

1 **R277. Education, Administration.**

2 **R277-926. Certification of Residential Treatment Center Special Education**
3 **Program.**

4 **R277-926-1. Authority and Purpose.**

5 (1) This rule is authorized by:

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

8 (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the
9 Board's duties and responsibilities under the Utah Constitution and State of Utah law.

10 (2) The purpose of this rule is to provide a certification process and procedure for
11 residential treatment centers where IEP teams place an in-state or out-of-state special
12 education students for purposes of receiving a free and appropriate public education.

13

14 **R277-926-2. Definitions.**

15 (1) "Nonsectarian" means a nonpublic school or agency that is not owned,
16 operated, controlled by, or formally affiliated with a religious group or sect, whatever might
17 be the actual character of the education program or the primary purpose of the facility.

18 (2)(a) "Residential Treatment Center" or "RTC" means a private, or nonsectarian
19 establishment that provides related services necessary for a student with special needs to
20 benefit educationally from the student's IEP.

21 (b) "Residential Treatment Center" or "RTC" does not include an organization or
22 agency that operates as a public agency or offers public service, including:

23 (i) a state or local agency;

24 (ii) an affiliate of a state or local agency including:

25 (A) a private, nonprofit corporation established or operated by a state or local
26 agency;

27 (B) a public university or college; or

28 (C) a public hospital.

29 (3) "Qualified personnel" means an in-classroom staff member who:

- 30 (a) provides assistance with a student's education;
- 31 (b) has met requirements for federal and state certification[;] and licensing[,]
- 32 ~~registration, or other comparable training]~~ requirements that apply to the area in which the
- 33 staff member is providing [~~related~~]services, including board approved or Utah Department
- 34 of Professional Licensing[~~recognized~~]requirements; and
- 35 (c) actively adheres to the standards of professional practice established in
- 36 federal and State of Utah law or regulation.

37

38 **R277-926-3. Certification of a Residential Treatment Center.**

39 (1) An RTC shall have the RTC's special needs program certified by the

40 Superintendent before providing services for a free and appropriate public education to

41 in-state or out-of-state students with special education needs and a current IEP from an

42 LEA.

43 (2) An RTC seeking certification shall apply for an initial or renewal certification in

44 a form prescribed by the Superintendent.

45 (3) An RTC's application shall include:

46 (a) a detailed description of the RTC's general and special education program

47 provided, including:

48 (i) minimum instructional minutes for each grade level served;

49 (ii) specially designed instruction and related services[~~for:~~

50 ~~—— (A) social skills;~~

51 ~~—— (B) counseling; and~~

52 ~~—— (C) parent training];~~

53 (iii) evidence of age appropriate core curriculum that aligns with the Utah core

54 standards or aligns with the core standards of the student's state of origin;

55 (iv) for grades K-8, evidence showing the use of at least one resource, including a

56 textbook or curricular program, adopted by the student's state of origin or Utah for each

57 core standard subject[~~including:~~

58 ~~—— (A) English language arts;~~

59 ~~_____ (B) Math; and~~

60 ~~_____ (C) Science];~~

61 (v) for grades 9-12, evidence showing alignment of curriculum for core standard
62 subjects with an LEA's curriculum in Utah or the student's state of origin;

63 (b) evidence, including educator licenses ~~[or employee resumes,]~~ of qualified
64 personnel for each subject area including:

65 (i) English language arts;

66 (ii) Math;~~[-and]~~

67 (iii) Science;

68 _____ (iv) Special Education; and

69 _____ (v) Related services.

