

Effective 1/24/2018

Title 53E. Public Education System -- State Administration

**Chapter 1
Title Provisions**

**Part 1
General Provisions**

53E-1-101 Title.

- (1) This title is known as "Public Education System -- State Administration."
- (2) This chapter is known as "Title Provisions."

Enacted by Chapter 1, 2018 General Session

53E-1-102 Public education code definitions.

Unless otherwise indicated, as used in this title, Title 53F, Public Education System -- Funding, and Title 53G, Public Education System -- Local Administration:

- (1) "Charter agreement" means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.
- (2) "Charter school governing board" means the board that governs a charter school.
- (3) "District school" means a public school under the control of a local school board.
- (4) "Individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (5) "LEA governing board" means:
 - (a) for a school district, the local school board;
 - (b) for a charter school, the charter school governing board; or
 - (c) for the Utah Schools for the Deaf and the Blind, the state board.
- (6) "Local education agency" or "LEA" means:
 - (a) a school district;
 - (b) a charter school; or
 - (c) the Utah Schools for the Deaf and the Blind.
- (7) "Local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.
- (8) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.
- (9) "Parent" means a parent or legal guardian.
- (10) "Public education code" means:
 - (a) this title;
 - (b) Title 53F, Public Education System -- Funding; and
 - (c) Title 53G, Public Education System -- Local Administration.
- (11) "Section 504 accommodation plan" means a plan developed in accordance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq., for a student with a disability, to meet the student's educational needs and ensure equitable access to a free appropriate public education.
- (12) "School nurse" means a registered nurse:
 - (a) who holds:

- (i) a license under Title 58, Chapter 31b, Nurse Practice Act; or
 - (ii) a multistate license as that term is defined in Section 58-31e-102; and
 - (b) whose primary role is the care of a defined group of students enrolled in the public school system.
- (13) "State board" means the State Board of Education.
- (14) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

Amended by Chapter 214, 2022 General Session

53E-1-103 Title 53E definitions.

Reserved

Enacted by Chapter 1, 2018 General Session

Part 2 Reports

Effective until 7/1/2024

53E-1-201 Reports to and action required of the Education Interim Committee.

- (1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:
- (a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;
 - (b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;
 - (c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;
 - (d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;
 - (e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;
 - (f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;
 - (g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;
 - (h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;
 - (i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;
 - (j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;
 - (k) the report described in Section 53F-2-522 regarding mental health screening programs;
 - (l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;
 - (m) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

- (n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;
 - (o) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;
 - (p) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;
 - (q) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;
 - (r) the report described in Section 53G-7-221 by the State Board of Education regarding innovation plans;
 - (s) the annual report described in Section 63A-2-502 by the Educational Interpretation and Translation Service Procurement Advisory Council; and
 - (t) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.
- (2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:
- (a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;
 - (b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;
 - (c) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;
 - (d) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;
 - (e) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(5) related to the PRIME pilot program;
 - (f) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;
 - (g) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;
 - (h) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;
 - (i) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;
 - (j) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;
 - (k) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and
 - (l) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the State Board of Education, and the Department of Health and Human Service regarding recommendations related to Medicaid reimbursement for school-based health services.

Amended by Chapter 1, 2023 General Session
Amended by Chapter 328, 2023 General Session
Amended by Chapter 380, 2023 General Session

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53E-1-201 Reports to and action required of the Education Interim Committee.

- (1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:
 - (a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;
 - (b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;
 - (c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;
 - (d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;
 - (e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;
 - (f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;
 - (g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;
 - (h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;
 - (i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;
 - (j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;
 - (k) the report described in Section 53F-2-522 regarding mental health screening programs;
 - (l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;
 - (m) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;
 - (n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;
 - (o) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;
 - (p) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;
 - (q) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;
 - (r) the report described in Section 53G-7-221 by the State Board of Education regarding innovation plans;
 - (s) the annual report described in Section 63A-2-502 by the Educational Interpretation and Translation Service Procurement Advisory Council; and
 - (t) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.
- (2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

- (a) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;
- (b) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;
- (c) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;
- (d) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;
- (e) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;
- (f) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;
- (g) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and
- (h) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the State Board of Education, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

Effective 7/1/2024

53E-1-201 Reports to and action required of the Education Interim Committee.

- (1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:
 - (a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;
 - (b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;
 - (c) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;
 - (d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;
 - (e) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;
 - (f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;
 - (g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;
 - (h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;
 - (i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;
 - (j) the report described in Section 53F-2-522 regarding mental health screening programs;
 - (k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;
 - (l) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

- (m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;
 - (n) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;
 - (o) the report described in Section 53F-5-405 by the state board regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;
 - (p) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;
 - (q) the report described in Section 53G-7-221 by the state board regarding innovation plans;
 - (r) the annual report described in Section 63A-2-502 by the Educational Interpretation and Translation Service Procurement Advisory Council; and
 - (s) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.
- (2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:
- (a) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;
 - (b) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;
 - (c) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;
 - (d) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;
 - (e) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;
 - (f) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;
 - (g) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and
 - (h) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the state board, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

53E-1-202 Reports to and action required of the Public Education Appropriations Subcommittee.

- (1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Public Education Appropriations Subcommittee:
- (a) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;
 - (b) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities; and
 - (c) the report by the STEM Action Center Board described in Section 9-22-109, including the information described in Section 9-22-113 on the status of the computer science initiative.
- (2) In accordance with applicable provisions, the Public Education Appropriations Subcommittee shall complete, if required, the study described in Section 53F-4-304 of scholarship payments.

Amended by Chapter 7, 2023 General Session

(j)
53E-1-202.1 Report to the Public Education Appropriations Subcommittee on the Carson Smith Opportunity Scholarship Program.

- (1) Beginning in 2021, the State Board of Education shall, in accordance with Section 68-3-14, annually submit the report described in Section 53E-7-404 to the Public Education Appropriations Subcommittee.
- (2) This section supersedes any conflicting provisions of Utah law.

Effective until 7/1/2024

53E-1-203 State Superintendent's Annual Report.

- (1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:
 - (a) the operations, activities, programs, and services of the state board;
 - (b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and
 - (c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:
 - (i) a complete statement of fund balances;
 - (ii) a complete statement of revenues by fund and source;
 - (iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;
 - (iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";
 - (v) a statement that includes data on:
 - (A) fall enrollments;
 - (B) average membership;
 - (C) high school graduates;
 - (D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;
 - (E) pupil-teacher ratios;
 - (F) average class sizes;
 - (G) average salaries;
 - (H) applicable private school data; and
 - (I) data from statewide assessments described in Section 53E-4-301 for each school and school district;
 - (vi) statistical information regarding incidents of delinquent activity in the schools or at school-related activities; and
 - (vii) other statistical and financial information about the school system that the state superintendent considers pertinent.
- (2)
 - (a) For the purposes of Subsection (1)(c)(v):

- (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;
 - (ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;
 - (iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and
 - (iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.
- (b) The report shall:
- (i) include the pupil-teacher ratio for:
 - (A) each school district;
 - (B) the charter schools aggregated; and
 - (C) the state's public schools aggregated; and
 - (ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.
- (3) For each operation, activity, program, or service provided by the state board, the annual report shall include:
- (a) a description of the operation, activity, program, or service;
 - (b) data and metrics:
 - (i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and
 - (ii) that are consistent and comparable for each state operation, activity, program, or service;
 - (c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;
 - (d) historical data from previous years for comparison with data reported under Subsections (3) (b) and (c);
 - (e) goals, challenges, and achievements related to the operation, activity, program, or service;
 - (f) relevant federal and state statutory references and requirements;
 - (g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and
 - (h) other information determined by the state board that:
 - (i) may be needed, useful, or of historical significance; or
 - (ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.
- (4)
- (a) Except as provided in Subsection (4)(b), the annual report shall also include:
 - (i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;
 - (ii) the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;
 - (iii) beginning on July 1, 2023, the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;
 - (iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;
 - (v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

- (vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;
 - (vii) the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Interventions Grant Program;
 - (viii) the report described in Section 53F-5-506 by the state board on information related to personalized, competency-based learning; and
 - (ix) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services.
- (b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.
- (5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.
- (6) The state board shall:
- (a) submit the annual report in accordance with Section 68-3-14; and
 - (b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.
- (7)
- (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.
 - (b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Amended by Chapter 36, 2022 General Session

Amended by Chapter 218, 2022 General Session

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53E-1-203 State Superintendent's Annual Report.

- (1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:
- (a) the operations, activities, programs, and services of the state board;
 - (b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and
 - (c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:
 - (i) a complete statement of fund balances;
 - (ii) a complete statement of revenues by fund and source;
 - (iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;
 - (iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";
 - (v) a statement that includes data on:

- (A) fall enrollments;
 - (B) average membership;
 - (C) high school graduates;
 - (D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;
 - (E) pupil-teacher ratios;
 - (F) average class sizes;
 - (G) average salaries;
 - (H) applicable private school data; and
 - (I) data from statewide assessments described in Section 53E-4-301 for each school and school district;
 - (vi) statistical information for each school district and charter school regarding:
 - (A) student attendance by grade level;
 - (B) the percentage of students chronically absent;
 - (C) the percentage of student excused absences; and
 - (D) the percentage of student unexcused absences;
 - (vii) statistical information regarding incidents of delinquent activity in the schools, at school-related activities, on school buses, and at school bus stops; and
 - (viii) other statistical and financial information about the school system that the state superintendent considers pertinent.
- (2)
- (a) For the purposes of Subsection (1)(c)(v):
 - (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;
 - (ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;
 - (iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and
 - (iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.
 - (b) The report shall:
 - (i) include the pupil-teacher ratio for:
 - (A) each school district;
 - (B) the charter schools aggregated; and
 - (C) the state's public schools aggregated; and
 - (ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.
- (3) For each operation, activity, program, or service provided by the state board, the annual report shall include:
- (a) a description of the operation, activity, program, or service;
 - (b) data and metrics:
 - (i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and
 - (ii) that are consistent and comparable for each state operation, activity, program, or service;
 - (c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

- (d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);
 - (e) goals, challenges, and achievements related to the operation, activity, program, or service;
 - (f) relevant federal and state statutory references and requirements;
 - (g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and
 - (h) other information determined by the state board that:
 - (i) may be needed, useful, or of historical significance; or
 - (ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.
- (4)
- (a) Except as provided in Subsection (4)(b), the annual report shall also include:
 - (i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;
 - (ii) the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;
 - (iii) the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;
 - (iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;
 - (v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;
 - (vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;
 - (vii) the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Interventions Grant Program;
 - (viii) the report described in Section 53F-5-506 by the state board on information related to personalized, competency-based learning; and
 - (ix) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services.
 - (b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.
- (5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.
- (6) The state board shall:
- (a) submit the annual report in accordance with Section 68-3-14; and
 - (b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.
- (7)
- (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.
 - (b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Effective 7/1/2024**53E-1-203 State Superintendent's Annual Report.**

- (1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:
- (a) the operations, activities, programs, and services of the state board;
 - (b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and
 - (c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:
 - (i) a complete statement of fund balances;
 - (ii) a complete statement of revenues by fund and source;
 - (iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;
 - (iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";
 - (v) a statement that includes data on:
 - (A) fall enrollments;
 - (B) average membership;
 - (C) high school graduates;
 - (D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;
 - (E) pupil-teacher ratios;
 - (F) average class sizes;
 - (G) average salaries;
 - (H) applicable private school data; and
 - (I) data from statewide assessments described in Section 53E-4-301 for each school and school district;
 - (vi) statistical information for each school district and charter school regarding:
 - (A) student attendance by grade level;
 - (B) the percentage of students chronically absent;
 - (C) the percentage of student excused absences; and
 - (D) the percentage of student unexcused absences;
 - (vii) statistical information regarding incidents of delinquent activity in the schools, at school-related activities, on school buses, and at school bus stops; and
 - (viii) other statistical and financial information about the school system that the state superintendent considers pertinent.
- (2)
- (a) For the purposes of Subsection (1)(c)(v):
 - (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;
 - (ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

- (iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and
 - (iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.
- (b) The report shall:
- (i) include the pupil-teacher ratio for:
 - (A) each school district;
 - (B) the charter schools aggregated; and
 - (C) the state's public schools aggregated; and
 - (ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.
- (3) For each operation, activity, program, or service provided by the state board, the annual report shall include:
- (a) a description of the operation, activity, program, or service;
 - (b) data and metrics:
 - (i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and
 - (ii) that are consistent and comparable for each state operation, activity, program, or service;
 - (c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;
 - (d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);
 - (e) goals, challenges, and achievements related to the operation, activity, program, or service;
 - (f) relevant federal and state statutory references and requirements;
 - (g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and
 - (h) other information determined by the state board that:
 - (i) may be needed, useful, or of historical significance; or
 - (ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.
- (4)
- (a) Except as provided in Subsection (4)(b), the annual report shall also include:
 - (i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;
 - (ii) the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;
 - (iii) the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;
 - (iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;
 - (v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;
 - (vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;
 - (vii) the report described in Section 53F-5-506 by the state board on information related to personalized, competency-based learning; and
 - (viii) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services.

- (b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.
- (5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.
- (6) The state board shall:
 - (a) submit the annual report in accordance with Section 68-3-14; and
 - (b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.
- (7)
 - (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.
 - (b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

53E-1-204 State board report to Education Interim Committee on statutory requirements impacted by assessment waivers.

- (1) As used in this section, "assessment waiver" means the waiver of assessments described in Section 53E-4-315.
- (2) On or before the Education Interim Committee's October 2020 meeting, the state board shall submit a written or oral report to the Education Interim Committee that:
 - (a)
 - (i) identifies the statutory requirements, including programs, reports, evaluations, and accountability measures, impacted by the assessment waiver; and
 - (ii) describes how each statutory requirement described in Subsection (2)(a)(i) is impacted by the assessment waiver;
 - (b)
 - (i) describes the data which the state board:
 - (A) has not collected or will not collect because of the assessment waiver; and
 - (B) has collected or will collect despite the assessment waiver; and
 - (ii) if the state board has collected or will collect data that it will not publish or report, explains why the state board will not publish or report the data;
 - (c) identifies the statutory requirements with which the state board or an LEA has not fully complied or will not fully comply because of the assessment waiver;
 - (d) describes the extent to which the state board or an LEA has complied or will comply with statutory requirements described in Subsection (2)(c); and
 - (e) explains why the state board or an LEA has not fully complied or will not fully comply with the requirements described in Subsection (2)(c).
- (3) Notwithstanding anything to the contrary in Utah law, submission of the written or oral report described in Subsection (2) fulfills a statutory requirement:
 - (a) that the state board addresses in accordance with Subsection (2); and
 - (b) with which the state board or an LEA has not fully complied as described in Subsection (2)(c).
- (4) This section supersedes any conflicting provisions of Utah law.

Enacted by Chapter 10, 2020 Special Session 3

53E-1-205 Reporting impact analysis.

- (1) As used in this section, "proposed report" means a report that:
 - (a) an LEA is required to prepare or submit to the state board;
 - (b) a rule proposed by the state board requires; and
 - (c) is not required by federal law, Utah Code, or another state entity.
- (2) The state board shall establish a policy or procedures to evaluate the impact a proposed report may have on reporting requirements for an LEA.
- (3) The impact described in Subsection (2) may include:
 - (a) the estimated cost to an LEA associated with the proposed report;
 - (b) the estimated time an LEA administrator will spend preparing the proposed report; and
 - (c) any disproportionate impact the proposed report may have on an LEA because of the LEA's size, location, or other factors.

Enacted by Chapter 251, 2021 General Session

53E-1-206 State board report on intergenerational poverty mitigation.

- (1) As used in this section:
 - (a) "Cycle of poverty" means the same as that term is defined in Section 35A-9-102.
 - (b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.
- (2) On or before October 1 of each year, the state board shall provide an annual report to the Department of Workforce Services for inclusion in the intergenerational poverty report described in Section 35A-9-202.
- (3) The report shall:
 - (a) describe policies, procedures, and programs that the state board has implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty; and
 - (b) contain recommendations to the Legislature on how to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty.

Enacted by Chapter 36, 2022 General Session

**Chapter 2
Public Education System Policy**

**Part 1
General Provisions**

53E-2-101 Title.

This chapter is known as "Public Education System Policy."

Enacted by Chapter 1, 2018 General Session

Part 2

Policy and Planning for the Public Education System

53E-2-201 Policy for Utah's public education system.

- (1)
 - (a) The continuous cultivation of an informed and virtuous citizenry among succeeding generations is essential to the state and the nation.
 - (b) The state's public education system is established and maintained as provided in Utah Constitution, Article X, and this public education code.
 - (c) Parents have the primary responsibility for the education of their children and elect representatives in the Legislature and on state and local school boards to administer the state public education system, which provides extensive support and assistance. All children of the state are entitled to a free elementary and secondary public education as provided in Utah Constitution, Article X.
 - (d) Public schools fulfill a vital purpose in the education and preparation of informed and responsible citizens who:
 - (i) fully understand and lawfully exercise their individual rights and liberties;
 - (ii) become self-reliant and able to provide for themselves and their families; and
 - (iii) contribute to the public good and the health, welfare, and security of the state and the nation.
- (2) In the implementation of all policies, programs, and responsibilities adopted in accordance with this public education code, the Legislature, the state board, local school boards, and charter school governing boards shall:
 - (a) respect, protect, and further the interests of parents in their children's public education; and
 - (b) promote and encourage full and active participation and involvement of parents at all public schools.

Amended by Chapter 186, 2019 General Session

53E-2-202 Planning for Utah's public education system.

The state board shall:

- (1) create, maintain, and review on a regular basis a statewide, comprehensive multi-year strategic plan that includes long-term goals for improved student outcomes; and
- (2) report annually to the Education Interim Committee on or before December 15 on the strategic plan described in Subsection (1), including progress toward achieving long-term goals.

Part 3

Goals and Methods of the Public Education System

53E-2-301 Public education's vision and mission.

- (1) The Legislature envisions an educated citizenry that encompasses the following foundational principles:
 - (a) citizen participation in civic and political affairs;

- (b) economic prosperity for the state by graduating students who are college and career ready;
 - (c) strong moral and social values; and
 - (d) loyalty and commitment to constitutional government.
- (2) The Legislature recognizes that public education's mission is to assure Utah the best educated citizenry in the world and each individual the training to succeed in a global society by providing students with:
- (a) learning and occupational skills;
 - (b) character development;
 - (c) literacy and numeracy;
 - (d) high quality instruction;
 - (e) curriculum based on high standards and relevance; and
 - (f) effective assessment to inform high quality instruction and accountability.
- (3) The Legislature:
- (a) recognizes that parents are a child's first teachers and are responsible for the education of their children;
 - (b) encourages family engagement and adequate preparation so that students enter the public education system ready to learn; and
 - (c) intends that the mission detailed in Subsection (2) be carried out through a responsive educational system that guarantees local school communities autonomy, flexibility, and client choice, while holding them accountable for results.
- (4) This section will be applied consistent with Section 53G-10-204.

Amended by Chapter 186, 2019 General Session

53E-2-302 Characteristics of public education system.

The Legislature shall assist in maintaining a public education system that has the following characteristics:

- (1) assumes that all students have the ability to learn and that each student departing the system will be prepared to achieve success in productive employment, further education, or both;
- (2) provides a personalized education plan or personalized education occupation plan for each student, which involves the student, the student's parent, and school personnel in establishing the plan;
- (3) provides students with the knowledge and skills to take responsibility for their decisions and to make appropriate choices;
- (4) provides opportunities for students to exhibit the capacity to learn, think, reason, and work effectively, individually and in groups;
- (5) offers world-class core standards that enable students to successfully compete in a global society, and to succeed as citizens of a constitutional republic;
- (6) incorporates an information retrieval system that provides students, parents, and educators with reliable, useful, and timely data on the progress of each student;
- (7) attracts, prepares, inducts, and retains excellent teachers for every classroom in large part through collaborative efforts among the state board, the Utah Board of Higher Education, and school districts, provides effective ongoing professional development opportunities for teachers to improve their teaching skills, and provides recognition, rewards, and compensation for their excellence;
- (8) empowers each school district and public school to create its own vision and plan to achieve results consistent with the objectives outlined in this part;

- (9) uses technology to improve teaching and learning processes and for the delivery of educational services;
- (10) promotes ongoing research and development projects at the district and the school level that are directed at improving or enhancing public education;
- (11) offers a public school choice program, which gives students and their parents options to best meet the student's personalized education needs;
- (12) emphasizes the involvement of educators, parents, business partnerships, and the community at large in the educational process by allowing them to be involved in establishing and implementing educational goals and participating in decision-making at the school site; and
- (13) emphasizes competency-based standards and progress-based assessments, including tracking and measurement systems.

Amended by Chapter 365, 2020 General Session

53E-2-303 Family participation in educational process -- Family engagement policy.

