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## **MEMORANDUM**

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

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

**DATE:** February 7, 2014

**DISCUSSION:** Utah Codes, Board Rules, and Policies in Regard to the Statewide Online Education Program

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### **Background:**

Reference language specific to public education students (SEOP, LEA of enrollment, etc.) can be found in Utah Code 53A-11-102.5 and 53A-15-1202 through 1217. Beginning July 1, 2013, private and home school students may enroll in the Statewide Online Education Program (SOEP) for up to three credits per year. Public education enrolled students may enroll or increase their enrollment in the SOEP for up to three credits per year. This change has resulted in several issues that are not clearly resolved in the statutes.

### **Key Points:**

The statutes referenced above have resulted in unresolved issues. Additional clarity, policies and/or changes to Board rules need to be considered to resolve issues such as LEA of record for home and private school students, determining responsibility to create and monitor IEPs (Individual Education Programs) as appropriate, the SEOP (Student Education and Occupational Plan), and determining how to define dual enrollment.

### **Anticipated Action:**

The Standards and Assessment Committee will discuss the issues, determine policy clarifications, and direct staff to take action to clarify the issues.

**Contact:** Judy Park, 801-538-7550  
Glenna Gallo, 801-538-7757

STATE OF UTAH  
OFFICE OF THE ATTORNEY GENERAL



December 23, 2013

Martell Menlove, Ph.D.  
State Superintendent of Public Instruction  
Utah State Office of Education  
250 East 500 South  
Salt Lake City, UT 84114-4200

RE: Statewide Online Education Program

Dear Superintendent Menlove:

I am writing in response to your e-mail dated December 5, 2013, in which you posed the following questions:

1. Is the Statewide Online Education Program ("SOEP") a public education program?
2. Is a primary LEA of enrollment necessary to participate in the SOEP?
3. Given the statutory definition of a primary LEA of enrollment, is a home/private school student eligible to participate in SOEP?
4. Given the statutory definition and Board rules, are home/private school students who enroll in the SOEP dually enrolled?
5. Given the statutory language stating that full acceptance of the Carson Smith Scholarship ("CSS") includes acceptance of full financial responsibility for education and that acceptance of the CSS has the same effect as parental refusal to consent to services under the IDEA, are CSS recipients eligible to participate in the SOEP?
6. Although there are efforts or theories that the SOEP is somehow separate from the LEA, all SOEP providers are Utah LEAs. Each of those LEAS receive federal and state funding.
  - a. Are the SOEP programs required to abide by the federal requirements applicable to LEAs (public schools) receiving federal funding (for example, IDEA and Section 504 of the Rehabilitation Act, etc...)?

- b. Are the SOEP programs separate from the LEAs that offer the programs?

Although I will address each of these questions in turn, in reviewing the various applicable statutes and rules it is apparent that, as currently written, the SOEP statute is internally inconsistent and not susceptible to any interpretation which allows the statute to be implemented as a whole with regard to private and home school students. Thus, current participation in the SOEP by private and home school students requires that certain portions of the statute be ignored. Amending the statute is required to reconcile the existing conflicts.

### Questions & Answers

Question 1: Is the SOEP a public education program?

Answer: Clearly yes; the plain language of the Utah Code Ann. §53A-15-1203(2) makes it very clear that SOEP is a public education program. That section specifically states: "Pursuant to Utah Constitution, Article X, Section 2, the Statewide Online Education Program is designated as a program of the public education system."

Question 2: Is a primary LEA of enrollment necessary to participate in the SOEP?

