

1     **R277. Education, Administration.**

2     **R277-716. Alternative Language Services for Utah Students.**

3     **R277-716-1. Authority, [and] Purpose, and Oversight Category.**

4             (1) This rule is authorized by:

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

7                 (b) Title III; and

8                 (c) Subsection 53E-3-401(4), which allows the Board to adopt rules in  
9                 accordance with its responsibilities.

10                 (2) The purpose of this rule is:

11                 (a) to address the requirements of Title III and implementing regulations and  
12                 case law;

13                 (b) to clearly define the respective responsibilities of the Superintendent and  
14                 LEAs:

15                 (i) in identifying students learning English who are currently enrolled in Utah  
16                 schools; and

17                 (ii) in providing evidence-based language instruction educational programs to  
18                 identified students; and

19                 (c) to:

20                 (i) meet Title III requirements;

21                 (ii) meet funding eligibility requirements; and

22                 (iii) appropriately distribute Title III funds for students learning English to LEAs  
23                 with approved plans in the Utah Grants Management System.

24                 (3) This Rule R277-716 is categorized as Category 4 as described in Rule R277-  
25                 111.

26

27     **R277-716-2. Definitions.**

28 (1) "Alternative language services program" or "ALS program" means an  
29 evidence-based language instruction educational program used to achieve English  
30 proficiency and academic progress of identified students.

34 (3) "Board" means the same as defined in Subsection R277-100-2(3).

38 (5) "Evidence-based language instruction education program" means evidence-  
39 based methods, recommended by the Superintendent, that meet the "Non-Regulatory  
40 Guidance: Using Evidence to Strengthen Education Investments" developed by the  
41 U.S. Department of Education.

42 (6) "Immigrant children and youth" for purposes of this rule means individuals  
43 who:

44 (a) are ages 3 through 21;

45 (b) were born outside of the United States; and

46 (c) have not been attending one or more schools in any one or more states of  
47 the United States for more than three full academic years.

48 (7) "Instructional Materials Commission" means a Commission appointed by the  
49 Board to evaluate instructional materials for recommendation by the Board consistent  
50 with Title 53E, Chapter 4, State Instructional Materials Commission.

51 (8) "Language instruction educational program" means an instructional course;

52 (a) in which a student learning English is placed for developing and attaining  
53 English proficiency, while meeting challenging state academic standards;

54 (b) that may make instructional use of both English and a child's native language  
55 to enable the child to attain and develop English proficiency; and

56 (c) that may include the participation of English proficient children if the course is  
57 designed to enable all participating children to become proficient in English and a  
58 second language.

59 (9) "Student learning English" means an individual who:

60 (a) [who] has sufficient difficulty speaking, reading, writing, or understanding the  
61 English language, and whose difficulties may deny the individual the opportunity to:

62 (i) learn successfully in classrooms where the language of instruction is English;  
63 or

64 (ii) participate fully in society;

65 (b) [who] was not born in the United States or whose native language is a  
66 language other than English and who comes from an environment where a language  
67 other than English is dominant; or

68 (c) [who] is an American Indian or Alaskan native or who is a native resident of  
69 the outlying areas and comes from an environment where a language other than  
70 English has had a significant impact on such individual's level of English language  
71 proficiency.

72 (10) "TESOL" means Teach[ers]ing [əf]English to Speakers of Other  
73 Languages.

74 (11) "TESOL Standards" mean the Pre-K-12 English Language Proficiency  
75 Standards established by TESOL International.

76 (12) "Title III" means federal provisions for providing language instruction to  
77 students learning English and immigrant children and youth under 20 U.S.C. 6801, et  
78 seq.

79

## 80 R277-716-3. Superintendent Responsibilities.

81                   (1) The Superintendent shall make available in Utah's approved Consolidated  
82 State Plan for Title III and require all LEAs to adhere to identification and placement  
83 procedures to support evidence-based language instruction education programs for  
84 students learning English.