- (1) The Legislature recognizes the importance of parental participation in the educational process in order for students to achieve and maintain high levels of performance.
- (2) It is, therefore, the policy of the state to:
 - (a) encourage parents to provide a home environment that values education and send their children to school prepared to learn;
 - (b) rely upon school districts and schools to provide opportunities for parents of students to be involved in establishing and implementing educational goals for their respective schools and students; and
 - (c) expect employers to recognize the need for parents and members of the community to participate in the public education system in order to help students achieve and maintain excellence.
- (3)
 - (a) Each local school board shall adopt a policy on parental involvement in the schools of the district.
 - (b)
 - (i) The local school board shall design its policy to build consistent and effective communication among parents, teachers, and administrators.
 - (ii) The policy described in Subsection (3)(b)(i):
 - (A) shall include parents or family, when appropriate, of children learning English, regardless of prevalence of children learning English in the geographic area in which the LEA is located; and
 - (B) may include assistance from community organizations to assist through a preferred method of communication.
 - (c) The policy shall provide parents with the opportunity to be actively involved in their children's education and to be informed of:
 - (i) the importance of the involvement of parents in directly affecting the success of their children's educational efforts; and
 - (ii) groups and organizations that may provide instruction and training to parents to help improve their children's academic success and support their academic efforts.

Amended by Chapter 354, 2022 General Session

Effective until 7/1/2024

53E-2-304 School district and individual school powers -- Plan for college and career readiness definition.

- (1) In order to acquire and develop the characteristics listed in Section 53E-2-302, each school district and each public school within its respective district shall implement a comprehensive system of accountability in which students advance through public schools by demonstrating competency in the core standards for Utah public schools through the use of diverse assessment instruments such as authentic assessments, projects, and portfolios.
- (2)
 - (a) Each school district and public school shall:
 - (i) develop and implement programs integrating technology into the curriculum, instruction, and student assessment;
 - (ii) provide for teacher and parent involvement in policymaking at the school site;
 - (iii) implement a public school choice program to give parents, students, and teachers greater flexibility in designing and choosing among programs with different focuses through schools within the same district and other districts, subject to space availability, demographics, and legal and performance criteria;
 - (iv) establish strategic planning at both the district and school level and site-based decision making programs at the school level;
 - (v) provide opportunities for each student to acquire and develop academic and occupational knowledge, skills, and abilities;
 - (vi) participate in ongoing research and development projects primarily at the school level aimed at improving the quality of education within the system; and
 - (vii) involve business and industry in the education process through the establishment of partnerships with the business community at the district and school level.
 - (b)
 - (i) As used in this section, "plan for college and career readiness" means a plan developed by a student and the student's parent, in consultation with school counselors, teachers, and administrators that:
 - (A) is initiated at the beginning of grade 7;
 - (B) identifies a student's skills and objectives;
 - (C) maps out a strategy to guide a student's course selection; and
 - (D) links a student to post-secondary options, including higher education and careers.
 - (ii) Each local school board, in consultation with school personnel, parents, and school community councils or similar entities shall establish policies to provide for the effective implementation of an individual learning plan or a plan for college and career readiness for each student at the school site.
 - (iii) The policies shall include guidelines and expectations for:
 - (A) recognizing the student's accomplishments, strengths, and progress toward meeting student achievement standards as defined in the core standards for Utah public schools;
 - (B) planning, monitoring, and managing education and career development; and
 - (C) involving students, parents, and school personnel in preparing and implementing an individual learning plan and a plan for college and career readiness.
 - (iv) A parent may request a conference with school personnel in addition to an individual learning plan or a plan for college and career readiness conference established by local school board policy.
 - (v) Time spent during the school day to implement an individual learning plan or a plan for college and career readiness is considered part of the school term described in Section 53F-2-102.

- (3) A school district or public school may submit proposals to modify or waive rules or policies of a supervisory authority within the public education system in order to acquire or develop the characteristics listed in Section 53E-2-302.
- (4)
 - (a) Each school district and public school shall make an annual report to its patrons on its activities under this section.
 - (b) The reporting process shall involve participation from teachers, parents, and the community at large in determining how well the district or school is performing.

Amended by Chapter 186, 2019 General Session

Effective 7/1/2024

53E-2-304 School district and individual school powers -- Plan for college and career readiness definition.

- (1) In order to acquire and develop the characteristics listed in Section 53E-2-302, each school district and each public school within its respective district shall implement a comprehensive system of accountability in which students advance through public schools by demonstrating competency in the core standards for Utah public schools through the use of diverse assessment instruments such as authentic assessments, projects, and portfolios.
- (2)
 - (a) Each school district and public school shall:
 - (i) develop and implement programs integrating technology into the curriculum, instruction, and student assessment;
 - (ii) in accordance with Subsection (5) and beginning July 1, 2025:
 - (A) provide an environment to all educators, school staff, and students that does not pose a predictable threat of serious bodily injury to the educators, school staff, or students;
 - (B) provide an education to all students in which the students' classroom is not disrupted by a pattern of behavior that interferes substantially and materially with classroom instruction;
 - (C) provide an environment to all educators, school staff, and students that is free from repeated verbal or physical sexual harassment or sexual assault;
 - (iii) provide for teacher and parent involvement in policymaking at the school site;
 - (iv) implement a public school choice program to give parents, students, and teachers greater flexibility in designing and choosing among programs with different focuses through schools within the same district and other districts, subject to space availability, demographics, and legal and performance criteria;
 - (v) establish strategic planning at both the district and school level and site-based decision making programs at the school level;
 - (vi) provide opportunities for each student to acquire and develop academic and occupational knowledge, skills, and abilities;
 - (vii) participate in ongoing research and development projects primarily at the school level aimed at improving the quality of education within the system; and
 - (viii) involve business and industry in the education process through the establishment of partnerships with the business community at the district and school level.
 - (b)
 - (i) As used in this section, "plan for college and career readiness" means a plan developed by a student and the student's parent, in consultation with school counselors, teachers, and administrators that:
 - (A) is initiated at the beginning of grade 7;

- (B) identifies a student's skills and objectives;
- (C) maps out a strategy to guide a student's course selection; and
- (D) links a student to post-secondary options, including higher education and careers.
- (ii) Each local school board, in consultation with school personnel, parents, and school community councils or similar entities shall establish policies to provide for the effective implementation of an individual learning plan or a plan for college and career readiness for each student at the school site.
- (iii) The policies shall include guidelines and expectations for:
 - (A) recognizing the student's accomplishments, strengths, and progress toward meeting student achievement standards as defined in the core standards for Utah public schools;
 - (B) planning, monitoring, and managing education and career development; and
 - (C) involving students, parents, and school personnel in preparing and implementing an individual learning plan and a plan for college and career readiness.
- (iv) A parent may request a conference with school personnel in addition to an individual learning plan or a plan for college and career readiness conference established by local school board policy.
- (v) Time spent during the school day to implement an individual learning plan or a plan for college and career readiness is considered part of the school term described in Section 53F-2-102.
- (3) A school district or public school may submit proposals to modify or waive rules or policies of a supervisory authority within the public education system in order to acquire or develop the characteristics listed in Section 53E-2-302.
- (4)
 - (a) Each school district and public school shall make an annual report to its patrons on its activities under this section.
 - (b) The reporting process shall involve participation from teachers, parents, and the community at large in determining how well the district or school is performing.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to ensure implementation of the requirements described in Subsection (2)(a)(ii).
- (6) Nothing in this section creates a private right of action or constitutes a waiver of immunity under Section 63G-7-301.

Chapter 3
State Board of Education Organization, Powers, and Duties

Part 1
General Provisions

53E-3-101 Title.

This chapter is known as "State Board of Education Organization, Powers, and Duties."

Enacted by Chapter 1, 2018 General Session

Part 2 Organization

53E-3-201 State board members -- Election and appointment of officers -- Removal from office.

- (1) Members of the state board shall be nominated and elected as provided in Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.
- (2) The state board shall elect from its members a chair, and at least one vice chair, but no more than three vice chairs, every other year at a meeting held any time between November 15 and January 15.
- (3)
 - (a) If the election of officers is held subsequent to the election of a new member of the state board, but prior to the time that the new member takes office, the new member shall assume the position of the outgoing member for purposes of the election of officers.
 - (b) In all other matters the outgoing member shall retain the full authority of the office until replaced as provided by law.
- (4) The duties of these officers shall be determined by the state board.
- (5) The state board shall appoint a secretary who serves at the pleasure of the state board.
- (6) An officer appointed or elected by the state board under this section may be removed from office for cause by a vote of two-thirds of the state board.

Amended by Chapter 186, 2019 General Session

53E-3-202 Compensation for members of the state board -- Insurance -- Per diem and expenses.

- (1) The salary for a member of the state board is set in accordance with Section 36-2-3.
- (2) Compensation for a member of the state board is payable monthly.
- (3) A state board member may participate in any group insurance plan provided to employees of the state board as part of the state board member's compensation on the same basis as required for employee participation.
- (4) In addition to the provisions of Subsections (1) and (3), a state board member may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 186, 2019 General Session

53E-3-203 State board meetings -- Quorum requirements.

- (1) The state board shall meet at the call of the chairman and at least 11 times each year.
- (2) A majority of all members is required to validate an act of the state board.

Amended by Chapter 186, 2019 General Session

53E-3-204 Gross neglect of duty -- Nonpayment of salary or expenses.

- (1) Failure of a member of the state board or of an LEA governing board to carry out responsibilities assigned by law or to comply with rules of the state board is gross neglect of duty.
- (2) Salary or expenses shall not be paid for work which violates rules of the state board.

Amended by Chapter 186, 2019 General Session

Part 3 State Superintendent

53E-3-301 Appointment -- Qualifications -- Duties.

- (1)
 - (a) The state board shall appoint a state superintendent of public instruction, who is the executive officer of the state board and serves at the pleasure of the state board.
 - (b) The state board shall appoint the state superintendent on the basis of outstanding professional qualifications.
 - (c) The state superintendent shall administer all programs assigned to the state board in accordance with the policies and the standards established by the state board.
- (2) The state board shall, with the state superintendent, develop a statewide education strategy focusing on core academics, including the development of:
 - (a) core standards for Utah public schools and graduation requirements;
 - (b) a process to select model instructional materials that best correlate with the core standards for Utah public schools and graduation requirements that are supported by generally accepted scientific standards of evidence;
 - (c) professional development programs for teachers, superintendents, and principals;
 - (d) model remediation programs;
 - (e) a model method for creating individual student learning targets, and a method of measuring an individual student's performance toward those targets;
 - (f) progress-based assessments for ongoing performance evaluations of school districts and schools;
 - (g) incentives to achieve the desired outcome of individual student progress in core academics that do not create disincentives for setting high goals for the students;
 - (h) an annual report card for school and school district performance, measuring learning and reporting progress-based assessments;
 - (i) a systematic method to encourage innovation in schools and school districts as each strives to achieve improvement in performance; and
 - (j) a method for identifying and sharing best demonstrated practices across school districts and schools.
- (3) The state superintendent shall perform duties assigned by the state board, including:
 - (a) investigating all matters pertaining to the public schools;
 - (b) adopting and keeping an official seal to authenticate the state superintendent's official acts;
 - (c) holding and conducting meetings, seminars, and conferences on educational topics;
 - (d) collecting and organizing education data into an automated decision support system to facilitate school district and school improvement planning, accountability reporting, performance recognition, and the evaluation of educational policy and program effectiveness to include:

- (i) data that are:
 - (A) comparable across schools and school districts;
 - (B) appropriate for use in longitudinal studies; and
 - (C) comprehensive with regard to the data elements required under applicable state or federal law or state board rule;
 - (ii) features that enable users, most particularly school administrators, teachers, and parents, to:
 - (A) retrieve school and school district level data electronically;
 - (B) interpret the data visually; and
 - (C) draw conclusions that are statistically valid; and
 - (iii) procedures for the collection and management of education data that:
 - (A) require the state superintendent to:
 - (I) collaborate with school districts and charter schools in designing and implementing uniform data standards and definitions;
 - (II) undertake or sponsor research to implement improved methods for analyzing education data;
 - (III) provide for data security to prevent unauthorized access to or contamination of the data; and
 - (IV) protect the confidentiality of data under state and federal privacy laws; and
 - (B) require all school districts and schools to comply with the data collection and management procedures established under Subsection (3)(d);
 - (e) administering and implementing federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs; and
 - (f) with the approval of the state board, preparing and submitting to the governor a budget for the state board to be included in the budget that the governor submits to the Legislature.
- (4) The state superintendent shall distribute funds deposited in the Autism Awareness Restricted Account created in Section 53F-9-401 in accordance with the requirements of Section 53F-9-401.
- (5) Upon leaving office, the state superintendent shall deliver to the state superintendent's successor all books, records, documents, maps, reports, papers, and other articles pertaining to the state superintendent's office.

Amended by Chapter 186, 2019 General Session

Amended by Chapter 324, 2019 General Session

53E-3-302 Compensation of state superintendent -- Other state board employees.

- (1) The state board shall establish the compensation of the state superintendent.
- (2) The state board may, as necessary for the proper administration and supervision of the public school system:
 - (a) appoint other employees; and
 - (b) delegate appropriate duties and responsibilities to state board employees.
- (3) The compensation and duties of state board employees shall be established by the state board and paid from money appropriated for that purpose.

Amended by Chapter 186, 2019 General Session

53E-3-303 Advice by state superintendent -- Written opinions.

- (1) The state superintendent shall advise superintendents, LEA governing boards, and other school officers upon all matters involving the welfare of the schools.
- (2) The state superintendent shall, when requested by district superintendents or other school officers, provide written opinions on questions of public education, administrative policy, and procedure, but not upon questions of law.
- (3) Upon request by the state superintendent, the attorney general shall issue written opinions on questions of law.
- (4) Opinions issued under this section shall be considered to be correct and final unless set aside by a court of competent jurisdiction or by subsequent legislation.

Amended by Chapter 186, 2019 General Session

Part 4 Powers

53E-3-401 Powers of the state board -- Adoption of rules -- Enforcement -- Attorney.

- (1) As used in this section:
 - (a) "Education entity" means:
 - (i) an entity that receives a distribution of state funds through a grant program managed by the state board under this public education code;
 - (ii) an entity that enters into a contract with the state board to provide an educational good or service;
 - (iii) a school district;
 - (iv) a charter school; or
 - (v) a regional education service agency, as that term is defined in Section 53G-4-410.
 - (b) "Educational good or service" means a good or service that is required or regulated under:
 - (i) this public education code; or
 - (ii) a rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and authorized under this public education code.
- (2)
 - (a) The state board has general control and supervision of the state's public education system.
 - (b) "General control and supervision" as used in Utah Constitution, Article X, Section 3, means directed to the whole system.
- (3) The state board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.
- (4)
 - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules to execute the state board's duties and responsibilities under the Utah Constitution and state law.
 - (b) The state board may delegate the state board's statutory duties and responsibilities to state board employees.
- (5)
 - (a) The state board may sell any interest it holds in real property upon a finding by the state board that the property interest is surplus.
 - (b) The state board may use the money it receives from a sale under Subsection (5)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

- (c) If the property interest under Subsection (5)(a) was held for the benefit of an agency or institution administered by the state board, the money may only be used for purposes related to the agency or institution.
- (d) The state board shall advise the Legislature of any sale under Subsection (5)(a) and related matters during the next following session of the Legislature.
- (6) The state board shall develop policies and procedures related to federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs.
- (7) On or before December 31, 2010, the state board shall review mandates or requirements provided for in state board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.
- (8)
 - (a) If an education entity violates this public education code or rules authorized under this public education code, the state board may, in accordance with the rules described in Subsection (8)(c):
 - (i) require the education entity to enter into a corrective action agreement with the state board;
 - (ii) temporarily or permanently withhold state funds from the education entity;
 - (iii) require the education entity to pay a penalty; or
 - (iv) require the education entity to reimburse specified state funds to the state board.
 - (b) Except for temporarily withheld funds, if the state board collects state funds under Subsection (8)(a), the state board shall pay the funds into the Uniform School Fund.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:
 - (i) that require notice and an opportunity to be heard for an education entity affected by a state board action described in Subsection (8)(a); and
 - (ii) to administer this Subsection (8).
 - (d)
 - (i) An individual may bring a violation of statute or state board rule to the attention of the state board in accordance with a process described in rule adopted by the state board.
 - (ii) If the state board identifies a violation of statute or state board rule as a result of the process described in Subsection (8)(d)(i), the state board may take action in accordance with this section.
 - (e) The state board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.
- (9) The state board may audit the use of state funds by an education entity that receives those state funds as a distribution from the state board.
- (10) The state board may require, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:
 - (a) this public education code; and
 - (b) state board rule authorized under this public education code.
- (11)
 - (a) The state board may appoint an attorney to provide legal advice to the state board and coordinate legal affairs for the state board and the state board's employees.
 - (b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the Attorney General.
 - (c) An attorney described in Subsection (11)(a) may not:

- (i) conduct litigation;
 - (ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201; or
 - (iii) issue formal legal opinions.
- (12) The state board shall ensure that any training or certification that an employee of the public education system is required to complete under this title or by rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Amended by Chapter 253, 2020 General Session

Amended by Chapter 408, 2020 General Session

53E-3-402 Acceptance of gifts, endowments, devises, and bequests.

- (1) The state board, on its own behalf or on behalf of an educational institution for which the state board is the direct governing body, may accept private grants, loans, gifts, endowments, devises, or bequests which are made for educational purposes.
- (2) These contributions are not subject to appropriation by the Legislature.

Amended by Chapter 186, 2019 General Session

53E-3-403 Establishment of public education foundations -- Powers and duties -- Tax exempt status.

- (1) The state board, a local school board, or the Utah Schools for the Deaf and the Blind may establish foundations to:
 - (a) assist in the development and implementation of programs to promote educational excellence; and
 - (b) assist in the accomplishment of other education-related objectives.
- (2) A foundation established under Subsection (1):
 - (a) may solicit and receive contributions from private enterprises for the purpose of this section;
 - (b) shall comply with Title 51, Chapter 7, State Money Management Act, and rules made under the act;
 - (c) has no power or authority to incur contractual obligations or liabilities that constitute a claim against public funds except as provided in this section;
 - (d) may not exercise executive, administrative, or rulemaking authority over the programs described in this section, except to the extent specifically authorized by the responsible school board;
 - (e) is exempt from all taxes levied by the state or any of its political subdivisions with respect to activities conducted under this section;
 - (f) may participate in the Risk Management Fund under Section 63A-4-204;
 - (g) shall provide a school with information detailing transactions and balances of funds managed for that school;
 - (h) shall, for foundation accounts from which money is distributed to schools, provide all the schools within a school district information that:
 - (i) details account transactions; and
 - (ii) shows available balances in the accounts; and
 - (i) may not:
 - (i) engage in lobbying activities;
 - (ii) attempt to influence legislation; or
 - (iii) participate in any campaign activity for or against:
 - (A) a political candidate; or

- (B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.
- (3) A local school board that establishes a foundation under Subsection (1) shall:
 - (a) require the foundation to:
 - (i) use the school district's accounting system; or
 - (ii) follow written accounting policies established by the local school board;
 - (b) review and approve the foundation's accounting, purchasing, and check issuance policies to ensure that there is an adequate separation of responsibilities; and
 - (c) approve procedures to verify that issued foundation payments have been properly approved.

Amended by Chapter 186, 2019 General Session

Part 5 Miscellaneous Duties

53E-3-501 State board to establish miscellaneous minimum standards for public schools.

- (1) The state board shall establish rules and minimum standards for the public schools that are consistent with this public education code, including rules and minimum standards governing the following:
 - (a)
 - (i) the qualification and certification of educators and ancillary personnel who provide direct student services;
 - (ii) required school administrative and supervisory services; and
 - (iii) the evaluation of instructional personnel;
 - (b)
 - (i) access to programs;
 - (ii) attendance;
 - (iii) competency levels;
 - (iv) graduation requirements; and
 - (v) discipline and control;
 - (c)
 - (i) school accreditation;
 - (ii) the academic year;
 - (iii) alternative and pilot programs;
 - (iv) curriculum and instruction requirements; and
 - (v) school libraries;
 - (d) services to:
 - (i) persons with a disability as defined by and covered under:
 - (A) the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102;
 - (B) the Rehabilitation Act of 1973, 29 U.S.C. Sec. 705(20)(A); and
 - (C) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401(3); and
 - (ii) other special groups;
 - (e)
 - (i) state reimbursed bus routes;
 - (ii) bus safety and operational requirements; and
 - (iii) other transportation needs;

- (f)
 - (i) school productivity and cost effectiveness measures;
 - (ii) federal programs;
 - (iii) school budget formats; and
 - (iv) financial, statistical, and student accounting requirements; and
- (g) data collection and reporting by LEAs.
- (2) Except as provided in Subsection (3), the state board shall determine if:
 - (a) the minimum standards have been met; and
 - (b) required reports are properly submitted.
- (3) When the state board makes a request of an LEA under Subsection (1)(f) or (g), the state board shall include:
 - (a) the justification for the requested information;
 - (b) a statement confirming that the information is not available elsewhere;
 - (c) a deadline by which the LEA must provide the information in accordance with state board rule; and
 - (d) penalties, including withholding of funds, for non-compliance in accordance with state and federal law.
- (4) The state board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.
- (5)
 - (a) A technical college listed in Section 53B-2a-105 shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the state board.
 - (b) A school district may grant a high school diploma to a student participating in a course described in Subsection (5)(a) that is provided by a technical college listed in Section 53B-2a-105.
- (6)
 - (a) As used in this Subsection (6), "generally accepted accounting principles" means a common framework of accounting rules and standards for financial reporting promulgated by the Governmental Accounting Standards Board.
 - (b) Subject to Subsections (6)(c) and (d), the state board shall ensure the rules and standards described in Subsections (1)(f) and (g) allow for an LEA to make adjustments to the LEA's general entry ledger, in accordance with generally accepted accounting principles, to accurately reflect the LEA's use of funds for allowable costs and activities:
 - (i) during a fiscal year; and
 - (ii) at the close of a fiscal year.
 - (c) If the state board determines under Subsection (2) that an LEA has not met the minimum standards described in Subsection (1)(f) or (g) or has not properly submitted a required report, the state board shall allow the LEA an opportunity to cure the relevant defect through an adjustment described in Subsection (6)(b).
 - (d) An LEA may not, in an adjustment described in Subsection (6)(b), reflect the use of restricted federal or state funds for a cost or activity that is not an allowable cost or activity for the restricted funds.