Answer: As currently written, the statute has specific mandates that are only applicable to students who have a "primary LEA of enrollment," and are wholly inapplicable to home school or private school students, who have no primary LEA of enrollment. For example:

- In Utah Code Ann. §53a-15-1204, the law states that an eligible student may enroll in an online course offered through the SOEP if: "the online course is aligned with the student's education/occupation plan (SEOP); [and] the online course is consistent with the student's individual education plan (IEP), if the student has an IEP." Home school and private school students do not have SEOPs or IEPs. SEOPs and IEPs are only provided through primary LEAs of enrollment. Accordingly, it is impossible to enforce this statutory provision with private and home school students without requiring them to have a primary LEA of enrollment.
- Likewise, Utah Code Ann. §53a-15-1208(1) states that a "student's primary LEA of enrollment and the student's online course provider shall enter into a course credit acknowledgment in which the primary LEA of enrollment and the online course provider acknowledge that the online course provider is responsible for the instruction of the student in a specified online course." If a student does not have a primary LEA of enrollment, i.e., a home school or private school student, there is no entity to approve his/her enrollment/online course credit. Again, it is impossible to implement this statutory directive with private and home school students without requiring them to have a primary LEA of enrollment.
- Utah Code Ann. §53a-15-1210 requires administration of statewide assessments to students enrolled in online courses. Currently, in order to take a statewide assessment, a student must have a Statewide Student Identifier (SSID) and Student Information Systems (SIS), which are generated through a primary LEA of enrollment. Accordingly, a student must have a primary LEA of enrollment in order to generate him/her a SSID and a SIS so he/she can take these statewide assessments. Thus, it is currently impossible to implement this statutory mandate

with regard to private and home school students without requiring them to have a primary LEA of enrollment.

- Utah Code Ann. §53a-15-1209 limits the number of online course credit hours to the number of credits a student may earn in a year by taking a full course load during the regular school day in the student's primary LEA of enrollment. Similarly, Utah Code Ann. §53A-15-1212.5 ties enrollment in an online SOEP course to the registration period designate by the student's LEA. Both examples further support the conclusion that the statute, as currently written, requires a student to have a primary LEA of enrollment.

Therefore, according to the current statutory provisions, a primary LEA of enrollment is a critical component in implementing the SOEP. Therefore, it appears that a student must have a primary LEA of enrollment in order to participate in the SOEP.

Question 3: Given the statutory definition of a primary LEA of enrollment, is a home/private school student eligible to participate in SOEP?

Answer: Insofar as the statute defines an eligible student to include a Utah student "who attends a private school or home school," I would not advise finding them ineligible to participate. The clear legislative intent in amending the statute to include private and home school students in the definition of "eligible student," is to allow them to participate in the SOEP.

"Primary LEA of enrollment" is defined in the statute as "the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program." Utah Code Ann. §53A-15-1202(5). This definition, in combination with the above analysis that a primary LEA of enrollment is necessary for all students enrolled in the SOEP, would require a home/private school student to enroll in and take public education courses outside of the online courses the student is taking through the SOEP provider. Such a requirement is nonsensical in regard to private and home school students.

I would suggest a statutory revision that redefines "primary LEA of enrollment" as: "the LEA in which an eligible student is enrolled and receiving the majority of the student's public education." Such a change would allow private and home school students to have as their primary LEA of enrollment the LEA which is providing the SOEP online program. This amendment would allow all the statutory requirements to be satisfied.

Question 4: Given the statutory definition and Board rules, are home/private school students who enroll in the SOEP dually enrolled?

Answer: It depends. Utah's dual enrollment statute does not define "dual enrollment," however, it does indicate that a private or home school student may be enrolled "in a public school for dual enrollment purposes." Utah Code Ann. §53A-11-102.5 (2). A more explicit definition can be found in Utah Admin. Code, Rule R277-438, entitled Dual Enrollment, which specifically defines a dual enrollment student as "a student who is enrolled simultaneously in public school and in a home school, a Utah charter school, a Utah Online school, or a regularly established private school." R277-438-1(D). Insofar as the SOEP is a program of the public education system and is publicly funded, it is logical to conclude

that private and home school students who are enrolled in SOEP courses are dually enrolled. See, Utah Code Ann. §53A-15-1203.

Unfortunately, the dual enrollment statute provides that private and home school students may participate "in any *academic activity* in the public school" subject to certain requirements. Utah Code Ann. §53A-11-102.5 (4)(a). There is, however, no definition of "activity." The administrative rules governing dual enrollment go one step further and seem to suggest that dual enrollment solely involves a private or home school student's participation "in public school extracurricular or co-curricular activities." Utah Admin Code, Rule R277-438-2. Neither the statute nor the rule defines "co-curricular," but the standard definition is that co-curricular refers to activities or programs that complement, but are outside of the regular curriculum. *Merriam-Webster Dictionary* (2013). Based on my research, co-curricular activities are typically, but not always, defined by their separation from academic courses.

