

**Senator Aaron Osmond** proposes the following substitute bill:

**PARENTAL RIGHTS IN PUBLIC EDUCATION**

**AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Aaron Osmond**

House Sponsor: Rich Cunningham

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**LONG TITLE**

**General Description:**

This bill amends provisions related to certain rights of a parent or guardian of a student enrolled in a public school and provisions related to achievement tests.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ limits the grade levels of a student that is subject to a parent's or guardian's right to retain a student on grade level;
- ▶ amends provisions related to a parent's or guardian's right to excuse a student from attendance for certain purposes;
- ▶ amends provisions related to a parent's or guardian's right to excuse a student from taking certain tests;
- ▶ provides that an accommodation to certain rights of a parent or guardian may only be provided if the accommodation is consistent with federal law and a student's Individualized Education Plan, if applicable; and
- ▶ requires the State Board of Education to make rules providing that scores on certain tests may not be considered in determining a student's academic grade or whether a



26 student may advance to the next grade level.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 [53A-1-603](#), as last amended by Laws of Utah 2013, Chapter 161

34 [53A-15-1401](#), as enacted by Laws of Utah 2014, Chapter 392

35 [53A-15-1403](#), as enacted by Laws of Utah 2014, Chapter 392



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **53A-1-603** is amended to read:

39 **53A-1-603. Duties of State Board of Education.**

40 (1) The State Board of Education shall:

41 (a) require each school district and charter school to implement the Utah Performance  
42 Assessment System for Students, hereafter referred to as U-PASS;

43 (b) require the state superintendent of public instruction to submit and recommend  
44 criterion-referenced achievement tests or online computer adaptive tests, college readiness  
45 assessments, an online writing assessment for grades 5 and 8, and a test for students in grade 3  
46 to measure reading grade level to the board for approval and adoption and distribution to each  
47 school district and charter school by the state superintendent;

48 (c) develop an assessment method to uniformly measure statewide performance, school  
49 district performance, and school performance of students in grades 3 through 12 in mastering  
50 basic skills courses; and

51 (d) provide for the state to participate in the National Assessment of Educational  
52 Progress state-by-state comparison testing program.

53 (2) Except as provided in Subsection (3) and Subsection [53A-1-611](#)(3), under  
54 U-PASS, the State Board of Education shall annually require each school district and charter  
55 school, as applicable, to administer:

56 (a) as determined by the State Board of Education, statewide criterion-referenced tests

57 or online computer adaptive tests in grades 3 through 12 and courses in basic skill areas of the  
58 core curriculum;

59 (b) an online writing assessment to all students in grades 5 and 8;

60 (c) college readiness assessments as detailed in Section [53A-1-611](#); and

61 (d) a test to all students in grade 3 to measure reading grade level.

62 (3) Beginning with the 2014-15 school year, the State Board of Education shall  
63 annually require each school district and charter school, as applicable, to administer a computer  
64 adaptive assessment system that is:

65 (a) adopted by the State Board of Education; and

66 (b) aligned to Utah's common core.

67 (4) The board shall adopt rules for the conduct and administration of U-PASS to  
68 include the following:

69 (a) the computation of student performance based on information that is disaggregated  
70 with respect to race, ethnicity, gender, limited English proficiency, and those students who  
71 qualify for free or reduced price school lunch;

72 (b) security features to maintain the integrity of the system, which could include  
73 statewide uniform testing dates, multiple test forms, and test administration protocols;

74 (c) the exemption of student test scores, by exemption category, such as limited  
75 English proficiency, mobility, and students with disabilities, with the percent or number of  
76 student test scores exempted being publically reported at a district level;

77 (d) compiling of criterion-referenced, online computer adaptive, and online writing test  
78 scores and test score averages at the classroom level to allow for:

79 (i) an annual review of those scores by parents of students and professional and other  
80 appropriate staff at the classroom level at the earliest point in time;

81 (ii) the assessment of year-to-year student progress in specific classes, courses, and  
82 subjects;

83 (iii) a teacher to review, prior to the beginning of a new school year, test scores from  
84 the previous school year of students who have been assigned to the teacher's class for the new  
85 school year;

86 (e) allowing a school district or charter school to have its tests administered and scored  
87 electronically to accelerate the review of test scores and their usefulness to parents and

88 educators under Subsection (4)(d), without violating the integrity of U-PASS; and

89 (f) providing that scores on the tests and assessments required under Subsection (2)(a)  
90 and Subsection (3) [~~shall~~] may not be considered in determining:

91 (i) a student's academic grade for the appropriate course [~~and~~]; or

92 (ii) whether a student [~~shall~~] may advance to the next grade level.

93 (5) (a) A school district or charter school, as applicable, is encouraged to administer an  
94 online writing assessment to students in grade 11.

95 (b) The State Board of Education may award a grant to a school district or charter  
96 school to pay for an online writing assessment and instruction program that may be used to  
97 assess the writing of students in grade 11.

