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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-438 *Dual Enrollment* (Amendment)

Background:

R277-438 *Dual Enrollment* is amended to provide technical and conforming changes to the rule and bring the rule into compliance with Utah Code. Recently staff members have received correspondence from parents who are confused about dual enrollment requirements.

Key Points:

R277-438 is amended to clarify a student's right to dual enroll simultaneously in a private or home school and a public school. It is also amended to distinguish "dual enrollment" from the statutory requirement to allow a home, private, charter, or online school student to participate in activities at another public school. The amendments also provide changes to numbering and make technical corrections throughout the rule.

Anticipated Action:

It is proposed that the Law and Licensing Committee consider approving R277-438, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-438, as amended, on second reading.

Contact: Angie Stallings, 801-538-7550

1 **R277. Education, Administration.**

2 **R277-438. Dual Enrollment.**

3 **R277-438-[2]1. Authority and Purpose.**

4 ~~[A.](1)~~ This rule is authorized by:

5 ~~(a)~~ Utah Constitution Article X, Section 3, which vests general control and
6 supervision of the public school system under the ~~[b]Board~~;

7 ~~(b)~~ ~~[by]~~ Subsection 53A-1-402(1)(b), which directs the Board to establish rules
8 and minimum standards for access to programs; ~~[-and by Section 53A-11-102.5~~
9 ~~directing the Board to make rules to permit home school, charter and online students~~
10 ~~and private school students to participate in public school extracurricular or co-~~
11 ~~curricular school activities.]~~

12 ~~(c)~~ Subsection 53A-1-401(3), which allows the Board to adopt rules in
13 accordance with its responsibilities; and

14 ~~(d)~~ Section 53A-11-102.5, which governs dual enrollment.

15 ~~[B.](2)~~ The purpose of this rule is to provide consistent statewide procedures
16 and criteria for a home school and private school student's~~[-]~~ participation in a public
17 school course, co-curricular activit[ies]y, or program. ~~[-A further purpose is to provide~~
18 ~~procedures and criteria for charter school and online school students to participate~~
19 ~~in traditional public school activities consistent with R277-494.]~~

20 **R277-438-[1]2. Definitions.**

21 ~~[A. "Accredited" means evaluated and approved under the standards of the~~
22 ~~Northwest Accreditation Commission or the accreditation standards of the Board,~~
23 ~~available from the USOE Accreditation Specialist.~~

24 ~~—— [B. "Board" means the Utah State Board of Education.~~

25 ~~—— [C. "Charter school" means a school acknowledged as a charter school by~~
26 ~~a local board of education under Section 53A-1a-515 and by R277-470, or by the~~
27 ~~Board under Section 53A-1a-505.]~~

28 (1) "Co-curricular activity" means a school district or school activity, course,
29 or experience that includes a required regular school day component and an after
30 school component, including a special program or activity such as a program for a
31 gifted and talented student, a summer program, and a science or history fair.

32 [D.](2) “Dual enrollment student” means a student who is enrolled
33 simultaneously in~~[-public]~~:

34 (a) a private school ~~[and in]~~or a home school~~[-];~~ and

35 (b) a ~~[Utah charter school, a Utah online school, or a regularly established~~
36 ~~private]~~public school.

37 [E.](3) “Eligibility” means a student’s fitness and availability to participate in
38 a school course, activit~~[ies]~~y, or program governed by this rule~~[-Eligibility]~~ that is
39 determined by a number of factors, including:

40 (a) residency~~[-(of student and legal guardian)];~~

41 (b) scholarship~~[-];~~

42 (c) age~~[-];~~ and

43 (d) the number of semesters of participation in a particular course, activity, or
44 program.

45 [F.](4) “Full-time student” means a student earning the school district
46 designated number~~[(s)]~~ and type~~[(s)]~~ of credits required for participation in a
47 ~~[extracurricular or interscholastic]~~ course, activit~~[ies]~~y, or program in the school
48 district in which the student's parent~~[-or legal guardian]~~ resides.

49 [G.](5) “Home school” means a school in the state comprised of one or more
50 students officially excused from compulsory public school attendance under Section
51 53A-11-102.

