

1 **R277. Education, Administration.**

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

3 **R277-800-1. Authority, 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 over public education in the Board;

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

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

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

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

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

18 (3) This Rule R277-800 is categorized as Category 4 as described in Rule R277-
19 111.

20

21 **R277-800-2. Definitions.**

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

24 (a) Braille;

25 (b) large print;

26 (c) audiobooks; or

27 (d) digital books.

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

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

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

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

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

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

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

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

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

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

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

November 25, 2025

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

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

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

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

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

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

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

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

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

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

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

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

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

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

99 (b) Related services may include:

- 100 (i) speech-language pathology services;
- 101 (ii) audiology services;
- 102 (iii) interpreting services;
- 103 (iv) psychological services;
- 104 (v) physical and occupational therapy;
- 105 (vi) recreation, including therapeutic recreation;
- 106 (vii) early identification and assessment of disabilities in students;
- 107 (viii) counseling services, including rehabilitation counseling;
- 108 (ix) orientation and mobility services;
- 109 (x) health services and school nursing services;
- 110 (xi) social work services in schools;
- 111 (xii) parent counseling and training; or
- 112 (xi) low vision services.

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

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

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

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

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

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

130 R277-800-3. Operation of USDB.

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

133 (2) The USDB superintendent, appointed consistent with Subsection 53E-8-
134 204(2), is subject to the direction of the Board[and the Superintendent].

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

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

138 (b) the Board shall set the USDB superintendent's compensation for services;
139 (c) the USDB superintendent shall have, at a minimum, an annual evaluation, as
140 directed by the Board;

141 (d) the USDB superintendent qualifications shall be established by the Board;
142 and
143 (e) the duties of the USDB superintendent shall be established by the Board.] In
144 accordance with 53E-8-201, USDB is created as a subdivision of the Board and a single
145 public school agency which includes:

146 (a) the Utah School for the Deaf;
147 (b) the Utah School for the Blind;
148 (c) programs for students who are deafblind; and
149 (d) The Parent Infant Program.

150 (4) The Superintendent shall appoint an assistant superintendent to the USDB
151 who shall support, provide assistance, and work cooperatively with the USDB in
152 providing services to designated Utah students.

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

155 [(6)](5) The Superintendent shall assist the USDB, its assistant superintendent,
156 and associate superintendents in adopting policies and preparing an annual budget that
157 are consistent with the law.

158 [(7)](6) The Board shall approve the annual budget and expenditures of USDB.

159 [(8)](7)(a) The USDB assistant superintendent shall, subject to the approval of
160 the Board, appoint an associate superintendent to administer the Utah School for the
161 Deaf and an associate superintendent to administer the Utah School for the Blind.

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

164 [(9)](8)(a) The USDB superintendent and associate superintendents may hire
165 staff and teachers as needed for the USDB.

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

168 [(10)](9) In employment practices and decisions, the USDB assistant
169 superintendent shall maintain the accreditation of the USDB school and programs.

170 [(11)](10) The USDB assistant superintendent and associate superintendents
171 shall communicate regularly and effectively with the Board and provide a written report
172 to the Board ~~[at least]~~ annually in ~~[adequate time before the November legislative~~
173 ~~interim meeting]~~ sufficient time for inclusion in the Superintendent's Annual Report, or at
174 such other time as requested by the Board.

175 [(12)](11) The USDB report shall include the data required by Subsection 53E-8-
176 204[~~(6)~~](5) and 53E-8-201(1)(i).

177 [(13)](12) USDB shall ensure that each child or student served by USDB is
178 assigned a unique student identifier (SSID) to allow for annual data collection and
179 reporting of achievement of current and past students.

180 [(14)](13) USDB shall provide the Superintendent with a listing of past and
181 current children or students, including the assigned unique student identifier, served by
182 USDB by September 1 of each year to facilitate the required data collection.

183 [(15)](14) The USDB Advisory Council shall fulfill the role of a school community
184 council in accordance with Section R277-477-[3]4(2).

185

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

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

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

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

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

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

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

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

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

213 (a) may be designated by the team as a related service provider; and
214 (b) remains a required member of the student's IEP or 504 accommodation plan
215 team.

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

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

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

224 (10) If a student's IEP or Section 504 accommodation plan provides for services
225 to be provided by both the USDB and the student's district of residence, or for the USDB
226 and district of residence to share responsibility for serving a student, a parent may

227 access dispute resolution procedures consistent with Utah State Board of Education
228 Special Education Rules, adopted by the Board in Section R277-750-2.

229

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

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

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

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

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

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

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

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

247

248 R277-800-6. Extension Classrooms.

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

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

254 (a) classrooms;

255 (b) basic instructional materials;

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

259 (d) administrative support;

260 (e) basic secretarial services;

261 (f) special education and related services; and

262 (g) IT support.

263 (3) If the USDB and an LEA enter into an agreement in accordance with

264 Subsection (1), the USDB shall provide:

265 (a) classroom instructors, including aides; and

266 (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.

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

272

273 R277-800-7. USDB Fiscal Procedures.

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

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

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

280 (4)(a) The Superintendent shall recover federal reimbursement funds, (IDEA,
281 and Medicaid quarterly during the year.

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

284 (5)(a) The USDB shall use the revenue from the federal trust land grant
285 designated for the benefit of the blind and the deaf, solely for the benefit of deaf, blind,
286 and deafblind students.

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

289

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

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

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

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

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

301 (5)(a) USIMAC shall provide a textbook and related core educational materials in
302 an accessible format by the beginning of the school year if requested no later than April
303 1 of the preceding school year by an LEA.

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

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

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

313 (a) the Chafee Amendment;

314 (b) IDEA; or

315 (c) Section 504 of the Rehabilitation Act.

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

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

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

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

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

325 (ii) another accessible media producer; or
326 (c)(i) provide a regular hard print copy of the textbook, or equivalent digital file in
327 PDF format for digital print textbooks; and

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

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

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

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

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

341 (b) If USIMAC cannot obtain the NIMAS file set from the NIMAC because the
342 publisher fails to timely provide the NIMAS file set to the NIMAC in accordance with the
343 IDEA and Board Instructional Materials Contract timelines, USIMAC may:

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

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

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

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

354 (12)(a) An LEA may request and access audiobooks through USIMAC, as
355 appropriate, or through other sources.

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

359

360 R277-800-9. Enrollment of Siblings.

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

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

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

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

367 (b) one hearing sibling per class.

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

370 (a) whether enrollment of the hearing sibling would be a benefit to:
371 (i) the student who is deaf;
372 (ii) the hearing sibling; and
373 (iii) the other students in the deaf program; and
374 (b) whether the hearing sibling has a record of behavior problems or other
375 conditions that would impede the development of the students who are deaf or hard of
376 hearing.

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

379 (a) that enrollment for the hearing sibling is within the discretion of the school
380 and may be rescinded at any time with or without cause; and
381 (b) that the hearing sibling knows or is willing to learn American Sign Language
382 and embrace the Deaf culture while at school.

383

384 KEY: educational administration

385 Date of Last Change: August 7, 2024

386 Notice of Continuation: August 19, 2021

387 Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-
388 8-204; 53E-8-402; 53E-8-409

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