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## MEMORANDUM

**TO:** Members, Utah State Board of Education

**FROM:** Angie Stallings, Associate Superintendent  
Policy and Communication

**DATE:** August 11-12, 2016

**ACTION:** R277-708 *Enhancement for At-Risk Students Program* (Continuation and Amendment)

### **Background:**

R277-708 is amended to provide technical and conforming changes. R277-708 is also coming due for its five-year review and continuation filing date of October 11, 2016. Staff has reviewed the rule and determined that the rule continues to be necessary.

### **Board Strategic Plan:**

This item supports the following imperative and strategies in the Board's Strategic Plan:  
Oversight - Monitor, review, and provide general supervision to all public education institutions and other entities for which the State Board has responsibility.

### **Anticipated Action:**

It is proposed that the Standards and Assessment Committee consider approving R277-708, as continued and amended, on first reading and, if approved by the Committee, the Board consider approving R277-708, as continued and amended, on second reading.

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1 **R277. Education, Administration.**

2 **R277-708. Enhancement for At-Risk Students[-Program].**

3 **R277-708-[2]1. Authority and Purpose.**

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

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

7 (b) Section 53A-17a-166, which directs the Board to manage the  
8 Enhancement for At-Risk Students interventions by:

9 (i) [tø] developing a funding formula;[;]

10 (ii) developing performance criteria;[;]

11 (iii) administering the [program]intervention;[;]

12 (iv) distributing[e] the appropriation;[;] and

13 (v) monitoring and reporting the effectiveness of the [Enhancement for At-Risk  
14 Students program]interventions;[;] and

15 (c) Section 53A-1-401[({3})], which allows the Board to make rules to execute  
16 the Board's duties and responsibilities under the Utah Constitution and state law  
17 [adopt rules in accordance with its responsibilities].

18 (2)(a)[B.] The purpose of this rule is to establish criteria and procedures for  
19 distributing Enhancement for A[a]t-R[r]isk S[s]tudents [program]funds to LEAs.

20 (b) The intent of the rule and the legislative appropriation is to improve  
21 academic achievement of students who are at risk of academic failure.

22 **R277-708-[4]2. Definitions.**

23 (1)[A.] "At-risk of academic failure" [~~for purposes of this rule;~~] means a K-12  
24 public school student[s] [~~in public schools grades K-12]~~ who [~~have~~] meets any [one  
25 or more] of the following risk factors [~~as defined under R277-708-1~~]:

26 (a[1]) [L] low performance on [U-PASS] a Board approved assessment [tests];

27 (b[2]) [P] poverty;

28 (c[3]) [L] limited English Proficiency; [and] or

29 (d[4]) [M] mobility.

30 (2)[B.] "Available funds" [~~for purposes of this rule]~~ means the total funds  
31 appropriated for the Enhancement for At-Risk Students [Program]interventions, less

32 funding designated for ~~[G]gang [P]prevention~~ under Subsection 53A-17a-166(1)(b)(i).

33 ~~[C. "Board" means the Utah State Board of Education.]~~

34 ~~(3)[D.] "Data Clearinghouse" means the electronic data collection system used~~  
35 ~~by the Superintendent[USOE] to collect information required by law from LEAs about~~  
36 ~~individual students at certain points throughout the school year to support the~~  
37 ~~allocation of funds and accountability reporting.~~

38 ~~(4)[E.] "LEA share" [for purposes of determining funding under this rule,]~~  
39 ~~means the percentage of K-12 students from an LEA who are at risk of academic~~  
40 ~~failure [qualify under the classifications of: low performing on U-PASS, poverty,~~  
41 ~~mobility, and Limited English Proficiency] compared to the total count for the state~~  
42 ~~of Utah from the previous school year.~~

43 ~~(5)[F.] "Limited English Proficiency" or [{"LEP"}]~~ means the total number of  
44 ~~English [language] learner or [{"EL["{}"]}]~~ students in an LEA from the October 1  
45 count from the previous school year, including: ~~[- This count includes:]~~

46 ~~(a)[1]) the number of EL[{}]~~ students receiving a score of 1-4[3] on the English  
47 language proficiency assessment; and

48 ~~(b)[2]) the number of students previously classified as [previously-] [ELL who~~  
49 ~~are monitored for two years once classified as] English Proficient based on a score~~  
50 ~~of [4 or] 5 or 6 on the English language proficiency assessment.~~

51 ~~[G. "Local Education Agency (LEA)" means a public school district or charter~~  
52 ~~school primarily intended to serve students grades K through 12.]~~

53 ~~(6)[H.] "Low performance on a Board approved assessment [U-PASS tests]"~~  
54 ~~means the unduplicated count of k-12 students from an LEA scoring below proficient~~  
55 ~~in Reading/Language, Math, and Science on the Student Assessment of Growth and~~  
56 ~~Excellence (SAGE) or on the Special Education adaptive testing Dynamic Learning~~  
57 ~~Maps or "DLM" [for Reading/Language Arts] from the previous school year.~~

58 ~~(7)[I.] "Mobility" means the number of K-12 students enrolled less than 160~~  
59 ~~days or its equivalent in one school within a [one] school year, as determined by the~~  
60 ~~prior year's year-end average daily membership submission.~~

61 ~~(8)[J.] "Poverty" means the total number of K-12 students in an LEA reported~~  
62 ~~as economically disadvantaged using federal child nutrition income eligibility~~  
63 ~~guidelines for free or reduced-priced under the federal school lunch program from the~~

64 official October 1 enrollment count from the previous school year.

