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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Angie Stallings, Deputy Superintendent
Policy and Communication

DATE: November 3-4, 2016

ACTION: R277-404 *Requirements for Assessments of Student Achievement* (Amendment and Continuation)

Background:

The Board adopted an amended version of R277-404 on second reading in October. During the October Board meeting, the Board asked that staff remove the reference to DIBELS in R277-404 and replace it with more general language. R277-404 is amended accordingly and R277-404 is also continued consistent with Board policy and administrative rulemaking procedures.

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 Law and Licensing Committee consider approving R277-404, as amended and continued, on second reading and, if approved by the Committee, the Board consider approving R277-404, as amended and continued, on third and final reading.

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1 **R277. Education, Administration.**

2 **R277-409. Public School Membership in Associations.**

3 **R277-409-1. Authority and Purpose.**

4 (1) This rule is authorized by:

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

7 (b) Section 53A-1-401, which allows the Board to make rules to execute the
8 Board's duties and responsibilities under the Utah Constitution and state law.

9 (2) The purpose of this rule is to place limitations on public school
10 membership in certain associations with rules or policies that conflict with Board
11 policies.

12 **R277-409-2. Definitions.**

13 (1) "Association" means an organization that governs or regulates a student's
14 participation in an interscholastic activity.

15 (2) "Eligibility" means eligibility to participate in an association-sponsored
16 interscholastic activity.

17 ([2]3) "Interscholastic activity" means an activity within the state in which the
18 students that participate represent a school in the activity.

19 ([3]4) "Recruiting" means a solicitation or conversation:

20 (a) initiated by:

21 (i) an employee of a school or school district;

22 (ii) a coach or advisor of an interscholastic activity; or

23 (iii) a member of a booster, alumni, or other organization that performs a
24 substantially similar role as a booster organization, affiliated with a school or school
25 district; and

26 (b) to influence a student, or the student's relative or legal guardian, to
27 transfer to a school for the purpose of participating in an interscholastic activity at the
28 school.

29

30 **R277-409-3. Membership Restrictions.**

31 (1) Beginning with the 2017-2018 school year, a public school may not be a

32 member of, or pay dues to an association that adopts rules or policies that are
33 inconsistent with this R277-409[-3].

34 (2) An association shall permit the Board to audit the association's:

35 (a) financial statements; and

36 (b) compliance with Utah Code, Board rule, and the association's bylaws,
37 policies, rules, and best practices.

38 (3) An association may not treat similarly situated schools differently in the
39 association's designation of division classifications, or in applying other association
40 policies, based solely on the school's status as a charter school or district public
41 school.

42 (4) An association may sanction a school, coach, or individual who oversees
43 or works with students as part of an interscholastic activity of a public school if the
44 association finds that the coach or individual:

45 (a) engaged in recruiting activities; or

46 (b) violated any other rule or policy of the association.

47 (5) An association shall establish a policy or rule to govern the association's
48 use of student data that complies with the student data privacy requirements of:

49 (a) FERPA;

50 (b) Title 53A, Chapter 1, Part 14, Student Data Protection Act;

51 (c) Title 53A, Chapter 13, Part 3, Utah Family Educational Rights and Privacy
52 Act; and

53 (d) R277-484.

54 (6) An association shall establish policies or rules that require:

55 (a) coaches and individuals who oversee interscholastic activities or work with
56 students as part of an interscholastic activity to meet a set of professional standards
57 that are consistent with the Utah Educator Professional Standards described in Rule
58 R277-515; and

59 (b) the association or public school to annually train each coach or other
60 individual who oversees or works with students as part of an interscholastic activity
61 of a public school on the following:

62 (i) child sexual abuse prevention as described in Section 53A-13-112; ~~and~~

63 (ii) the prevention of bullying, cyber-bullying, hazing, harassment, and

- 64 retaliation as described in:
- 65 (A) Title 53A, Chapter 11a, Bullying and Hazing; and
 - 66 (B) R277-613; and
 - 67 (iii) the professional standards described in Subsection (6)(a).
- 68 (7) An association shall establish procedures and mechanisms to:
- 69 (a) monitor LEA compliance with the association's training requirements
 - 70 described in Subsection (6);
 - 71 (b) sanction individuals who violate the association's professional standards
 - 72 described in Subsection (6)(a);
 - 73 (c) track individuals who violate the association's standards described in
 - 74 Subsection (6)(a); and
 - 75 (d) prohibit individuals who have violated the association's standards
 - 76 described in Subsection (6)(a) from coaching, overseeing, or working with students
 - 77 as part of an interscholastic activity.
- 78 (8) An association shall establish a policy or rule that requires the association
- 79 to follow requirements similar to the requirements of:
- 80 (a) Title 52, Chapter 4, Open and Public Meetings Act; and
 - 81 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

82 **R277-409-4. Transferring Student Eligibility to Participate in Association**

83 **Activities.**

84 After a student has established eligibility to participate in interscholastic

85 activities at a school, an association shall grant eligibility to a student who transfers

86 to a new school if:

87 (1) the student's full family moves outside of the boundaries of the originating

88 school;

89 (2) the student's transfer to the new school is a result of a death in the family;

90 (3) the student's transfer to the new school is a result of a divorce;

91 (4) the student moves to live with an individual who has legal guardianship of

92 the student; or

93 (5)(a) the student transfers to the new school to participate in one of the

94 following courses or programs:

- 95 (i) an International Baccalaureate program;
96 (ii) an advanced placement course;
97 (iii) certain career and technical education courses or programs; or
98 (iv) a concurrent enrollment course;
99 (b) the student's originating school does not offer the course or program; and
100 (c) the student enrolls, and remains enrolled, in the course or program at the
101 new school.

102 **R277-409-5. Appeals of Association Actions.**

- 103 (1) An association shall establish:
104 (a) a uniform procedure for hearing and deciding:
105 (i) disputes;
106 (ii) questions;
107 (iii) allegations of violations of the association's rules; and
108 (iv) other issues related to interscholastic activities governed by the
109 association;
110 (b) an appeals process to review association decisions on issues described
111 in Subsections (1)(a)(i) through (iv) to determine whether the association properly
112 followed the association's rules and procedures; and
113 (c) an appeal panel, with members as described in Subsection (2), to conduct
114 the appeals process.
115 (2) The appeal panel shall consist of the following three members, appointed
116 by the Board, who will serve a one year term:
117 (a) a judge or attorney;
118 (b) a retired educator, principal, or superintendent; and
119 (c) a retired athletic director or coach.
120 (3) The Board shall appoint the members of the appeal panel described in
121 Subsection (2) in accordance with the Board's appointment process.
122 (4) The association may nominate up to 3 individuals for each position
123 described in Subsection (2) for the Board's consideration.

124 **KEY: school, membership, associations**

- 125 **Date of Enactment of Last Substantive Amendment: [2016]2017**
- 126 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401**