

1 **R277. Education, Administration.**

2 **R277-107. Educational Services Outside of an Educator's Regular Employment.**

3 **R277-107-1. 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 of public education in the Board;

7 (b) Subsection 53E-3-401(4), which permits the Board to adopt rules to carry out its
8 duties and responsibilities under the Utah Constitution and state law; and

9 (c) Section 53E-3-512, which directs the Board to make rules that establish basic
10 ethical conduct standards for employees who provide public education-related services or
11 activities outside of their regular employment.

12 (1) The purpose of this rule is to provide direction and parameters for employees
13 who provide or participate in public education-related services or activities outside of their
14 regular public education employment.

15 (2) The Board recognizes that public school educators have expertise and training
16 in various subjects and skills and should have the opportunity to enrich the community with
17 their skills and expertise while still respecting the unique public trust that public educators
18 have.

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20 **R277-107-2. Definitions.**

21 (1) "Activity sponsor" means a private or public individual or entity that employs an
22 employee in any program in which public school students participate.

23 (2) "Extracurricular activity" means an activity for students recognized or sanctioned
24 by an LEA, which may supplement or compliment, but is not part of, the LEA's required
25 program or regular curriculum.

26 (3) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the
27 Blind.

28 (4) "Public education employee" or "employee" means a person who is employed
29 on a full-time, part-time, or contract basis by an LEA.

30 (5)(a) "Private, but public education-related activity" means any type of activity for
31 which:

- 32 (i) a public education employee receives compensation; and
- 33 (ii) the principle clients are students at the school where the employee works.
- 34 (b) "Private, but public education-related activity" may include:
- 35 (i) tutoring;
- 36 (ii) lessons;
- 37 (iii) clinics;
- 38 (iv) camps; or
- 39 (v) travel opportunities.

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41 **R277-107-3. LEA Relationship to Activities Involving Educators.**

42 (1) An LEA may sponsor extracurricular activities or opportunities for students.

43 (2) Extracurricular activities are subject to:

44 (a) school fee laws and rules, including the provisions of R277-407;

45 (b) fee waivers;

46 (c) procurement laws; and

47 (d) all other applicable laws and rules.

48 (3) An employee that participates in a private, but public education-related activity, is
49 subject to the following requirements:

50 (a) An employee's participation in the activity shall be separate and distinguishable
51 from the employee's public employment;

52 (b) An employee may not, in promoting private, but public education-related activity:

53 (a) contact students at a public school, except as permitted by this rule; or

54 (b) use education records, resources, or information obtained through the
55 employee's public employment unless the records, resources, or information are readily
56 available to the general public.

57 (4) An employee may not use school time to discuss, promote, or prepare for:

58 (a) a private activity; or

59 (b) a private, but public education-related activity.

60 (5) An employee may:

61 (a) offer private, but public education-related services, programs or activities to
62 students provided that they are not advertised or promoted by the employee during school

63 time;

64 (b) discuss a private, but public education-related activity with students or parents
65 outside of the classroom and the regular school day;

66 (c) use student directories or online resources which are available to the general
67 public; and

68 (d) use student or school publications in which commercial advertising is allowed, to
69 advertise and promote the activity.

70 (6) An employee may not condition credit and participation in a public school program
71 or activity on a student's participation in such activities as clinics, camps, private programs,
72 or travel activities, which are not equally and freely available to all students.

73 (7) No employee may state or imply to any person that participation in a regular
74 school activity or program is conditioned on participation in a private activity.

75 (8) No provision of this rule shall preclude a student from requesting or petitioning
76 an LEA for approval of credit based on an extracurricular educational experience consistent
77 with LEA policy.

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79 **R277-107-4. Advertising.**

80 (1) An employee may purchase advertising space to advertise an activity or service
81 in a publication, whether or not sponsored by the public schools, that accepts paid or
82 community advertising.

83 (2) A paid advertisement in a school publication may identify the activity, participants,
84 and leaders or service providers by name, provide non-school contact information, and
85 provide details of the employee's employment experience and qualification.

86 (3) An employee may post or distribute posters or brochures in the same manner as
87 could be done by a member of the general public, advertising private services, consistent
88 with LEA policy.

89 (4) Unless an activity is sponsored by the LEA, a paid advertisement in a school
90 publication shall state clearly and distinctly that the activity is NOT sponsored by the LEA.

91 (5) The name of an LEA may not be used in an advertisement unless the LEA's
92 name relates to the employee's employment history or if school facilities have been rented
93 for the activity.

94 (6) If the name of an employee offering a service or participating in an activity is
95 stated in any advertisement sent to the employee's students, or is posted, distributed, or
96 otherwise made available in the employee's school, the advertisement shall state that the
97 activity is not school sponsored.

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99 **R277-107-5. Public Education Employees.**

100 (1) A public education employee shall comply with Title 63G, Chapter 6a, Utah
101 Procurement Code.

102 (2) A public education employee shall comply with Title 67, Chapter 16, Public
103 Officers' and Employees' Ethics Act.

104 (3) Except as provided in Subsection (4), consistent with Section 63G-6a-2404 and
105 Title 67, Chapter 16, Public Officers' and Employees' Ethics Act, a public education
106 employee may not solicit or accept gifts, incentives, honoraria, or stipends from private
107 sources:

108 (a) for the employee's personal or family use;

109 (b) in exchange for payment for advertising placed by the employee; or

110 (c) in exchange for payment for securing agreements, contracts or purchases
111 between private company and public education employer, programs or teams.

112 (4) A public education employee may accept a gift, incentive, honoraria, or stipend
113 from a private source if the gift, incentive, honoraria, or stipend is:

114 (a) of nominal value and is for birthdays, holidays, or teacher appreciation occasions;

115 or

116 (b) a public award in recognition of public service; and

117 (c) consistent with school or LEA policies and the Utah Public Employees' Ethics Act.

118 (5) A public education employee who holds a Utah educator license may be subject
119 to license discipline for violation of this Rule R277-107 and related provisions of Utah law.

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121 **R277-107-6. Public Education Employee/Sponsor Agreements or Contracts.**

122 (1) An agreement between an employee and a sponsor of a private, but public
123 education-related activity shall be signed by the employee and include the following
124 acknowledgments:

125 (a) the parties understand that the activity is not sponsored by an LEA;
126 (b) the employee's responsibilities to the activity sponsor are outside the scope of
127 and unrelated to any public duties or responsibilities the employee may have as a public
128 education employee; and

129 (c) the employee agrees to comply with laws and rules of the state and policies
130 regarding advertising and employee participation.

131 (2) An employee shall provide the LEA business administrator, superintendent, or
132 charter school director with a signed copy of all contracts between the employee and a
133 sponsor of a private, but public-education related activity.

134 (3) An LEA shall maintain a copy of a contract described in Subsection (2) in the
135 employee's personnel file.

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137 **KEY: school personnel**

138 **Date of Enactment or Last Substantive Amendment: July 9, 2018**

139 **Notice of Continuation: May 11, 2018**

140 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-512; 53E-3-**
141 **401(4)**