Amended by Chapter 527, 2023 General Session

53E-3-502 State Board of Education assistance to districts and schools.

In order to assist school districts and individual schools in acquiring and maintaining the characteristics set forth in Section 53E-2-302, the State Board of Education shall:

- (1) provide the framework for an education system, including core competency standards and their assessment, in which school districts and public schools permit students to advance by demonstrating competency in subject matter and mastery of skills;
- (2) conduct a statewide public awareness program on competency-based educational systems;
- (3) compile and publish, for the state as a whole, a set of educational performance indicators describing trends in student performance;
- (4) promote a public education climate of high expectations and academic excellence;
- (5) disseminate successful site-based decision-making models to districts and schools and provide teacher professional development opportunities and evaluation programs for site-based plans consistent with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b);
- (6) provide a mechanism for widespread dissemination of information about strategic planning for public education, including involvement of business and industry in the education process, in order to ensure the understanding and support of all the individuals and groups concerned with the mission of public education as outlined in Section 53E-2-301;
- (7) provide for a research and development clearing house at the state level to receive and share with school districts and public schools information on effective and innovative practices and programs in education;
- (8) help school districts develop and implement guidelines, strategies, and professional development programs for administrators and teachers consistent with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b) focused on improving interaction with parents and promoting greater parental involvement in the public schools; and
- (9) in concert with the Utah Board of Higher Education and the state's colleges of education review and revise teacher licensing requirements to be consistent with teacher preparation for participation in personalized education programs within the public schools.

Amended by Chapter 365, 2020 General Session

(j)
53E-3-503 Education of individuals in custody of or receiving services from certain state agencies -- Establishment of coordinating council -- Advisory councils.

- (1)
 - (a) The state board is directly responsible for the education of all individuals who are:
 - (i)
 - (A) younger than 21 years old; or
 - (B) eligible for special education services as described in Chapter 7, Part 2, Special Education Program; and
 - (ii)
 - (A) receiving services from the Department of Health and Human Services;
 - (B) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent resides within the state;
or
 - (C) being held in a juvenile detention facility.
 - (b) The state board shall:
 - (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the distribution of funds for the education of individuals described in Subsection (1)(a); and

- (ii) expend funds appropriated for the education of youth in care in the following order of priority:
 - (A) for students in a facility described in Subsection (1)(a)(ii) who are not included in an LEA's average daily membership; and
 - (B) for students in a facility described in Subsection (1)(a)(ii) who are included in an LEA's average daily membership and who may benefit from additional educational support services.
- (c) Subject to future budget constraints, the amount appropriated for the education of youth in care under this section shall increase annually based on the following:
 - (i) the percentage of enrollment growth of students in kindergarten through grade 12; and
 - (ii) changes to the value of the weighted pupil unit as defined in Section 53F-4-301.
- (2) Subsection (1)(a)(ii)(B) does not apply to an individual taken into custody for the primary purpose of obtaining access to education programs provided for youth in care.
- (3) The state board shall, where feasible, contract with school districts or other appropriate agencies to provide educational, administrative, and supportive services, but the state board shall retain responsibility for the programs.
- (4) The Legislature shall establish and maintain separate education budget categories for youth in care or who are under the jurisdiction of the following state agencies:
 - (a) detention centers and the Divisions of Juvenile Justice and Youth Services and Child and Family Services;
 - (b) the Office of Substance Use and Mental Health; and
 - (c) the Division of Services for People with Disabilities.
- (5)
 - (a) The Department of Health and Human Services and the state board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice and Youth Services and the Division of Child and Family Services.
 - (b) The Department of Health and Human Services and the state board may appoint similar councils for those in the custody of the Office of Substance Use and Mental Health or the Division of Services for People with Disabilities.
- (6) A school district contracting to provide services under Subsection (3) shall establish an advisory council to plan, coordinate, and review education and treatment programs for individuals held in custody in the district.

53E-3-504 Child literacy program -- Coordinated activities.

- (1) The state board, through the state superintendent, shall provide for a public service campaign to educate parents on the importance of providing their children with opportunities to develop emerging literacy skills through a statewide "Read to Me" program.
- (2) The state board shall coordinate its activities under this section with other state and community entities that are engaged in child literacy programs in order to maximize its efforts and resources, including the Utah Commission on National and Community Service.

Amended by Chapter 186, 2019 General Session

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53E-3-505 Financial and economic literacy education.

- (1) As used in this section:

- (a) "Financial and economic activities" include activities related to the topics listed in Subsection (1)(b).
 - (b) "Financial and economic literacy concepts" include concepts related to the following topics:
 - (i) basic budgeting;
 - (ii) saving and financial investments;
 - (iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;
 - (iv) career management, including earning an income;
 - (v) rights and responsibilities of renting or buying a home;
 - (vi) retirement planning;
 - (vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;
 - (viii) insurance;
 - (ix) federal, state, and local taxes;
 - (x) charitable giving;
 - (xi) identity fraud and theft;
 - (xii) negative financial consequences of gambling;
 - (xiii) bankruptcy;
 - (xiv) economic systems, including a description of:
 - (A) a command system such as socialism or communism, a market system such as capitalism, and a mixed system; and
 - (B) historic and current examples of the effects of each economic system on economic growth;
 - (xv) supply and demand;
 - (xvi) monetary and fiscal policy;
 - (xvii) effective business plan creation, including using economic analysis in creating a plan;
 - (xviii) scarcity and choices;
 - (xix) opportunity cost and tradeoffs;
 - (xx) productivity;
 - (xxi) entrepreneurship; and
 - (xxii) economic reasoning.
 - (c) "General financial literacy course" means the course of instruction administered by the state board under Subsection (3).
- (2) The state board shall:
- (a) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:
 - (i) coordinating financial and economic literacy instruction with existing instruction in other areas of the core standards for Utah public schools, such as mathematics and social studies;
 - (ii) using curriculum mapping;
 - (iii) creating training materials and staff development programs that:
 - (A) highlight areas of potential coordination between financial and economic literacy education and other core standards for Utah public schools concepts; and
 - (B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core standards for Utah public schools concepts; and
 - (iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;
 - (b) work with interested public, private, and nonprofit entities to:

- (i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;
 - (ii) coordinate school use of existing financial and economic literacy education resources;
 - (iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;
 - (iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and
 - (v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to develop guidelines and methods for school districts and charter schools to more fully integrate financial and economic literacy education into other core standards for Utah public schools courses; and
- (d) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy concepts to teachers, including:
- (i) a statewide learning community for financial and economic literacy;
 - (ii) summer workshops; and
 - (iii) online videos of experts in the field of financial and economic literacy education.
- (3) The state board shall:
- (a) administer a general financial literacy course in the same manner that the state board administers other core standards for Utah public school courses for grades 9 through 12;
 - (b) adopt standards and objectives for the general financial literacy course that address:
 - (i) financial and economic literacy concepts;
 - (ii) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid;
 - (iii) financial benefits of pursuing concurrent enrollment as defined in Section 53E-10-301; and
 - (iv) technology that relates to banking, savings, and financial products; and
 - (c)
 - (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;
 - (ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and
 - (iii) develop a plan, through the state superintendent, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:
 - (A) an analysis of assessment results by standard; and
 - (B) average scores statewide and by school district and school.
- (4)
- (a) The state board shall establish a task force to study and make recommendations to the state board on how to improve financial and economic literacy education in the public school system.
 - (b) The task force membership shall include representatives of:
 - (i) the state board;
 - (ii) school districts and charter schools;
 - (iii) the Utah System of Higher Education; and
 - (iv) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

- (c) The state board shall convene the task force at least once every three years to review and recommend adjustments to the standards and objectives of the general financial literacy course.

53E-3-506 Educational program on the use of information technology.

- (1) The state board shall provide for an educational program on the use of information technology, which shall be offered by high schools.
- (2) An educational program on the use of information technology shall:
 - (a) provide instruction on skills and competencies essential for the workplace and requested by employers;
 - (b) include the following components:
 - (i) a curriculum;
 - (ii) online access to the curriculum;
 - (iii) instructional software for classroom and student use;
 - (iv) certification of skills and competencies most frequently requested by employers;
 - (v) professional development for teachers; and
 - (vi) deployment and program support, including integration with existing core standards for Utah public schools; and
 - (c) be made available to high school students, faculty, and staff.

Amended by Chapter 186, 2019 General Session

53E-3-507 Powers of the state board.

The state board:

- (1) shall establish minimum standards for career and technical education programs in the public education system;
- (2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;
- (3) shall cooperate with federal and state governments to administer programs that promote and maintain career and technical education;
- (4) shall cooperate with the Utah Board of Higher Education, technical colleges, and degree-granting institutions that provide technical education described in Section 53B-2a-201 to ensure that students in the public education system have access to career and technical education at technical colleges and degree-granting institutions that provide technical education described in Section 53B-2a-201;
- (5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the student has been referred, the student's parent has:
 - (a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures that may include personal care, patient bathing, and bathroom assistance; and
 - (b) provided specific written consent for the student's participation in the program and clinical experience;
- (6) shall, after consulting with school districts, charter schools, the Utah Board of Higher Education, technical colleges, and degree-granting institutions that provide technical education described

in Section 53B-2a-201, prepare and submit an annual report in accordance with Section 53E-1-203 detailing:

- (a) how the career and technical education needs of secondary students are being met; and
- (b) the access secondary students have to programs offered:
 - (i) at technical colleges; and
 - (ii) within the regions served by degree-granting institutions that provide technical education described in Section 53B-2a-201; and
- (7) when the Office of the Legislative Fiscal Analyst requests information from the board related to a fiscal note for a proposed bill, shall report to the Office of the Legislative Fiscal Analyst, in addition to the other information requested, whether the proposed bill will impact the reporting requirements for local education agencies and if so:
 - (a) whether the impact increases or decreases the reporting requirements;
 - (b) whether the change in requirements is high, medium, or low; and
 - (c) the effect of the change in requirements on the amount and quality of information available to taxpayers, parents, and legislators.

Amended by Chapter 187, 2021 General Session

Amended by Chapter 254, 2021 General Session

53E-3-508 Rulemaking -- Standards for high quality programs operating outside of the regular school day.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall, in consultation with the Department of Workforce Services, make rules that describe the standards for a high quality program operating outside of the regular school day:
 - (a) for elementary or secondary students; and
 - (b) offered by a:
 - (i) school district;
 - (ii) charter school;
 - (iii) private provider, including a non-profit provider; or
 - (iv) municipality.
- (2) The standards described in Subsection (1) shall specify that a high quality program operating outside of the regular school day:
 - (a) provides a safe, healthy, and nurturing environment for all participants;
 - (b) develops and maintains positive relationships among staff, participants, families, schools, and communities;
 - (c) encourages participants to learn new skills; and
 - (d) is effectively administered.

Amended by Chapter 408, 2020 General Session

53E-3-509 Gang prevention and intervention policies.

- (1)
 - (a) The state board shall adopt rules that require a local school board or charter school governing board to enact gang prevention and intervention policies for all schools within the state board's jurisdiction.
 - (b) The rules described in Subsection (1)(a) shall provide that the gang prevention and intervention policies of a local school board or charter school governing board may include

provisions that reflect the individual school district's or charter school's unique needs or circumstances.

- (2) The rules described in Subsection (1) may include the following provisions:
- (a) school faculty and personnel shall report suspected gang activities relating to the school and its students to a school administrator and law enforcement;
 - (b) a student who participates in gang activities may be excluded from participation in extracurricular activities, including interscholastic athletics, as determined by the school administration after consultation with law enforcement;
 - (c) gang-related graffiti or damage to school property shall result in parent notification and appropriate administrative and law enforcement actions, which may include obtaining restitution from those responsible for the damage;
 - (d) if a serious gang-related incident, as determined by the school administrator in consultation with local law enforcement, occurs on school property, at school related activities, or on a site that is normally considered to be under school control, notification shall be provided to parents of students in the school:
 - (i) informing them, in general terms, about the incident, but removing all personally identifiable information about students from the notice;
 - (ii) emphasizing the school's concern for safety; and
 - (iii) outlining the action taken at the school regarding the incident;
 - (e) school faculty and personnel shall be trained by experienced evidence based trainers that may include community gang specialists and law enforcement as part of comprehensive strategies to recognize early warning signs for youth in trouble and help students resist serious involvement in undesirable activity, including joining gangs or mimicking gang behavior;
 - (f) prohibitions on the following behavior:
 - (i) advocating or promoting a gang or any gang-related activities;
 - (ii) marking school property, books, or school work with gang names, slogans, or signs;
 - (iii) conducting gang initiations;
 - (iv) threatening another person with bodily injury or inflicting bodily injury on another in connection with a gang or gang-related activity;
 - (v) aiding or abetting an activity described under Subsections (2)(f)(i) through (iv) by a person's presence or support;
 - (vi) displaying or wearing common gang apparel, common dress, or identifying signs or symbols on one's clothing, person, or personal property that is disruptive to the school environment; and
 - (vii) communicating in any method, including verbal, non-verbal, and electronic means, designed to convey gang membership or affiliation.
- (3) The rules described in Subsection (1) may require a local school board or charter school governing board to publicize the policies enacted by the local school board or charter school governing board in accordance with the rules described in Subsection (1) to all students, parents, and faculty through school websites, handbooks, letters to parents, or other reasonable means of communication.
- (4) The state board may consult with appropriate committees, including committees that provide opportunities for the input of parents, law enforcement, and community agencies, as it develops, enacts, and administers the rules described in Subsection (1).

Amended by Chapter 186, 2019 General Session

53E-3-510 Control of school meals program revenues -- Apportionment -- Costs.

- (1)
 - (a) School meals program revenues shall be under the control of the state board and may only be disbursed, transferred, or drawn upon by the state board's order.
 - (b) The school meals program revenues may only be used to provide school meals and a school meals program in the state's LEAs in accordance with standards established by the state board.
- (2)
 - (a) The state board shall apportion the school meals program revenues according to the number of school children receiving school meals in each LEA.
 - (b) The state board and LEA governing boards shall employ staff to administer and supervise the school meals program and purchase supplies and equipment.
- (3) The costs of the school meals program shall be included in the state board's annual budget.

Amended by Chapter 21, 2020 General Session

53E-3-511 Student Achievement Backpack -- Utah Student Record Store.

- (1) As used in this section:
 - (a) "Authorized LEA user" means a teacher or other person who is:
 - (i) employed by an LEA that provides instruction to a student; and
 - (ii) authorized to access data in a Student Achievement Backpack through the Utah Student Record Store.
 - (b) "Statewide assessment" means the same as that term is defined in Section 53E-4-301.
 - (c) "Student Achievement Backpack" means, for a student from kindergarten through grade 12, a complete learner profile that:
 - (i) is in electronic format;
 - (ii) follows the student from grade to grade and school to school; and
 - (iii) is accessible by the student's parent or an authorized LEA user.
 - (d) "Utah Student Record Store" means a repository of student data collected from LEAs as part of the state's longitudinal data system that is:
 - (i) managed by the state board;
 - (ii) cloud-based; and
 - (iii) accessible via a web browser to authorized LEA users.
- (2)
 - (a) The state board shall use the state board's robust, comprehensive data collection system, which collects longitudinal student transcript data from LEAs and the unique student identifiers as described in Section 53E-4-308, to allow the following to access a student's Student Achievement Backpack:
 - (i) the student's parent; and
 - (ii) each LEA that provides instruction to the student.
 - (b) The state board shall ensure that a Student Achievement Backpack:
 - (i) provides a uniform, transparent reporting mechanism for individual student progress;
 - (ii) provides a complete learner history for postsecondary planning;
 - (iii) provides a teacher with visibility into a student's complete learner profile to better inform instruction and personalize education;
 - (iv) assists a teacher or administrator in diagnosing a student's learning needs through the use of data already collected by the state board;

- (v) facilitates a student's parent taking an active role in the student's education by simplifying access to the student's complete learner profile; and
 - (vi) serves as additional disaster mitigation for LEAs by using a cloud-based data storage and collection system.
- (3) Using existing information collected and stored in the state board's data warehouse, the state board shall create the Utah Student Record Store where an authorized LEA user may:
- (a) access data in a Student Achievement Backpack relevant to the user's LEA or school; or
 - (b) request student records to be transferred from one LEA to another.
- (4) The state board shall implement security measures to ensure that:
- (a) student data stored or transmitted to or from the Utah Student Record Store is secure and confidential pursuant to the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g;
 - (b) an authorized LEA user may only access student data that is relevant to the user's LEA or school; and
 - (c) except as provided in Section 53E-9-308, an authorized LEA user shares only aggregate or de-identified data.
- (5) A student's parent may request the student's Student Achievement Backpack from the LEA or the school in which the student is enrolled.
- (6) An authorized LEA user may access student data in a Student Achievement Backpack, which shall include the following data, or request that the data be transferred from one LEA to another:
- (a) student demographics;
 - (b) course grades;
 - (c) course history; and
 - (d) results of a statewide assessment.
- (7) An authorized LEA user may access student data in a Student Achievement Backpack, which shall include the data listed in Subsections (6)(a) through (d) and the following data, or request that the data be transferred from one LEA to another:
- (a) section attendance;
 - (b) the name of a student's teacher for classes or courses the student takes;
 - (c) teacher qualifications for a student's teacher, including years of experience, degree, license, and endorsement;
 - (d) results of statewide assessments;
 - (e) a student's writing sample that is written for a writing assessment administered pursuant to Section 53E-4-303;
 - (f) student growth scores on a statewide assessment, as applicable;
 - (g) a school's performance as reported in accordance with Chapter 5, Part 2, School Accountability System;
 - (h) results of benchmark assessments of reading administered pursuant to Section 53E-4-307; and
 - (i) a student's reading level at the end of grade 3.
- (8) No later than July 1, 2024, the state board shall ensure that data collected in the Utah Student Record Store for a Student Achievement Backpack is integrated into each LEA's student information system and is made available to a student's parent and an authorized LEA user in an easily accessible viewing format.

Amended by Chapter 164, 2023 General Session
Amended by Chapter 381, 2023 General Session

53E-3-512 State board rules establishing basic ethical conduct standards -- Local school board policies.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish basic ethical conduct standards for public education employees who provide education-related services outside of their regular employment to their current or prospective public school students.
- (2) The rules shall provide that a local school board may adopt policies implementing the standards and addressing circumstances present in the district.

Amended by Chapter 408, 2020 General Session

53E-3-513 Parental permission required for specified in-home programs -- Exceptions.

- (1) The state board, local school boards, school districts, and public schools are prohibited from requiring infant or preschool in-home literacy or other educational or parenting programs without obtaining parental permission in each individual case.
- (2) This section does not prohibit the Division of Child and Family Services, within the Department of Human Services, from providing or arranging for family preservation or other statutorily provided services in accordance with Title 80, Chapter 2, Child Welfare Services, or Title 80, Chapter 2a, Removal and Protective Custody of a Child, or any other in-home services that have been court ordered, in accordance with Title 80, Chapter 2, Child Welfare Services, Title 80, Chapter 2a, Removal and Protective Custody of a Child, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

Amended by Chapter 335, 2022 General Session

53E-3-515 Hospitality and Tourism Management Career and Technical Education Pilot Program.

- (1) As used in this section:
 - (a) "Local education agency" means a school district or charter school.
 - (b) "Pilot program" means the Hospitality and Tourism Management Career and Technical Education Pilot Program created under Subsection (2).
- (2) There is created a Hospitality and Tourism Management Career and Technical Education Pilot Program to provide instruction that a local education agency may offer to a student in any of grades 9 through 12 on:
 - (a) the information and skills required for operational level employee positions in hospitality and tourism management, including:
 - (i) hospitality soft skills;
 - (ii) operational areas of the hospitality industry;
 - (iii) sales and marketing; and
 - (iv) safety and security; and
 - (b) the leadership and managerial responsibilities, knowledge, and skills required by an entry-level leader in hospitality and tourism management, including:
 - (i) hospitality leadership skills;
 - (ii) operational leadership;
 - (iii) managing food and beverage operations; and
 - (iv) managing business operations.