Nonetheless, despite the language of the statute and the rule, it is my understanding that there are multiple situations in which Utah students are simultaneously enrolled in distinct educational settings for academic coursework, and that those situations are considered "dual enrollment" by the districts and USOE. While a combination of enrollment in two or more educational settings seems logically to constitute "dual enrollment," a change should be made to the statute and rules to specifically include these situations.

Question 5: Given the statutory language stating that full acceptance of the Carson Smith Scholarship ("CSS") includes acceptance of full financial responsibility for education and that acceptance of the CSS has the same effect as parental refusal to consent to services under the IDEA, are CSS recipients eligible to participate in the SOEP?

Answer: Probably not. The CSS Program clearly excludes its recipients from participation "in a dual enrollment program pursuant to Section 53A-11-102.5." Utah Code Ann. §53A-1a-704(8). Thus, if a private or home school student who enrolls in a SOEP course is considered dually enrolled, then a CSS recipient is not eligible to participate in the SOEP program.

If for some reason private and home school students enrolled in the SOEP program are not considered dually enrolled, the issue is not as clear cut. The CSS Program requires parents of CSS recipients to assume full financial responsibility for their child's education and, in essence, refuse to consent to special education services being provided to their child pursuant to the IDEA. Thus, one could argue that once they have chosen to receive a CSS, they are no longer eligible to have any portion of their child's education paid for out of public funds, and possibly trigger a renewed obligation to the student under IDEA. That theory would lend itself to the conclusion that CSS recipients are not eligible to participate in the SOEP.

However, there are two concerns with that analysis. First, part of the SOEP's statutory directive is to allow private school children to benefit from the SOEP. Private school students are a group of children whose education is traditionally not publicly funded, and yet the Legislature specifically appropriated \$150,000 to pay for their SOEP participation. Second, the definition of eligible student under the SOEP simply lists private school students, and does not specifically carve out an exception for CSS recipients. Thus, insofar as the Legislature intended to fund private school students' participation in the SOEP, the argument that CSS recipients should not be able to dip into public funds may hold less sway.

Question 6: Although there are efforts or theories that the SOEP is somehow separate from the LEA, all SOEP providers are Utah LEAs. Each LEA receives federal and state funding.

- a. Are the SOEP programs required to abide by the federal requirements applicable to LEAs (public schools) receiving federal funding (for example, IDEA and Section 504 of the Rehabilitation Act, etc...)?
- b. Are the SOEP programs separate from the LEAs that offer the programs?

Answer: Yes, the SOEP programs are required to abide by the federal requirements applicable to LEAs receiving federal funding. And no, an LEA cannot separate itself into a two entities: one that is the traditional brick and mortar LEA and the other an SOEP online course provider. Insofar as the LEA is receiving federal funding, and is an SOEP online course provider, the LEA's SOEP programs are required to abide by the federal requirements applicable to all LEAs which receive federal funding. Moreover, the SOEP statutory provisions make it clear that SOEP courses must align with a student's IEP, thus clearly triggering the responsibility of the SOEP course provider to comply with IDEA.

Please let me know if you, or your staff, have any further questions or need additional clarification on the advice offered in this letter. There are many different amendments that could be proposed to reconcile the statute, so if you need any assistance in that regard, please do not hesitate to contact me.

Sincerely,



Kristina L. Kindl

cc: Mark Openshaw, Board Member  
Judy Park, Associate Superintendent  
Glenna Gallo, Director, Special Education  
Lisa Arbogast, Coordinator, State and Federal Compliance Monitoring  
Heidi Alder, Educational Specialist

### 53A-15-1202. Definitions.

As used in this part

~~(1) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.~~

~~(2) (1)~~ "Eligible student" means:

(a) a student enrolled in a district school or charter school in Utah; or

~~(b) beginning on July 1, 2013, a student:~~

(i) who attends a private school or home school; and

(ii) whose custodial parent or legal guardian is a resident of Utah.