98 (6) The State Board of Education shall make rules:

99 (a) establishing procedures for applying for and awarding money for computer adaptive  
100 tests;

101 (b) specifying how money for computer adaptive tests shall be allocated among school  
102 districts and charter schools that qualify to receive the money; and

103 (c) requiring reporting of the expenditure of money awarded for computer adaptive  
104 testing and evidence that the money was used to implement computer adaptive testing.

105 (7) The State Board of Education shall assure that computer adaptive tests are  
106 administered in compliance with the requirements of Chapter 13, Part 3, Utah Family  
107 Educational Rights and Privacy Act.

108 (8) (a) The State Board of Education shall establish a committee consisting of 15  
109 parents of Utah public education students to review all computer adaptive test questions.

110 (b) The committee established in Subsection (8)(a) shall include the following parent  
111 members:

112 (i) five members appointed by the chair of the State Board of Education;

113 (ii) five members appointed by the speaker of the House of Representatives; and

114 (iii) five members appointed by the president of the Senate.

115 (c) The State Board of Education shall provide staff support to the parent committee.

116 (d) The term of office of each member appointed in Subsection (8)(b) is four years.

117 (e) The chair of the State Board of Education, the speaker of the House of

118 Representatives, and the president of the Senate shall adjust the length of terms to stagger the

119 terms of committee members so that approximately 1/2 of the committee members are  
120 appointed every two years.

121 (f) No member may receive compensation or benefits for the member's service on the  
122 committee.

123 (9) (a) School districts and charter schools shall require each licensed employee to  
124 complete two hours of professional development on youth suicide prevention within their  
125 license cycle in accordance with Section [53A-6-104](#).

126 (b) The State Board of Education shall develop or adopt sample materials to be used by  
127 a school district or charter school for professional development training on youth suicide  
128 prevention.

129 (c) The training required by this Subsection (9) shall be incorporated into professional  
130 development training required by rule in accordance with Section [53A-6-104](#).

131 Section 2. Section **53A-15-1401** is amended to read:

132 **53A-15-1401. Definitions.**

133 As used in this part:

134 (1) "Federal law" means:

135 (a) a statute passed by the Congress of the United States; or

136 (b) a final regulation:

137 (i) adopted by an administrative agency of the United States government; and

138 (ii) published in the code of federal regulations or the federal register.

139 (2) "Individualized Education Program" or "IEP" means a written statement, for a  
140 student with a disability, that is developed, reviewed, and revised in accordance with the  
141 Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

142 [~~1~~] (3) "LEA" means a school district, charter school, or the Utah Schools for the  
143 Deaf and the Blind.

144 [~~2~~] (4) "Reasonably accommodate" means an LEA shall make its best effort to enable  
145 a parent or guardian to exercise a parental right specified in Section [53A-15-1403](#):

146 (a) without substantial impact to staff and resources, including employee working  
147 conditions, safety and supervision on school premises and for school activities, and the  
148 efficient allocation of expenditures; and

149 (b) while balancing:

- 150 (i) the parental rights of parents or guardians;
- 151 (ii) the educational needs of other students;
- 152 (iii) the academic and behavioral impacts to a classroom;
- 153 (iv) a teacher's workload; and
- 154 (v) the assurance of the safe and efficient operation of a school.

155 Section 3. Section **53A-15-1403** is amended to read:

156 **53A-15-1403. Parental right to academic accommodations.**

157 (1) (a) A student's parent or guardian is the primary person responsible for the  
158 education of the student, and the state is in a secondary and supportive role to the parent or  
159 guardian. As such, a student's parent or guardian has the right to reasonable academic  
160 accommodations from the student's LEA as specified in this section.

161 (b) Each accommodation shall be considered on an individual basis and no student  
162 shall be considered to a greater or lesser degree than any other student.

163 (c) The parental rights specified in this section do not include all the rights or  
164 accommodations that may be available to a student's parent or guardian as a user of the public  
165 education system.

166 (d) An accommodation under this section may only be provided if the accommodation  
167 is:

168 (i) consistent with federal law; and

169 (ii) ~~if the student has an IEP;~~ consistent with ~~the~~ a student's IEP

169a ~~if the student already has an IEP~~ .

170 (2) An LEA shall reasonably accommodate a parent's or guardian's written request to  
171 retain a student in kindergarten through grade 8 on grade level based on the student's academic  
172 ability or the student's social, emotional, or physical maturity.

173 (3) An LEA shall reasonably accommodate a parent's or guardian's initial selection of a  
174 teacher or request for a change of teacher.

175 (4) An LEA shall reasonably accommodate the request of a student's parent or guardian  
176 to visit and observe any class the student attends.

177 ~~[(5) (a) An LEA shall reasonably accommodate a written request of a student's parent~~  
178 ~~or guardian to excuse the student from attendance for a family event or visit to a health care~~  
179 ~~provider, without obtaining a note from the provider.]~~

180 ~~[(b) An excused absence provided under Subsection (5)(a) does not diminish~~

181 expectations for the student's academic performance.]