- (3) The instruction described in Subsection (2) may be delivered in a public school using live instruction, video, or online materials.
- (4)
 - (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall select one or more providers to supply materials and curriculum for the pilot program.
 - (b) The state board may seek recommendations from trade associations and other entities that have expertise in hospitality and tourism management regarding potential providers of materials and curriculum for the pilot program.
- (5)
 - (a) A local education agency may apply to the state board to participate in the pilot program.
 - (b) The state board shall select participants in the pilot program.
 - (c) A local education agency that participates in the pilot program shall use the materials and curriculum supplied by a provider selected under Subsection (4).
- (6) The state board shall evaluate the pilot program and provide an annual written report in accordance with Section 53E-1-203 and to the Economic Development and Workforce Services Interim Committee on or before October 1 describing:
 - (a) how many local education agencies and how many students are participating in the pilot program; and
 - (b) any recommended changes to the pilot program.

Amended by Chapter 186, 2019 General Session

Amended by Chapter 324, 2019 General Session

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53E-3-516 School disciplinary and law enforcement action report -- Rulemaking authority.

- (1) As used in this section:
 - (a) "Dangerous weapon" means the same as that term is defined in Section 53G-8-510.
 - (b)
 - (i) "Law enforcement action" means a significant law enforcement interaction with a minor.
 - (ii) "Law enforcement action" includes the following actions against a minor:
 - (A) a search and seizure;
 - (B) an arrest;
 - (C) the issuance of a citation;
 - (D) the filing of a delinquency petition, indictment, or criminal information;
 - (E) a referral to the juvenile court; or
 - (F) use of force by a law enforcement officer.
 - (c) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.
 - (d) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
 - (e) "Minor" means the same as that term is defined in Section 80-1-102.
 - (f)
 - (i) "School disciplinary action" means an action by a public school to formally discipline a student of that public school.
 - (ii) "School disciplinary action" includes a suspension or an expulsion.
 - (g) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.
 - (h)

- (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:
 - (A) the activity is managed or supervised by a school district, public school, or public school employee;
 - (B) the activity uses the school district or public school facilities, equipment, or other school resources; or
 - (C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.
 - (ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.
 - (i) " School resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.
- (2) The state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:
 - (a) school disciplinary actions;
 - (b) minors found in possession of a dangerous weapon; and
 - (c) law enforcement actions.
 - (3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.
 - (4) The report described in Subsection (2) shall include the following information listed separately for each school in an LEA:
 - (a) the number of law enforcement actions, including the following information for each incident:
 - (i) the reason for the law enforcement action; and
 - (ii) the type of law enforcement action used;
 - (b) the number of school disciplinary actions, including the following information for each incident:
 - (i) the reason for the school disciplinary action; and
 - (ii) the type of school disciplinary action;
 - (c) the number of SROs employed;
 - (d) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation; and
 - (e) the number of minors found in possession of a dangerous weapon on school grounds while school is in session or during a school-sponsored activity.
 - (5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) and (b):
 - (a) age;
 - (b) grade level;
 - (c) race;
 - (d) sex; and
 - (e) disability status.
 - (6) Information included in the annual report described in Subsection (2) shall comply with:
 - (a) Chapter 9, Part 3, Student Data Protection;
 - (b) Chapter 9, Part 2, Student Privacy; and
 - (c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.
 - (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).
 - (8) The state board shall provide the report described in Subsection (2):

- (a) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year; and
- (b) to the State Commission on Criminal and Juvenile Justice before July 1 of each year for incidents that occurred during the previous school year.

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53E-3-516 School disciplinary and law enforcement action report -- Rulemaking authority.

(1) As used in this section:

- (a) "Dangerous weapon" means a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.
 - (b)
 - (i) "Law enforcement action" means a significant law enforcement interaction with a minor.
 - (ii) "Law enforcement action" includes the following actions against a minor:
 - (A) a search and seizure;
 - (B) an arrest;
 - (C) the issuance of a citation;
 - (D) the filing of a delinquency petition, indictment, or criminal information;
 - (E) a referral to the juvenile court; or
 - (F) use of force by a law enforcement officer.
 - (c) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.
 - (d) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
 - (e) "Minor" means the same as that term is defined in Section 80-1-102.
 - (f)
 - (i) "School disciplinary action" means an action by a public school to formally discipline a student of that public school.
 - (ii) "School disciplinary action" includes a suspension or an expulsion.
 - (g) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.
 - (h)
 - (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:
 - (A) the activity is managed or supervised by a school district, public school, or public school employee;
 - (B) the activity uses the school district or public school facilities, equipment, or other school resources; or
 - (C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.
 - (ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.
 - (i) " School resource officer" means the same as that term is defined in Section 53G-8-701.
- (2) The state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:
- (a) school disciplinary actions;
 - (b) minors found in possession of a dangerous weapon; and
 - (c) law enforcement actions.

- (3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.
- (4) The report described in Subsection (2) shall include the following information listed separately for each school in an LEA:
 - (a) the number of law enforcement actions, including the following information for each incident:
 - (i) the reason for the law enforcement action; and
 - (ii) the type of law enforcement action used;
 - (b) the number of school disciplinary actions, including the following information for each incident:
 - (i) the reason for the school disciplinary action;
 - (ii) the type of school disciplinary action;
 - (iii) the number of suspensions imposed;
 - (iv) the average length of suspensions;
 - (v) the number of days of instruction lost due to suspensions; and
 - (vi) the number of expulsions;
 - (c) the number of school resource officers employed;
 - (d) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation; and
 - (e) the number of minors found in possession of a dangerous weapon on school grounds while school is in session or during a school-sponsored activity.
- (5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) and (b):
 - (a) age;
 - (b) grade level;
 - (c) race;
 - (d) sex;
 - (e) disability status; and
 - (f) youth in care designation.
- (6) Information included in the annual report described in Subsection (2) shall comply with:
 - (a) Chapter 9, Part 3, Student Data Protection;
 - (b) Chapter 9, Part 2, Student Privacy; and
 - (c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).
- (8)
 - (a) The state board shall provide the report described in Subsection (2):
 - (i) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year; and
 - (ii) to the State Commission on Criminal and Juvenile Justice before January 15 of each year for incidents that occurred during the previous school year.
 - (b) After submitting the report in accordance with this section, the state board shall supplement the report to the State Commission on Criminal and Juvenile Justice with updated data and information within 30 days after the day on which the state board receives the updated data and information.

53E-3-517 Educator credential database.

- (1) As used in this section:

- (a) "Educator" means the same as that term is defined in Section 53E-6-102.
- (b) "Educator credential database" means a database used by the state board that:
 - (i) contains educator credential information and LEA information; and
 - (ii) is used by the state board to determine funding distribution.
- (2) Before July 1, 2020, the state board shall ensure that a technical limitation of the educator credential database does not prevent an educator from accepting employment at more than one LEA.

Amended by Chapter 186, 2019 General Session

(j)
53E-3-518 Utah school information management system -- Local education agency requirements.

- (1) As used in this section:
 - (a) "LEA data system" or "LEA's data system" means a data system that:
 - (i) is developed, selected, or relied upon by an LEA; and
 - (ii) the LEA uses to collect data or submit data to the state board related to:
 - (A) student information;
 - (B) educator information;
 - (C) financial information; or
 - (D) other information requested by the state board.
 - (b) "LEA financial information system" or "LEA's financial information system" means an LEA data system used for financial information.
 - (c) "Parent" means the same as that term is defined in Section 53G-6-201.
 - (d) "Utah school information management system" or "information management system" means the state board's data collection and reporting system described in this section.
 - (e) "User" means an individual who has authorized access to the information management system.
- (2) On or before July 1, 2024, the state board shall have in place an information management system that meets the requirements described in this section.
- (3) The state board shall ensure that the information management system:
 - (a) interfaces with:
 - (i) an LEA's data systems that meet the requirements described in Subsection (7);
 - (ii) where appropriate, the systems described in Subsections 53-10-302(7) and (8);
 - (iii) the public safety portal described in Section 63A-16-2002; and
 - (b) serves as the mechanism for the state board to collect and report on all data that LEAs submit to the state board related to:
 - (i) student information;
 - (ii) educator information;
 - (iii) financial information; and
 - (iv) other information requested by the state board;
 - (c) includes a web-based user interface through which a user may:
 - (i) enter data;
 - (ii) view data; and
 - (iii) generate customizable reports;
 - (d) includes a data warehouse and other hardware or software necessary to store or process data submitted by an LEA;

- (e) provides for data privacy, including by complying with Chapter 9, Student Privacy and Data Protection;
 - (f) restricts user access based on each user's role; and
 - (g) meets requirements related to a student achievement backpack described in Section 53E-3-511.
- (4) On or before January 31, 2026, the state board shall:
- (a) ensure the information management system described in this section allows for the transfer of a student's transcript, current IEP, or Section 504 accommodation plan, including the tracking of necessary accommodations and services between:
 - (i) different LEA student information systems; and
 - (ii) an authorized online course provider and a primary LEA; and
 - (b) ensure the transfer capability described in Subsection (4)(a) is available for the same use within the operating system the state board uses for the Statewide Online Education Program described in Title 53F, Chapter 4, Part 5, Statewide Online Education Program.
- (5) The state board shall establish the restrictions on user access described in Subsection (3)(f).
- (6)
- (a) The state board shall make rules that establish the required capabilities for an LEA financial information system.
 - (b) In establishing the required capabilities for an LEA financial information system, the state board shall consider metrics and capabilities requested by the state treasurer or state auditor.
- (7)
- (a) On or before July 1, 2024, an LEA shall ensure that:
 - (i) all of the LEA's data systems:
 - (A) meet the data standards established by the state board in accordance with Section 53E-3-501;
 - (B) are fully compatible with the state board's information management system; and
 - (C) meet specification standards determined by the state board; and
 - (ii) the LEA's financial information system meets the requirements described in Subsection (6).
 - (b) An LEA shall ensure that an LEA data system purchased or developed on or after May 14, 2019, will be compatible with the information management system when the information management system is fully operational.
- (8)
- (a) Subject to appropriations and Subsection (8)(b), the state board may use an appropriation under this section to help an LEA meet the requirements in the rules described in Subsection (6) by:
 - (i) providing to the LEA funding for implementation and sustainment of the LEA financial information system, either through:
 - (A) awarding a grant to the LEA; or
 - (B) providing a reimbursement to the LEA; or
 - (ii) in accordance with Title 63G, Chapter 6a, Utah Procurement Code, procuring a financial information system on behalf of an LEA for the LEA to use as the LEA's financial information system.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules describing:
 - (i) how an LEA may apply to the state board for the assistance described in Subsection (8)(a); and
 - (ii) criteria for the state board to provide the assistance to an LEA.
- (9)

- (a) Beginning July 1, 2024, the state board may take action against an LEA that is out of compliance with a requirement described in Subsection (7) until the LEA complies with the requirement.
 - (b) An action described in Subsection (9)(a) may include the state board withholding funds from the LEA.
- (10)
- (a) For purposes of this Subsection (10), "education record" means the same as that term is defined in 20 U.S.C. Sec. 1232g.
 - (b) The state board shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a procedure under which:
 - (i) a parent may submit information as part of the education records for the parent's student;
 - (ii) the information submitted by the parent is maintained as part of the education records for the parent's student;
 - (iii) information submitted by the parent and maintained as part of the education records for the parent's student may be removed at the request of the parent; and
 - (iv) a parent has access only to the education records of the parent's student in accordance with Subsection (10)(d).
 - (c) The rules made under this Subsection (10) shall allow a parent to submit or remove information submitted by the parent under this Subsection (10) at least annually, including at the time of:
 - (i) registering a student in a school; or
 - (ii) changing the school in which a student attends.
 - (d) Subject to the federal Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g, and related regulations, the state board shall provide a parent access to an education record concerning the parent's student.
 - (e) The state board shall create in the information management system a record tracking interoperability of education records described in this Subsection (10) when a student is transitioning between schools or between LEAs.

53E-3-521 Requirements for early mathematics plan.

The state board shall make rules to:

- (1) define the components of the early mathematics plan that a local school board or charter school governing board is required to submit under Section 53G-7-218 for mathematics proficiency improvement, including the following four categories:
 - (a) conceptual understanding;
 - (b) procedural fluency;
 - (c) strategic and adaptive mathematical thinking; and
 - (d) productive disposition; and
- (2) establish a state-wide target using data from the mathematics benchmark assessment, described in Section 53E-4-307.5, for local growth goals described in Section 53G-7-218 regarding mathematics.

Enacted by Chapter 174, 2020 General Session

53E-3-522 Substance abuse prevention in public school programs.

Except as provided in Section 53F-2-525, the state board shall provide for:

- (1) substance abuse prevention and education;

- (2) substance abuse prevention training for teachers and administrators; and
- (3) district and school programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

Amended by Chapter 98, 2023 General Session

53E-3-523 State board to review reporting requirements.

- (1) As used in this section, "required report" means a report that statute or state board rule requires an LEA or the state board to make.
- (2)
 - (a) The state board shall work with LEAs to develop a process to review required reports.
 - (b) The process described in Subsection (2)(a) shall include the following considerations for each required report:
 - (i)
 - (A) the required report's purpose; and
 - (B) the report's effectiveness in accomplishing the report's purpose;
 - (ii) which entity requires the required report;
 - (iii) which entity created the report requirements;
 - (iv) which entity or individual reviews the required report;
 - (v) whether the information in the required report is otherwise available or could be obtained another way;
 - (vi) whether the required report is the least burdensome way to collect the information in the required report;
 - (vii) whether accountability or transparency could be achieved through a means other than the required report;
 - (viii) whether and how the Utah Schools Information Management System affects the required report;
 - (ix) the estimated time and cost required to complete the required report for:
 - (A) an LEA; or
 - (B) the state board; and
 - (x) the amount of appropriated program funding available for program purposes after program money is expended for completing a required report for the program.
- (3) After reviewing required reports as described in Subsection (2), the state board may make recommendations for legislation to the Legislature.

Enacted by Chapter 264, 2021 General Session

53E-3-524 Newcomer student and foreign exchange student transcript repository.

- (1) As used in this section:
 - (a) "Newcomer student" means a student who:
 - (i) is three through 21 years old;
 - (ii) was not born in any state; and
 - (iii) has not attended one or more schools in one or more states for more than three full academic years.
 - (b) "Qualified social service provider" means a social service provider that works directly with a student's family.
 - (c) "Repository" means the online transcript repository described in Subsection (2).
 - (d) "Social service provider" means:

- (i) one of the following professionals, licensed to practice under Section 58-60-205:
 - (A) a clinical social worker;
 - (B) a certified social worker; or
 - (C) a social service worker; or
- (ii) staff employed to provide direct support to a professional described in Subsection (1)(d)(i).
- (e) "State" means:
 - (i) a state of the United States;
 - (ii) the District of Columbia; or
 - (iii) the Commonwealth of Puerto Rico.
- (f) "Student" means an individual who is enrolled in:
 - (i) a public school within the state of Utah; and
 - (ii) any grade from kindergarten through grade 12.
- (g)
 - (i) "Transcript" means documentation of a newcomer student's or foreign exchange student's prior educational experience.
 - (ii) "Transcript" includes oral representations about prior educational experience that a school or an LEA documents.
- (2) On or before July 1, 2024, the state board shall establish and maintain, as part of the Utah school information management system described in Section 53E-3-518, an online repository for transcripts.
- (3) The state board shall:
 - (a) ensure that the repository provides a central location for:
 - (i) an LEA to upload transcripts; and
 - (ii) LEAs and qualified service providers to share information regarding transcripts, including:
 - (A) best practices for linguistic interpretation;
 - (B) interpretation of educational experiences; and
 - (C) placement of newcomer students;
 - (b) ensure that use of the repository:
 - (i) is voluntary; and
 - (ii) complies with all state and federal student privacy requirements, including:
 - (A) Title 53E, Chapter 9, Student Privacy and Data Protection; and
 - (B) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g;
 - (c) provide the repository at no cost to LEAs;
 - (d) provide access to the repository to qualified social service providers;
 - (e) establish appropriate access protocols in coordination with LEAs and qualified social service providers; and
 - (f) annually, before the school enrollment period begins, provide notice of the repository to interested parties that the state board designates in state board rule.
- (4) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section, including rules:
 - (a) establishing procedures:
 - (i) to protect student data related to the repository in compliance with Title 53E, Chapter 9, Student Privacy and Data Protection; and
 - (ii) for the use of the repository by the state board, LEAs, and qualified social service providers;
 - (b) requiring repository users to enter into a data sharing agreement; and
 - (c) designating the interested parties described in Subsection (3)(f).

Amended by Chapter 283, 2023 General Session

Part 6 Audits

53E-3-601 Definitions.

Reserved

Enacted by Chapter 1, 2018 General Session

53E-3-602 Auditors appointed -- Auditing standards.

- (1) Procedures utilized by auditors employed by local school boards shall meet or exceed generally accepted auditing standards approved by the state board and the state auditor.
- (2) The standards must include financial accounting for both revenue and expenditures, and student accounting.

Amended by Chapter 186, 2019 General Session

53E-3-603 State board to verify audits.

The state board is responsible for verifying audits of financial and student accounting records of school districts for purposes of determining the allocation of Uniform School Fund money.

Amended by Chapter 186, 2019 General Session

Part 7 School Construction

53E-3-701 Definitions.

Reserved

Enacted by Chapter 1, 2018 General Session

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53E-3-702 State board to adopt public school construction guidelines.

- (1) As used in this section, "public school construction" means construction work on a new public school.
- (2)
 - (a) The state board shall:
 - (i) adopt guidelines for public school construction; and
 - (ii) consult with the Division of Facilities Construction and Management Administration and the state security chief appointed under Section 53-22-102 on proposed guidelines before adoption.
 - (b) The state board shall ensure that guidelines adopted under Subsection (2)(a)(i) maximize funds used for public school construction and reflect efficient and economic use of those funds, including adopting guidelines that address a school's safety and a school's essential

- needs rather than encouraging or endorsing excessive costs per square foot of construction or nonessential facilities, design, or furnishings.
- (3) Before a school district or charter school may begin public school construction, the school district or charter school shall:
 - (a) review the guidelines adopted by the state board under this section; and
 - (b) take into consideration the guidelines when planning the public school construction.
 - (4) In adopting the guidelines for public school construction, the state board shall consider the following and adopt alternative guidelines as needed:
 - (a) location factors, including whether the school is in a rural or urban setting, and climate factors;
 - (b) variations in guidelines for significant or minimal projected student population growth;
 - (c) guidelines specific to schools that serve various populations and grades, including high schools, junior high schools, middle schools, elementary schools, alternative schools, and schools for people with disabilities; and
 - (d) year-round use.
 - (5) The guidelines shall address the following:
 - (a) square footage per student;
 - (b) minimum and maximum required real property for a public school;
 - (c) athletic facilities and fields, playgrounds, and hard surface play areas;
 - (d) necessary specifications to meet the safety standards created by the state security chief in Section 53E-3-706;
 - (e) cost per square foot;
 - (f) minimum and maximum qualities and costs for building materials;
 - (g) design efficiency;
 - (h) parking;
 - (i) furnishing;
 - (j) proof of compliance with applicable building codes; and
 - (k) safety.

53E-3-703 Construction and alteration of schools and plants -- Advertising for bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local school boards -- Interest of local school board members.

- (1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.
- (2)
 - (a) Prior to the construction of any school or the alteration of any existing school plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school board shall advertise for bids on the project at least 10 days before the bid due date.
 - (b) The advertisement shall state:
 - (i) that proposals for the building project are required to be sealed in accordance with plans and specifications provided by the local school board;
 - (ii) where and when the proposals will be opened;
 - (iii) that the local school board reserves the right to reject any and all proposals; and
 - (iv) that a person that submits a proposal is required to submit a certified check or bid bond, of not less than 5% of the bid in the proposal, to accompany the proposal.
 - (c) The local school board shall publish the advertisement, at a minimum:
 - (i) on the local school board's website; or

- (ii) on a state website that is:
 - (A) owned or managed by, or provided under contract with, the Division of Purchasing and General Services; and
 - (B) available for the posting of public procurement notices.
- (3)
 - (a) The local school board shall meet at the time and place specified in the advertisement and publicly open and read all received proposals.
 - (b) If satisfactory bids are received, the local school board shall award the contract to the lowest responsible bidder.
 - (c) If none of the proposals are satisfactory, all shall be rejected.
 - (d) The local school board shall again advertise in the manner provided in this section.
 - (e) If, after advertising a second time no satisfactory bid is received, the local school board may proceed under its own direction with the required project.
- (4)
 - (a) The check or bond required under Subsection (2)(b) shall be drawn in favor of the local school board.
 - (b) If the successful bidder fails or refuses to enter into the contract and furnish the additional bonds required under this section, then the bidder's check or bond is forfeited to the district.
- (5) A local school board shall require payment and performance bonds of the successful bidder as required in Section 63G-6a-1103.
- (6)
 - (a) A local school board may require in the proposed contract that up to 5% of the contract price be withheld until the project is completed and accepted by the local school board.
 - (b) If money is withheld, the local school board shall place it in an interest bearing account, and the interest accrues for the benefit of the contractor and subcontractors.
 - (c) This money shall be paid upon completion of the project and acceptance by the local school board.
- (7)
 - (a) A local school board may not bid on projects within the district if the total accumulative estimated cost exceeds \$80,000.
 - (b) The local school board may use its resources if no satisfactory bids are received under this section.
- (8) If the local school board determines in accordance with Section 63G-6a-1302 to use a construction manager/general contractor as its method of construction contracting management on projects where the total estimated accumulative cost exceeds \$80,000, it shall select the construction manager/general contractor in accordance with the requirements of Title 63G, Chapter 6a, Utah Procurement Code.
- (9) A local school board member may not have a direct or indirect financial interest in the construction project contract.

