

R277. Education, Administration.

R277-328. Equal Opportunity in Education.

R277-328-1. Authority and Purpose.

(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) 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;

(c) Subsection 53E-3-501(1)(c)(iv) which states the board shall establish rules and minimum standards governing curriculum and instruction requirements;

(d) Subsection 53E-3-502(8) which requests the Board help school districts develop and implement guidelines, strategies, and professional development programs for administrators and teachers consistent with Subsections 53E-2-302(7) and 53E-6-103(1)(b), (2)(a) and (b) focused on improving interaction with parents and promoting greater parental involvement in the public schools; and

(e) Section 53G-10-206, which requires the Board, LEAs, and the Superintendent to ensure that instructional materials and classroom instruction are consistent with certain principles of educational freedom.

(2) The purpose of this rule is to provide LEAs with the standards for educators and LEAs for professional learning regarding equal opportunities in education and prohibited discriminatory practices.

R277-328-2. Definitions.

(1) "Equal Opportunity in Education" means acknowledging that all students are capable of learning and may need additional guidance, resources, and support based on their academic needs.

(2) "Inclusion" means ensuring that students are accepted and valued as members of the school community with equal opportunities to contribute by creating

conditions for meaningful participation, including students with a disability as described in Rule R277-750.

(3) "Important governmental interest" means the same as defined in Section 53B-1-118.

(4) "Personal identity characteristic" means the same as defined in Section 53B-1-118.

(5) "Prohibited discriminatory practice" means the same as defined in Section 53B-1-118.

R277-328-3. Professional Learning Regarding Equal Opportunities in Education and Prohibited Discriminatory Practices.

(1) An LEA shall provide professional learning to educators concerning equal opportunity in education.

(2) The professional learning described in Subsection (1) shall include instruction in:

(a) fostering a learning environment which is safe, conducive to the learning process, and free from unnecessary disruption as consistent with Section 53G-8-202;

(b) identifying students in need of additional academic supports;

(c) implementing principles and strategies of inclusion so that:

(i) a student with a disability is educated with peers without a disability to the maximum extent appropriate, consistent with IDEA; and

(ii) specially designed instruction is provided in addition to, not instead of, high-quality core instruction as consistent with IDEA;

(d) recognizing the constitutionally protected rights of all students; and

(e) recognizing the constitutionally protected rights of all students; and

(f) developing strategies to promote the examination of various viewpoints on a topic in an impartial and politically neutral manner.

(3) The professional learning provided by an LEA shall include instruction that educators may not promote prohibited discriminatory practices as described in Section 53B-1-118:

(a) one personal identity characteristic is inherently superior or inferior to another personal identity characteristic;

(b) an individual, by virtue of the individual's personal identity characteristics, is inherently privileged, oppressed, racist, sexist, oppressive, or a victim, whether consciously or unconsciously;

(c) an individual should be discriminated against in violation of Titles VI & VII of the Civil Rights Act of 1964, IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973, receive adverse treatment, be advanced, or receive beneficial treatment because of the individual's personal identity characteristics;

(d) an individual's moral character is determined by the individual's personal identity characteristics;

(e) an individual, by virtue of the individual's personal identity characteristics, bears responsibility for actions committed in the past by other individuals with the same personal identity characteristics;

(f) an individual should feel discomfort, guilt, anguish, or other psychological distress solely because of the individual's personal identity characteristics;

(g) asserts that meritocracy is inherently racist or sexist;

(h) asserts that socio-political structures are inherently a series of power relationships and struggles among racial groups;

(i) promotes resentment between, or resentment of, individuals by virtue of their personal identity characteristics;

(j) ascribes values, morals, or ethical codes, privileges, or beliefs to an individual because of the individual's race, color, ethnicity, sex, sexual orientation, national origin, or gender identity;

(k) is referred to or named diversity, equity, and inclusion, used in conjunction; or

(l) includes or relates to, a prohibited submission as outlined in Section 67-27-105.

(4) Prohibited instruction does not include a training on policies or procedures required by state or federal law, including laws relating to prohibited discrimination or harassment.

(5) The professional learning provided by an LEA shall be done in accordance with all state and federal laws.

(6) The content of professional learning provided by an LEA shall be made freely available by the LEA to parents with a student in the LEA within a reasonable amount of time from when the training is offered upon request and include a copy of this rule.

(7) If an alleged violation of this section is reported to the Board as described in Rule R277-123, the Board may investigate the alleged violation as described in Rule R277-114, including taking action as described in Subsection R277-114-3(3).

(8) An LEA shall ensure a formal complaint process is in place pursuant to Rule R277-113.

(9) The professional learning referred to in Subsection (6) does not include remediation sessions for a specific educator.

R277-328-4. Educational Opportunities Within an LEA.

(1) An LEA may establish or maintain an office, division, employment position, or other unit of an LEA that provides support, guidance, and resources that equip all students, including all students in public schools at higher risk of not completing high school, with experiences and opportunities for success in each student's academic and career goals, and without excluding individuals on the basis of an individual's personal identity characteristics consistent with Section 53G-2-105.

(2) No part of this rule shall be construed by an LEA or educator to:

(a) prohibit or ban discussions of events, ideas, attitudes, beliefs, or concepts in the marketplace of ideas if consistent with Sections 53G-10-202, 53G-10-206, and 53G-2-104;

(b) prohibit disaggregation of data based on personal identity characteristics to meet state and federal requirements, including those in Section 53E-3-501 or 53E-5-302; or

(c) allow for discriminatory treatment of individual students based disaggregated group data.

(3) An LEA may not promote differential treatment of an individual based on the individual's personal identity characteristics unless the LEA:

(a) has an important governmental interest; or

(b) is complying with state or federal law.

(4) An LEA may not exclude any student from participating in Curricular, co-curricular, and extra-curricular activities designated specifically for students based on a different personal identity characteristic.

(5) An LEA shall submit an annual assurance to the Board that the LEA's professional learning is consistent with this rule and Section 53G-10-206.

(6) An individual may bring a violation of this section to the Board in accordance with the process described in Rule R277-123.

(7) If the Board identifies a reported violation of this section, the state board shall provide an update to the Education Interim Committee as described in Section 53G-2-103.

KEY: equal opportunities, professional learning, instruction

Date of Last Change: April 9, 2024

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