70 (c) documentation of training implementation and supervision in a special
71 education program of paraprofessionals as described by the Special Education Rules
72 Manual incorporated by reference in R277-750;~~[evidence that each aide assisting in a~~
73 ~~student's education has received training in appropriate behavior as regulated by the Utah~~
74 ~~Department of Human Services and academic content areas specific to an aide's~~
75 ~~classroom assignment, including training required by state of Utah and federal law];~~

76 (d) an assurance that each student, aged 14 years and above, has a transition
77 plan as described in Subsection R277-926-4(3)(~~a~~)b);

78 (e) evidence that an RTC is collaborating with a student's LEA of origin's fully
79 constituted IEP team to:

80 (i) carry out the specific requirements of the student's IEP, including the general
81 requirements described in Subsection R277-926-4(3)(b);

82 (ii) facilitate an annual IEP review; and

83 (iii) when necessary, participate in the student's triennial evaluation, including:

84 (A) an outlined process for the evaluation;

85 (B) the ability to allow on-site accessibility to third parties required for evaluation
86 participation; and

87 (C) collaborate with the LEA of origin for the administration of the assessment.

88 (f) a description of the RTC's ~~[behavior intervention plan, including the]~~ incident
89 management process and procedures for a student, and reporting requirements described
90 in Subsection R277-926-4(3)(c);

91 (g) evidence of how meaningful parental involvement is facilitated;

92 (h) documentation showing all staff at the RTC have been fingerprinted and have
93 passed state and federal criminal background checks before being allowed to have
94 contact with any student;

95 (i) an assurance showing participation in the LEA of origin with federal Child Find
96 mandates as outlined in 20 U.S.C. 1412(a)(3);

97 (j) an assurance that the RTC is a nonsectarian RTC; and

98 (k) if applicable, a copy of the Private School Affidavit filed with a student's state of
99 origin.

100 (4) Except as provided in Subsection (7), an RTC may apply for an initial
101 certification and receive notification of certification approval or denial within 60 days of an
102 on-site review.

103 (5) An RTC shall apply for certification renewal no later than 60 days prior to the
104 expiration of the RTC's current certification~~[June 1st for the upcoming school year]~~.

105 (6) Except as provided in Subsection (7), the Superintendent shall provide the
106 RTC notice of the Superintendent's approval or denial of the RTC's application for
107 certification within 60 days of an on-site review ~~[of receipt of the RTC's application]~~.

108 (7) For an application received before January 1, 2020, the Superintendent shall
109 notify an RTC of the Superintendent's approval or denial of the RTC's request for
110 certification within 45 days.

111 (8) An RTC with a pending application shall be subject to an on-site review by the
112 Superintendent within ~~[45]~~60 days of the RTC submitting the RTC's application.

113 (9) An RTC's application for certification and on-site review shall be reviewed
114 collectively by the Superintendent in considering approval or denial of certification.

115 (10) An RTC shall be informed of compliance errors at the time of the on-site review
116 and will be provided six weeks to correct the compliance errors before a final certification

117 decision is made.

118 (11[0]) If approved, an RTC's certification lasts for two years from the date of
119 approval and is subject to monitoring protocols as described in Subsection R277-926-4.

120 (12[4]) If the Superintendent denies an RTC's application for certification, the
121 Superintendent shall provide the reason for the denial in writing to the RTC.

122 (13[2]) If an RTC operates a special needs program at more than one site, the
123 RTC shall submit a separate certification application for each site.

124

125 **R277-926-4. Certification Maintenance and General Monitoring.**

126 (1) An RTC that has been certified is subject to periodic monitoring and review.

127 (2) An RTC shall ensure general compliance with the requirements of this rule,
128 state law, and federal law by providing the Superintendent with:

129 (a) documentation, including:

130 (i) applicable student and program records; and

131 (ii) information for which the Board is responsible;

132 (b) access to on-site visits at any time; and

133 (c) any combination of Subsections (a) and (b).

