

1 **R277. Education, Administration.**

2 **R277-625. Mental Health Screeners.**

3 **R277-625-1. 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 over public education in the Board;

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

9 (c) Section [53F-2-522](#) which directs the board to make rules regarding the
10 selection of a mental health screener and financial aid for qualifying parents.

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

12 (a) provide the approval process for a mental health screener chosen by an
13 LEA; and

14 (b) establish the approval and distribution of funds for a qualifying parent to
15 receive financial assistance for related mental health services.

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17 **R277-625-2. Definitions.**

18 (1) "Division" ~~[of Substance Abuse and Mental Health" or "DSAMH"]~~ means the
19 same as the term is defined in Section ~~[62A-15-103]~~ [53F-2-522](#).

20 (2) "Mental health" means a person's emotional, psychological, and social well-
21 being, which can affect how a person thinks, feels, and acts, including how a person
22 handles stress, relates to others, and makes healthy choices.

23 (3) "Mental health screener" or "screener" means ~~[the use of]~~ a systematic tool
24 ~~[or process]~~ that:

25 (a) ~~[to identify]~~ identifies if a student is experiencing, or is at risk of experiencing,
26 issues related to the student's mental health;

27 (b) is used for ~~[an]~~ early identification of ~~[strategy to detect]~~ the onset of mental
28 health conditions, enabling the mental health conditions to be potentially addressed;

29 and

30 (c) ~~that~~ is not:

31 (i) a diagnostic tool ~~[or process]~~; or

32 (ii) a system or process used by a student's teacher to observe behavior for
33 targeted learning interventions.

34 (4) "Mental health services" means the same as the term is defined in
35 Subsection [R523-1-3\(3\)](#).

36 (5) "Qualifies for financial assistance" means a qualifying parent that has a
37 student receiving educational services through an LEA who:

38 (a) receives free or reduced lunch; or

39 (b) as recommended by the local mental health authority, demonstrates need
40 including being:

41 (i) uninsured;

42 (ii) underinsured;

43 (iii) ineligible for Medicaid to cover part or all of any recommended mental health
44 treatments; or

45 (iv) demonstrates a high need for interventions based upon results of the LEA's
46 mental health screener.

47 (6) "Qualifying parent" means the same as the term is defined in Subsection
48 [53F-2-522\(1\)\(d\)](#).

49 (7) "Relevant services" means mental health services provided to a student that
50 are directly related to mental health needs identified by a student's mental health
51 screening.

52

53 **R277-625-3. Approval of Mental Health Screeners.**

54 (1)(a) The Superintendent, in consultation with ~~[DSAMH]~~ the Division, shall
55 publish annually a list of pre-approved mental health screeners to the Board's website.

56 (b) the published pre-approved list shall include:

57 (i) the name or brand of the mental health screener including a link to the
58 screener's website;

- 59 (ii) the recommended ages for the mental health screener;
- 60 (iii) any limitations of the mental health screener including the typical level of
- 61 false positives;
- 62 (iv) the mental health conditions the mental health screener can detect; and
- 63 (iv) the scientific data or research used to verify a screener is evidence based.
- 64 (2) The Board shall approve:
- 65 (a) the pre-approved mental health screener list; and
- 66 (b) the mental health conditions for which a screener can be used.
- 67 (3) All pre-approved mental health screeners shall comply with the requirements
- 68 as described in Title 53E, Chapter 9, Student Privacy and Data Protection, and the
- 69 Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.
- 70 ~~[(4) An LEA that plans to administer a mental health screener shall notify the~~
- 71 ~~Superintendent by a deadline established by the Superintendent:~~
- 72 ~~—— (a) if the LEA plans to:~~
- 73 ~~—— (i) use a mental health screener from the Board's pre-approved list; or~~
- 74 ~~—— (ii) apply to the Superintendent for approval of a mental health screener that is~~
- 75 ~~not on the pre-approved list as described in Subsection (5); and~~
- 76 ~~—— (b) whether an LEA elects to participate in providing a qualifying parent with~~
- 77 ~~financial assistance.]~~
- 78 (4) An LEA governing board shall notify the Superintendent whether the LEA will
- 79 be a participating LEA or non-participating LEA, on a form provided by the
- 80 Superintendent, in compliance with the requirements in Section [53F-2-522](#).
- 81 (5) If the LEA chooses to apply for use of a mental health screener that is not on
- 82 the pre-approved list, the LEA shall submit an application in a form prescribed by the
- 83 Superintendent specifying:
- 84 (a) the mental health screener proposed for use by the LEA;
- 85 (b) the reason for choosing the mental health screener over a screener from the
- 86 pre-approved list;
- 87 (c) the approved mental health conditions the mental health screener measures;

88 (d) how the mental health screener complies with all state and federal data
89 privacy laws; and

90 (e) the scientific data or research demonstrating the mental health screener is
91 evidence based and meets industry standards;

92 (f) why the mental health screener is age appropriate for each grade the
93 screener is administered; and

94 (g) why the mental health screener is an effective tool for identifying whether a
95 student has a mental health condition that requires intervention.