(2) "IEP" means an individualized education program for a student with a disability eligible under the Individuals with Disabilities Education Act.

(3) "LEA" means a local education agency in Utah that has administrative control and direction for public education.

(4) "LEA facilitator" means the LEA in which a Statewide Online Education Program eligible home/private school student is only enrolled in online courses offered through the Statewide Online Education Program.

~~(4) (5)~~ "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology.

~~(5) (6)~~ "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

~~(6) (7)~~ "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent or guardian pursuant to rules of the State Board of Education.

(8) "SEOP" means a student education/occupation plan.

**53A-15-1203. Statewide Online Education Program created -- Designated as program of the public education system -- Purposes.**

(1) The Statewide Online Education Program is created to enable an eligible student to earn high school graduation credit through the completion of publicly funded online courses.

(2) Pursuant to Utah Constitution, Article X, Section 2, the Statewide Online Education Program is designated as a program of the public education system, but is not considered dual enrollment under 53A-11-102.5.

(3) The purposes of an online school are to:

(a) provide a student with access to online learning options regardless of where the student attends school, whether a public, private, or home school;

(b) provide high quality learning options for a student regardless of language, residence, family income, or special needs;

(c) provide online learning options to allow a student to acquire the knowledge and technology skills necessary in a digital world;

(d) utilize the power and scalability of technology to customize education so that a student may learn in the student's own style preference and at the student's own pace;

(e) utilize technology to remove the constraints of traditional classroom learning, allowing a student to access learning virtually at any time and in any place and giving the student the flexibility to take advantage of the student's peak learning time;

(f) provide personalized learning, where a student can spend as little or as much time as the student needs to master the material;

(g) provide greater access to self-paced programs enabling a high achieving student to accelerate academically, while a struggling student may have additional time and help to gain competency;

(h) allow a student to customize the student's schedule to better meet the student's academic goals;

(i) provide quality learning options to better prepare a student for post-secondary education and vocational or career opportunities; and

(j) allow a student to have an individualized educational experience.

**53A-15-1204. Option to enroll in online courses offered through the Statewide Online Education Program for eligible students enrolled in a district school or charter school in Utah (i.e., primary LEA of enrollment).**

- (1) Subject to the course limitations provided in Subsection (2), an eligible student may enroll in an online course offered through the Statewide Online Education Program if:
  - (a) the student meets the course prerequisites;
  - (b) the course is open for enrollment;
  - (c) the online course is aligned with the student's student education/occupation plan (SEOP);
  - (d) the online course is consistent with the student's ~~individual~~ individualized education plan program (IEP), if the student has an IEP; and
  - (e) the online course is consistent with the student's international baccalaureate program, if the student is participating in an international baccalaureate program.
- (2) An eligible student may enroll in online courses for no more than the following number of credits:
  - (a) in the 2011-12 and 2012-13 school years, two credits;
  - (b) in the 2013-14 school year, three credits;
  - (c) in the 2014-15 school year, four credits;
  - (d) in the 2015-16 school year, five credits; and
  - (e) beginning with the 2016-17 school year, six credits.
- (3) Notwithstanding Subsection (2):
  - (a) a student's primary LEA of enrollment may allow an eligible student to enroll in online courses for more than the number of credits specified in Subsection (2); or
  - (b) upon the request of an eligible student, the State Board of Education may allow the student to enroll in online courses for more than the number of credits specified in Subsection (2), if the online courses better meet the academic goals of the student.
- (4) An eligible student's primary LEA of enrollment:
  - (a) in conjunction with the student and the student's parent or legal guardian, is responsible for preparing and implementing a student education/occupation plan (SEOP) for the eligible student, as provided in Section [53A-1a-106](#); and
  - (b) shall assist an eligible student in scheduling courses in accordance with the student's SEOP, graduation requirements, and the student's post-secondary plans.
- (5) An eligible student's primary LEA of enrollment may not:

- (a) impose restrictions on a student's selection of an online course that fulfills graduation requirements and is consistent with the student's SEOP or post-secondary plans; or
- (b) give preference to an online course or online course provider.