Amended by Chapter 186, 2019 General Session

53E-3-704 Restrictions on local school district procurement of architect-engineer services.

- (1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

- (2) When a local school district elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:
- (a) a higher education entity, or any part of one, may not submit a proposal in response to the state agency's competitive procurement process; and
 - (b) the local school district may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

Renumbered and Amended by Chapter 1, 2018 General Session

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53E-3-705 School plant capital outlay report.

The state board shall prepare an annual school plant capital outlay report of all school districts, which includes information on the number and size of building projects completed and under construction.

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53E-3-706 Enforcement of part by state superintendent -- Employment of personnel -- School districts and charter schools -- Certificate of inspection verification.

- (1) Notwithstanding Subsections (4), (5), and (6), the state superintendent shall enforce this part.
- (2) The state superintendent may employ architects or other qualified personnel, or contract with the Division of Facilities Construction and Management, the state fire marshal, the state security chief appointed under Section 53-22-102, or a local governmental entity to:
 - (a) examine the plans and specifications of any school building or alteration submitted under this part;
 - (b) verify the inspection of any school building during or following construction; and
 - (c) perform other functions necessary to ensure compliance with this part.

(3)

- (a) If a local school board uses the school district's building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and issues its own certificate authorizing permanent occupancy of the school building, the local school board shall file a certificate of inspection verification with the local governmental entity's building official and the state board, advising those entities that the school district has complied with the inspection provisions of this part.
- (b) If a charter school uses a school district building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and the school district issues to the charter school a certificate authorizing permanent occupancy of the school building, the charter school shall file with the state board a certificate of inspection verification.
- (c) If a local school board or charter school uses a local governmental entity's building inspector under Subsection 10-9a-305(6)(a)(i) or 17-27a-305(6)(a)(i) and the local governmental entity issues the local school board or charter school a certificate authorizing permanent occupancy of the school building, the local school board or charter school shall file with the state board a certificate of inspection verification.

(d)

- (i) If a local school board or charter school uses an independent, certified building inspector under Subsection 10-9a-305(6)(a)(iii) or 17-27a-305(6)(a)(iii), the local school board or charter school shall, upon completion of all required inspections of the school building, file

- with the state board a certificate of inspection verification and a request for the issuance of a certificate authorizing permanent occupancy of the school building.
- (ii) Upon the local school board's or charter school's filing of the certificate and request as provided in Subsection (3)(d)(i), the school district or charter school shall be entitled to temporary occupancy of the school building that is the subject of the request for a period of 90 days, beginning the date the request is filed, if the school district or charter school has complied with all applicable fire and life safety code requirements.
 - (iii) Within 30 days after the local school board or charter school files a request under Subsection (3)(d)(i) for a certificate authorizing permanent occupancy of the school building, the state superintendent shall:
 - (A) issue to the local school board or charter school a certificate authorizing permanent occupancy of the school building; or
 - (B) deliver to the local school board or charter school a written notice indicating deficiencies in the school district's or charter school's compliance with the inspection provisions of this part; and
 - (C) mail a copy of the certificate authorizing permanent occupancy or the notice of deficiency to the building official of the local governmental entity in which the school building is located.
 - (iv) Upon the local school board or charter school remedying the deficiencies indicated in the notice under Subsection (3)(d)(iii)(B) and notifying the state superintendent that the deficiencies have been remedied, the state superintendent shall issue a certificate authorizing permanent occupancy of the school building and mail a copy of the certificate to the building official of the local governmental entity in which the school building is located.
 - (v)
 - (A) The state superintendent may charge the school district or charter school a fee for an inspection that the state superintendent considers necessary to enable the state superintendent to issue a certificate authorizing permanent occupancy of the school building.
 - (B) A fee under Subsection (3)(d)(v)(A) may not exceed the actual cost of performing the inspection.
- (e) For purposes of this Subsection (3):
- (i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and
 - (ii) "certificate of inspection verification" means a standard inspection form developed by the state superintendent in consultation with local school boards and charter schools to verify that inspections by qualified inspectors have occurred.
- (4) The state security chief appointed under Section 53-22-102 shall establish:
- (a) minimum safety and security standards for school construction and design projects, including buildings for private schools;
 - (b) a timeline for an LEA or private school to comply with the safety and security standards for school construction and design project requirements of this Subsection (4); and
 - (c) a process for an LEA or private school to seek alternative safety and security standards established under this Subsection (4).
- (5) The county security chief appointed under Section 53-22-103 shall ensure a private school, local school district, or charter school shall adhere to all safety and security standards for a school construction or design project the state security chief creates.

- (6) A building inspector described in this part shall coordinate with the relevant county security chief to ensure compliance described in Subsection (5) before issuing a certificate authorizing permanent occupancy for a school.

53E-3-707 School building construction and inspection manual -- Annual construction and inspection conference -- Verification of school construction inspections.

- (1)
 - (a) The state board, through the state superintendent, shall develop and distribute to each school district a school building construction and inspection resource manual.
 - (b) The manual shall be provided to a charter school upon request of the charter school.
- (2)
 - (a) The manual shall include:
 - (i) current legal requirements; and
 - (ii) information on school building construction and inspections, including the guidelines adopted by the state board in accordance with Section 53E-3-702.
 - (b) The state superintendent shall review and update the manual at least once every three years.
- (3) The state board shall provide for an annual school construction conference to allow a representative from each school district and charter school to:
 - (a) receive current information on the design, construction, and inspection of school buildings;
 - (b) receive training on such matters as:
 - (i) using properly certified building inspectors;
 - (ii) filing construction inspection summary reports and the final inspection certification with the local governmental authority's building official;
 - (iii) the roles and relationships between a school district or charter school and the local governmental authority, either a county or municipality, as related to the construction and inspection of school buildings; and
 - (iv) adequate documentation of school building inspections; and
 - (c) provide input on any changes that may be needed to improve the existing school building inspection program.
- (4) The state board shall develop a process to verify that inspections by qualified inspectors occur in each school district or charter school.

Amended by Chapter 186, 2019 General Session

53E-3-708 Licensed architect to prepare plans.

A licensed architect shall prepare the plans and specifications for the construction or alteration of school buildings.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-709 Power of state board regarding expected federal aid to build schools.

For the purpose of participating in any program of assistance by the government of the United States designed to aid the various states, their political subdivisions and their educational agencies and institutions in providing adequate educational buildings and facilities, the state board, with the approval of the governor, may do the following:

- (1) It may develop and implement plans relating to the building of educational buildings for the use and benefit of school districts and educational institutions and agencies of the state. These

plans may conform to the requirements of federal legislation to such extent as the state board finds necessary to qualify the state and its educational subdivisions, agencies, and institutions for federal educational building grants-in-aid.

- (2) It may enter into agreements on behalf of the state, its school districts, and its educational agencies and institutions with the federal government and its agencies, and with the school districts, educational agencies, and institutions of the state, as necessary to comply with federal legislation and to secure for them rights of participation as necessary to fulfill the educational building needs of the state.
- (3) It may accept, allocate, disburse, and otherwise deal with federal funds or other assets that are available for buildings from any federal legislation or program of assistance among the school districts, public educational agencies, and other public institutions eligible to participate in those programs.

Amended by Chapter 186, 2019 General Session

53E-3-710 Notification to affected entities of intent to acquire school site or construction of school building -- Local government -- Negotiation of fees -- Confidentiality.

- (1)
 - (a) A school district or charter school shall notify the following without delay prior to the acquisition of a school site or construction of a school building of the school district's or charter school's intent to acquire or construct:
 - (i) an affected local governmental entity;
 - (ii) the Department of Transportation; and
 - (iii) as defined in Section 54-2-1, an electrical corporation, gas corporation, or telephone corporation that provides service or maintains infrastructure within the immediate area of the proposed site.
 - (b)
 - (i) Representatives of the local governmental entity, Department of Transportation, and the school district or charter school shall meet as soon as possible after the notification under Subsection (1)(a) takes place in order to:
 - (A) subject to Subsection (1)(b)(ii), review information provided by the school district or charter school about the proposed acquisition;
 - (B) discuss concerns that each may have, including potential community impacts and site safety;
 - (C) assess the availability of infrastructure for the site; and
 - (D) discuss any fees that might be charged by the local governmental entity in connection with a building project.
 - (ii) The school district or charter school shall provide for review under Subsection (1)(b)(i) the following information, if available, regarding the proposed acquisition:
 - (A) potential community impacts;
 - (B) approximate lot size;
 - (C) approximate building size and use;
 - (D) estimated student enrollment;
 - (E) proposals for ingress and egress, parking, and fire lane location; and
 - (F) building footprint and location.
- (2)
 - (a) After the purchase or an acquisition, but before construction begins:

- (i) representatives of the local governmental entity and the school district or charter school shall meet as soon as possible to review a rough proposed site plan provided by the school district or charter school, review the information listed in Subsection (1)(b)(ii), and negotiate any fees that might be charged by the local governmental entity in connection with a building project;
- (ii)
 - (A) the school district or charter school shall submit the rough proposed site plan to the local governmental entity's design review committee for comments; and
 - (B) subject to the priority requirement of Subsection 10-9a-305(7)(b), the local governmental entity's design review committee shall provide comments on the rough proposed site plan to the school district or charter school no later than 30 days after the day that the plan is submitted to the design review committee in accordance with this Subsection (2)(a)(ii); and
- (iii) the local governmental entity may require that the school district or charter school provide a traffic study by an independent third party qualified to perform the study if the local governmental entity determines that traffic flow, congestion, or other traffic concerns may require the study if otherwise permitted under Subsection 10-9a-305(3)(b).
- (b) A review conducted by or comment provided by a local governmental entity design review committee under Subsection (2)(a) may not be interpreted as an action that completes a land use application for the purpose of entitling the school district or charter school to a substantive land use review of a land use application under Section 10-9a-509 or 17-27a-508.
- (3) A local governmental entity may not increase a previously agreed-upon fee after the district or charter school has signed contracts to begin construction.
- (4) Prior to the filing of a formal application by the affected school district or charter school, a local governmental entity may not disclose information obtained from a school district or charter school regarding the district's or charter school's consideration of, or intent to, acquire a school site or construct a school building, without first obtaining the consent of the district or charter school.
- (5) Prior to beginning construction on a school site, a school district or charter school shall submit to the Department of Transportation a child access routing plan as described in Section 53G-4-402.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-711 Required contract terms.

A contract for the construction of a school building shall contain a clause that addresses the rights of the parties when, after the contract is executed, site conditions are discovered that:

- (1) the contractor did not know existed, and could not have reasonably known existed, at the time that the contract was executed; and
- (2) materially impacts the costs of construction.

Renumbered and Amended by Chapter 1, 2018 General Session

Part 8
Implementing Federal or National Education Programs

53E-3-801 Definitions.

As used in this part:

- (1)
 - (a) "Cost" means an estimation of state and local money required to implement a federal education agreement or national program.
 - (b) "Cost" does not include capital costs associated with implementing a federal education agreement or national program.
- (2) "Education entities" means the entities that may bear the state and local costs of implementing a federal program or national program, including:
 - (a) the state board;
 - (b) the state superintendent;
 - (c) a local school board;
 - (d) a school district and its schools;
 - (e) a charter school governing board; and
 - (f) a charter school.
- (3) "Federal education agreement" means a legally binding document or representation that requires a school official to implement a federal program or set of requirements that originates from the U.S. Department of Education and that has, as a primary focus, an impact on the educational services at a district or charter school.
- (4) "Federal programs" include:
 - (a) the No Child Left Behind Act;
 - (b) the Individuals with Disabilities Education Act Amendments of 1997, Public Law 105-17, and subsequent amendments; and
 - (c) other federal educational programs.
- (5) "National program" means a national or multi-state education program, agreement, or standards that:
 - (a) originated from, or were received directly or indirectly from, a national or multi-state organization, coalition, or compact;
 - (b) have, as a primary focus, an impact on the educational services at a public school; and
 - (c) are adopted by the state board or state superintendent with the intent to cause a local school official to implement the national or multi-state education program, agreement, or standards.
- (6) "No Child Left Behind Act" means the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.
- (7) "School official" includes:
 - (a) the state board;
 - (b) the state superintendent;
 - (c) employees of the state board and the state superintendent;
 - (d) local school boards;
 - (e) school district superintendents and employees; and
 - (f) charter school governing board members, administrators, and employees.

Amended by Chapter 186, 2019 General Session

53E-3-802 Federal programs -- School official duties.

- (1) School officials may:
 - (a) apply for, receive, and administer funds made available through programs of the federal government;

- (b) only expend federal funds for the purposes for which they are received and are accounted for by the state, school district, or charter school; and
 - (c) reduce or eliminate a program created with or expanded by federal funds to the extent allowed by law when federal funds for that program are subsequently reduced or eliminated.
- (2) School officials shall:
- (a) prioritize resources, especially to resolve conflicts between federal provisions or between federal and state programs, including:
 - (i) providing first priority to meeting state goals, objectives, program needs, and accountability systems as they relate to federal programs; and
 - (ii) subject to Subsection (4), providing second priority to implementing federal goals, objectives, program needs, and accountability systems that do not directly and simultaneously advance state goals, objectives, program needs, and accountability systems;
 - (b) interpret the provisions of federal programs in the best interest of students in this state;
 - (c) maximize local control and flexibility;
 - (d) minimize additional state resources that are diverted to implement federal programs beyond the federal money that is provided to fund the programs;
 - (e) request changes to federal educational programs, especially programs that are underfunded or provide conflicts with other state or federal programs, including:
 - (i) federal statutes;
 - (ii) federal regulations; and
 - (iii) other federal policies and interpretations of program provisions; and
 - (f) seek waivers from all possible federal statutes, requirements, regulations, and program provisions from federal education officials to:
 - (i) maximize state flexibility in implementing program provisions; and
 - (ii) receive reasonable time to comply with federal program provisions.
- (3) The requirements of school officials under this part, including the responsibility to lobby federal officials, are not intended to mandate school officials to incur costs or require the hiring of lobbyists, but are intended to be performed in the course of school officials' normal duties.
- (4)
- (a) As used in this Subsection (4):
 - (i) "Available Income Tax Fund revenue surplus" means the Income Tax Fund revenue surplus after the statutory transfers and set-asides described in Section 63J-1-313.
 - (ii) "Income Tax Fund revenue surplus" means the same as that term is defined in Section 63J-1-313.
 - (b) Before prioritizing the implementation of a future federal goal, objective, program need, or accountability system that does not directly and simultaneously advance a state goal, objective, program need, or accountability system, the state board may:
 - (i) determine the financial impact of failure to implement the federal goal, objective, program need, or accountability system; and
 - (ii) if the state board determines that failure to implement the federal goal, objective, program need, or accountability system may result in a financial loss, request that the Legislature mitigate the financial loss.
 - (c) A mitigation requested under Subsection (4)(b)(ii) may include appropriating available Income Tax Fund revenue surplus through an appropriations act, including an appropriations act passed during a special session called by the governor or a general session.
 - (d) This mitigation option is in addition to and does not restrict or conflict with the state's authority provided in this part.

Amended by Chapter 456, 2022 General Session

53E-3-803 Notice of voidableness of federal education agreements or national programs.

A federal education agreement or national program that may cost education entities more than \$500,000 annually from state and local money to implement, that is executed by a school official in violation of this part, is voidable by the governor or the Legislature as provided in this part.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-804 Governor to approve federal education agreements or national programs.

- (1) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$500,000 annually from state and local money to implement, a school official shall submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection.
- (2) The governor shall approve or reject each federal education agreement or national program.
- (3)
 - (a) If the governor approves the federal education agreement or national program, the school official may execute the agreement.
 - (b) If the governor rejects the federal education agreement or national program, the school official may not execute the agreement.
- (4) If a school official executes a federal education agreement or national program without obtaining the governor's approval under this section, the governor may issue an executive order declaring the federal education agreement or national program void.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-805 Legislative review and approval of federal education agreements or national programs.

- (1)
 - (a) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$1,000,000 annually from state and local money to implement, the school official shall:
 - (i) submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection as required by Section 53E-3-804; and
 - (ii) if the governor approves the federal education agreement or national program, submit the federal education agreement to the Executive Appropriations Committee of the Legislature for its review and recommendations.
 - (b) The Executive Appropriations Committee shall review the federal education agreement or national program and may:
 - (i) recommend that the school official execute the federal education agreement or national program;
 - (ii) recommend that the school official reject the federal education agreement or national program; or
 - (iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the federal education agreement or national program.
- (2)

- (a) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$5,000,000 annually to implement, a school official shall:
 - (i) submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection as required by Section 53E-3-804; and
 - (ii) if the governor approves the federal education agreement or national program, submit the federal education agreement or national program to the Legislature for its approval in an annual general session or a special session.
- (b)
 - (i) If the Legislature approves the federal education agreement or national program, the school official may execute the agreement.
 - (ii) If the Legislature rejects the federal education agreement or national program, the school official may not execute the agreement.
- (c) If a school official executes a federal education agreement or national program without obtaining the Legislature's approval under this Subsection (2):
 - (i) the governor may issue an executive order declaring the federal education agreement or national program void; or
 - (ii) the Legislature may pass a joint resolution declaring the federal education agreement or national program void.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-806 Cost evaluation of federal education agreements or national programs.

- (1) Before legally binding the state to a federal education agreement or national program that may cost the state a total of \$500,000 or more to implement, a school official shall estimate the state and local cost of implementing the federal education agreement or national program and submit that cost estimate to the governor and the Executive Appropriations Committee of the Legislature.
- (2) The Executive Appropriations Committee may:
 - (a) direct its staff to make an independent cost estimate of the cost of implementing the federal education agreement or national program; and
 - (b) affirmatively adopt a cost estimate as the benchmark for determining which authorizations established by this part are necessary.

Renumbered and Amended by Chapter 1, 2018 General Session

Part 9
Interstate Compact on Educational Opportunity for Military Children

53E-3-901 Title -- Interstate Compact on Educational Opportunity for Military Children.

This part is known as the "Interstate Compact on Educational Opportunity for Military Children."

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-902 Article I -- Purpose.

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

- (1) facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements;
- (2) facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
- (3) facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
- (4) facilitating the on-time graduation of children of military families;
- (5) providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;
- (6) providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;
- (7) promoting coordination between this compact and other compacts affecting military children; and
- (8) promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-903 Article II -- Definitions.

- (1) As used in this compact, unless the context clearly requires a different construction:
 - (a) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve.
 - (b) "Children of military families" means a school-aged child, enrolled in Kindergarten through Twelfth grade, in the household of an active duty member.
 - (c) "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.
 - (d) "Deployment" means the period one month prior to the service member's departure from their home station on military orders through six months after return to their home station.
 - (e) "Education" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
 - (f) "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
 - (g) "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created in Section 53E-3-910 and generally referred to as Interstate Commission.

- (h) "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth grade public educational institutions.
 - (i) "Member state" means a state that has enacted this compact.
 - (j) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
 - (k) "Non-member state" means a state that has not enacted this compact.
 - (l) "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
 - (m) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 53E-3-913 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of a rule promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and includes the amendment, repeal, or suspension of an existing rule.
 - (n) "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
 - (o) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory.
 - (p) "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth grade.
 - (q) "Transition" means:
 - (i) the formal and physical process of transferring from school to school; or
 - (ii) the period of time in which a student moves from one school in the sending state to another school in the receiving state.
 - (r) "Uniformed services" means the same as that term is defined in Section 68-3-12.5.
 - (s) "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.
- (2) The definitions described in Section 53E-1-102 do not apply to this compact.

Amended by Chapter 186, 2019 General Session

53E-3-904 Article III -- Applicability.

- (1) Except as otherwise provided in Subsection (3), this compact shall apply to the children of:
 - (a) active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve;
 - (b) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - (c) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.
- (2) The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.
- (3) The provisions of this compact do not apply to the children of:

- (a) inactive members of the National Guard and military reserves;
- (b) members of the uniformed services now retired, except as provided in Subsection (1); and
- (c) veterans of the uniformed services, except as provided in Subsection (1), and other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-905 Article IV -- Educational records and enrollment -- Immunizations -- Grade level entrance.

