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## MEMORANDUM

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

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

**DATE:** June 6, 2014

**ACTION:** *R277-419-9 Pupil Accounting—Provisions for Maintaining Student Membership and Enrollment Documentation and Documentation of Student Education Services Provided by Third Party Vendors for School Year 2014-2015 (Emergency Rule)*

### **Background:**

Performance Audit 2013-02 "Distance and Online Education Programs in Utah Schools" was released by the Board's internal auditor in February 2014. As part of a corrective action plan established by the Board, the USOE sent corrective action letters to LEAs identified in the audit and established various task forces and studies to address weaknesses identified in the audit. These efforts will not result in modified Board rules or guidance prior to the beginning of the 2014-15 school year.

R277-419-9 is proposed as an emergency rule to provide guidance for student membership and enrollment documentation to LEAs for the 2014-2015 school year only. The emergency provision of R277-419-9 requires State Superintendent approval of nontraditional programs managed solely by third party contractors. It also requires LEAs to establish a written monitoring plan to ensure compliance with law and Board rule for nontraditional programs managed by a contractor.

### **Key Points:**

Section 9 of the rule creates a definition of traditional and nontraditional programs, differentiated by the instruction methods and delivery methods. This rule requires all LEAs and all programs to comply with the provisions of R277-419. The rule requires all LEAs to comply with the ten-day provision in R277-419-5A(1)(f). The rule requires LEAs with non nontraditional programs to establish a written policy developing a "continuing enrollment measurement" by August 29, 2014 which shall be monitored by LEA employees and shall be used to satisfy the requirements of R277-419-5A(1)(f).

Section 9 also requires all LEA nontraditional programs, which are solely managed by a third party, to submit documentation demonstrating compliance with law and Board rule, as required by the Board, by July 15, 2014. The Superintendent will approve or issue corrective action letters and

timelines specific to compliance issues. Programs that are not approved or do not complete corrective action objectives by the timeline may not qualify for some or all Minimum School Program funds.

Section 9 requires LEAs that contract with third parties to develop a supervision and monitoring plan over the vendor, and retain documentation of the implementation of their plans.

This rule does not change school/program funding provisions for the 2014-2015 school year. This rule requires all LEAs to develop practices to accurately record and submit membership hours. These data will be useful in analyzing the current funding models and in studying proposals for future or modified funding models.

**Anticipated Action:**

It is proposed that the Finance Committee consider approving R277-419-9 as an emergency rule filing on first reading and, if approved by the Committee, the Board consider approving R277-419-9 for an emergency rule filing on second and third reading.

**Contact:** Bruce Williams, Associate Superintendent, 801-538-7514  
Natalie Grange, Internal Audit Director, 801-538-7813

1 **R277. Education, Administration.**

2 **R277-419-9. Provisions for Maintaining Student Membership and**  
3 **Enrollment Documentation and Documentation of Student**  
4 **Education Services Provided by Third Party Vendors for School**  
5 **Year 2014-2015.**

6 A. R277-419-1 through 8 provide direction for student  
7 enrollment and eligibility criteria for both traditional and  
8 nontraditional schools and programs.

9 B. A traditional program is a public school program that  
10 consists of eligible public education students who physically  
11 attend school in classrooms.

12 C. A nontraditional program is a public school program  
13 that consists of eligible, enrolled public education students  
14 where students primarily receive instruction either online or  
15 through a distance learning program.

16 D. For the 2014-2015 school year, all LEAs that enroll  
17 students shall maintain documentation of the following:

18 (1) that the LEA complied with all provisions of R277-  
19 419-1 through 8;

20 (2) that the LEA complied with all educator licensure  
21 requirements of R277-502;

22 (3) that the LEA complied with all fingerprint and  
23 background check requirements for educators, employees and  
24 volunteers consistent with Section 53A-3-410, 53A-1a-512.5,  
25 R277-516, and R277-520;

26 (4) that the LEA established a school schedule consistent  
27 with R277-419-4A(1);

28 (5) that the LEA only enrolled students who met the  
29 eligibility requirements of R277-419-5A(1) (a-e);

30 (6) that the LEA directed the instruction of the core  
31 curriculum consistent with Section 53A-1-402(1)(a) and R277-  
32 700; and

33 (7) that the LEA scheduled and gave all statewide  
34 assessments, as required under Sections 53A-1-606.6 through

35 53A-1-611 and R277-404.

