R277. Education, Administration.

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

R277-800-1. Authority, [~~and~~] Purpose, and Oversight Category.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-8-204 which authorizes the Board to make rules regarding the administration of the Utah Schools for the Deaf and the Blind;

(c) Section 53E-8-402, which directs the Board to establish entrance policies and procedures to be considered, consistent with the IDEA, for student placement recommendations at the USDB;

(d) Section 53E-8-409, which directs the Board to establish the USIMAC and outline collaboration and operating procedures for USIMAC and USDB resources; and

(e) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to provide standards and procedures for the operation of the USDB and the USDB outreach programs and services.

(3) This Rule R277-800 is categorized as Category 4 as described in Rule R277-111.

R277-800-2. Definitions.

(1) "Accessible media producer" means a company or agency that creates fully-accessible, specialized, student-ready formats for curriculum materials, such as:

(a) Braille;

(b) large print;

(c) audio books; or

(d) digital books.

(2)(a) "Assessment" means the process of documenting, usually in measurable terms, knowledge, skills, attitudes and abilities pertaining to the fields of vision and hearing.

(b) An assessment may include the following areas of focus:

(i) a valid, reliable and appropriate assessment given to determine eligibility for placement and services by a team of qualified professionals and a student's parent or guardian;

(ii) a functional assessment accomplished by observation and measurement of daily living skills and functional use of vision or hearing, or both; and

(iii) academic evaluations as part of the Statewide School Accountability System, including an alternate assessment with appropriate accommodations as indicated on a student's IEP.

(3)(a) "Campus-based program" means a program provided by USDB that offers an alternative to an outreach program for students, ages three to 22, who are blind or visually impaired, deaf or hard of hearing, or deafblind.

(b) Under a campus-based program, services are provided by qualified USDB staff at a USDB site.

(4)(a) "The Chafee Amendment to the Copyright Act" or the "Chafee Amendment" is a federal law, 17 U.S.C. 121, that allows an authorized entity to reproduce or distribute copyrighted materials in specialized formats for students who are blind or have other print disabilities without the need to obtain permission of the copyright owner.

(b) Authorized entities under the Chafee Amendment include governmental or nonprofit organizations that have a primary mission to provide copyrighted works in specialized formats for students who are blind or have other print disabilities.

(5) "Child Find" means activities and strategies designed to locate, evaluate, and identify individuals eligible for services under the IDEA.

(6) "Consultation" means a meeting for discussion or seeking advice.

(7) "Designated LEA" means the local education agency assigned by a student's IEP or Section 504 team to have primary responsibility for ensuring that all rights and requirements regarding individual student assessment, eligibility services and procedural safeguards are satisfied consistent with the IDEA.

(8) "Deafblindness" or "deafblind" means written verification provided by a medical professional stating that an individual has concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.

(9) "Deafness" is a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, and that adversely affects a student's educational performance.

(10) "Educational Resource Center" or "ERC" is a center under the direction of the USDB that:

(a) provides information, technology, and instructional materials to assist children who are deaf, hard of hearing, blind, visually impaired, and deafblind in progressing in the curriculum; and

(b) facilitates access to materials, information, and training for teachers and parents of children who are deaf, hard of hearing, blind, visually impaired, and deafblind.

(11) "Extension classroom" means a classroom provided by an LEA where USDB provides a full-time classroom teacher and related services to students who remain enrolled in the LEA's general education programs.

(12) "Hearing loss" is an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance, but that is not included under the definition of deafness.

(13) "National Instructional Materials Access Center" or "NIMAC" is a central national repository that receives file sets in the NIMAS from publishers to maintain,

catalog, and house for future reference file sets for states to use with students who have print disabilities and require accessible alternate formats.

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

(15)(a) "Outreach program" is a program provided by the USDB that offers an alternative to a campus-based program for students ages three to 22 who are blind or visually impaired, deaf or hard of hearing, or deafblind.

(b) In an outreach program, services are provided at a student's resident school or at a designated school by a qualified teacher of the blind or visually impaired, deaf or hard of hearing, or deafblind.

(16)(a) "Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a student with disability to benefit from special education.

(b) Related services may include:

(i) speech-language pathology services;

(ii) audiology services;

(iii) interpreting services;

(iv) psychological services;

(v) physical and occupational therapy;

(vi) recreation, including therapeutic recreation;

(vii) early identification and assessment of disabilities in students;

(viii) counseling services, including rehabilitation counseling;

(ix) orientation and mobility services;

(x) health services and school nursing services;

(xi) social work services in schools;

(xii) parent counseling and training; or

(xi) low vision services.

