

1 **R277. Education, Administration.**

2 **R277-926. Certification of Residential Treatment Center Special Education
3 Program.**

4 **R277-926-1. Authority, [and] Purpose, and Oversight Category.**

5 (1) This rule is authorized by:

6 (a) Utah Constitution [Article X, Section 3](#), which vests general control and
7 supervision of public education in the Board; and

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

11 (2) The purpose of this rule is to provide a certification process and procedure
12 for residential treatment centers where IEP teams place [an] in-state or out-of-state
13 special education students for purposes of receiving a free and appropriate public
14 education.

15 (3) This Rule R277-926 is categorized as Category 4 as described in Rule [R277-111.](#)

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18 **R277-926-2. Definitions.**

19 (1) "Nonsectarian" means a nonpublic school or agency that is not owned,
20 operated, controlled by, or formally affiliated with a religious group or sect, whatever
21 might be the actual character of the education program or the primary purpose of the
22 facility.

23 (2)(a) "Residential Treatment Center" or "RTC" means a private, or nonsectarian
24 establishment that provides related services necessary for a student with special needs
25 to benefit educationally from the student's IEP.

26 (b) "Residential Treatment Center" or "RTC" does not include an organization or
27 agency that operates as a public agency or offers public service, including:

28 (i) a state or local agency;

29 (ii) an affiliate of a state or local agency including:

30 (A) a private, nonprofit corporation established or operated by a state or local
31 agency;

32 (B) a public university or college; or

33 (C) a public hospital.

34 (3) "Qualified personnel" means an in-classroom staff member who:

35 (a) provides assistance with a student's education;

36 (b) has met requirements for federal and state certification and licensing

37 requirements that apply to the area in which the staff member is providing services,

38 including [board approved] Board or Utah Department of Professional Licensing

39 requirements; and

40 (c) actively adheres to the standards of professional practice established in
41 federal and [State of Utah] state law [or] and regulation.

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43 R277-926-3. Certification of a Residential Treatment Center.

44 (1) An RTC shall have the RTC's special needs program certified by the
45 Superintendent before providing services for a free and appropriate public education to
46 in-state or out-of-state students with special education needs and a current IEP from an
47 LEA.

48 (2) An RTC seeking certification shall apply for an initial or renewal certification
49 in a form prescribed by the Superintendent.

50 (3) An RTC's application shall include:

51 (a) a detailed description of the RTC's general and special education program
52 provided, including:

53 (i) minimum instructional minutes for each grade level served;

54 (ii) specially designed instruction and related services;

55 (iii) evidence of age-appropriate core curriculum that aligns with the Utah core
56 standards or aligns with the core standards of the student's state of origin;

57 (iv) for grades K-8, evidence showing the use of at least one resource, including
58 a textbook or curricular program, adopted by the student's state of origin or Utah for
59 each core standard subject;

60 (v) for grades 9-12, evidence showing alignment of curriculum for core standard
61 subjects with an LEA's curriculum in Utah or the student's state of origin;

62 (b) evidence, including educator licenses of qualified personnel for each subject
63 area including:

64 (i) English language arts;

65 (ii) Math;

66 (iii) Science;

67 (iv) Special Education; and

68 (v) Related services.

69 (c) documentation of training implementation and supervision in a special

70 education program of paraprofessionals as described by the Special Education Rules
71 Manual incorporated by reference in Rule [R277-750](#);

72 (d) an assurance that each student, aged 14 years and above, has a transition
73 plan as described in Subsection R277-926-4(3)(b);

74 (e) evidence that an RTC is collaborating with a student's LEA of origin's fully
75 constituted IEP team to:

76 (i) carry out the specific requirements of the student's IEP, including the general
77 requirements described in Subsection R277-926-4(3)(b);

78 (ii) facilitate an annual IEP review; and

79 (iii) when necessary, participate in the student's triennial evaluation, including:

80 (A) an outlined process for the evaluation;

81 (B) the ability to allow on-site accessibility to third parties required for evaluation
82 participation; and

83 (C) collaborate with the LEA of origin for the administration of the assessment.

84 (f) a description of the RTC's incident management process and procedures for

85 a student, and reporting requirements described in Subsection R277-926-4(3)(c);

86 (g) evidence of how meaningful parental involvement is facilitated;
87 (h) documentation showing all staff at the RTC have been fingerprinted and
88 have passed state and federal criminal background checks before being allowed to
89 have contact with any student;
90 (i) an assurance showing participation in the LEA of origin with federal Child Find
91 mandates as outlined in 20 U.S.C. 1412(a)(3);
92 (j) an assurance that the RTC is a nonsectarian RTC; and
93 (k) if applicable, a copy of the Private School Affidavit filed with a student's state
94 of origin.

95 (4) ~~Except as provided in Subsection (7), an~~ An RTC may apply for an initial
96 certification and receive notification of certification approval or denial within 60 days of
97 an on-site review.

98 (5) An RTC shall apply for certification renewal no later than 60 days before the
99 expiration of the RTC's current certification.

100 (6) ~~Except as provided in Subsection (7), the~~ The Superintendent shall provide
101 the RTC notice of the Superintendent's approval or denial of the RTC's application for
102 certification within 60 days of an on-site review.

