIMAC shall

670 bill the textbook publisher the difference in the cost of  
671 producing the alternate format textbook without benefit of the  
672 NIMAS file set.

673 (c) The publisher shall be advised of the rule; the Utah  
674 Instructional Materials Commission under R277-469 shall not  
675 approve textbooks and materials from publishers that have a  
676 pattern of not providing materials and textbooks for students  
677 with disabilities in a timely manner, consistent with the law  
678 and Board rules.

679 (d) Requests for audio books shall be accessed through  
680 the USIMAC as appropriate or through other sources. Membership  
681 required for other sources is the responsibility of the LEA  
682 designated as the responsible entity for serving the student  
683 in the IEP or Section 504 accommodation plan.

684 **KEY: educational administration**

685 **Date of Enactment or Last Substantive Amendment: July 9, 2012**

686 **Notice of Continuation: [~~July 23, 2009~~]2014**

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

688 **53A-25b-203; 53A-25b-302; 53A-25b-501; 53A-1-401(3)**