

1 **R277. Education, Administration.**

2 **R277-723. Start Smart Utah Program.**

3 **R277-723-1. 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) Section 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) Section 53G-9-205.1(3) which directs the Board to create a waiver  
10 application, submission, review, and approval process.

11 (2) The purpose of this rule is to provide the process to apply for and receive a  
12 waiver from the requirements of 53G-9-205.1(2).

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14 **R277-723-2. Definitions.**

15 (1) “Alternative breakfast service model” means the same as the term is defined  
16 in Subsection 53G-9-205.1(1)(a).

17 (2) “Financial hardship” means a school cannot maintain a positive financial  
18 balance in the School food service account due to the operation of an alternative  
19 breakfast service model or school breakfast program.

20 (3) “Logistical hardship” means a school lacks any capacity or resources to  
21 perform the required duties and work flow to support an alternative breakfast service  
22 model or school breakfast program.

23 (4) “Nonprofit school food service account” means the same as the term is  
24 defined in 7 CFR 210.12

25 (5) “Undue hardship” means a logistical or financial hardship.

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27 **R277-723-3. Procedures for Waiver Requests.**

28 (1)(a) An LEA board may request a waiver from some or all of the requirements  
29 of Subsection 53G-9-205.1(2) by filing a written request.

- 30 (b) A written request under Subsection (1)(a) shall include:
- 31 (i) verification that the LEA board voted to request the waiver in an open  
32 meeting;
- 33 (ii) ~~the portions of the requirements as described in~~ Subsection 53G-9-205.1(2)  
34 for which the LEA is seeking a waiver;
- 35 (iii) documentation demonstrating the logistical or financial hardship resulting in  
36 the need for a waiver including:
- 37 (A) cost benefit analysis showing reimbursement will not fully cover anticipated  
38 costs;
- 39 (B) facility capacity unable to support food service needs; ~~or~~
- 40 (C) documentation related to recommendations as outlined in Subsection  
41 53G-9-205(1)(b); or
- 42 (~~ED~~) other data demonstrating logistical or financial hardship;
- 43 ~~(iv) the LEA has a three month balance in the LEA's Nonprofit school food~~  
44 ~~service account pursuant to 7 CFR 210.14.~~
- 45 (iv) possible solutions to mitigate the future need for a waiver; and
- 46 (v) alternative practices to ensure the LEA's free and reduced lunch student  
47 population has the most access possible to nutrition programs during regular school  
48 hours.
- 49 (2) An LEA shall submit a separate waiver for each school within the LEA that  
50 the LEA seeks to exempt from the requirements of Subsection 53G-9-205.1(2).
- 51 (3) An LEA that satisfies the requirements of Subsection 53G-9-205.1(2)(d)(ii) is  
52 exempt from needing to apply for a waiver.
- 53 (4) The Superintendent shall establish a review committee that consists of three  
54 or more members from relevant staff.
- 55 (5) The review committee shall review a waiver request for approval or denial  
56 within 30 days of receipt of the waiver request.
- 57 (6) If the review committee denies an LEA's waiver request, an LEA may appeal  
58 to the Board in writing within 10 calendar days of notice of denial.

59 (7) A waiver granted under R277-723 expires at the end of the school year for  
60 which the waiver was granted.

61 (8) An LEA may create an implementation plan as part of the LEA's efforts to  
62 mitigate the need for a future waiver.

63 (9) The Superintendent may provide additional supports and resources to an  
64 LEA for the purposes of creating an implementation plan.

65 (10) An LEA may implement alternative breakfast service models before the  
66 LEA's waiver has expired.

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68 **R277-723-4. Corrective Action Plan**

69 (1) If an LEA is found to be non-compliant with Section [53G-9-205.1](#) and has  
70 not applied for a waiver pursuant to R277-723, the LEA may be placed on a corrective  
71 action plan described in [R277-114](#).

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73 **KEY: Start Smart Utah; breakfast after the bell; breakfast**

74 **Date of Enactment or Last Substantive Amendment: 2020**

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

76 **[53G-9-205.1](#)**