- (1) Unofficial or "hand-carried" education records. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
- (2) Official education records or transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.
- (3) Immunizations. Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.
- (4) Kindergarten and First grade entrance age. Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including Kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. Students transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-906 Article V -- Course placement -- Attendance -- Special education services -- Flexibility -- Absences related to deployment.

- (1) When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount

- when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.
- (2) The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to gifted and talented programs and English as a Second Language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.
 - (3)
 - (a) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current Individualized Education Program (IEP).
 - (b) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.
 - (4) Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement, in courses or programs offered under the jurisdiction of the local education agency.
 - (5) A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-907 Article VI -- Eligibility -- Enrollment -- Extracurricular activities.

- (1) Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.
- (2) A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.
- (3) A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the student was enrolled while residing with the custodial parent.
- (4) State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-908 Article VII -- Graduation -- Waiver -- Exit exams -- Senior year transfers.

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

- (1) Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.
- (2) States shall accept:
 - (a) exit or end-of-course exams required for graduation from the sending state;
 - (b) national norm-referenced achievement tests; or
 - (c) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in the student's Senior year, then the provisions of Subsection (3) shall apply.
- (3) Should a military student transferring at the beginning or during the student's Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Subsections (1) and (2).

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-909 Article VIII -- State coordination -- Membership of State Council.

- (1) Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership shall include at least:
 - (a) the state superintendent of education;
 - (b) a superintendent of a school district with a high concentration of military children;
 - (c) a representative from a military installation;
 - (d) one representative each from the legislative and executive branches of government; and
 - (e) other offices and stakeholder groups the State Council considers appropriate.
- (2) A member state that does not have a school district that contains a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.
- (3) The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.
- (4) The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed in accordance with Section 53E-3-921.
- (5) The compact commissioner and the designated military family education liaison shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-910 Article IX -- Creation of Interstate Commission.

- (1) The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function.
- (2) The Interstate Commission shall:
 - (a) Be a body corporate and joint agency of the member states and have all the responsibilities, powers, and duties set forth in this compact, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.
 - (b) Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.
 - (i) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.
 - (ii) A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.
 - (iii) A representative may not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.
 - (iv) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.
- (3) Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.
- (4) Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.
- (5) Establish an executive committee, whose members shall include the officers of the Interstate Commission and other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other duties considered necessary. The U.S. Department of Defense shall serve as an ex-officio, nonvoting member of the executive committee.
- (6) Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

- (7) Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion of the meeting, where it determines by two-thirds vote that an open meeting would be likely to:
 - (a) relate solely to the Interstate Commission's internal personnel practices and procedures;
 - (b) disclose matters specifically exempted from disclosure by federal and state statute;
 - (c) disclose trade secrets or commercial or financial information which is privileged or confidential;
 - (d) involve accusing a person of a crime, or formally censuring a person;
 - (e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (f) disclose investigative records compiled for law enforcement purposes; or
 - (g) specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.
- (8) Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.
- (9) Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, as far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
- (10) Create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section may not be construed to create a private right of action against the Interstate Commission or any member state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-911 Article X -- Powers and duties of the Interstate Commission.

The Interstate Commission shall have the following powers:

- (1) To provide for dispute resolution among member states.
- (2) To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations enumerated in this compact. The rules shall have the force and effect of rules promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and shall be binding in the compact states to the extent and in the manner provided in this compact.
- (3) To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.
- (4) To monitor compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws. Any action to enforce compliance with the compact provision by the Interstate Commission shall be brought against a member state only.

- (5) To establish and maintain offices which shall be located within one or more of the member states.
- (6) To purchase and maintain insurance and bonds.
- (7) To borrow, accept, hire, or contract for services of personnel.
- (8) To establish and appoint committees including, but not limited to, an executive committee as required by Subsection 53E-3-910(5), which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties.
- (9) To elect or appoint officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
- (10) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
- (11) To lease, purchase, accept contributions, or donations of, or otherwise to own, hold, improve, or use any property - real, personal, or mixed.
- (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property - real, personal, or mixed.
- (13) To establish a budget and make expenditures.
- (14) To adopt a seal and bylaws governing the management and operation of the Interstate Commission.
- (15) To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. The reports shall also include any recommendations that may have been adopted by the Interstate Commission.
- (16) To coordinate education, training, and public awareness regarding the compact and its implementation and operation for officials and parents involved in such activity.
- (17) To establish uniform standards for the reporting, collecting, and exchanging of data.
- (18) To maintain corporate books and records in accordance with the bylaws.
- (19) To perform any functions necessary or appropriate to achieve the purposes of this compact.
- (20) To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-912 Article XI -- Organization and operation of the Interstate Commission -- Executive committee -- Officers -- Personnel.

- (1) The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as necessary or appropriate to carry out the purposes of the compact, including, but not limited to:
 - (a) establishing the fiscal year of the Interstate Commission;
 - (b) establishing an executive committee, and other committees as necessary;
 - (c) providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
 - (d) providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each meeting;
 - (e) establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

- (f) providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and
 - (g) providing start up rules for initial administration of the compact.
- (2) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have the authority and duties specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.
- (3) The executive committee shall have the authority and duties set forth in the bylaws, including, but not limited to:
- (a) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;
 - (b) overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (c) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.
- (4) The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may consider appropriate. The executive director shall serve as secretary to the Interstate Commission, but may not be a member of the Interstate Commission. The executive director shall hire and supervise other persons authorized by the Interstate Commission.
- (5) The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that the person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the person may not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.
- (a) The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of the person's employment or duties for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any action. Nothing in this Subsection (5)(a) shall be construed to protect a person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.
 - (b) The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend the Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate

Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

- (c) To the extent not covered by the state involved, the member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against a person arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-913 Article XII -- Rulemaking -- Authority -- Procedure -- Review -- Rejection by Legislature.

- (1) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted in accordance with this compact, then the action by the Interstate Commission shall be invalid and have no force or effect.
- (2) Rules shall be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act, of 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.
- (3) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided that, the filing of a petition may not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and may not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.
- (4) If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule shall have no further force and effect in any compacting state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-914 Article XIII -- Oversight -- Enforcement -- Dispute resolution -- Default -- Technical assistance -- Suspension -- Termination.

- (1) Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated in accordance with the compact shall have standing as a rule promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.

- (3) The Interstate Commission shall be entitled to receive all service of process in any proceeding, and have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.
- (4) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:
 - (a) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state shall cure its default.
 - (b) Provide remedial training and specific technical assistance regarding the default.
- (5) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
- (6) Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
- (7) The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, not to exceed \$5,000 per year, as provided in Subsection 53E-3-915(5), for each year that the state is a member of the compact.
- (8) The Interstate Commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
- (9) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of the litigation including reasonable attorney fees.
- (10) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.
- (11) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-915 Article XIV -- Financing of the Interstate Commission.

- (1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.
- (2) In accordance with the funding limit established in Subsection (5), the Interstate Commission may levy and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which shall be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to

be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

- (3) The Interstate Commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.
- (4) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.
- (5) The Interstate Commission may not assess, levy, or collect more than \$5,000 per year from Utah legislative appropriations. Other funding sources may be accepted and used to offset expenses related to the state's participation in the compact.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-916 Article XV -- Member states -- Effective date -- Amendments.

- (1) Any state is eligible to become a member state.
- (2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.
- (3) The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-917 Article XVI -- Withdrawal -- Dissolution.

- (1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that, a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.
- (2) Withdrawal from this compact shall be by the enactment of a statute repealing the same.
- (3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of the notification.
- (4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, not to exceed \$5,000 per year, as provided in Subsection 53E-3-915(5), for each year that the state is a member of the compact.
- (5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon a later date determined by the Interstate Commission.
- (6) This compact shall dissolve effective upon the date of the withdrawal or default of a member state which reduces the membership in the compact to one member state.

- (7) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect. The business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-918 Article XVII -- Severability -- Construction.

- (1) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.
- (2) The provisions of this compact shall be liberally construed to effectuate its purposes.
- (3) Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-919 Article XVIII -- Binding effect of compact -- Other state laws.

- (1) Nothing in this compact prevents the enforcement of any other law of a member state.
- (2) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.
- (3) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.
- (4) In the event any provision of this compact exceeds the statutory or constitutional limits imposed on the legislature of any member state, that provision shall be ineffective to the extent of the conflict with the statutory or constitutional provision in question in that member state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-920.1 State council -- Creation.

The State Board of Education shall create a state council described in Section 53E-3-909 to accomplish the duties described in Section 53E-3-909.

Enacted by Chapter 246, 2019 General Session

53E-3-921 Appointment of compact commissioner.

The governor, with the advice and consent of the Senate, shall appoint a compact commissioner to carry out the duties described in this part.

Amended by Chapter 352, 2020 General Session

Part 10 Early Literacy

53E-3-1001 Statewide goal -- Emphasis on early literacy.

To achieve a strenuous statewide goal of 70% in third grade-level proficiency on the state-administered reading assessment by July 1, 2027, the state board shall:

- (1) analyze, align, and target resources, including digital software and tools, in existing state programs and the programs enacted in Laws of Utah 2022, Chapter 285, as appropriate, to support early literacy within the state; and
- (2) identify opportunities to incentivize and support LEAs and elementary schools to analyze data, align plans, and target resources from existing local and LEA programs to support early literacy within the state, resulting in a comprehensive statewide alignment of early literacy plans.

Revisor instructions Chapter 285, 2022 General Session
Enacted by Chapter 285, 2022 General Session

53E-3-1002 Literacy coaching -- Professional learning.

- (1) Subject to legislative appropriations, the state board shall provide, train, and assign literacy coaches to schools with low literacy achievement performance to provide early literacy coaching to teachers in kindergarten through grade 3, in accordance with this section.
- (2) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
 - (a) establish criteria to determine which schools qualify for early literacy coaching, prioritizing coaching among:
 - (i) schools that participate in partnerships that receive grants under Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program; and
 - (ii) schools that fall within the bottom 25% of all schools in literacy achievement performance, as the state board further defines;
 - (b) establish minimum qualifications for early literacy coach positions to ensure adequate preparation with necessary expertise;
 - (c) define roles and responsibilities for a literacy coach, including:
 - (i) assisting educators in analyzing data to inform instructional adjustments;
 - (ii) engaging in instructional coaching cycles with educators to build capacity for improved classroom instructional practices;
 - (iii) using principles of adult learning to effectively partner with educators to integrate professional learning into classroom practice;
 - (iv) leveraging knowledge of the science of reading and evidence-based practices to support educators in maximizing student learning;
 - (v) partnering with a school's leader to support school-wide literacy goals to provide a team of support for educators to embed the state-wide goals into instructional plans and practice;
 - (vi) delivering consistent and frequent job-embedded professional learning;
 - (vii) participating actively in professional learning experiences to deepen knowledge and skills for coaching; and
 - (viii) designing and facilitating relevant and cohesive professional learning sessions to strengthen the implementation of these evidence-based practices with educators; and
 - (d) establish parameters for the relationship between a literacy coach and school or LEA, including ensuring that coaches do not engage in activities or duties unrelated to literacy coaching, including:
 - (i) serving as an evaluator, substitute teacher, clerical aid, recess or lunch aid, behavioral therapist, tester, guidance counselor, interventionist, program manager, or contest leader; or
 - (ii) any other assignment that frequently disrupts the coach's ability to support educators in improving instructional practice.
- (3) The state board shall:
 - (a) ensure that one staff position supervises early literacy coaches statewide;

- (b) select the pool of candidates for literacy coaching positions and coordinate with LEAs regarding interviews, final selection, and placement; and
 - (c) annually review coaching placements and adjust placements as necessary, based on the school's literacy achievement performance and the criteria established under Subsection (2).
- (4) The state board shall provide professional learning support in early literacy by:
- (a) facilitating professional learning opportunities to support literacy coaches statewide that includes knowledge and skill development in adult learning practices, job-embedded coaching, and family engagement;
 - (b) providing professional learning regional consultants to:
 - (i) support LEAs and regional education service agencies in designing, facilitating, monitoring, and adjusting professional learning in early literacy that aligns with the professional learning standards described in Section 53G-11-303; and
 - (ii) serve a cohort of LEAs within a geographic region of the state; and
 - (c) providing statewide professional learning to support the use of collective efficacy, including the implementation of professional learning communities and school leadership teams through 2027.

Enacted by Chapter 285, 2022 General Session

53E-3-1003 Science of reading.

- (1) As used in this section:
- (a) "Educator preparation program" means the same as that term is defined in Section 53E-6-302.
 - (b) "Panel" means the science of reading panel that the state board establishes in accordance with this section.
 - (c) "University teacher preparation program" means a program described in Section 53E-6-302.
- (2) The state board shall establish an expert science of reading panel consisting of up to six experts who have:
- (a) knowledge and a research background in the science of reading and the science of reading instruction; and
 - (b) experience translating the science of reading into effective reading instructional practices.
- (3) The panel shall:
- (a) meet no less than once every quarter;
 - (b) provide expertise to and serve in a consultancy capacity to the state board on implementation of:
 - (i) the early literacy emphases described in Section 53E-3-1001; and
 - (ii) educator preparation programs;
 - (c) in consultation with the state board:
 - (i) provide advanced professional learning opportunities in the science of reading and the science of reading instruction for public schools and educator preparation programs as needed to expand statewide capacity;
 - (ii) partner with ULEAD, as that term is defined in Section 53E-10-701, to develop and implement an online repository of digital science of reading and science of reading instruction resources that is accessible to public school teachers, school leaders, parents, and educator preparation programs and associated faculty;
 - (iii) develop professional learning modules to support teachers and school leaders; and

- (iv) coordinate with educator preparation programs, university teacher preparation program faculty, deans of education, and literacy leadership fellows to advance the science of reading and the science of reading instruction; and
- (d) take part in the hiring of the additional faculty members described in Subsection 53E-6-302(6) with two panel members participating in the hiring process.
- (4) The state board may collaborate with panel members to conduct periodic reviews of:
 - (a) student outcome data;
 - (b) science of reading and science of reading instruction implementation fidelity in public schools and educator preparation programs through onsite visits; and
 - (c) advise LEAs regarding the science of reading and the science of reading instruction curriculum and intervention programs.
- (5) A panel member:
 - (a) may not receive compensation or benefits for the member's service on the panel; and
 - (b) may receive per diem and reimbursement for travel expenses that the panel member incurs as a panel member at the rates that the Division of Finance establishes under:
 - (i) Sections 63A-3-106 and 63A-3-107; and
 - (ii) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.
- (6) The state board shall provide staff support to the panel.

Enacted by Chapter 285, 2022 General Session

53E-3-1004 Community engagement for early literacy.

- (1) The state board shall:
 - (a) partner with a private business or nonprofit organization to annually provide personal, home-use, age-appropriate printed books or digital books with accompanying electronic reading devices to students:
 - (i) who attend:
 - (A) a school that participates in partnerships that receive grants under Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program; or
 - (B) a Title I school, as that term is defined in Section 53F-2-523; and
 - (ii) at a minimum, in kindergarten through grade 3; and
 - (b) provide students a choice of language where possible.
- (2) The state board shall develop and promote a website that provides resources for teachers and other educational support personnel to support targeted activities and strategies for parents to support at-home reading.
- (3) The state board shall contract with one or more organizations that have expertise in coordinating community resources to:
 - (a) provide training and coaching to community, school, and parent engagement coordinators; and
 - (b) for a school that is not participating in a partnership that receives a grant under Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program:
 - (i) assess the presence of existing community school infrastructure; and
 - (ii) provide necessary supports for parent, community, and business engagement, including services and coordination support.

Enacted by Chapter 285, 2022 General Session

Effective 7/1/2024

53E-3-1101 Prohibited discriminatory practices -- Restrictions -- Reporting.

- (1) As used in this section, "prohibited discriminatory practice" means the same as that term is defined in Section 53B-1-118.
- (2) The state board may not:
 - (a) establish or maintain an office, division, or employment position established to implement, develop, plan, or promote policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or
 - (b) employ or assign an employee or a third-party whose duties for the state board include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.
- (3) Nothing in this section limits or prohibits the state board's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.
- (4) The state board shall provide an update to the Education Interim Committee and Public Education Appropriations Subcommittee on the state board's compliance with this section at or before:
 - (a) the Education Interim Committee's November interim committee meeting; and
 - (b) the Public Education Appropriations Subcommittee December interim subcommittee meeting.

Chapter 4
Academic Standards, Assessments, and Materials

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Part 4
State Instructional Materials

53E-4-401 Definitions.

As used in this part, "instructional materials" means textbooks or materials used as, or in place of, textbooks and which may be used within the state curriculum framework for courses of study by students in public schools, including:

- (1) textbooks;
- (2) workbooks;
- (3) computer software;
- (4) online or Internet courses; and
- (5) audio and video media.

Amended by Chapter 338, 2020 General Session

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53E-4-403 Evaluation of instructional materials -- Recommendation by the state board.

- (1) Semi-annually, the state board shall recommend instructional materials for use in the public schools.

- (2) The standard period of time instructional materials shall remain on the list of recommended instructional materials shall be five years.
- (3) Unsatisfactory instructional materials may be removed from the list of recommended instructional materials at any time within the period applicable to the instructional materials.
- (4) Except as provided in Sections 53G-10-103 and 53G-10-402, each school shall have discretion to select instructional materials for use by the school. A school may select:
 - (a) instructional materials recommended by the state board as provided in this section; or
 - (b) other instructional materials the school considers appropriate to teach the core standards for Utah public schools.

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53E-4-405 Sealed proposals for instructional materials contracts -- Sample copies -- Price of instructional materials.

- (1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.
- (2) A person seeking a contract to furnish instructional materials for use in the public schools shall submit a sealed proposal to the state board.
- (3) Each proposal must:
 - (a) be accompanied by sample copies of the instructional materials to be reviewed; and
 - (b) include the wholesale price at which the publisher agrees to furnish the instructional materials to districts and schools during the approval period.

53E-4-406 Awarding instructional materials contracts.

- (1) The state board shall award contracts for furnishing instructional materials.
- (2) If a satisfactory proposal to furnish instructional materials is not received, a new request for proposals may be issued.

Amended by Chapter 186, 2019 General Session

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53E-4-407 Illegal acts -- Misdemeanor.

It is a class B misdemeanor for a member of the state board to receive money or other remuneration as an inducement for the recommendation or introduction of instructional materials into the schools.

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53E-4-408 Instructional materials alignment with core standards for Utah public schools.

- (1) For a school year beginning with or after the 2012-13 school year, a school district may not purchase primary instructional materials unless the primary instructional materials provider:
 - (a) contracts with an independent party to evaluate and map the alignment of the primary instructional materials with the core standards for Utah public schools adopted under Section 53E-3-501;
 - (b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public website at no charge, for use by teachers and the general public; and

- (c) pays the costs related to the requirements of this Subsection (1).
- (2) The requirements under Subsection (1) may not be performed by:
 - (a) the state board;
 - (b) the state superintendent or employees of the state board;
 - (c) a local school board or a school district; or
 - (d) the instructional materials creator or publisher.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:
 - (a) the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials in accordance with the provisions of Subsection (1)(a); and
 - (b) requirements for the detailed summary of the evaluation and its placement on a public website in accordance with the provisions of Subsection (1)(b).

Part 1 General Provisions

53E-4-101 Title.

This chapter is known as "Academic Standards, Assessments, and Materials."

Enacted by Chapter 1, 2018 General Session

Part 2 Standards

53E-4-201 Definitions.

Reserved

Enacted by Chapter 1, 2018 General Session

53E-4-202 Core standards for Utah public schools -- Notice and hearing requirements.

- (1)
 - (a) In establishing minimum standards related to curriculum and instruction requirements under Section 53E-3-501, the state board shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core standards for Utah public schools that will enable students to, among other objectives:
 - (i) communicate effectively, both verbally and through written communication;
 - (ii) apply mathematics; and
 - (iii) access, analyze, and apply information.
 - (b) Except as provided in this public education code, the state board may recommend but may not require a local school board or charter school governing board to use:
 - (i) a particular curriculum or instructional material; or
 - (ii) a model curriculum or instructional material.
- (2) The state board shall, in establishing the core standards for Utah public schools:

- (a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and
 - (b) align with each other the core standards for Utah public schools and the assessments described in Section 53E-4-303.
- (3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the basic academic areas of:
- (a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and
 - (b) mathematics, including basic computational skills.
- (4) Before adopting core standards for Utah public schools, the state board shall:
- (a) publicize draft core standards for Utah public schools for the state, as a class A notice under Section 63G-30-102, for at least 90 days;
 - (b) invite public comment on the draft core standards for Utah public schools for a period of not less than 90 days; and
 - (c) conduct three public hearings that are held in different regions of the state on the draft core standards for Utah public schools.
- (5) LEA governing boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core standards for Utah public schools.
- (6) Except as provided in Sections 53G-10-103 and 53G-10-402, each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that the school considers most appropriate to meet the core standards for Utah public schools.
- (7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of the core standards for Utah public schools to any other entity, including a federal agency or consortium, for any reason, including:
- (a) the cost of developing or implementing the core standards for Utah public schools;
 - (b) the proposed core standards for Utah public schools are inconsistent with community values; or
 - (c) the agreement, contract, memorandum of understanding, or consortium:
 - (i) was entered into in violation of Chapter 3, Part 8, Implementing Federal or National Education Programs, or Title 63J, Chapter 5, Federal Funds Procedures Act;
 - (ii) conflicts with Utah law;
 - (iii) requires Utah student data to be included in a national or multi-state database;
 - (iv) requires records of teacher performance to be included in a national or multi-state database; or
 - (v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.
- (8) The state board shall submit a report in accordance with Section 53E-1-203 on the development and implementation of the core standards for Utah public schools, including the time line established for the review of the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203.

