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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: May 7-8, 2015

ACTION: R277-418 *Nontraditional and Competency Based Program Standards*
(New)

Background:

During the April meeting of the Law and Licensing Committee, there was a discussion regarding repealing emergency rule R277-419-9 and creating new rules to codify portions of R277-419-9. New rule R277-418 codifies portions of R277-419-9.

Key Points:

R277-418 defines a nontraditional program and provides administrative procedures and requirements for nontraditional programs. Staff recommends the Board consider developing minimum program and educational standards, a revised approval process, and recommendations on requirements necessary to provide a full WPU or equivalent value for membership generated from nontraditional and competency based programs, as required by 53A-1-409.

Anticipated Action:

It is proposed that the Law and Licensing Committee consider approving R277-418 on first reading and, if approved by the Committee, the Board consider approving R277-418 on second reading.

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1 **R277. Education, Administration.**

2 **R277-418. Nontraditional and Competency Based Program**
3 **Standards.**

4 **R277-418-1. Definitions.**

5 A. "Board" means the Utah State Board of Education.

6 B. "Distance learning program" means a program, under the
7 direction of an LEA, in which students receive educational
8 services in a location other than a brick and mortar school,
9 and may include educational services delivered over the
10 internet.

11 C. "Enrollment verification data" includes:

12 (1) a student's birth certificate or other verification
13 of age;

14 (2) verification of immunization or exemption from
15 immunization form;

16 (3) proof of Utah public school residency;

17 (4) family income verification; and

18 (5) special education program information, including
19 information for:

20 (a) an individualized education program;

21 (b) a Section 504 accommodation plan; and

22 (c) an English learner plan.

23 D. "Competency based program" means an education program
24 that requires a student to acquire a competency and includes
25 a classroom structure and operation that aid and facilitate
26 the acquisition of specified competencies on an individual
27 basis wherein a student is allowed to master and demonstrate
28 competencies as fast as the student is able.

29 E. "LEA" or "local education agency" means a school
30 district or a charter school.

31 F. "Nontraditional Program" means a program within an LEA
32 that consists of eligible, enrolled public school students
33 where the student receives instruction through a distance
34 learning program or online learning program.

35 G. "Online learning program" means a program:

36 (1) that is under the direction of an LEA; and

37 (2) in which students receive educational services

38 primarily over the internet.

39 H. "Superintendent" means the State Superintendent of
40 Public Instruction or the Superintendent's designee.

41 I. "Third party provider" means a third party who
42 provides educational services on behalf of an LEA.

43 **R277-418-2. Authority and Purpose.**

44 A. This rule is authorized under Utah Constitution
45 Article X, Section 3 which vests general control and
46 supervision over public education in the Board and by Section
47 53A-1-401(3) which allows the Board to adopt rules in
48 accordance with its responsibilities.

49 B. The purpose of this rule is to provide standards and
50 procedures for nontraditional and competency based programs.

51 **R277-418-3. Nontraditional Program Standards.**

52 A. An LEA offering a nontraditional program shall comply
53 with the following standards:

54 (1) student eligibility and membership/enrollment
55 requirements described in R277-419-5, 419-6, and 419-7;

56 (2) school and program requirements described in
57 R277-419-3(A);

58 (3) minimum school day requirements described in
59 R277-419-4(A)1-2;

60 (4) compliance with official record standards and
61 membership audit requirements described in:

62 (a) R277-419-4B(1) and (2); and

63 (b) R277-419-4C and 4D;

64 (5) educator licensure requirements described in
65 R277-502;

66 (6) fingerprint and background check requirements for
67 educators, employees and volunteers, described in:

68 (a) Title 53A, Chapter 15, Part 15, Background Checks;

69 (b) 53A-1a-512.5;

70 (c) 53A-6-401;

71 (d) R277-516; and

72 (e) R277-520;

73 (7) integration of the Utah Core Standards in the
74 nontraditional program's student instruction consistent with
75 Section 53A-1-402(1)(a) and R277-700;

76 (8) compliance with statewide assessment administration
77 requirements by the LEA, as required under:

78 (a) Title 53A, Chapter 1, Part 6, Achievement Tests; and

79 (b) R277-404; and

80 (9) compliance with the public school data
81 confidentiality and disclosure requirements described in
82 R277-487.