134 (3) An RTC that has been certified shall comply with all requirements of this rule,
135 State of Utah law and federal law, including the following requirements:

136 (a) collaborating with an LEA of origin to maintain and facilitate a ~~[transition-]plan~~
137 for transition from the RTC to a less restrictive setting or from a less restrictive setting to an

138 RTC~~[or each student served by the RTC that includes:~~

139 ~~—— (i) a list of a relevant course of study related to needs and ability of the student;~~

140 ~~—— (ii) a list of all required transition assessments needed;~~

141 ~~—— (iii) a plan for transitions to and from restrictive placement; and~~

142 ~~—— (iv) age of majority documentation in a form approve by the Superintendent];~~

143 (b) collaborating with the LEA of origin on a student's IEP through:

144 (i) timely and appropriate IEP progress monitoring;

145 (ii) documentation of a student's specially designed instruction and related

146 services ~~[including]~~such as:

147 (A) service provisions;

148 (B) treatment notes; and

149 (C) service logs;

150 (iii) post secondary transition plans for students age 14 and older including:

151 (A) a list of a relevant course of study related to needs and ability of the student;

152 (B) a list of all required transition assessments needed; and

153 (C) age of majority documentation;

154 (iv~~[ii]~~) sign-in or attendance sheets for each IEP meeting held for a student; and

155 (iv) adhering to all other applicable state and federal laws;

156 (c) when appropriate, establishing a discipline guide consistent with IDEA that

157 includes a behavior intervention plan with the following minimum components:

158 (i) general behavior goals;

159 (ii) crisis de-escalation and restraint training and training frequency;

160 (iii) restraint and seclusion policies and procedures consistent with state and

161 federal law; and

162 (~~[i]~~iv) parental notification policies requiring notice within at least 24-hours.

163 (4) An RTC shall notify the Superintendent within ~~[30]~~45 days if the RTC makes

164 any material change to the RTC's special education program.

165 (5) If a certified RTC is found to be noncompliant with a provision of R277-926,

166 State of Utah law, or federal law, the Superintendent may suspend or revoke the RTC's

167 certification as outlined in Subsection R277-926-5.

168

169 **R277-926-5. Revocation of Certification.**

170 (1) The Superintendent may revoke an RTC's certification at any time if the RTC

171 fails to comply with the requirements of R277-926, State of Utah law, or federal law.

172 (2) The Superintendent shall provide the reason for revocation of the RTC's

173 certification in writing to the RTC and provide a 30-day cure period before revocation may

174 occur.

175 (3) If an RTC does not ~~[cure]~~correct identified non-compliance described in
176 Subsection (2) within the ~~[30-day cure]~~45-day correction period, the Superintendent shall
177 revoke the RTC's certification.

178 (4) If an RTC's certification is revoked, the RTC:

179 (a) may not receive new students into the RTC's special education program; and

180 (b) may maintain the students currently attending the RTC's special education
181 program.

182 (5) An RTC may reapply for certification within 12 months following the RTC's
183 completed corrective action in response to the Superintendent's reasons for revocation
184 described in Subsection (2).

185

186 **R277-926-6. Request for Review.**

187 (1) A public education agency that contracts with a certified RTC may request the
188 Superintendent to review the status of the RTC's certification.

189 (2) The Superintendent shall establish a mechanism for referrals, complaints, and
190 information related to the status of an RTC's certification.

191 (3) The Superintendent shall conduct a review pursuant to this in accordance with
192 all requirements in Sections R277-926-4 and R277-926-5.

193

194 **R277-926-7. RTC Appeal of Certification Application Denial or Certification**
195 **Revocation.**

196 (1) An RTC may file an appeal to the Board of an adverse decision of the
197 Superintendent resulting in the denial of application or revocation of a certification.

198 (2) An appeal pursuant to this rule shall be an informal adjudication.

199 (3) An appeal described in Subsection (1) shall be made in writing and within 30
200 days of the date of the Superintendent's action.

201 (4) The Board may:

202 (a) review the appeal as a full board; or

203 (b) refer the appeal to the Board's audit committee to make a recommendation to

204 the Board for action.

205

206 **KEY: residential treatment centers, special education, certification**

207 **Date of Enactment or Last Substantive Amendment: July 2, 2019**

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

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