36 E. In addition to R277-419-9D, LEAs that enroll students  
37 in traditional programs shall also satisfy the requirements of  
38 R277-419-5A(1)(f) for the 2014-2015 school year.

39 F. In addition to R277-419-9D, LEAs that enroll students  
40 in nontraditional programs shall also maintain documentation  
41 that the LEA did the following in the 2014-2015 school year:

42 (1) adopted, before August 29, 2014, a written policy  
43 that designates a continuing enrollment measurement to  
44 document the continuing membership or enrollment status for  
45 individual students consistent with R277-419-5A(1)(c);

46 (2) measured and documented each student's continued  
47 enrollment using the adopted continuing enrollment measurement  
48 every ten consecutive school days;

49 (3) documented that LEA employees confirmed students'  
50 continued enrollment consistent with R277-419-9F(2) and  
51 updated student membership records in the student information  
52 system; and

53 (4) documented that the LEA adjusted the student  
54 membership information for students that did not meet the  
55 continuing enrollment measurement, consistent with R277-419-  
56 5A(1)(c).

57 G. The continuing enrollment measurement may include some  
58 or all of the following components, in addition to other  
59 components, as determined by the nontraditional LEA:

60 (1) a minimum student log in or teacher contact  
61 requirement;

62 (2) required periodic contact with a licensed educator;

63 (3) a minimum hourly requirement, per day or week, that  
64 students were engaged in course work; and

65 (4) required timelines for a student to provide or  
66 demonstrate completed assignments, coursework or progress  
67 toward academic goals.

68 G. LEAs enrolling students in nontraditional programs for

69 the 2014-15 school year, where these programs are administered  
70 by third party vendors contracted for total education  
71 services, shall submit documentation of compliance with law  
72 and Board rules (as prescribed by the Board) to the  
73 Superintendent's office for review before July 15, 2014. A  
74 nontraditional program, that is managed by a third party  
75 vendor, and does not receive approval or notice of timelines  
76 required for corrective action from the Superintendent's  
77 office for the 2014-2015 school year, may not qualify for some  
78 or all Minimum School Program funds.

79 H. An LEA that contracts with a third party vendor to  
80 provide total education services to students for  
81 nontraditional programs shall supervise the vendor throughout  
82 the administration of the services and ensure compliance with,  
83 at minimum, the following:

84 (1) all student eligibility and membership/enrollment  
85 requirements of R277-419;

86 (2) all educator licensure requirements of R277-502 were  
87 satisfied;

88 (3) all fingerprint and background check requirements for  
89 educators, employees and volunteers consistent with Section  
90 53A-3-410, 53A-1a-512.5, R277-516, and R277-520 were met;

91 (4) the Utah State Board-directed core standards were  
92 used in student instruction, consistent with Section 53A-1-  
93 402(1)(a) and R277-700;

94 (5) all required statewide assessment were given, as  
95 required under Sections 53A-1-606.6 through 53A-1-611 and  
96 R277-404;

97 (6) LEA develops a written supervision plan for the  
98 vendor administration of services; and

99 (7) LEA maintains documentation of supervision activities  
100 ensuring compliance with the written supervision plan (copy of  
101 the agreement, assignment of supervising personnel by title,  
102 meeting notes, correspondence with vendor) consistent with the

103 LEA's administrative records retention schedule.

104 I. Consistent with R277-114, the Board may withhold funds  
105 from traditional or nontraditional public education programs  
106 for non-compliance with R277-419.

107 **KEY: education finance, school enrollment**

108 **Date of Enactment or Last Substantive Amendment: October 9,**  
109 **2012**

110 **Notice of Continuation: September 14, 2012**

111 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**  
112 **53A-1-401(3); 53A-1-402(1)(e); 53A-1-404(2); 53A-1-301(3)(d);**  
113 **53A-3-404; 53A-3-410**