

R277. Education, Administration.

R277-121. Board Waiver of Administrative Rules.

R277-121-1. 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; and

(c) Section 53G-7-202, which allows the Board to grant an LEA's request for a waiver from a Board rule.

(2) The purpose of this rule is to establish procedures for an LEA to request a waiver from a Board rule.

R277-121-2. Procedures for Waiver Requests.

(1) An LEA board may request a waiver from a Board rule by filing a written request with the Superintendent.

(2) An LEA board may not request a waiver from a Board rule that is required by or adopts criteria from a federal statute, federal regulation, or state law.

(3) An LEA's written waiver request shall include how the waiver will support the learning environment and lead to educational excellence, and;

(4) Any other additional information that the LEA believes the Board would find helpful to make an informed decision regarding the waiver.

(5) Except for a request for a waiver due to snow, inclement weather, or other emergency school closure described in Section R277-121-5, a written request under Subsection (1)(a) shall include:

(a) verification that the LEA board voted to request the waiver in an open meeting, with the results of the waiver request.

(b) data, if applicable, that support the requested waiver, which shall include:

(i) student achievement data;

- (ii) community, staff, and student survey data;
- (iii) student enrollment data;
- (iv) data demonstrating the cost effectiveness of the waiver request;
- (c) a proposed agreement with the Board that includes:
- (i) a proposed effective date;
- (ii) provisions for public review and accountability;
- (iii) data gathering and reporting timelines; and
- (iv) a sunset date; and
- (d) in the case of a charter school, a recommendation from the board of the school's authorizer.
- (6) If an LEA seeks a waiver as outlined in Section R277-121-2 for a 4-day school week, the LEA shall:
- (a) hold at least two open and public meetings, held separately from regular board meetings, to engage with stakeholders regarding the waiver request.
- (i) At least one of the meetings shall be held before a vote is taken to apply for the waiver, during which the LEA or public school shall:
- (A) explain the rationale for seeking the waiver; and
- (B) listen to stakeholder concerns; and
- (ii) At least one of the meetings shall be held after the decision to apply for the waiver but before the submission of the application, during which the LEA or public school shall:
- (A) explain the waiver process; and
- (B) describe plans to address stakeholder concerns.
- (iii) Meetings described in this section may be held electronically.
- (b) Certify that the LEA or public school notified affected school community councils and principals about the potential waiver before holding a vote to apply for the waiver.

(6) An LEA or public school applying for a waiver shall submit the waiver or waiver renewal, as described in Subsection R277-121-4(1), for the 4-day school week to the Board by April 10 of the school year prior to the proposed change.

R277-121-3. Board Review of Waiver Requests.

(1) The Superintendent shall:

- (a) review an LEA's waiver request; and
- (b) may provide a recommendation to the Board.

(2) The Board Executive Committee may assign a waiver request made under this Rule R277-121 to a Board standing committee.

(3) The standing committee assigned in accordance with Subsection (2):

- (a) may solicit additional information or testimony;
- (b) shall review the request in an open meeting; and
- (c) shall make a recommendation for consideration by the full Board.

(4) The Board Executive Committee may consolidate consideration of duplicate or similar requests.

(5) The Board shall consider available data in evaluating an LEA waiver request and shall make data driven decisions.

(6) If a charter school requests a waiver under this rule, a member of the board of the school's authorizer shall attend the standing committee meeting and the full Board meeting to present the authorizer's recommendation and support the waiver request.

R277-121-4. Annual Review of Approved Waivers.

(1) The Board may request an LEA that receives a waiver from Board rule in accordance with this Rule R277-121 for more than one year to report the following to a Board committee:

- (a) data that supports continuation of the requested waiver; and
- (b) data related to the data the LEA presented as apart of the LEA's request for waiver.

(2) During a review described in Subsection (1), the Board may, with notice to the LEA, move to rescind or modify the waiver, unless the waiver agreement explicitly states otherwise.

R277-121-5. Snow, Inclement Weather, or Other Emergency School Closure Days.

(1) An LEA may seek a waiver directly from the Superintendent from the 180 day requirement described in Subsection R277-419-4(1) if:

(a) the LEA closes a school due to excessive snow, inclement weather, or an other emergency; and

(b) the school closure will result in the LEA not meeting the 180 day requirement described in Section R277-419-4.

(2) The Superintendent may grant a waiver due to excessive snow, inclement weather, or other emergency without Board approval if the LEA has provided contingency school days and hours into the LEA's calendar as required in Subsection R277-419-4(5), or has another plan in place to minimize the negative impact on the educational process caused by the waiver.

(3)(a) An LEA may request the Superintendent to waive the school day and hour requirement in the event of a public health emergency.

(b) A waiver described in this Subsection (3) may be for a designated time period, for a specific area, or for a specific LEA in the state, as determined by the health department directive.

(c) A waiver may allow an LEA to continue to receive state funds for pupil services and reimbursements.

(d) A waiver granted by the Superintendent as described in this Subsection (3) shall direct an LEA to provide as much notice to students and parents of the suspension of school services, as is reasonably possible.

(e) A waiver granted as described in this Subsection (3) shall direct an LEA to comply with health department directives, but to continue to provide any services to students that are not inconsistent with the directive.

(f) The Superintendent may encourage an LEA to provide electronic or distance learning services to affected students for the period of the pandemic or other public health emergency to the extent of personnel and funds available.

(g) Any waiver request granted pursuant to Subsection (3) shall be subject to Board approval no later than 45 days after it is granted.

(4) An LEA request for a waiver due to snow, inclement weather, or other emergency school closure described in this section is not required to include the information described in Subsections R277-121-2(1)(b)(ii) through (iv) unless requested by the Superintendent.

(5) If the Superintendent denies an LEA's request described in this section, the LEA may appeal the Superintendent's decision by making the request of the full Board.

KEY: Utah State Board of Education, waivers, administrative rules

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