Amended by Chapter 435, 2023 General Session

53E-4-203 Standards review committee.

- (1) Subject to Subsection (4), the state board shall establish:
 - (a) a time line for the review by a standards review committee of the core standards for Utah public schools for:
 - (i) English language arts;
 - (ii) mathematics;
 - (iii) science;
 - (iv) social studies;
 - (v) fine arts;
 - (vi) physical education and health; and
 - (vii) early childhood education; and
 - (b) a separate standards review committee for each subject area described in Subsection (1)(a) to review, and recommend to the state board revisions to, the core standards for Utah public schools for the subject area.
- (2)
 - (a) At least one year before the state board takes formal action to adopt new core standards for Utah public schools, the state board shall establish a standards review committee.
 - (b) The state board shall notify the speaker of the House of Representatives and the president of the Senate at least 30 business days before establishing a standards review committee.
- (3) A standards review committee shall meet at least twice during the time period described in Subsection (2)(a).
- (4) In establishing a time line for the review of core standards for Utah public schools by a standards review committee, the state board shall give priority to establishing a standards review committee to review, and recommend revisions to, the mathematics core standards for Utah public schools.
- (5)
 - (a) The membership of a standards review committee consists of:
 - (i) seven individuals, with expertise in the subject of the core standards being reviewed, appointed by the state board chair, including teachers, business representatives, faculty of higher education institutions in Utah, and others as determined by the state board chair;
 - (ii) except as provided in Subsection (5)(b)(i), five parents of public education students appointed by the speaker of the House of Representatives; and
 - (iii) except as provided in Subsection (5)(b)(ii), five parents of public education students appointed by the president of the Senate.
 - (b) The state board chair may appoint a parent of a public education student to a standards review committee in place of:
 - (i) an appointment described in Subsection (5)(a)(ii), if the speaker of the House of Representatives does not make the appointment within 30 days of the state board providing the notification described in Subsection (2)(b); or
 - (ii) an appointment described in Subsection (5)(a)(iii), if the president of the Senate does not make the appointment within 30 days of the state board providing the notification described in Subsection (2)(b).
- (6) The state board shall provide staff support to a standards review committee.
- (7) A member of a standards review committee may not receive compensation or benefits for the member's service on the standards review committee.
- (8) Among the criteria a standards review committee shall consider when reviewing the core standards for Utah public schools is giving students an adequate foundation to successfully pursue college, technical education, a career, or other life pursuits.

- (9) A standards review committee shall submit, to the state board, comments and recommendations for revision of the core standards for Utah public schools.
- (10) The state board shall take into consideration the comments and recommendations of a standards review committee in adopting the core standards for Utah public schools.
- (11)
 - (a) Nothing in this section prohibits the state board from amending or adding individual core standards for Utah public schools as the need arises in the state board's ongoing responsibilities.
 - (b) If the state board makes changes as described in Subsection (11)(a), the state board shall include the changes in the annual report the state board submits to the Education Interim Committee described in Section 53E-4-202.

Amended by Chapter 296, 2021 General Session

53E-4-204 Standards and graduation requirements.

- (1) The state board shall establish rigorous core standards for Utah public schools and graduation requirements under Section 53E-3-501 for grades 9 through 12 that:
 - (a) are consistent with state law and federal regulations;
 - (b) use competency-based standards and assessments;
 - (c) include instruction that stresses general financial literacy from basic budgeting to financial investments, including bankruptcy education and a general financial literacy test-out option; and
 - (d) include graduation requirements in language arts, mathematics, and science that exceed:
 - (i) 3.0 units in language arts including up to 0.5 units emphasizing verbal communication completed in a course or a school sponsored activity;
 - (ii) 2.0 units in mathematics; and
 - (iii) and 2.0 units in science.
- (2) The state board shall establish competency-based standards and assessments for elective courses.
- (3) The state board shall study requiring all LEAs to issue a high school diploma to students who receive:
 - (a) an associate's degree with at least 60 credit hours from an accredited post-secondary institution; or
 - (b) an industry certification with at least 500 hours of instruction from a business, trade association, or other industry group in accordance with Section 53E-3-501.

Amended by Chapter 346, 2023 General Session

Amended by Chapter 527, 2023 General Session

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53E-4-204.1 Ethnic studies core standards and curriculum requirements.

- (1) As used in this section:
 - (a) "Core standards for Utah public schools" or "core standards" means the standards the state board establishes as described in Section 53E-4-202.
 - (b) "Ethnic studies" means the interdisciplinary social and historical study of how different populations have experienced and participated in building the United States of America, including the study of the culture, history, and contributions of Utahns of diverse ethnicities.

- (c) "Ethnic Studies Commission" means the Ethnic Studies Commission created in Section 63C-28-201.
 - (d) "Utahns of diverse ethnicities" means individuals who are residents of Utah and:
 - (i) Native American;
 - (ii) Alaska Native;
 - (iii) Native Hawaiian;
 - (iv) Pacific Islander;
 - (v) Hispanic or Latino;
 - (vi) Black or African American;
 - (vii) Asian or Asian American; or
 - (viii) from diverse backgrounds and experiences.
- (2)
- (a) The state board shall incorporate ethnic studies into the core standards for Utah public schools.
 - (b) Before the state board takes formal action to incorporate ethnic studies into the core standards, the state board shall:
 - (i) consult with the Ethnic Studies Commission; and
 - (ii) submit the proposed core standards incorporating ethnic studies to the Ethnic Studies Commission for review and recommendations.
- (3) In incorporating ethnic studies into the core standards, the state board shall consider, at a minimum:
- (a) existing core standards that increase cultural awareness of, and focus on the character traits described in Section 53G-10-204 for, all Utah communities;
 - (b) opportunities to recognize and incorporate into the ethnic studies core standards the histories, contributions, and perspectives of Utahns of diverse ethnicities; and
 - (c) recommendations of the Ethnic Studies Commission.
- (4) Subject to legislative appropriations, the state board shall provide funding for professional learning in ethnic studies for teachers.
- (5)
- (a) By December 31, 2025, an LEA shall select curriculum and instructional materials for teaching ethnic studies to students in kindergarten through grade 12 that:
 - (i) align with the core standards incorporating ethnic studies described in this section; and
 - (ii) are integrated with regular school work.
 - (b) An LEA shall implement an ethnic studies curriculum that, at a minimum:
 - (i) focuses on shared identity and honoring unique cultural differences, including:
 - (A) that each individual student has unique characteristics;
 - (B) the common elements that unite Utahns; and
 - (C) respect for distinct socio-cultural identities; and
 - (ii) includes themes including cultural histories within the context of United States history and global history.
 - (c) An LEA shall:
 - (i) modify or revise as needed the ethnic studies instructional materials and curriculum the LEA selects as described in Subsection (5)(a), to ensure alignment with core standards incorporating ethnic studies; and
 - (ii) submit a report to the state board that provides evidence that the LEA is complying with the requirements of Subsections (5)(a) and (b).
 - (d) In fulfilling the requirements of this section, an LEA may offer a course on ethnic studies.

- (6) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:
 - (a) to develop guidelines and methods for LEAs to more fully incorporate ethnic studies into other core standards for Utah public schools courses; and
 - (b) for the report described in Subsection (5)(c).
- (7) The guidelines and methods described in Subsection (6)(a) may not change:
 - (a) the number of instructional hours required for elementary and secondary students; or
 - (b) the number of instructional hours dedicated to the existing curriculum.

53E-4-205 American civics education initiative.

- (1) As used in this section:
 - (a) "Adult education program" means an organized educational program below the postsecondary level, other than a regular full-time K-12 secondary education program, provided by an LEA or nonprofit organization that provides the opportunity for an adult to further the adult's high school level education.
 - (b) "Basic civics test" means a test that includes 50 of the questions on the civics test form used by the United States Citizenship and Immigration Services:
 - (i) to determine that an individual applying for United States citizenship meets the basic citizenship skills specified in 8 U.S.C. Sec. 1423; and
 - (ii) in accordance with 8 C.F.R. Sec. 312.2.
- (2)
 - (a) Except as provided in Subsection (2)(b), the state board shall require:
 - (i) a public school student who graduates on or after January 1, 2016, to pass a basic civics test as a condition for receiving a high school diploma; and
 - (ii) a student enrolled in an adult education program to pass a basic civics test as a condition for receiving an adult education secondary diploma.
 - (b) The state board may require a public school student to pass an alternate assessment instead of a basic civics test if the student qualifies for an alternate assessment, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) An individual who correctly answers a minimum of 35 out of the 50 questions on a basic civics test passes the test and an individual who correctly answers fewer than 35 out of 50 questions on a basic civics test does not pass the test.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:
 - (a) require an LEA that serves secondary students to administer a basic civics test or alternate assessment to a public school student enrolled in the LEA;
 - (b) require an adult education program provider to administer a basic civics test to an individual who intends to receive an adult education secondary diploma;
 - (c) allow an individual to take a basic civics test as many times as needed in order to pass the test; and
 - (d) for the alternate assessment described in Subsection (2)(b), describe:
 - (i) the content of an alternate assessment;
 - (ii) how a public school student qualifies for an alternate assessment; and
 - (iii) how an LEA determines if a student passes an alternate assessment.

Amended by Chapter 114, 2021 General Session

53E-4-205.1 Waiver of basic civics test graduation requirement.

- (1) As used in this section, "basic civics test" means the same as that term is defined in Section 53E-4-205 or an alternate assessment described in Subsection 53E-4-205(2)(b).
- (2) A student who graduates high school between January 1, 2020, and September 30, 2020, is not required to meet the requirements of Section 53E-4-205 as a condition of receiving a high school diploma if:
 - (a) the student is unable to complete the basic civics test due to public health related school closures;
 - (b) the student's LEA submits an application to the state board for a waiver of the requirement to complete the basic civics test that includes an explanation for why the student was unable to complete the basic civics test due to public health related school closures; and
 - (c) the state board grants a waiver requested under Subsection (2)(b).
- (3) The state board may grant a waiver under this section if the state board determines that a student who graduates between January 1, 2020, and September 30, 2020, was unable to complete the basic civics test due to public health related school closures.
- (4) This section supersedes conflicting provisions of Utah law.

Enacted by Chapter 10, 2020 Special Session 3

53E-4-206 Career and college readiness mathematics competency standards.

- (1) As used in this section, "qualifying score" means a score established as described in Subsection (4), that, if met by a student, qualifies the student to receive college credit for a mathematics course that satisfies the state system of higher education quantitative literacy requirement.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:
 - (a)
 - (i) establish the mathematics competency standards described in Subsection (3) as a graduation requirement beginning with the 2016-17 school year; and
 - (ii) include the qualifying scores described in Subsection (4); and
 - (b) establish systematic reporting of college and career ready mathematics achievement.
- (3) In addition to other graduation requirements established by the state board, a student shall fulfill one of the following requirements to demonstrate mathematics competency that supports the student's future college and career goals as outlined in the student's college and career plan:
 - (a) for a student pursuing a college degree after graduation:
 - (i) receive a score that at least meets the qualifying score for:
 - (A) an Advanced Placement calculus or statistics exam;
 - (B) an International Baccalaureate higher level mathematics exam;
 - (C) a college-level math placement test described in Subsection (5);
 - (D) a College Level Examination Program precalculus or calculus exam; or
 - (E) the ACT Mathematics Test; or
 - (ii) receive at least a "C" grade in a concurrent enrollment mathematics course that satisfies the state system of higher education quantitative literacy requirement;
 - (b) for a non college degree-seeking student, the student shall complete appropriate math competencies for the student's career goals as described in the student's college and career plan;

- (c) for a student with an individualized education program prepared in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the student shall meet the mathematics standards described in the student's individualized education program; or
 - (d) for a senior student with special circumstances as described in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the student shall fulfill a requirement associated with the student's special circumstances, as established in state board rule.
- (4) The Utah Board of Higher Education shall, in consultation with the state board, determine qualifying scores for the tests and exams described in Subsection (3)(a)(i).
- (5) The Utah Board of Higher Education shall make a policy to select at least two tests for college-level math placement.
- (6) The Utah Board of Higher Education shall, in consultation with the state board, make policies to:
- (a) develop mechanisms for a student who completes a math competency requirement described in Subsection (3)(a) to:
 - (i) receive college credit; and
 - (ii) satisfy the state system of higher education quantitative literacy requirement;
 - (b) allow a student, upon completion of required high school mathematics courses with at least a "C" grade, entry into a mathematics concurrent enrollment course;
 - (c) increase access to a range of mathematics concurrent enrollment courses;
 - (d) establish a consistent concurrent enrollment course approval process; and
 - (e) establish a consistent process to qualify high school teachers with an upper level mathematics endorsement to teach entry level mathematics concurrent enrollment courses.

Amended by Chapter 365, 2020 General Session

Amended by Chapter 408, 2020 General Session

Part 3 Assessments

53E-4-301 Definitions.

As used in this part:

- (1) "Core standards for Utah public schools" means the standards established by the state board as described in Section 53E-4-202.
- (2) "Statewide assessment" means one or more of the following, as applicable:
 - (a) a standards assessment described in Section 53E-4-303;
 - (b) a high school assessment described in Section 53E-4-304;
 - (c) a college readiness assessment described in Section 53E-4-305; or
 - (d) an assessment of students in grade 3 to measure reading grade level described in Section 53E-4-307.

Amended by Chapter 186, 2019 General Session

53E-4-301.5 Legislative intent.

- (1) In enacting this part, the Legislature intends to determine the effectiveness of school districts and schools in assisting students to master the fundamental educational skills toward which instruction is directed.
- (2) The state board shall ensure that a statewide assessment provides the public, the Legislature, the state board, school districts, public schools, and school teachers with:
 - (a) evaluative information regarding the various levels of proficiency achieved by students, so that they may have an additional tool to plan, measure, and evaluate the effectiveness of programs in the public schools; and
 - (b) information to recognize excellence and to identify the need for additional resources or to reallocate educational resources in a manner to ensure educational opportunities for all students and to improve existing programs.

Amended by Chapter 186, 2019 General Session

53E-4-302 Statewide assessments -- Duties of the state board.

- (1) The state board shall:
 - (a) require the state superintendent to:
 - (i) submit and recommend statewide assessments to the state board for adoption by the state board; and
 - (ii) distribute the statewide assessments adopted by the state board to a school district or charter school;
 - (b) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program; and
 - (c) require a school district or charter school to administer statewide assessments.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for the administration of statewide assessments.
- (3) The state board shall ensure that statewide assessments are administered in compliance with the requirements of Chapter 9, Student Privacy and Data Protection.

Amended by Chapter 408, 2020 General Session

53E-4-303 Utah standards assessments -- Administration -- Review committee.

- (1) As used in this section, "computer adaptive assessment" means an assessment that measures the range of a student's ability by adapting to the student's responses, selecting more difficult or less difficult questions based on the student's responses.
- (2) The state board shall:
 - (a) adopt a standards assessment that:
 - (i) measures a student's proficiency in:
 - (A) mathematics for students in each of grades 3 through 8;
 - (B) English language arts for students in each of grades 3 through 8;
 - (C) science for students in each of grades 4 through 8; and
 - (D) writing for students in at least grades 5 and 8; and
 - (ii) except for the writing measurement described in Subsection (2)(a)(i)(D), is a computer adaptive assessment; and
 - (b) ensure that an assessment described in Subsection (2)(a) is:
 - (i) a criterion referenced assessment;
 - (ii) administered online;
 - (iii) aligned with the core standards for Utah public schools; and

- (iv) adaptable to personalized, competency-based learning, as that term is defined in Section 53F-5-501.
- (3) A school district or charter school shall annually administer the standards assessment adopted by the state board under Subsection (2) to all students in the subjects and grade levels described in Subsection (2).
- (4)
 - (a) Except as provided in Subsection (4)(b), a student's score on the standards assessment adopted under Subsection (2) may not be considered in determining:
 - (i) the student's academic grade for a course; or
 - (ii) whether the student may advance to the next grade level.
 - (b) A teacher may use a student's score on the standards assessment adopted under Subsection (2) to improve the student's academic grade for or demonstrate the student's competency within a relevant course.
- (5)
 - (a) The state board shall establish a committee consisting of 15 parents of Utah public education students to review all standards assessment questions.
 - (b) The committee established in Subsection (5)(a) shall include the following parent members:
 - (i) five members appointed by the chair of the state board;
 - (ii) five members appointed by the speaker of the House of Representatives or the speaker's designee; and
 - (iii) five members appointed by the president of the Senate or the president's designee.
 - (c) The state board shall provide staff support to the parent committee.
 - (d) The term of office of each member appointed in Subsection (5)(b) is four years.
 - (e) The chair of the state board, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately half of the committee members are appointed every two years.
 - (f) No member may receive compensation or benefits for the member's service on the committee.

Amended by Chapter 129, 2021 General Session

53E-4-304 High school assessments.

- (1) The state board shall adopt a high school assessment that:
 - (a) is predictive of a student's college readiness as measured by the college readiness assessment described in Section 53E-4-305; and
 - (b) provides a growth score for a student from grade 9 to 10.
- (2) A school district or charter school shall annually administer the high school assessment adopted by the state board under Subsection (1) to all students in grades 9 and 10.
- (3) A teacher may use a student's score on the high school assessment adopted under Subsection (1) to improve the student's academic grade for or demonstrate the student's competency within a relevant course.

Amended by Chapter 186, 2019 General Session

Amended by Chapter 202, 2019 General Session

53E-4-305 College readiness assessments.

- (1) The Legislature recognizes the need for the state board to develop and implement standards and assessment processes to ensure that student progress is measured and that LEA governing boards and school personnel are accountable.

- (2) The state board shall adopt a college readiness assessment for secondary students that:
 - (a) is the college readiness assessment most commonly submitted to local universities; and
 - (b) may include:
 - (i) the Armed Services Vocational Aptitude Battery; or
 - (ii) a battery of assessments that are predictive of success in higher education.
- (3)
 - (a) Except as provided in Subsection (3)(b), a school district or charter school shall annually administer the college readiness assessment adopted under Subsection (2) to all students in grade 11.
 - (b) A student with an IEP may take an appropriate college readiness assessment other than the assessment adopted by the state board under Subsection (2), as determined by the student's IEP.
- (4) A teacher may use a student's score on the college readiness assessment adopted under Subsection (2) to improve the student's academic grade for or demonstrate the student's competency within a relevant course.
- (5) In accordance with Section 53F-4-202, the state board shall contract with a provider to provide an online college readiness diagnostic tool.

Amended by Chapter 186, 2019 General Session

Amended by Chapter 202, 2019 General Session

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53E-4-307 Benchmark assessments in reading -- Report to parent.

- (1) As used in this section:
 - (a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.
 - (b) "Diagnostic assessment" means an assessment that measures key literacy skills, including phonemic awareness, sound-symbol recognition, alphabet knowledge, decoding and encoding skills, and comprehension, to determine a student's specific strengths and weaknesses in a skill area.
 - (c) "Dyslexia" means a learning disorder that:
 - (i) is neurological in origin and is characterized by difficulties with:
 - (A) accurate or fluent word recognition; and
 - (B) poor spelling and decoding abilities; and
 - (ii) typically results from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction.
 - (d) "Evidence-based" means the same as that term is defined in Section 53G-11-303.
 - (e) "Evidence-informed" means the same as that term is defined in Section 53G-11-303.
- (2) The state board shall approve a benchmark assessment for use statewide by school districts and charter schools to assess the reading competency of students in grades 1 through 6 as provided by this section.
- (3) A school district or charter school shall:
 - (a) administer benchmark assessments to students in grades 1, 2, and 3 at the beginning, middle, and end of the school year using the benchmark assessment approved by the state board; and
 - (b) after administering a benchmark assessment, report the results to a student's parent.

- (4)
- (a) If a benchmark assessment or supplemental reading assessment indicates a student lacks competency in a reading skill, is demonstrating characteristics of dyslexia, or is lagging behind other students in the student's grade in acquiring a reading skill, the school district or charter school shall:
 - (i) administer diagnostic assessments to the student;
 - (ii) using data from the diagnostic assessment, provide specific, focused, and individualized intervention or tutoring to develop the reading skill;
 - (iii) administer formative assessments and progress monitoring at recommended levels for the benchmark assessment to measure the success of the focused intervention;
 - (iv) inform the student's parent of activities that the parent may engage in with the student to assist the student in improving reading proficiency;
 - (v) provide information to the parent regarding appropriate interventions available to the student outside of the regular school day that may include tutoring, before and after school programs, or summer school; and
 - (vi) provide instructional materials that are evidence-informed for core instruction and evidence-based for intervention and supplemental instruction.
 - (b) Nothing in this section or in Section 53F-4-203 or 53G-11-303 requires a reading software product to demonstrate the statistically significant effect size described in Subsection 53G-11-303(1)(a) in order to be used as an instructional material described in Subsection (4)(a)(vi).
- (5)
- (a) In accordance with Section 53F-4-201 and except as provided in Subsection (5)(b), the state board shall contract with one or more educational technology providers for a benchmark assessment system for reading for students in kindergarten through grade 6.
 - (b) If revenue is insufficient for the benchmark assessment system for the grades described in Subsection (5)(a), the state board shall first prioritize funding a benchmark assessment for students in kindergarten through grade 3.
- (6) A student with dyslexia is only eligible for special education services if the student meets federal eligibility criteria.