52 [H. ~~“Online school” means a school:~~

53 ~~——(1) that provides the same number of classes consistent with the requirement~~
54 ~~of similar resident schools;~~

55 ~~——(2) that delivers course work via the internet;~~

56 ~~——(3) that has designated a readily accessible contact person; and~~

57 ~~——(4) that provides the range of services to a public education students required~~
58 ~~by state and federal law.]~~

59 [I. ~~“Previous academic grading period” means the most recent period as~~
60 ~~defined by the school district for which a student received a recorded grade.]~~

61 [J.](6) “Private school” means a school ~~[satisfying the following criteria]~~in the
62 state that:

63 ([1]a) is maintained by a private individual[s] or corporation[s];
64 ([2]b) is maintained and operated not at public expense;
65 ([3]c) is generally supported, in part at least, by tuition fees or charges;
66 ([4]d) operate[d]s as a substitute for, and giv[ing]es the equivalent of,
67 instruction required in a public school[s];
68 ([5]e) employ[ing]s a teacher[s] able to provide the same quality of education
69 as a public school teacher[s];
70 ([6]f) is established to operate indefinitely and independently, not dependent
71 upon age of the students available or upon individual family situations; and
72 ([7]g) is licensed as a business by the[Utah] Department of [Business
73 Regulations]Commerce.

74 (7)(a) "Resident school" means a public school:
75 (i) that is under the control of a local school board elected under Title 20A,
76 Chapter 14, Nomination and Election of State and Local School Boards; and
77 (ii) within whose boundaries a student's custodial parent resides.

78 (b) "Resident school" does not mean a charter school or online school.
79 [K. "School participation fee" means the fee paid by the charter/online school
80 to the traditional school consistent with the fee schedule of R277-494-4 for student
81 participation in extracurricular or co-curricular school activities.]

82 [L.](8) "Student participation fee" means [the]a fee charged to all participating
83 [charter/online and traditional school]students by the resident school for [designated
84 extracurricular]enrollment in a course, program, or co-curricular school activit[ies]y
85 consistent with Rule R277-407.

86 [M. "USOE" means the Utah State Office of Education.]

87 **R277-438-3. Private and Home School Student Participation in a Public School**
88 **Course, [Extracurricular or]Co-curricular [School] Activit[ies]y, or Program.**

89 [A.](1) A [S]student[s] who is exempt[ed] from compulsory public school
90 education by [the]a local school board for instruction in a private or home school[s]
91 may [be eligible for]enroll in the student's resident school as a dual enrollment
92 student and participat[ion]e in a [extracurricular or]course, co-curricular [public
93 school] activit[ies]y, or program at the student's resident school [provided they are]if

94 the student tak[ing]es courses comparable to [traditional]resident school courses or
95 earn[ing]s credit under options outlined in Section R277-700-6 in at least as many
96 of the designated courses as required by the local school board of a student[s] for
97 participation in th[at]e course, co-curricular activity, or program.

98 (2) A public school that is not the student's resident school may allow a private
99 or home school student to enroll in the public school as a dual enrollment student
100 at the discretion of the public school.

101 ~~[B. The private or home school student may only participate in extracurricular~~
102 ~~or co-curricular school day activities at the school within whose boundaries the~~
103 ~~student's custodial parent(s) or legal guardian resides.]~~

104 ~~[C.]~~(3) A ~~[D]~~dual enrollment student[s shall be] is eligible ~~[for]~~to participate in
105 a ~~[extracurricular or]~~course, co-curricular~~[-school]~~ activit[ies]y, or program:

106 (a) consistent with the eligibility standards for [fully enrolled traditional public
107 school]a full-time student[s], including providing a report card[s] and citizenship
108 information to [activity sponsors and coaches]the resident school or other school
109 described in Subsection (2) upon request[-]; and

110 (b) in accordance with Section 53A-11-102.5.