(17) "Section 504 accommodation plan" means a plan required by Section 504 of the Rehabilitation Act of 1973, which is designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

(18) "Technical assistance" means assistance to public education employees, licensed educators, parents, and families in significant areas of need by someone who has the expertise necessary to give council and training in designated areas.

(19) "Utah State Instructional Materials Access Center" or "USIMAC" means a center that receives NIMAS electronic file sets and produces them in the accessible alternate format required by students with print disabilities.

(20)(a) "Visual impairment," is an impairment in vision that, even with correction, adversely affects a student's educational performance.

(b) "Visual impairment" includes both partial sight and blindness that adversely affect a student's educational performance.

(21) "Weighted pupil unit" or "WPU" means the basic unit used to calculate the amount of state funds for which a school district or charter school is eligible.

R277-800-3. Operation of USDB.

(1) Consistent with Section 53E-8-204, the Board is the governing board of the USDB.

(2) The USDB superintendent, appointed consistent with Subsection 53E-8-204(2), is subject to the direction of the Board and the Superintendent.

(3) The USDB superintendent shall serve subject to the following:

(a) the USDB superintendent's term of office is for two years and until a successor is appointed;

(b) the Board shall set the USDB superintendent's compensation for services;

(c) the USDB superintendent shall have, at a minimum, an annual evaluation, as directed by the Board;

(d) the USDB superintendent qualifications shall be established by the Board; and

(e) the duties of the USDB superintendent shall be established by the Board.

(4) The Superintendent shall support, provide assistance, and work cooperatively with the USDB in providing services to designated Utah students.

(5) The Superintendent shall assign a liaison to provide appropriate supervision to the USDB to ensure compliance with the law.

(6) The Superintendent shall assist the USDB, its superintendent, and associate superintendents in adopting policies and preparing an annual budget that are consistent with the law.

(7) The Board shall approve the annual budget and expenditures of USDB.

(8)(a) The USDB superintendent shall, subject to the approval of the Board, appoint an associate superintendent to administer the Utah School for the Deaf and an associate superintendent to administer the Utah School for the Blind.

(b) Qualifications of a USDB associate superintendent shall be aligned with the requirements of Section 53E-8-204.

(9)(a) The USDB superintendent and associate superintendents may hire staff and teachers as needed for the USDB.

(b) Educators and related service providers shall be appropriately licensed and credentialed for their specific assignments.

(10) In employment practices and decisions, the USDB superintendent shall maintain the accreditation of the USDB school and programs.

(11) The USDB superintendent and associate superintendents shall communicate regularly and effectively with the Board and provide a written report to the Board at least annually in adequate time before the November legislative interim meeting, or at such other time as requested by the Board.

(12) The USDB report shall include the data required by Subsection 53E-8-204(6).

(13) USDB shall ensure that each child or student served by USDB is assigned a unique student identifier (SSID) to allow for annual data collection and reporting of achievement of current and past students.

(14) USDB shall provide the Superintendent with a listing of past and current children or students, including the assigned unique student identifier, served by USDB by September 1 of each year to facilitate the required data collection.

(15) The USDB Advisory Council shall fulfill the role of a school community council in accordance with Section R277-477-3.

R277-800-4. USDB or Student's District of Residence/Charter School as Designated LEA.

(1) To be eligible to receive free services from the USDB, a student must meet the requirements of Section 53E-8-401.

(2)(a) A student's IEP or Section 504 accommodation plan shall determine a student's placement at the USDB, in a district school or charter school.

(b) USDB shall limit its services for students who are school-age to those on an IEP or Section 504 accommodation plan.

(3) Consistent with Subsection 53E-8-401(3), an IEP team or Section 504 team shall determine the appropriate placement for each blind, deaf, or deafblind student consistent with Board Special Education Rules incorporated by reference in Section R277-750-2.

(4)(a) It is the responsibility of the student's district of residence or charter school to conduct Child Find, and to convene the initial IEP or Section 504 team meeting to determine a student's placement.

(b) A student's initial IEP or Section 504 accommodation plan meeting shall include a representative from the student's district of residence or charter school and a representative from the USDB.

(5)(a) If USDB is the designated LEA for a student, USDB has full responsibility for all services defined in the student's IEP or Section 504 accommodation plan.

(b) Notwithstanding USDB's designation as LEA for a student, a representative from the district of residence or charter school remains a required member of the IEP or Section 504 accommodation plan team.