103 ~~(7) For an application received before January 1, 2020, the Superintendent shall~~
104 ~~notify an RTC of the Superintendent's approval or denial of the RTC's request for~~
105 ~~certification within 45 days.]~~

106 ([8]7) An RTC with a pending application shall be subject to an on-site review by
107 the Superintendent within 60 days of the RTC submitting the RTC's application.

108 ([9]8) An RTC's application for certification and on-site review shall be reviewed
109 collectively by the Superintendent in considering approval or denial of certification.

110 ([10]9) An RTC shall be informed of compliance errors at the time of the on-site
111 review and will be provided six weeks to correct the compliance errors before a final
112 certification decision is made.

113 ([11]10) If approved, an RTC's certification lasts for two years from the date of
114 approval and is subject to monitoring protocols as described in Section R277-926-4.

115 ([12]11) If the Superintendent denies an RTC's application for certification, the
116 Superintendent shall provide the reason for the denial in writing to the RTC.

117 ([13]12) If an RTC operates a special needs program at more than one site, the
118 RTC shall submit a separate certification application for each site.

119

120 **R277-926-4. Certification Maintenance and General Monitoring.**

121 (1) An RTC that has been certified is subject to periodic monitoring and review.

122 (2) An RTC shall ensure general compliance with the requirements of this rule,
123 state law, and federal law by providing the Superintendent with:

124 (a) documentation, including:

125 (i) applicable student and program records; and

126 (ii) information for which the Board is responsible;

127 (b) access to on-site visits at any time; and

128 (c) any combination of Subsections (a) and (b).

129 (3) An RTC that has been certified shall comply with all requirements of this
130 rule, ~~State of Utah law~~ and state and federal law, including the following requirements:

131 (a) collaborating with an LEA of origin to maintain and facilitate a plan for
132 transition from the RTC to a less restrictive setting or from a less restrictive setting to an
133 RTC;

134 (b) collaborating with the LEA of origin on a student's IEP through:

135 (i) timely and appropriate IEP progress monitoring;

136 (ii) documentation of a student's specially designed instruction and related

137 services such as:

138 (A) service provisions;

139 (B) treatment notes; and

140 (C) service logs;

141 (iii) post secondary transition plans for students age 14 and older, including:

142 (A) a list of a relevant course of study related to needs and ability of the student;

143 (B) a list of all required transition assessments needed; and

144 (C) age of majority documentation;

145 (iv) sign-in or attendance sheets for each IEP meeting held for a student; and

146 (iv) adhering to all other applicable state and federal laws;

147 (c) when appropriate, establishing a discipline guide consistent with IDEA that

148 includes a behavior intervention plan with the following minimum components:

149 (i) general behavior goals;

150 (ii) crisis de-escalation and restraint training and training frequency;

151 (iii) restraint and seclusion policies and procedures consistent with state and

152 federal law; and

153 (iv) parental notification policies requiring notice within at least 24-hours.

154 (4) An RTC shall notify the Superintendent within 45 days if the RTC makes any
155 material change to the RTC's special education program.

156 (5) An RTC shall notify the Superintendent within 48 hours if:

157 (a) any staff member is charged with a felony or misdemeanor, other than a

158 Class C violation of Title 41, Motor Vehicles; or

159 (b) a law enforcement agency or the Division of Child and Family Services

160 initiates an investigation regarding a student health or safety concern.

161 (6) If a certified RTC is found to be noncompliant with [Rule R277-926, State of
162 Utah law, or] this rule or state or federal law, the Superintendent may suspend or
163 revoke the RTC's certification as outlined in Section R277-926-5.

165 R277-926-5. Revocation of Certification.

175 (4) If an RTC's certification is revoked, the RTC:

176 (a) may not receive new students into the RTC's special education program; and

177 (b) may maintain the students currently attending the RTC's special education

178 program.

179 (5) An RTC may reapply for certification within 12 months following the RTC's
180 completed corrective action in response to the Superintendent's reasons for revocation
181 described in Subsection (2).

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183 R277-926-6. Request for Review.

184 (1) A public education agency that contracts with a certified RTC may request
185 the Superintendent to review the status of the RTC's certification.

186 (2) The Superintendent shall establish a mechanism for referrals, complaints,
187 and information related to the status of an RTC's certification.

188 (3) The Superintendent shall conduct a review pursuant to this in accordance
189 with all requirements in Sections R277-926-4 and R277-926-5.

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191 **R277-926-7. RTC Appeal of Certification Application Denial or Certification**
192 **Revocation.**

193 (1) An RTC may file an appeal to the Board of an adverse decision of the
194 Superintendent resulting in the denial of application or revocation of a certification.

195 (2) An appeal pursuant to this rule shall be an informal adjudication.

196 (3) An appeal described in Subsection (1) shall be made in writing and within 30
197 days of the date of the Superintendent's action.

198 (4) The Board may:

199 (a) review the appeal as a full board; or

200 (b) refer the appeal to the Board's audit committee to make a recommendation
201 to the Board for action.

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203 **KEY: residential treatment centers, special education, certification**

204 **Date of Last Change: June 7, 2023**

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