88 (a) listening;

89 (b) speaking;

90 (c) reading; and

91 (d) writing.

92 (3) The Superintendent shall apply a formula and distribute funds to LEAs for  
93 identification and services to students learning English and their families.

94 (a) The formula shall provide an amount based upon eligible students and  
95 available funds, to be distributed to all eligible LEAs and consortia consistent with Title  
96 III requirements.

97 (b) The formula shall provide for an additional amount to qualifying LEAs based  
98 on numbers of immigrant children and youth.

101 (a) assurances and documentation maintained of services or a program used to  
102 serve students; and

103 (b) assurances and documentation maintained of required parent notification.

104 (5) The Superintendent shall provide timelines to LEAs for meeting Title III  
105 requirements.

106 (6) The Superintendent shall assist and provide training to LEAs in development  
107 of ALS and Title III services to students learning English who do not meet the state  
108 designated annual growth goals in both increased English proficiency and academic  
109 standards.

110 (7) An LEA shall maintain:

111 (a) an ALS budget plan;

112 (b) a plan for delivering student instruction as a requirement in the monitoring  
113 section of the Utah Grants Management System;

114 (c) ALS assessments to date;  
115 (d) a sample of parent notification required under Subsection R277-716-4(7);

116 and

117 (e) documentation or evidence of progress in the state accountability system.  
118 (8) The Superintendent shall conduct on-site or virtual monitoring of all funded  
119 ALS programs at least once every five years.

120 (9) The Superintendent shall provide technical assistance during on-site or  
121 virtual monitoring and as the Superintendent deems necessary.

122

123 **R277-716-4. LEA Responsibilities.**

124 (1) An LEA that receives funds under Title III shall assure that the LEA has a  
125 written plan that:

126 (a) includes an identification process for students learning English, including a  
127 Board approved home language survey, entrance criteria, and a language proficiency  
128 assessment for program placement, that is implemented with student registration;

129 (b) uses a Board approved valid and reliable assessment of a student's English  
130 proficiency in:

131 (i) listening;

132 (ii) speaking;

133 (iii) reading; and

134 (iv) writing;

135 (c) provides an evidence-based language instruction educational program based  
136 on Board approved English Language Proficiency Standards;

137 (d) uses the Board approved student exit criteria from ALS programs or services;

138 and

139 (e) includes the count of students learning English, by classification, before July  
140 1 of each year.

141 (2) Following receipt of Title III funds, an LEA shall:

142 (a) determine what type of Title III ALS services are available and appropriate for  
143 each student identified in need of ALS services, including:

144 (i) dual immersion;

145 (ii) ESL content-based; and

146 (iii) sheltered instruction;

147 (b) implement an approved language instruction educational program designed

148 to achieve English proficiency and academic progress of an identified student;

149 (c) ensure that all identified students learning English receive English language

150 instructional services in the least segregated environment, consistent with Subsection

151 R277-716-4 (1)(c);

152 (d) provide adequate staff development to assist a teacher and staff in

## 153 supporting students learning English; and

154 (e) provide necessary staff with:

155 (i) curricular materials approved by the Instructional Materials Commission

156 consistent with Rule R277-469; and

157 (ii) facilities for adequate and effective training.

158 (3) Following evaluation of student achievement and services, an LEA shall:

159 (a) analyze results and determine the program's success or failure; and

160 (b) modify a program or services that are not effective.

161 (4) An LEA shall have a policy to identify and serve students who qualify for

162 services under IDEA, including:

163 (a) implementing procedures and training, consistent with federal regulations

164 and state special education rules, that ensure students learning English are not

165 misidentified as students with disabilities due to their inability to speak and understand

166 English:

167 (b) reviewing the assessment results of a student's language proficiency in

## 168 English and other languages before initiating evaluation activities, including selecting

## 169 additional assessment tools:

170 (c) conducting assessments for IDEA eligibility determination and educational  
171 programming in a student's native language when appropriate;  
172 (d) using nonverbal assessment tools when appropriate;  
173 (e) ensuring that accurate information regarding a student's language proficiency  
174 in English and another language is considered in evaluating assessment results;  
175 (f) considering results from assessments administered both in English and in a  
176 student's native language;  
177 (g) ensuring that all required written notices and communications with a parent  
178 who is not proficient in English are provided in the [parent's preferred]native language of  
179 the parent, including utilizing interpretation services; and  
180 (h) coordinating the language instruction educational program and special  
181 education and related services to ensure that the IEP is implemented as written.