(6) If a district of residence or charter school is the LEA designated to provide services to a student with an IEP or Section 504 accommodation plan, the district of residence or charter school has the responsibility for providing instruction and services for the student except that the USDB:

(a) may be designated by the team as a related service provider; and

(b) remains a required member of the student's IEP or 504 accommodation plan team.

(7) A student's IEP or Section 504 accommodation plan shall clearly define what services are to be provided by a related service provider.

(8) The IEP or Section 504 accommodation plan team shall determine the designated LEA for student placement.

(9) If a parent is dissatisfied with a student's placement at USDB, the student's district of residence, or charter school, the parent may access dispute resolution procedures, consistent with Utah State Board of Education Special Education Rules, adopted by the Board in Section R277-750-2

(10) If a student's IEP or Section 504 accommodation plan provides for services to be provided by both the USDB and the student's district of residence, or for the USDB and district of residence to share responsibility for serving a student, a parent may access dispute resolution procedures consistent with Utah State Board of Education Special Education Rules, adopted by the Board in Section R277-750-2.

R277-800-5. Assessment of USDB Students Served in LEAs of Residence.

(1) An appropriate specialist shall assess a student who may be deaf, hard of hearing, blind, visually impaired, or deafblind using statewide assessment results and in compliance with Board rule and state and federal law.

(2) The USDB shall establish an assessment policy and guidelines to implement required assessments, which address:

(a) appropriate, complete, and timely evaluations of students;

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

(c) complete and accurate required assessments available to eligible students consistent with state and LEA assessment timelines and availability of materials for non-disabled students;

(d) staff professional development and preparation on appropriate administration of assessments and reporting of assessment results; and

(e) procedures to ensure appropriate interpretation and use of assessments and results for parents and USDB personnel.

R277-800-6. Extension Classrooms.

(1) The USDB and an LEA may negotiate to share the costs for providing more efficient, cost-effective, and convenient services to students who are deaf, blind, or deafblind in extension classrooms in locations other than the USDB campus.

(2) If the USDB and an LEA enter into an agreement in accordance with Subsection (1), the LEA shall provide:

(a) classrooms;

(b) basic instructional materials;

(c) physical education, music, media, school lunch, and other programs and services, consistent with those programs and services provided to other students within the LEA;

(d) administrative support;

(e) basic secretarial services;

(f) special education and related services; and

(g) IT support.

(3) If the USDB and an LEA enter into an agreement in accordance with Subsection (1), the USDB shall provide:

(a) classroom instructors, including aides; and

(b) instructional materials specific to the disability of the students.

(4) An agreement pursuant to Subsection (1) may reassign the responsibilities of the USDB and a school district or charter school as negotiated between the LEA and the USDB.

(5) An LEA shall claim the state WPU if the LEA provides all items or services identified in Subsection (2).

R277-800-7. USDB Fiscal Procedures.

(1) The USDB shall keep fiscal, program, and accounting records as required by the Board and shall submit reports required by the Board.

(2) The USDB shall follow state standards for fiscal procedures, auditing, and accounting, consistent with Subsection 53E-8-203(3).

(3) The USDB is a public state entity under the direction of the Board and as such is subject to state laws and exemptions consistent with Section 53E-8-203.

[~~(4)(a) The USDB shall prepare and present an annual budget to the Board that includes no more than a 5% carryover of any one fund, including reimbursement funds from federal programs.~~

~~(b) The five percent carryover prohibition does not apply to funds received under Section 53F-2-404 and Section 12 of the Utah Enabling Act.~~]

([~~5~~]4)(a) The Superintendent shall recover federal reimbursement funds (IDEA and Medicaid) quarterly during the year.

(b) The Superintendent shall identify reimbursement amounts in the current year's budget, but in no event later than the subsequent year's budget.

([~~6~~]5)(a) The USDB shall use the revenue from the federal trust land grant designated for the benefit of the blind and the deaf, solely for the benefit of deaf, blind, and deafblind students.

(b) The recommended or designated use of federal trust land funds is subject to review by the Board.

R277-800-8. Utah State Instructional Materials Access Center.

(1) USIMAC shall produce core educational materials, including print and digital textbooks and related core materials, in accessible formats to ensure that all students eligible under the Chafee Amendment receive their materials in a timely manner.

(2) The Superintendent shall oversee the operations of the USIMAC.

(3) The USDB is the fiscal agent and operates the USIMAC to the extent of funds received annually from budgetary appropriations.