65 ~~[K. “Utah Consolidated Application (UCA) means the web-based grants~~  
66 ~~management tool employed by the Utah State Office of Education by which local~~  
67 ~~education agencies submit plans and budgets for approval of the Utah State Office~~  
68 ~~of Education.~~

69 ~~L. “USOE” means the Utah State Office of Education.]~~

70 **R277-708-3. Fiscal Procedures [Applications and Distribution of Funds].**

71 ~~[A. Awards shall be made to local education agencies.]~~

72 ~~(1)[B:] LEAs shall submit applications to the Superintendent annually by~~  
73 ~~November 1 [to the USOE-]through the [UCA]Board's grant management system.~~

74 ~~(2) The Superintendent shall distribute available funds to LEAs with an~~  
75 ~~approved application monthly based on a one-twelfth distribution beginning on July~~  
76 ~~1.~~

77 ~~(3) An LEA shall spend all allocated funds annually by June 30.~~

78 ~~(4) An LEA that accepts funds for Enhancement for At-Risk Students~~  
79 ~~intervention services shall be subject to Board accounting, auditing, and budgeting~~  
80 ~~rules and policies.~~

81 ~~(5)(a) With written approval from the Superintendent, an LEA may carry over~~  
82 ~~and spend ten percent or \$50,000, whichever is less, of state Enhancement for At-~~  
83 ~~Risk Student funds in the next fiscal year.~~

84 ~~(b) An LEA shall submit a request to carry over funds under Subsection (5)(a)~~  
85 ~~by August 1 annually.~~

86 ~~(c) An LEA shall detail approved carry over amounts in a revised budget~~  
87 ~~submitted through the Board's grant management system.~~

88 ~~(d) The Superintendent shall review and approve a revised budget submitted~~  
89 ~~under Subsection (5)(c) no later than October 1 in the year submitted.~~

90 **R277-708-4. Allocation of Enhancement for At-Risk Student Funds.**

91 ~~(1)[C:] The Superintendent shall award available funds to LEAs [shall receive~~  
92 ~~funding] based on an equal weighting of:~~

93 ~~(a[4]) low performance on a Board approved assessment [U-PASS tests];~~

94 (b[2]) poverty;

95 (c[3]) mobility; and

96 (d[4]) limited English proficiency [as outlined in 53A-17a-166].

97 ~~(2)[D.]~~ The Superintendent shall base LEA allocations ~~[shall be based]~~ on the

98 certified data from the Data Clearinghouse ~~[from]~~using the most recent school year

99 for which data is complete and available.

100 ~~(3)[E.]~~ The Superintendent shall use the following f[F]unding formula to

101 determine an [

102 ~~(4)]~~LEA base to distribute to LEAs:

103 (a) the Superintendent [USOE] shall annually calculate four percent of the

104 state appropriation of the Enhancement for At-Risk Students funding available for

105 LEA grants to provide a base amount to LEAs.

106 ~~(b)~~ The Superintendent shall divide the [This] base amount ~~[shall be]~~described

107 in Subsection (3)(a) equally~~[divided]~~ among all eligible LEAs.

108 ~~(4[2]) [LEAs with high poverty schools:]~~ T[the] Superintendent[USOE] shall

109 annually calculate twenty percent of the state appropriation of the Enhancement for

110 At-Risk Students on a per school basis ~~[funding for LEA grants]~~ to provide a targeted

111 amount to LEAs with traditional elementary, and secondary schools, and alternative

112 high schools with at least 75 percent poverty. ~~[This targeted amount shall be divided~~

113 ~~among eligible LEAs based on the number of traditional schools with at least 75~~

114 ~~percent poverty within the LEA.]~~

115 ~~(5[3])~~ Of the funds remaining after the distributions described in Subsections

116 (3) and (4), the Superintendent [USOE] shall determine an [the] LEA's share based

117 on the LEA's percentage of students with at-risk factors for the state.

118 ~~(6[4]) [For each LEA,]~~ T[the] Superintendent [USOE] shall use data from the

119 Board's [USOE] Data Warehouse for each LEA from the previous school year to

120 determine the students who qualify under the following definitions:

121 (i[a]) ~~[L]~~low performance on a Board approved assessment ~~[U-PASS tests];~~

122 (ii[b]) ~~[P]~~poverty;

123 (iii[c]) ~~[M]~~mobility; and

124 (iv[d]) ~~[L]~~limited English Proficiency.

