

1 **R277. Education, Administration.**

2 **R277-120. Licensing of Material Developed with Public Education Funds.**

3 **R277-120-1. Authority and Purpose.**

4 (1) This rule is authorized by:

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

7 (b) Subsection [53E-3-401\(4\)](#), which allows the Board to make rules to execute the
8 Board's duties and responsibilities under the Utah Constitution and state law; and

9 (c) Subsection [53E-3-501\(1\)\(e\)\(i\)](#), which directs the Board to encourage school
10 productivity and cost effectiveness measures.

11 (2) The purpose of this rule is to:

12 (a) establish requirements for licensing of courseware and materials produced with
13 public education funds; and

14 (b) promote a policy that education materials produced with public funds be openly,
15 publicly, and freely accessible for use by others.

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17 **R277-120-2. Definitions.**

18 (1)(a) "CC-BY license" means a copyright license developed by Creative
19 Commons, which allows other users to:

20 (i) copy and redistribute the material in any medium or format; and

21 (ii) remix, transform, and build upon the material.

22 (b) Under a CC-BY license, a licensee may share the materials in any manner,
23 including commercially.

24 (c) Under a CC-BY license, a licensee shall:

25 (i) give appropriate credit to the licensor;

26 (ii) provide a link to the license; and

27 (iii) indicate if the licensee made changes to the licensor's work.

28 (2) "Public education materials" means courseware and materials developed with
29 public education funds and includes:

- 30 (a) syllabi;
- 31 (b) instructional materials;
- 32 (c) modules;
- 33 (d) textbooks, including teacher's editions;
- 34 (e) student guides;
- 35 (f) supplemental materials;
- 36 (g) formative and summative assessment supports;
- 37 (h) laboratory activities;
- 38 (i) simulations;
- 39 (j) musical or dramatic compositions;
- 40 (k) audio, video or photographic material;
- 41 (l) manuals;
- 42 (m) codes; and
- 43 (n) software.

44 (3) "Utah Education Network" or "UEN" means an online education materials
45 resource maintained by the Utah Education and Telehealth Network offering services to
46 educators and students throughout the state of Utah.

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48 **R277-120-3. Public Education Materials Funded by the Board.**

49 (1) The Superintendent shall share public education materials developed with funds
50 controlled by the Board under a CC-BY license.

51 (2) The Superintendent shall share materials developed in accordance with
52 Subsection (1) through UEN, where appropriate, or through other appropriate means of
53 making public education materials available to educators and the public.

54 (3)(a) An individual or entity that shares or adapts public education materials
55 identified in Subsection (1) shall:

- 56 (i) provide attribution to the Board;
- 57 (ii) provide a link to the license; and
- 58 (ii) indicate if any changes were made to the original materials.

59 (b) An individual or entity may make attribution in any reasonable manner, but not
60 in any way that implies the Board endorses any adaptation of the materials without express
61 authorization of the Board.

62 (4) The Superintendent may request a copy of shared or adapted public education
63 materials be provided to the Board.

64 (5) If an employee of the Board develops public education materials as part of the
65 employee's employment, the public education materials shall be the property of the Board,
66 subject to licensing in accordance with this R277-120-3.

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68 **R277-120-4. Public Education Materials Funded by an LEA.**

69 (1) An LEA shall develop and maintain a policy regarding public education materials
70 developed with the LEA's funds.

71 (2) A policy developed in accordance with Subsection (1) shall identify:

72 (a) whether the LEA will share public education materials with a CC-BY license or
73 another license approved by the LEA's governing board;

74 (b) whether use of LEA developed public education materials will require attribution
75 to the LEA;

76 (c) whether the LEA will charge third parties for use of the materials;

77 (d) whether the LEA reserves the right to review and approve materials developed
78 by employees on contract time; and

79 (e) whether the LEA restricts employees from sharing materials purchased with
80 LEA funds or specifically licensed for LEA use.

81 (3) An LEA may not charge an educator in a Utah public school for use of materials
82 developed with LEA funds.

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84 **R277-120-5. Classroom Materials Developed by Utah Educators.**

85 (1)(a) A public education employee may not sell public education materials
86 developed in whole or in part with funds from the Board or an LEA.

87 (b) If a public education employee sells public education materials subject to
88 Subsection (1)(a) for personal gain, the employee may be subject to the provisions of
89 Section [67-16-4](#).

90 (2) An LEA may review and approve materials developed by educators on contract
91 time consistent with a policy adopted in accordance with Subsection R277-120-4(d).

92 (3)(a) A Utah licensed educator need not seek permission from the educator's LEA
93 to share classroom materials developed using the educator's personal time and resources.

94 (b) An educator may share materials developed in accordance with Subsection
95 (3)(a) through a CC-BY license.

96 (4)(a) A Utah licensed educator may only share materials that are consistent with
97 the Utah Professional Educator Standards contained in [R277-217](#).

98 (b) An educator may not share materials that advocate illegal activities or materials
99 that are inconsistent with the educator's legal and role model responsibilities.

100 (5) The Superintendent may offer professional development programs that offer
101 support, guidance, and instruction to educators who wish to create, use, or continuously
102 improve public education materials shared in accordance with this R277-120.

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104 **KEY: licensing, materials**

105 **Date of Enactment or Last Substantive Amendment: August 7, 2017**

106 **Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-3-401\(4\)](#); [53E-3-](#)
107 [501\(1\)\(e\)\(i\)](#)**

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