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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Martell Menlove, Ph.D.
Chief Executive Officer

DATE: February 7, 2014

ACTION: *R277-724 Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program (Continuation)*

Background:

R277-724 Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program is due for a five-year review and continuation consistent with the Utah Administrative Rulemaking Act. The rule must be approved for continuation by the Board or it will expire. Staff has reviewed *R277-724* and determined that the rule continues to be necessary. No changes are recommended at this time.

Key Points:

R277-724 continues to be necessary because it provides eligibility criteria for new sponsors to recruit participants for child care centers and day care homes in unserved areas.

Anticipated Action:

It is proposed that the Law and Licensing Committee consider approving *R277-724* for continuation on first reading, and if approved by the Committee, the Board consider approving *R277-724* for continuation on second reading.

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1 **R277. Education, Administration.**

2 **R277-724. Criteria for Sponsors Recruiting Day Care**
3 **Facilities in the Child and Adult Care Food Program.**

4 **R277-724-1. Definitions.**

5 A. "Child and Adult Care Food Program (CACFP)" means the
6 section of the USOE that administers the initiation,
7 maintenance, and expansion of non-profit food service programs
8 for children in non-residential centers and homes which
9 provide child care. The definition also includes the
10 administration of food service programs for non-residential
11 adult day care.

12 B. "Board" means the Utah State Board of Education.

13 C. "Child care center" means any public or private
14 nonprofit organization, or any proprietary title XX center,
15 licensed or approved to provide nonresidential child care
16 services to enrolled children, primarily of preschool age.
17 Child care centers may participate in the CACFP as independent
18 centers or under the auspices of a sponsoring organization.

19 D. "Day care home" means an organized nonresidential
20 child care program for children enrolled in a private home,
21 licensed or approved as a family or group day care home and
22 under the auspices of a sponsoring organization.

23 E. "Facilities" means a sponsored center or a family day
24 care home.

25 F. "Institution" means an organization with whom the
26 USOE has an agreement to accept final administrative and
27 financial responsibility for CACFP operation.

28 G. "Recruited facilities" means potential daycare
29 centers or homes that a prospective sponsor seeks to enroll in
30 CACFP participation.

31 H. "Service area" means the geographic area from which
32 a sponsoring organization draws its client facilities.

33 I. "Sponsoring organization" means a public or nonprofit
34 private organization which is entirely responsible for the

35 administration of the food program in:

36 (1) one or more day care homes;

37 (2) a child care center, outside-school-hours care
38 center, or adult day care center which is a legally distinct
39 entity from the sponsoring organization;

40 (3) two or more child care centers, outside-school-hours
41 care centers, or adult day care centers are part of the
42 organization; or

43 (4) any combination of child care centers, adult day care
44 centers, day care homes, and outside-school-hours care
45 centers.

46 J. "State agency" means the state educational agency or
47 any other State agency that has been designated by the
48 Governor or other appropriate executive or by the legislative
49 authority of the state, and has been approved by the
50 Department to administer the Program within the state.

51 K. "USOE" means the Utah State Office of Education.

52 **R277-724-2. Authority and Purpose.**

53 A. This rule is authorized by Utah Constitution Article
54 X, Section 3 which vests general control and supervision of
55 public education in the Board, by Section 53A-1-402(3) which
56 authorizes the Board to administer and distribute funds made
57 available through programs of the federal government and by
58 Section 53A-1-401(3) which allows the Board to adopt rules in
59 accordance with its responsibilities.

60 B. The purpose of this rule is to establish eligibility
61 criteria for new sponsors to recruit participants for child
62 care centers and day care homes in unserved areas.

63 **R277-724-3. Criteria for Recruiting Facilities.**

64 The following criteria shall be met before a sponsor is
65 approved:

66 A. The recruited facilities are not currently

67 participating or were recently terminated for convenience by
68 another sponsoring organization due to being outside the
69 sponsoring organization's service area; and

70 B. The recruited facilities have not been terminated for
71 cause, have no unresolved serious deficiency pending with
72 another sponsoring organization and do not owe a refund to
73 another sponsoring organization; and

74 C. The state agency certifies other sponsoring
75 organizations are unable to accommodate the targeted
76 facilities or the area(s) where it/they are located because:

77 (1) other sponsoring organizations generate insufficient
78 resources to properly train and monitor facilities; or

79 (2) supervising additional facilities would threaten
80 currently participating sponsoring organization's viability,
81 capability or accountability.

82 **R277-724-4. New and Renewing Institution Performance**
83 **Standards.**

84 A. The new or renewing institution shall ensure:

85 (1) it is financially viable and program funds are spent
86 and accounted for consistent with the requirements of federal
87 law and regulations;

88 (2) that management practices are in effect to ensure
89 that the institution and participating facilities operate in
90 accordance with federal law and regulations; and

91 (3) it has internal controls and other management systems
92 in effect to ensure fiscal accountability and to ensure that
93 the CACFP operates in accordance with federal law and
94 regulations.

95 B. The USOE Child Nutrition Program Section shall
96 regulate and ensure that these performance criteria are met
97 consistent with federal law and regulations.

98 **KEY: facilities, food program**

99 Date of Enactment or Last Substantive Amendment: January 15,
100 2004
101 Notice of Continuation: [~~January 5, 2009~~]2014
102 Authorizing, and Implemented or Interpreted Law: Art X Sec 3;
103 53A-1-402(3); 53A-1-401(3)