182 (5) An LEA shall provide information and training to staff that:

183 (a) limited English proficiency is not a disability; and

184 (b) if there is evidence that a student with limited English proficiency has a

185 disability, the staff shall refer the student for possible evaluation for eligibility under

186 IDEA.

187 (6)(a) An LEA shall notify a parent who is not proficient in English of the LEA's  
188 required activities.

189 (b) A school shall provide information about required and optional school  
190 activities in [a]the [parent's preferred]native language of the parent.

191 (c) An LEA shall provide interpretation and translation services based on the  
192 LEA's board approved language access policy as stated in 53G-7-223(1)(2) [for a  
193 parent] at:

- (i) registration;
- (ii) an IEP meeting;
- (iii) an SEOP meeting;
- (iv) a parent-teacher conference; and
- (v) a student disciplinary meeting.

199 (d) An LEA shall provide annual notice to a parent of a student placed in a  
200 language instruction educational program within 30 days of the first day of school.

201 (e) If a student has been identified as requiring ALS services after the first month  
202 of school, the LEA shall notify the student's parent within ten school days of the  
203 student's identification and placement.

204 (7) A required notice described in Subsection (6) shall include:

205 (a) the student's English proficiency level;

206 (b) how the student's English proficiency level was assessed;

207 (c) the status of the student's academic achievement;

208 (d) the methods of instruction proposed to increase English language

209 [acquisition]proficiency, including using both the student's native language and English if  
210 necessary;

211 (e) specifics regarding how the methods of instruction will help the child learn  
212 English and meet age-appropriate academic achievement standards for grade  
213 promotion and graduation; and

214 (f) the specific exit requirements for the program including:

215 (i) the student's expected rate of transition from the program into a classroom  
216 that is not tailored for a student learning English; and

217 (ii) the student's expected high school graduation date if funds appropriated  
218 consistent with this rule are used for a secondary school student.

## 220 R277-716-5. Teacher Qualifications.

221 (1) A Utah educator who is assigned to provide instruction in a language  
222 acquisition instructional program shall comply with state ESL endorsement  
223 requirements.

224 (2) A Utah educator whose primary assignment is to provide English language  
225 instruction to a student learning English shall have:

226 (a) an ESL endorsement, through an approved program based on the TESOL  
227 Standards;

228 (b) an advanced degree or certification in teaching English as a Second  
229 Language, including an approved competency program consistent with Board rule; or  
230 (c) a bilingual endorsement consistent with the educator's assignment.

231

## 232 R277-716-6. Miscellaneous Provisions.

233 (1)(a) An LEA that generates less than \$10,000 from the LEA's count of students  
234 learning English, may form a consortium with other similar LEAs.

235 (b) A consortium described in Subsection (1)(a) shall designate a fiscal agent  
236 and shall submit all budget and reporting information from all the member LEAs of the  
237 consortium.

238 (c) Each member of a consortium shall submit plans and materials to the fiscal  
239 agent of the consortium for final reporting submission to the Superintendent.

240 (d) A fiscal agent of a consortium described in Subsection (1)(a) shall assume all  
241 responsibility of an LEA under Section R277-716-4.

242 (2) No LEA or consortium may withhold more than 2% of Title III funding for  
243 administrative costs in serving students learning English.

244

## 245 KEY: alternative language services

246 Date of Last Change: March 11, 2024

247 Notice of Continuation: February 10, 2021

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

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