83 B. An LEA that contracts with a third party provider to
84 provide educational services on behalf of the LEA for the
85 LEA's nontraditional program shall:

86 (1) develop a written monitoring plan to supervise the
87 activities and services provided by the third party provider;

88 (2) ensure the third party provider is complying with:

89 (a) federal law;

90 (b) state law; and

91 (c) Board rules;

92 (3) monitor and supervise all activities of the third
93 party provider; and

94 (4) maintain documentation of the LEA's supervisory
95 activities consistent with the LEA's administrative records
96 retention schedule.

97 C. An LEA shall:

98 (1) verify the accuracy and validity of a student's
99 enrollment verification data, prior to enrolling a student in
100 the LEA; and

101 (2) provide a student and the student's parent or
102 guardian with notification of the student's enrollment in a
103 school or program within the LEA.

104 D. The Board or the Superintendent may require an LEA to
105 repay public funds to the Superintendent if:

106 (1) the LEA or the LEA's third party provider fails to
107 comply with the provisions of this R277-418; and

108 (2) the repayment is made in accordance with the
109 procedures established in R277-114.

110 E. An LEA offering a nontraditional program shall retain
111 sufficient documentation to demonstrate the nontraditional
112 program's compliance with this R277-418-3.

113 **R277-418-4. Competency Based Program Standards.**

114 A. An LEA offering a competency based program shall
115 ensure that the program retains sufficient documentation to
116 demonstrate compliance with the following standards;

117 (1) student eligibility and membership/enrollment
118 requirements described in R277-419-5, 419-6, and 419-7;

119 (2) school and program requirements described in
120 R277-419-3(A);

121 (3) minimum school day requirements described in
122 R277-419-4(A)1-2;

123 (4) compliance with official record standards and
124 membership audit requirements described in:

125 (a) R277-419-4B(1) and (2); and

126 (b) R277-419-4C and 4D;

127 (5) educator licensure requirements described in
128 R277-502;

129 (6) fingerprint and background check requirements for
130 educators, employees and volunteers, described in:

131 (a) Title 53A, Chapter 15, Part 15, Background Checks;

132 (b) 53A-1a-512.5;

133 (c) 53A-6-401;

134 (d) R277-516; and

135 (e) R277-520;

136 (7) integration of the Utah Core Standards in the
137 nontraditional program's student instruction consistent with
138 Section 53A-1-402(1)(a) and R277-700;

139 (8) compliance with statewide assessment administration
140 requirements by the LEA, as required under:

141 (a) Title 53A, Chapter 1, Part 6, Achievement Tests; and

142 (b) R277-404; and

143 (9) compliance with the public school data
144 confidentiality and disclosure requirements described in
145 R277-487.

146 B. An LEA that contracts with a third party provider to
147 provide educational services on behalf of the LEA for the
148 LEA's competency based program shall:

149 (1) develop a written monitoring plan to supervise the
150 activities and services provided by the third party provider;

151 (2) ensure the third party provider is complying with:

152 (a) federal law;

153 (b) state law; and

154 (c) Board rules;

155 (3) monitor and supervise all activities of the third
156 party provider; and

157 (4) maintain documentation of the LEA's supervisory
158 activities consistent with the LEA's administrative records
159 retention schedule.

160 C. An LEA shall:

161 (1) verify the accuracy and validity of a student's
162 enrollment verification data, prior to enrolling a student in
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166 school or program within the LEA.

167 D. The Board or the Superintendent may require an LEA to
168 repay public funds to the Superintendent if:

169 (1) the LEA or the LEA's third party provider fails to
170 comply with the provisions of this R277-418; and

171 (2) the repayment is made in accordance with the
172 procedures established in R277-114.

173 E. An LEA offering a competency based program shall
174 retain sufficient documentation to demonstrate the competency
175 based program's compliance with this R277-418-4.

176 **KEY: student, enrollment, nontraditional program**

177 **Date of Enactment or Last Substantive Amendment: 2015**

178 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**
179 **53A-1-401(3)**