(4) An LEA may purchase or provide accessible educational materials from another source using the LEA's own funding or request the production of accessible educational materials in accessible formats from USIMAC in accordance with established procedures to ensure timely access for eligible students.

(5)(a) USIMAC shall provide a textbook and related core educational materials in an accessible format by the beginning of the school year if requested no later than April 1 of the preceding school year by an LEA.

(b) Notwithstanding Subsection (5)(a), if an LEA requests educational materials in braille, USIMAC will provide the first three volumes of a textbook by the beginning of the school year, and will provide additional volumes ahead of the pacing guide submitted by the LEA.

(6) The USDB Educational Resource Center shall serve as the repository and distribution center for USIMAC.

(7) A student is eligible for accessible educational materials from USIMAC, including Braille, audio, large print, or accessible PDFs, following an LEA determination that the student is eligible in accordance with:

(a) the Chafee Amendment;

(b) IDEA; or

(c) Section 504 of the Rehabilitation Act.

(8) An LEA may request textbooks consisting of static text and images for eligible students served by the USDB or the LEA consistent with a student's IEP or Section 504 accommodation plan.

(9) When an LEA requests a core instructional textbook, USIMAC may:

(a) provide the textbook to the LEA from its existing inventory;

(b) purchase the textbook and provide the textbook to the LEA from another source, which may include;

(i) the American Printing House for the Blind using state acquired federal funds designated specifically for USIMAC materials; or

(ii) another accessible media producer; or

(c)(i) provide a regular hard print copy of the textbook, or equivalent digital file in PDF format for digital print textbooks; and

(ii) produce and distribute the textbook in the needed accessible format.

(10)(a) An LEA or publisher shall send hard copy and digital textbooks and related core educational materials adopted by the LEA to the NIMAC in a valid XML-based NIMAS format for use in the production of accessible formats such as braille, large print, and digital text.

(b)(i) Teacher-created educational materials, other than textbooks and related educational materials approved by an LEA, are not eligible for submission to USIMAC.

(ii) An LEA is responsible to make materials described in Subsection (b)(i) accessible and to provide the materials to students in a timely manner.

(11)(a) All approved textbook and digital textbook contracts for the state of Utah for educational materials, textbooks, and related core printed materials shall include a provision for making NIMAS file sets available through the NIMAC in accordance with the IDEA and Board Instructional Materials Contract timelines.

(b) If USIMAC is unable to obtain the NIMAS file set from the NIMAC because the publisher fails to timely provide the NIMAS file set to the NIMAC in accordance with the IDEA and Board Instructional Materials Contract timelines, USIMAC may:

(i) bill the textbook publisher the difference in the cost of producing the alternate format textbook without the benefit of the NIMAS file set; or

(ii) request authorization from the Board to seek damages from the publisher for failure to meet contract provisions.

(c) The Superintendent shall advise publishers of the provisions of this Subsection (11).

(d) The Utah Instructional Materials Commission created under Rule R277-469 may not approve textbooks and materials from publishers that have a pattern of not providing materials and textbooks for students with disabilities in a timely manner, consistent with the law and Board rules.

(12)(a) An LEA may request and access audio books through USIMAC, as appropriate, or through other sources.

(b) Membership required for other sources is the responsibility of the LEA designated as the responsible entity for serving the student in the IEP or Section 504 accommodation plan.

R277-800-9. Enrollment of Siblings.

(1) USDB may enroll the sibling of a student who is deaf subject to the considerations set forth in this Section R277-800-9.

(2) A hearing sibling attending USDB retains all rights of a traditional public school student.

(3) Enrollment of a hearing sibling is limited to:

(a) siblings of students who are enrolled in a campus program; and

(b) one hearing sibling per class.

~~[(4) USDB shall receive the WPU for a hearing sibling attending the school and may not charge tuition to a resident hearing sibling.]~~

(4) The USDB Superintendent shall evaluate the enrollment of a hearing sibling, including:

(a) whether enrollment of the hearing sibling would be a benefit to:

(i) the student who is deaf;

(ii) the hearing sibling; and

(iii) the other students in the deaf program; and

(b) whether the hearing sibling has a record of behavior problems or other conditions that would impede the development of the students who are deaf or hard of hearing.

(5) If a parent enrolls a hearing sibling at USDB, the parent shall agree at the time of registration:

(a) that enrollment for the hearing sibling is within the discretion of the school and may be rescinded at any time with or without cause; and

(b) that the hearing sibling knows or is willing to learn American Sign Language and embrace the Deaf culture while at school.

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