182 (5) Notwithstanding Chapter 11, Part 1, Compulsory Education Requirements, an LEA  
 183 shall record an excused absence for a scheduled family event or a scheduled proactive visit to a  
 184 health care provider if:

185 (a) the parent or guardian submits a written statement at least one school day before the  
 186 scheduled absence; and

187 (b) the student agrees to make up course work for school days missed for the scheduled  
 188 absence in accordance with LEA policy.

189 (6) (a) An LEA shall reasonably accommodate a parent's or guardian's written request  
 190 to place a student in a specialized class ~~Ĥ→ [or]~~ , **specialized program, or ←Ĥ** an  
 190a advanced course.

191 (b) An LEA shall consider multiple academic data points when determining an  
 192 accommodation under Subsection (6)(a).

193 (7) Consistent with Section [53A-13-108](#), which requires the State Board of Education  
 194 to establish graduation requirements that use competency-based standards and assessments, an  
 195 LEA shall allow a student to earn course credit towards high school graduation without  
 196 completing a course in school by:

197 (a) testing out of the course; or

198 (b) demonstrating competency in course standards.

199 (8) An LEA shall reasonably accommodate a parent's or guardian's request to meet  
 200 with a teacher at a mutually agreeable time if the parent or guardian is unable to attend a  
 201 regularly scheduled parent teacher conference.

202 ~~Ĥ→ [(9) (a) Upon [the] receipt of a written [request] statement of a student's parent or~~  
 203 ~~guardian, an LEA shall excuse the student from taking [a test that is administered statewide or~~  
 204 ~~the National Assessment of Educational Progress.];~~

205 ~~—— (i) any summative, interim, or formative test that was developed for, or provided by,~~  
 206 ~~the state under this title; or~~

207 ~~—— (ii) any test that is federally mandated or mandated by the state under this title.~~

208 ~~—— (b) An LEA may not:~~

209 ~~—— (i) require a meeting as a condition of excusing a student from taking a test described~~  
 210 ~~in Subsection (9)(a); or~~

211 ~~—— (ii) specify the form of a written statement under Subsection (9)(a). ↻~~

- 212 ~~⊗~~ (c) A written statement to an LEA to excuse a student from taking a test under  
 213 Subsection (9)(a) remains in effect across multiple school years until:  
 214 (i) further notice from the student's parent or guardian; or  
 215 (ii) the student is no longer enrolled at the LEA.  
 216 (d) An LEA may not reward a student for taking a test described in Subsection (9)(a):  
 217 [(b)] (e) The State Board of Education shall ensure through board rule that neither an  
 218 LEA nor its employees are negatively impacted through school grading or employee evaluation  
 219 due to a student not taking a test pursuant to Subsection (9)(a).]
- 219a (9)(a) At the request of a student's parent or guardian, an LEA shall excuse a student  
 219b from taking an assessment that:  
 219c (i) is federally mandated;  
 219d (ii) is mandated by the state under this title; or  
 219e (iii) requires the use of:  
 219f (A) a state assessment system; or  
 219g (B) software that is provided or paid for by the state.  
 219h (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 219i State Board of Education shall make rules:  
 219j (i) to establish a statewide procedure for excusing a student under Subsection (9)(a)  
 219k that:  
 219l (A) does not place an undue burden on a parent or guardian; and  
 219m (B) may be completed online or through the mail; and  
 219n (ii) to prevent negative impact, to the extent authorized by state statute, to an LEA or  
 219o an LEA's employees through school grading or employee evaluations due to a student not  
 219p taking a test under Subsection (9)(a).  
 219q (c) An LEA:  
 219r (i) shall follow the procedures outlined in rules made by the State Board of Education  
 219s under Subsection (9)(b) to excuse a student under Subsection (9)(a);  
 219t (ii) may not require procedures to excuse a student under Subsection (9)(a) in addition  
 219u to the procedures outlined in rules made by the State Board of Education under Subsection  
 219v (9)(b); and  
 219w (ii) may not reward a student for taking an assessment described in Subsection (9)(a).  
 219x (d) The State Board of Education shall:  
 219y (i) maintain and publish a list of state assessments, state assessment systems, and  
 219z software that qualify under Subsection (9)(a); and  
 219aa (ii) audit and verify an LEA's compliance with the requirements of this Subsection (9). ←H



220 (10) (a) An LEA shall provide for:

221 (i) the distribution of a copy of a school's discipline and conduct policy to each student  
222 in accordance with Section [53A-11-903](#); and

223 (ii) a parent's or guardian's signature acknowledging receipt of the school's discipline  
224 and conduct policy.

225 (b) An LEA shall notify a parent or guardian of a student's violation of a school's  
226 discipline and conduct policy and allow a parent or guardian to respond to the notice in  
227 accordance with Chapter 11, Part 9, School Discipline and Conduct Plans.