(6) The State Board of Education, including an employee of the State Board of Education, may not give preference to an online course or online course provider.

(7) (a) Except as provided in Subsection (7)(b), a person may not provide an inducement or incentive to a public school student to participate in the Statewide Online Education Program.

(b) For purposes of Subsection (7)(a):

(i) "Inducement or incentive" does not mean:

(A) instructional materials or software necessary to take an online course;

or

(B) access to a computer or digital learning device for the purpose of taking an online course.

(ii) "Person" does not include a relative of the public school student.

DRAFT

**53A-15-1204.5. Option to enroll in online courses offered through the Statewide Online Education Program for eligible students attending a home or private school.**

(1) An eligible student may enroll in an online course offered through the Statewide Online Education Program if:

- (a) the student meets the course prerequisites and
- (b) the course is open for enrollment.

(2) An eligible student may enroll in online courses for no more than the following number of credits:

- (a) in the 2011-12 and 2012 – 13 school years, two credits;
- (b) in the 2013 – 14 school year, three credits;
- (c) in the 2014-15 school year, four credits;
- (d) in the 2015 – 16 school year, five credits; and
- (e) beginning with the 2016 – 17 school year, six credits.

(3) A student's LEA facilitator may allow an eligible student to enroll in online courses for more than the number of credits specified in Subsection (2); or

(4) upon the request of an eligible student, the State Board of Education may allow the student to enroll in online courses for more than the number of credits specified in Subsection (2), if the online courses better meet the academic goals of the student.

(5) (a) A course credit acknowledgement may originate with either an online course provider or a parent/guardian.

(b) The originating entity shall submit the course credit acknowledgement to the State Board of Education, who shall forward it to the online course provider for acceptance after verification of information.

(6) An eligible student's LEA facilitator in conjunction with the student and the student's parent or legal guardian:

(a) Is responsible for preparing and implementing a student education/occupation plan (SEOP) for the eligible student, as provided in Section 53A-1a-106;

(b) is responsible for child find, in conjunction with the LEA of residence and cooperates with LEA of residence for development of an IEP for the courses the student is enrolled in with the LEA facilitator; and

(c) shall assist in scheduling courses in accordance with the student's graduation requirements and the student's post-secondary plans.

(7) An eligible student's LEA facilitator may not:

(a) impose restrictions on a student's selection of an online course that fulfills graduation

requirements and is consistent with the student's post-secondary plans; or

(b) give preference to an online course or online course provider.

(8) The state Board of Education, including an employee of the State Board of Education, may not give preference to an online course or online course provider.

(9) (a) Except as provided in Subsection (8) (b) a person may not provide inducement or incentive to a public school student to participate in the Statewide Online Education Program.

(b) For purposes of Subsection (8) (b):

(i) "Inducement or incentive" does not mean:

(A) Instructional materials or software necessary to take an online course; or

(B) Access to a computer or digital learning device for the purpose of taking an online course.

(ii) "Person" does not include a relative of the public school student.

DRAFT

**53A-15-1205. Authorized online course providers.**

The following entities may offer online courses to eligible students through the Statewide Online Education Program:

- (1) beginning with the 2011-12 school year, a charter school or district school created exclusively for the purpose of serving students online; and
- (2) beginning with the 2011-12 school year, an LEA program, approved by the LEA's governing board, that is created exclusively for the purpose of serving students online.

DRAFT

**53A-15-1206. Payment for an online course.**

(1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1 credit online course is:

(a) \$200 for the following core curriculum courses, except a concurrent enrollment course:

(i) financial literacy;

(ii) health;

(iii) fitness for life; and

(iv) computer literacy;

(b) \$200 for driver education;

(c) \$250 for a course that meets core curriculum requirements in fine arts or career and technical education, except a concurrent enrollment course;

(d) \$300 for the following courses:

(i) a course that meets core curriculum requirements in social studies, except a concurrent enrollment course; and

(ii) a world language course, except a concurrent enrollment course;

(e) \$350 for the following courses:

(i) a course that meets core curriculum requirements for language arts, mathematics, or science; and

(ii) a concurrent enrollment course; and

(f) \$250 for a course not described in Subsections (1)(a) through (e).