125 ~~(7[5])~~ The Superintendent shall allocate funds appropriate for at-risk factors

126 to each LEA based on their proportion of at-risk factors in comparison to the  
127 statewide total. The LEA share shall equal the LEA's statewide proportionate share  
128 of qualifying students with at-risk factors times the amount of funds available for  
129 distribution.

130 ~~[(6) 2011-2012 funding transition: for the 2011-2012 school year, the USOE~~  
131 ~~shall implement formula adjustments to ensure that no LEA receives less than 65~~  
132 ~~percent of the funds under the Enhancement for At-Risk Students Program than the~~  
133 ~~LEA received during the 2010-2011 school year under the funds available from the~~  
134 ~~state program that were repealed as part of the enactment of the new Enhancement~~  
135 ~~for At-Risk Students Program.]~~

136 ~~[F.](8) The Superintendent shall notify an LEA[s] that qualif[y]ies for funding~~  
137 ~~[and the level]of the LEA's level of funding[shall be notified] annually by [June~~  
138 ~~30]May 1.~~

139 ~~(9[G.])~~(a) An LEA[s] may use funds for activities that support academic  
140 achievement of students who are at risk of academic failure. ~~[; the LEA shall provide:]~~

141 ~~(10[1])~~ An LEA shall provide the following information as part of the [UCA]application  
142 process:

143 (a) specific goals related to increased academic achievement of students  
144 at-risk of academic failure; ~~[and]~~

145 (b) proposed activities that are directly tied to the LEA's plan to increase  
146 student achievement;

147 ~~([2]c)~~ an annual report of the use of funds through the annual financial  
148 reporting process; and

149 ~~([3]d)~~ an annual report of [program]intervention effectiveness based on  
150 ~~[USOE-defined]~~ performance criteria defined by the Superintendent.

151 **R277-708-5[4]. Oversight: Monitoring, Evaluation and Reports.**

152 ~~(1[A.])~~ The Superintendent ~~[Board]~~ may recommend that the Board designate  
153 no more than one percent of the total appropriation from the Enhancement for  
154 At-Risk Students~~[program]~~ to be used specifically by the Superintendent ~~[USOE]~~ for  
155 oversight, monitoring and evaluation of:

156 (a) LEA[s'] implementation of the [program]intervention; and

157 (b) LEA ~~[their]~~ compliance with state ~~[the]~~ law and this rule.  
158 ~~(2[B.])~~(a) ~~[Performance Criteria:]~~ An ~~[Each]~~ LEA that receives funding shall  
159 submit an annual evaluation report to the Superintendent ~~[USOE]~~ consistent with  
160 Section 53A-17a-166.

161 (b) The report shall include the following performance criteria for students at-  
162 risk of academic failure:

163 (i)~~[1]~~ student attendance information, as defined by the Superintendent  
164 ~~[USOE]~~;

165 (ii)~~[2]~~ graduation rates;

166 (iii)~~[3]~~ gains in language proficiency as measured by the English language  
167 proficiency assessment;

168 (iv)~~[4]~~ gains in reading/language a~~[A]~~rts proficiency as measured by a Board  
169 approved assessment ~~[SAGE]~~; and

170 (v)~~[5]~~ gains in mathematics and science proficiency as measured by a Board  
171 approved assessment ~~[SAGE]~~.

172 ~~[C. The Utah State Office of Education shall submit an annual report on~~  
173 ~~program effectiveness to the Public Education Appropriations Subcommittee of the~~  
174 ~~Utah State Legislature.]~~

175 (3)(a) The Superintendent shall conduct tri-annual intervention reviews of  
176 each LEA receiving Enhancement for At-Risk Students funding to ensure intervention  
177 compliance.

178 (b) In the Superintendent's discretion or for good cause, the Superintendent  
179 may conduct additional formal or informal:

180 (i) monitoring;

181 (ii) reviews; or

182 (iii) site visits.

183 (4) If the Superintendent identifies violations as a result of a review described  
184 in Subsection (4), an LEA shall prepare and submit to the Superintendent a written  
185 corrective action plan for each finding made by the Superintendent.

186 (5) If an LEA fails to resolve findings identified by the Superintendent under  
187 Subsection (5), the Superintendent may withhold funds as provided in R277-114.

188 **R277-708-5. Gang Prevention and Intervention Funds.**

189 (1[A-]) Consistent with Subsection 53A-17a-166(1)(b), the Superintendent  
190 [Board] shall distribute funding to LEAs for gang prevention and intervention.

191 (2[B-]) An LEA[s] desiring to receive gang prevention and intervention funds  
192 shall submit a proposal[s] consistent with R277-436.

193 **KEY: students at risk**

194 **Date of Enactment or Last Substantive Amendment: October 11, 2011**

195 **Authorizing, Implemented, or Interpreted Law: Art X Sec 3; 53A-17a-166;**

196 **53A-1-401(3)**