111 **R277-438-4. Fees for Private and Home School Students.**

112 ~~[A. Private and home school students are responsible for student participation~~
113 ~~fees in the same manner as full-time public school students.]~~

114 ~~[B.] A school or school district shall waive a [S]student participation fee[s] for~~
115 ~~a dual enrollment private[-, charter, online] or home school student[s shall be waived~~
116 ~~by the school or school district] if:~~

117 (1) the student[s are] is eligible; and

118 (2) the parent[s] provides required documentation under Section 53A-12-103
119 and Rule R277-407, School Fees.~~[The charter or online schools shall be~~
120 ~~responsible for payment of waived fees to the resident school district.]~~

121 ~~**R277-438-5. Utah Charter and Utah Online School Student Participation in**~~
122 ~~**Extracurricular or Co-curricular School Activities.**~~

123 ~~—— A. Utah charter school and Utah online school students shall be eligible to~~

124 participate in extracurricular and co-curricular school activities at their public schools
125 of residence consistent with Section 53A-1a-519, Section 53A-2-214, and R277-494.
126 ~~—— B. Charter schools and online schools may determine if the schools shall~~
127 ~~allow students to participate in extracurricular or co-curricular school activities at the~~
128 ~~students' resident schools understanding:~~
129 ~~—— (1) That the charter/online school is responsible for the school participation~~
130 ~~fees associated with the designated activity consistent with Section R277-494-4;~~
131 ~~—— (2) If the charter/online school allows one student to participate in a given~~
132 ~~activity, the charter/online school shall allow all interested students to participate;~~
133 ~~—— (3) That the charter/online school is responsible for the school participation~~
134 ~~fee;~~
135 ~~—— (4) That the student shall be allowed to participate only upon payment of the~~
136 ~~school participation fee by the school;~~
137 ~~—— (5) That the charter/online school shall cooperate fully with all resident~~
138 ~~schools regarding students' participation in try-outs, practices, pep rallies, team fund~~
139 ~~raising efforts, scheduled games and required travel and provision of complete and~~
140 ~~prompt reports of student academic and citizenship progress or grades, upon~~
141 ~~request; and~~
142 ~~—— (6) That charter/online students' parents are responsible for the students'~~
143 ~~transportation to the school with which the student participates; and~~
144 ~~—— (7) That the charter/online school is responsible for any student participation~~
145 ~~fees required of all student participants in the activity if the participating student is~~
146 ~~eligible for fee waivers under R277-407.]~~

147 **R277-438-[6]5. Miscellaneous Issues.**

148 [A.](1) A dual enrollment student attending an activit[ies]y or a portion of
149 [the]a school day under [the provisions of]Section 53A-11-102.5 [shall be]is subject
150 to the same behavior and discipline rights and requirements of a full-time[resident
151 school] student.

152 [B.](2) A dual enrollment student who attends an activity or a portion of the
153 school day [shall be]is subject to the administrative scheduling and teacher
154 discretion of the [traditional]public school.

155 ~~[C.]~~(3)(a) A dual enrollment student with a disabilit[ies]y may participate as
156 a dual enrollment student consistent with ~~[Utah]~~ law, this rule and ~~[Code of Federal~~
157 ~~Regulations (CFR) Vol. 64, No. 48, Section]~~34 CFR 300.450 through 300.455.

158 ~~[(1) If a student with disabilities who attends a charter or online school desires~~
159 ~~to participate in dual enrollment, the charter/online school is responsible for~~
160 ~~accommodations or extra costs to the student's resident school for the student's~~
161 ~~participation.]~~

162 ~~[(2)b]~~ ~~[The]~~A dual enrollment student's resident school shall prepare an IEP
163 for a student described in Subsection (3)(a) ~~[shall have a services plan in place]~~ prior
164 to the student's participation in dual enrollment using comparable procedures to
165 those required for identifying and evaluating public school students[;].

166 ~~[(3)c]~~ A ~~[S]~~student[s] with a disabilit[ies]y seeking dual enrollment ~~[shall be]~~is
167 entitled to services only in the same proportional amount that the number of private
168 school students residing in the school district is to the total number of students with
169 a disabilit[ies]y in the school district.

170 ~~[(4)d]~~ Decisions about the scheduling and manner of services provided ~~[shall~~
171 ~~be]~~is the responsibility of the resident school and school district personnel.

172 ~~[(5)e]~~ A ~~[S]~~school[s ~~and]~~ or a school district[s ~~are]~~ is not prohibited from
173 providing a service[s] to a student[s] who ~~[are]~~is not enrolled full time in excess of
174 those required by ~~[R277-438-6]~~this section.

175 **KEY: public education, dual enrollment**

176 **Date of Enactment or Last Substantive Amendment: ~~[November 10, 2008]~~2015**

177 **Notice of Continuation: March 14, 2014**

178 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(b);**
179 **53A-11-102.5**