(2) If a course meets the requirements of more than one course fee category described in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.

(3) Beginning with the 2013-14 school year, the online course fees described in Subsection (1) shall be adjusted each school year in accordance with the percentage change in value of the weighted pupil unit from the previous school year.

(4) An online learning provider shall receive payment for an online course as follows:

(a) for a .5 credit online course, 50% of the online course fee after the withdrawal period described in Section 53A-15-1206.5;

(b) for a 1 credit online course, 25% of the online course fee after the withdrawal period described in Section 53A-15-1206.5 and 25% of the online course fee upon the beginning of the second .5 credit of the online course; and

(c) if a student completes a 1 credit online course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, 50% of the online course fee.

(5) (a) If a student fails to complete a 1 credit course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, the student may continue to be enrolled in the course until the student graduates from high school.

(b) To encourage an online course provider to provide remediation to a student who remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the need for credit recovery, an online course provider shall receive a payment equal to 30% of the online course fee if the student completes the online course before the student graduates from high school.

(6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a school district or charter school may:

(a) negotiate a fee with an online course provider for an amount up to the amount prescribed in Subsections (1) through (3); and

(b) pay the negotiated fee instead of the fee prescribed in Subsections (1) through (3).

(7) An online course provider who contracts with a vendor for the acquisition of online course content or online course instruction may negotiate the payment for the vendor's service independent of the fees specified in Subsections (1) through (3).

Amended by Chapter 238, 2012 General Session

**53A-15-1206.5. Withdrawal from an online course.**

(1) An online course provider shall establish a start date for an online course, including a start date for the second .5 credit of a 1 credit online course.

(2) Except as provided in Subsection (3), a student may withdraw from an online course:

(a) within 20 school calendar days of the start date, if the student enrolls in an online course on or before the start date established pursuant to Subsection (1); or

(b) within 20 school calendar days of enrolling in the online course, if the student enrolls in an online course after the start date established pursuant to Subsection (1).

(3) (a) A student may withdraw from a 1 credit online course within 20 school calendar days of the start date of the second .5 credit of the online course.

(b) An online course provider shall refund a payment received for the second .5 credit of an online course if a student withdraws from the online course pursuant to Subsection (3)(a).

(c) If a student withdraws from a 1 credit online course as provided in Subsection (3)(a), the online course provider shall receive payment for the student's completion of .5 credit of the 1 credit course in the same manner as an online course provider receives payment for a student's completion of a .5 credit online course as described in Subsection [53A-15-1206\(4\)](#).

Enacted by Chapter 238, 2012 General Session

**53A-15-1207. State Board of Education to deduct funds and make payments -- Plan for the payment of online courses taken by private and home school students. Payment of online courses taken by private and home school students.**

~~(1) (a) The State Board of Education shall deduct money from funds allocated to the student's primary LEA of enrollment under Chapter 17a, Minimum School Program Act, to pay for online course fees.~~

~~(b) Money shall be deducted under Subsection (1) in the amount and at the time an online course provider qualifies to receive payment for an online course as provided in Subsection 53A-15-1206(4).~~

(1) (a) The State Board of Education shall receive and deduct money from funds allocated for this purpose under Chapter 17a, Minimum School Program Act, to pay for online course fees students attending Home and Private Schools.

(b) Money shall be deducted under Subsection (1) in the amount and at the time an online course provider qualifies to receive payment for an online course as provided in Subsection 53A-15-1206(4).

(2) From money deducted under Subsection (1), the State Board of Education shall make payments to the student's online course provider as provided in Section 53A-15-1206.

~~(2) From money deducted under Subsection (1), the State Board of Education shall make payments to the student's online course provider as provided in Section 53A-15-1206.~~

~~(3) The Legislature shall establish a plan, which shall take effect beginning on July 1, 2013, for the payment of online courses taken by a private school or home school student.~~

**53A-15-1208. Course credit acknowledgement for eligible students enrolled in a Utah district or charter school.**

(1) A student's primary LEA of enrollment and the student's online course provider shall enter into a course credit acknowledgement in which the primary LEA of enrollment and the online course provider acknowledge that the online course provider is responsible for the instruction of the student in a specified online course.