96 (6) The Superintendent shall review the application in consultation with [DSAMH]
97 the Division and approve or deny the application within 30 days of receipt.

98 (7) If the application is approved, the Superintendent shall submit the approved
99 application to the Board for final approval.

100 (8) Subject to legislative appropriation, the Superintendent shall [~~provide~~]
101 annually determine a maximum reimbursement amount an LEA may receive for use of a
102 mental health screener.

103 (9) An LEA may request [~~in writing~~] a reimbursement from the Superintendent in
104 writing in an amount not to exceed the amount described in Subsection (8).

105 (10)(a) An LEA shall require relevant staff, who will be administering a mental
106 health screener, to attend an annual mental health screener training provided by the
107 Superintendent in collaboration with [DSAMH] the Division;

108 (b) the training described in Subsection (10)(a) shall provide an LEA with
109 information needed for appropriate parental consent including:

110 (i) consent shall be obtained:

111 (A) within eight weeks before administration of the mental health screener; and

112 (B) in accordance with Subsection [53E-9-203\(4\)](#);

113 (ii) the consent form shall be provided separately from other consent forms given
114 to a parent pursuant to other state or federal laws;

115 (iii) additional variables that might influence a screener's results; and

116 (iv) a statement that:

- 117 (A) the mental health screener is optional;
118 (B) a screener is not a diagnostic tool;
119 (C) a parent has the right to seek outside resources or opinions; and
120 (D) specifies which board approved mental health conditions the mental health
121 screener measures.

122 (11) An LEA may not administer a mental health screener if the LEA has not
123 attended the annual mental health screener training described in Subsection (10).

124 (12) An LEA shall report annually to the Superintendent aggregate data
125 regarding the types of LEA provided mental health interventions, referrals, or other
126 actions taken based on screener results.

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128 **R277-625-4. Data Privacy.**

129 (1)(a) An LEA shall ensure all data collected or stored by a mental health
130 screener complies with all state and federal data privacy laws and requirements,
131 including those described in Subsection R277-625-3(3).

132 (b) notwithstanding Subsection (1)(a), an LEA shall provide a parent with a list of
133 all parties that may receive any data related to a student's mental health screener
134 before the parent providing consent.

135 (2) An LEA shall provide a parent with a list of all data potentially collected by
136 the mental health screener before consenting to a student's mental health screening.

137 (3) An LEA shall provide the parent of a screened student with:

138 (a) results as described in Subsection [53F-2-522\(4\)\(d\)](#);

139 (b) applicable available resources; and

140 (c) who has access to the screener data.

141 (4) If an LEA has received parental consent, an LEA may share data collected
142 from the mental health screener with a school's multi-disciplinary team.

143 (5) An LEA shall retain and dispose of all data related to a student's mental
144 health screener in accordance with an approved retention schedule not to exceed three
145 years.

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147 **R277-625-5. Financial Assistance for a Qualifying Parent.**

148 (1) An LEA that has elected to participate as described in Subsection R277-625-
149 3(4)(b), may receive reimbursement for relevant services obtained by a qualifying
150 parent who receives financial assistance.

151 (2) An LEA may not receive reimbursement for a qualifying parent if:

152 (a) the qualifying parent's student has begun to receive relevant services outside
153 of the school setting before seeking reimbursement;

154 (b) the LEA can provide the relevant services, including relevant services
155 provided by a third party through a contract with the LEA;

156 (c) except for as provided in Subsection (d), the qualifying parent has received
157 reimbursement for the same relevant services within one year from the date the relevant
158 services began for the student; or

159 (d) an LEA may provide reimbursement to a qualifying parent for the same
160 relevant services within one year from the date relevant services began for the student
161 if:

162 (i) the LEA has no other qualifying parents seeking reimbursement by April 1

163 and;

164 (ii) has reimbursement funds remaining.

165 (3) An LEA may not receive reimbursements that exceed the LEA's award
166 amount as described in Subsection (4).

167 (4) An LEA that has elected to participate as described in Subsection R277-625-
168 3(4)(b), shall receive a total award amount based on need as determined by the
169 Superintendent.

170 (5) The Superintendent shall determine a participating LEA's need by
171 considering the LEA's ability to support and provide mental health services for a student
172 including:

173 (a) the availability of mental health services within the LEA;

- 174 (b) the availability of mental health services within the LEA's surrounding
175 community;
- 176 (c) the overall accessibility of mental health services for students within the LEA;
177 (d) the current student demand for mental health services within an LEA; and
178 (e) capacity of the LEA to meet existing and future student demands for mental
179 health services.

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181 **KEY: mental health screener, mental health, prevention**

182 **Date of Last Change: November 7, 2022**

183 **Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-3-401\(4\)](#); [53F-](#)
184 [2-522](#)**