(2) The terms of the course credit acknowledgement shall provide that:

(a) the online course provider shall receive a payment in the amount provided under Section 53A-15-1206; and

(b) the student's primary LEA of enrollment acknowledges that the State Board of Education will deduct funds allocated to the LEA under Chapter 17a, Minimum School Program Act, in the amount and at the time the online course provider qualifies to receive payment for the online course as provided in Subsection 53A-15-1206(4).

(3) (a) A course credit acknowledgement may originate with either an online course provider or primary LEA of enrollment.

(b) The originating entity shall submit the course credit acknowledgement to the State Board of Education who shall forward it to the primary LEA of enrollment for course selection verification or the online course provider for acceptance.

(c) (i) A primary LEA of enrollment may only reject a course credit acknowledgement if:

(A) the online course is not aligned with the student's SEOP;

(B) the online course is not consistent with the student's IEP, if the student has an IEP;

(C) the online course is not consistent with the student's international baccalaureate program, if the student participates in an international baccalaureate program; or

(D) the number of online course credits exceeds the maximum allowed for the year as provided in Section 53A-15-1204.

(ii) Verification of alignment of an online course with a student's SEOP does not require a meeting with the student.

(d) An online course provider may only reject a course credit acknowledgement if:

(i) the student does not meet course prerequisites; or

(ii) the course is not open for enrollment.

(e) A primary LEA of enrollment or online course provider shall submit an acceptance or rejection of a course credit acknowledgement to the State Board of Education within 72

business hours of the receipt of a course credit acknowledgement from the State Board of Education pursuant to Subsection (3)(b).

(f) If an online course provider accepts a course credit acknowledgement, the online course provider shall forward to the primary LEA of enrollment the online course start date as established under Section 53A-15-1206.5.

(g) If an online course provider rejects a course credit acknowledgement, the online course provider shall include an explanation which the State Board of Education shall forward to the primary LEA of enrollment for the purpose of assisting a student with future online course selection.

(h) If a primary LEA of enrollment does not submit an acceptance or rejection of a course credit acknowledgement to the State Board of Education within 72 business hours of the receipt of a course credit acknowledgement from the State Board of Education pursuant to Subsection (3)(b), the State Board of Education shall consider the course credit acknowledgement accepted.

(i) (i) Upon acceptance of a course credit acknowledgement, the primary LEA of enrollment shall notify the student of the acceptance and the start date for the online course as established under Section 53A-15-1206.5.

(ii) Upon rejection of a course credit acknowledgement, the primary LEA of enrollment shall notify the student of the rejection and provide an explanation of the rejection.

(j) If the online course student has an individual education plan (IEP) or 504 accommodations, the primary LEA of enrollment shall forward the IEP or description of 504 accommodations to the online course provider within 72 business hours after the primary LEA of enrollment receives notice that the online course provider accepted the course credit acknowledgement.

(4) (a) A primary LEA of enrollment may not reject a course credit acknowledgement, because the LEA is negotiating, or intends to negotiate, an online course fee with the online course provider pursuant to Subsection 53A-15-1206(6).

(b) If a primary LEA of enrollment negotiates an online course fee with an online course provider before the start date of an online course, a course credit acknowledgement may be amended to reflect the negotiated online course fee.

**53A-15-1208.5. Course credit acknowledgement for eligible students attending a home or private school.**

(1) A student's LEA facilitator and a parent/guardian shall provide the student and parent/guardian with enter into a course credit acknowledgement stating that the LEA facilitator/online course provider is responsible for the instruction of the student in a specified online course(s) and:

- (a) The start date for the online course(s) as established under 53A-15-1206.5;
- (b) That enrollment in the Statewide Online Education Program constitutes participation in public education for the specified courses;
- (c) The LEA facilitator is required to abide by state and federal requirements regarding public education; and
- (d) Student's participation in statewide assessments.

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