53E-4-307.5 Mathematics benchmark assessment.

- (1) As used in this section, "early mathematics benchmark assessment" or "benchmark assessment" means a standardized assessment to measure the acquisition of mathematics skills in kindergarten and grades 1 through 3 that includes predictive indicators of academic achievement based on measures of early mathematics, computation, and problem solving.
- (2) The state board may approve a benchmark assessment for use statewide by LEAs to assess the mathematics competency of students in kindergarten and grades 1 through 3.
- (3) If the state board approves a benchmark assessment for statewide use under Subsection (2), an LEA shall:
 - (a) administer benchmark assessments to students at the beginning, middle, and end of the school year using the mathematics benchmark assessment in:
 - (i) kindergarten, as an optional assessment; and
 - (ii) grades 1 through 3, as a required assessment; and
 - (b) after administering a benchmark assessment described in Subsection (3)(a) to a student, report the results to the student's parent.
- (4) In making the approval described in Subsection (2), the state board shall:

- (a) prioritize the assessment's reliability, validity, speed, and efficiency; and
- (b) ensure the mathematics benchmark assessment's ability to:
 - (i) identify students who may be at risk for mathematics difficulties; and
 - (ii) measure students' progress through data.

Amended by Chapter 14, 2020 Special Session 5

53E-4-308 Unique student identifier -- Coordination of higher education and public education information technology systems -- Coordination of preschool and public education information technology systems.

- (1) As used in this section, "unique student identifier" means an alphanumeric code assigned to each public education student for identification purposes, which:
 - (a) is not assigned to any former or current student; and
 - (b) does not incorporate personal information, including a birth date or Social Security number.
- (2) The state board, through the state superintendent, shall assign each public education student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.
- (3) The state board and the Utah Board of Higher Education, in collaboration with the Utah Data Research Center created in Section 53B-33-201, shall:
 - (a) coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53B-1-109; and
 - (b) coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.
- (4)
 - (a) The state board and the Department of Workforce Services shall coordinate assignment of a unique student identifier to each student enrolled in a program described in Title 35A, Chapter 15, Preschool Programs.
 - (b) A unique student identifier assigned to a student under Subsection (4)(a) shall remain the student's unique student identifier used by the state board when the student enrolls in a public school in kindergarten or a later grade.
 - (c) The Governor's Office of Economic Opportunity, the state board, the Department of Workforce Services, and a contractor as defined in Section 63N-20-101, shall coordinate access to the unique student identifier of a preschool student who later attends an LEA.

Amended by Chapter 380, 2023 General Session

53E-4-309 Grade level specification change.

- (1) The state board may change a grade level specification for the administration of specific assessments under this part to a different grade level specification or a competency-based specification if the specification is more consistent with patterns of school organization.
- (2)
 - (a) If the state board changes a grade level specification described in Subsection (1), the state board shall submit a report to the Education Interim Committee explaining the reasons for changing the grade level specification.
 - (b) The state board shall submit the report at least six months before the anticipated change.

Amended by Chapter 186, 2019 General Session

Amended by Chapter 324, 2019 General Session

53E-4-310 Scoring -- Reports of results.

- (1) For a statewide assessment that requires the use of a student answer sheet, a local school board or charter school governing board shall submit all answer sheets on a per-school and per-class basis to the state superintendent for scoring unless the assessment requires scoring by a national testing service.
- (2) The district, school, and class results of the statewide assessments, but not the score or relative position of individual students, shall be reported to each local school board or charter school governing board annually at a regularly scheduled meeting.
- (3) A local school board or charter school governing board:
 - (a) shall make copies of the report available to the general public upon request; and
 - (b) may charge a fee for the cost of copying the report.
- (4)
 - (a) The state board shall annually provide to school districts and charter schools a comprehensive report for each of the school district's and charter school's students showing the student's statewide assessment results for each year that the student took a statewide assessment.
 - (b) A school district or charter school shall give a copy of the comprehensive report to the student's parents and make the report available to school staff, as appropriate.

Amended by Chapter 186, 2019 General Session

53E-4-311 Analysis of results -- Staff professional development.

- (1) The state board, through the state superintendent, shall develop an online data reporting tool to analyze the results of statewide assessments.
- (2) The online data reporting tool shall include components designed to:
 - (a) assist school districts and individual schools to use the results of the analysis in planning, evaluating, and enhancing programs;
 - (b) identify schools not achieving state-established acceptable levels of student performance in order to assist those schools in improving student performance levels; and
 - (c) provide:
 - (i) for statistical reporting of statewide assessment results at state, school district, school, and grade or course levels; and
 - (ii) actual levels of performance on statewide assessments.
- (3) A local school board or charter school governing board shall provide for:
 - (a) evaluation of the statewide assessment results and use of the evaluations in setting goals and establishing programs; and
 - (b) a professional development program that provides teachers, principals, and other professional staff with the training required to successfully establish and maintain statewide assessments.
- (4) The state board is not required to identify schools not achieving state-established acceptable levels of student performance as described in Subsection (2)(b) for the 2020-2021 school year.

Amended by Chapter 346, 2021 General Session

53E-4-312 Preparation for tests.

- (1) School district employees may not conduct any specific instruction or preparation of students that would be a breach of testing ethics, such as the teaching of specific test questions.
- (2) School district employees who administer the test shall follow the standardization procedures in the test administration manual for an assessment and any additional specific instructions developed by the state board.
- (3) The state board may revoke the certification of an individual who violates this section.

Amended by Chapter 186, 2019 General Session

53E-4-313 Construction of part.

Nothing in this part shall be construed to mean or represented to require that graduation from a high school or promotion to another grade is in any way dependent upon successful performance of any test administered as a part of the testing program established under this part.

Renumbered and Amended by Chapter 1, 2018 General Session

Effective until 7/1/2024

53E-4-314 School readiness assessment.

- (1) As used in this section:
 - (a) "School readiness assessment" means a preschool entry and exit profile that measures literacy, numeracy, and lifelong learning practices developed in a student.
 - (b) "School readiness program" means a preschool program:
 - (i) in which a student participates in the year before the student is expected to enroll in kindergarten; and
 - (ii) that receives funding under Title 35A, Chapter 15, Preschool Programs.
- (2) The state board shall develop a school readiness assessment that aligns with the kindergarten entry and exit assessment described in Section 53G-7-203.
- (3) A school readiness program shall:
 - (a) except as provided in Subsection (4), administer to each student who participates in the school readiness program the school readiness assessment at the beginning and end of the student's participation in the school readiness program; and
 - (b) report the results of the assessments described in Subsection (3)(a) or (4) to the School Readiness Board created in Section 35A-15-201.
- (4) In place of the assessments described in Subsection (3)(a), a school readiness program that is offered through home-based technology may administer to each student who participates in the school readiness program:
 - (a) a validated computer adaptive pre-assessment at the beginning of the student's participation in the school readiness program; and
 - (b) a validated computer adaptive post-assessment at the end of the student's participation in the school readiness program.
- (5)
 - (a) The following may submit school readiness assessment data to the School Readiness Board created in Section 35A-15-201:
 - (i) a private child care provider; or
 - (ii) an LEA on behalf of a school that is not participating in the High Quality School Readiness Grant Program described in Section 35A-15-301.

- (b) If a private child care provider or LEA submits school readiness assessment data to the School Readiness Board under Subsection (5)(a), the state board shall include the school readiness assessment data in the report described in Subsection 35A-15-303(5).

Amended by Chapter 316, 2022 General Session

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53E-4-314 School readiness assessment.

- (1) As used in this section:
 - (a) "School readiness assessment" means a preschool entry and exit profile that measures literacy, numeracy, and lifelong learning practices developed in a student.
 - (b) "School readiness program" means a preschool program:
 - (i) in which a student participates in the year before the student is expected to enroll in kindergarten; and
 - (ii) that receives funding under Title 35A, Chapter 15, Preschool Programs.
- (2) The state board shall develop or select a school readiness assessment.
- (3) A school readiness program shall:
 - (a) except as provided in Subsection (4), administer to each student who participates in the school readiness program the school readiness assessment at the beginning and end of the student's participation in the school readiness program; and
 - (b) report the results of the assessments described in Subsection (3)(a) or (4) to the School Readiness Board created in Section 35A-15-201.
- (4) In place of the assessments described in Subsection (3)(a), a school readiness program that is offered through home-based technology may administer to each student who participates in the school readiness program:
 - (a) a validated computer adaptive pre-assessment at the beginning of the student's participation in the school readiness program; and
 - (b) a validated computer adaptive post-assessment at the end of the student's participation in the school readiness program.
- (5)
 - (a) The following may submit school readiness assessment data to the School Readiness Board created in Section 35A-15-201:
 - (i) a private child care provider; or
 - (ii) an LEA on behalf of a school that is not participating in the High Quality School Readiness Grant Program described in Section 35A-15-301.
 - (b) If a private child care provider or LEA submits school readiness assessment data to the School Readiness Board under Subsection (5)(a), the state board shall include the school readiness assessment data in the report described in Subsection 35A-15-303(5).

Effective 7/1/2024

53E-4-314 School readiness assessment.

- (1) As used in this section:
 - (a) "School readiness assessment" means a preschool assessment that:
 - (i) measures literacy and numeracy; and
 - (ii) beginning with the 2026-2027 school year, measures growth from the beginning of the year to the end of the year.
 - (b) "School readiness program" means a preschool program:

- (i) in which a student participates in the year before the student is expected to enroll in kindergarten; and
 - (ii) that receives funding under Title 35A, Chapter 15, Preschool Programs.
- (2) The state board shall develop or select a school readiness assessment.
- (3) A school readiness program shall:
- (a) administer to each student who participates in the school readiness program the school readiness assessment at the beginning and end of the student's participation in the school readiness program; and
 - (b) report the results of the assessments described in Subsection (3)(a) to the state board.
- (4) A private care provider or an LEA on behalf of a school that is not participating in the High Quality Readiness Grant Program, as described in Section 35A-15-301 or 35A-15-302, may submit school readiness assessment data to the state board.

53E-4-315 Waiver of requirement to administer certain assessments.

- (1) A statutory requirement to administer an assessment with which an LEA or the state board has not fully complied at the time of statewide school closures beginning on March 16, 2020, is waived for the 2019-20 school year.
- (2) Nothing in this section prohibits an LEA or the state board from administering an assessment.
- (3) This section supersedes any conflicting provisions of Utah law.

Enacted by Chapter 10, 2020 Special Session 3

**Chapter 5
Accountability**

**Part 1
General Provisions**

53E-5-101 Title.

This chapter is known as "Accountability."

Enacted by Chapter 1, 2018 General Session

**Part 2
School Accountability System**

53E-5-201 Definitions.

As used in this part:

- (1) "Lowest performing 25% of students" means the proportion of a school's students who scored in the lowest 25% of students in the school on a statewide assessment based on the prior school year's scores.
- (2) "Statewide assessment" means one or more of the following, as applicable:
 - (a) a standards assessment described in Section 53E-4-303;

- (b) a high school assessment described in Section 53E-4-304;
- (c) a college readiness assessment described in Section 53E-4-305; or
- (d) an alternate assessment administered to a student with a disability.

Amended by Chapter 186, 2019 General Session

53E-5-202 Statewide school accountability system -- State board rulemaking.

- (1) There is established a statewide school accountability system.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to implement the school accountability system in accordance with this part.

Amended by Chapter 408, 2020 General Session

53E-5-203 Schools included in school accountability system -- Other indicators and point distribution for a school that serves a special student population.

- (1) Except as provided in Subsection (2), the state board shall include all public schools in the state in the school accountability system established under this part.
- (2) The state board shall exempt from the school accountability system:
 - (a) a school in which the number of students tested on a statewide assessment for accountability is lower than the minimum sample size necessary, based on acceptable professional practice for statistical reliability, or when release of the information would violate 20 U.S.C. Sec. 1232h, the prevention of the unlawful release of personally identifiable student data;
 - (b) if the United States Department of Education approves the state's application for a waiver of federal accountability requirements, a school with an opt out rate on statewide assessments for accountability that exceeds 50%;
 - (c) a school in the school's first year of operations if the school's local school board or charter school governing board requests the exemption; or
 - (d) a high school in the school's second year of operations if the school's local school board or charter school governing board requests the exemption.
- (3) Notwithstanding the provisions of this part, the state board may use to appropriately assess the educational impact of a school that serves a special student population:
 - (a) other indicators in addition to the indicators described in Section 53E-5-205 or 53E-5-206; or
 - (b) different point distribution than the point distribution described in Section 53E-5-207.

Amended by Chapter 527, 2023 General Session

53E-5-204 Measuring schools.

- (1) In accordance with this part, the state board shall annually measure and report on each school, in accordance with the Every Student Succeeds Act, Public Law No. 114-95, based on the school's performance level on the indicators described in Subsection (2).
- (2) The state board shall base a school's reported performance described in Subsection (1) on the school's performance on the indicators described in:
 - (a) Section 53E-5-205, for an elementary school or a middle school; or
 - (b) Section 53E-5-206, for a high school.

Amended by Chapter 164, 2023 General Session

53E-5-205 Indicators for elementary and middle schools.

For an elementary school or a middle school, the state board shall assign the school's overall rating, in accordance with Section 53E-5-207, based on the school's performance on the following indicators:

- (1) academic achievement as measured by performance on a statewide assessment of English language arts, mathematics, and science;
- (2) academic growth as measured by progress from year to year on a statewide assessment of English language arts, mathematics, and science; and
- (3) equitable educational opportunity as measured by:
 - (a) academic growth of the lowest performing 25% of students as measured by progress of the lowest performing 25% of students on a statewide assessment of English language arts, mathematics, and science; and
 - (b) except as provided in Section 53E-5-209, English learner progress as measured by performance on an English learner assessment established by the state board.

Amended by Chapter 186, 2019 General Session

53E-5-206 Indicators for high schools.

For a high school, in accordance with Section 53E-5-207, the state board shall assign the school's overall rating based on the school's performance on the following indicators:

- (1) academic achievement as measured by performance on a statewide assessment of English language arts, mathematics, and science;
- (2) academic growth as measured by progress from year to year on a statewide assessment of English language arts, mathematics, and science;
- (3) equitable educational opportunity as measured by:
 - (a) academic growth of the lowest performing 25% of students as measured by progress of the lowest performing 25% of students on a statewide assessment of English language arts, mathematics, and science; and
 - (b) except as provided in Section 53E-5-209, English learner progress as measured by performance on an English learner assessment established by the state board; and
- (4) postsecondary readiness as measured by:
 - (a) the school's graduation rate, as described in Section 53E-5-207;
 - (b) student performance, as described in Section 53E-5-207, on a college readiness assessment described in Section 53E-4-305; and
 - (c) student achievement in advanced course work, as described in Section 53E-5-207.

Amended by Chapter 186, 2019 General Session

53E-5-207 Calculation of points.

- (1)
 - (a) The state board shall award to a school points for academic achievement described in Subsection 53E-5-205(1) or 53E-5-206(1) as follows:
 - (i) the state board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of English language arts, score at or above the proficient level on the assessment;
 - (ii) the state board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of mathematics, score at or above the proficient level on the assessment; and

- (iii) the state board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of science, score at or above the proficient level on the assessment.
- (b)
 - (i) The maximum number of total points possible for academic achievement described in Subsection (1)(a) is 56 points.
 - (ii) The maximum number of points possible for a component listed in Subsection (1)(a)(i), (ii), or (iii) is one-third of the number of points described in Subsection (1)(b)(i).
- (2)
 - (a) Subject to Subsection (2)(b), the state board shall award to a school points for academic growth described in Subsection 53E-5-205(2) or 53E-5-206(2) as follows:
 - (i) the state board shall award a school points for growth of the school's students on a statewide assessment of English language arts;
 - (ii) the state board shall award a school points for growth of the school's students on a statewide assessment of mathematics; and
 - (iii) the state board shall award a school points for growth of the school's students on a statewide assessment of science.
 - (b) The state board shall determine points for growth awarded under Subsection (2)(a) by indexing the points based on:
 - (i) whether a student's performance on a statewide assessment is equal to or exceeds the student's academic growth target; and
 - (ii) the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores.
 - (c)
 - (i) The maximum number of total points possible for academic growth described in Subsection (2)(a) is 56 points.
 - (ii) The maximum number of points possible for a component listed in Subsection (2)(a)(i), (ii), or (iii) is one-third of the number of points described in Subsection (2)(c)(i).
- (3)
 - (a) Subject to Subsection (3)(b), the state board shall award to a school points for equitable educational opportunity described in Subsection 53E-5-205(3) or 53E-5-206(3) as follows:
 - (i) the state board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of English language arts;
 - (ii) the state board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of mathematics;
 - (iii) the state board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of science; and
 - (iv) except as provided in Section 53E-5-209, the state board shall award to a school points proportional to the percentage of English learners who achieve adequate progress as determined by the state board on an English learner assessment established by the state board.
 - (b) The state board shall determine points for academic growth awarded under Subsection (3)(a) (i), (ii), or (iii) by indexing the points based on the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores.
 - (c)
 - (i) The maximum number of total points possible for equitable educational opportunity described in Subsection (3)(a) is 38 points.

- (ii) The maximum number of points possible for the components listed in Subsection (3)(a)(i), (ii), and (iii), combined, is 25 points.
 - (iii) The maximum number of points possible for a component listed in Subsection (3)(a)(i), (ii), or (iii) is one-third of the number of the combined points described in Subsection (3)(c)(ii).
 - (iv) The maximum number of points possible for the component listed in Subsection (3)(a)(iv) is 13 points.
- (4)
- (a) The state board shall award to a high school points for postsecondary readiness described in Subsection 53E-5-206(4) as follows:
 - (i) the state board shall award to a high school points proportional to the percentage of the school's students who, out of all the school's students who take a college readiness assessment described in Section 53E-4-305, receive a composite score of at least 18 on the assessment;
 - (ii) the state board shall award to a high school points proportional to the percentage of the school's students who achieve at least one of the following:
 - (A) a C grade or better in an Advanced Placement course;
 - (B) a C grade or better in a concurrent enrollment course;
 - (C) a C grade or better in an International Baccalaureate course; or
 - (D) completion of a career and technical education pathway, as defined by the state board; and
 - (iii) in accordance with Subsection (4)(c), the state board shall award to a high school points proportional to the percentage of the school's students who graduate from the school.
 - (b)
 - (i) The maximum number of total points possible for postsecondary readiness described in Subsection (4)(a) is 75 points.
 - (ii) The maximum number of points possible for a component listed in Subsection (4)(a)(i), (ii), or (iii) is one-third of the number of points described in Subsection (4)(b)(i).
 - (c)
 - (i) In calculating the percentage of students who graduate described in Subsection (4)(a)(iii), except as provided in Subsection (4)(c)(ii), the state board shall award to a high school points proportional to the percentage of the school's students who graduate from the school within four years.
 - (ii) The state board may award up to 10% of the points allocated for high school graduation described in Subsection (4)(b)(ii) to a school for students who graduate from the school within five years.

Amended by Chapter 186, 2019 General Session

53E-5-208 Calculation of total points awarded -- Maximum number of total points possible.

- (1) Except as provided in Section 53E-5-209, the state board shall calculate the number of total points awarded to a school by totaling the number of points the state board awards to the school in accordance with Section 53E-5-207.
- (2) The maximum number of total points possible under Subsection (1) is:
 - (a) for an elementary school or a middle school, 150 points; or
 - (b) for a high school, 225 points.

Amended by Chapter 186, 2019 General Session

53E-5-209 Exclusion of English learner progress -- Calculation of total points awarded for a school with fewer than 10 English learners.

- (1) For a school that has fewer than 10 English learners, the state board shall:
 - (a) exclude the use of English learner progress in determining the school's overall rating by:
 - (i) awarding no points to the school for English learner progress described in Subsection 53E-5-207(3)(a)(iv); and
 - (ii) excluding the points described in Subsection 53E-5-207(3)(c)(iv) from the school's maximum points possible; and
 - (b) calculate the number of total points awarded to the school by totaling the number of points the state board awards to the school in accordance with Section 53E-5-207 subject to the exclusion described in Subsection (1)(a).
- (2) The maximum number of total points possible under Subsection (1) is:
 - (a) for an elementary school or a middle school, 137 points; or
 - (b) for a high school, 212 points.

Amended by Chapter 186, 2019 General Session

53E-5-210 State board duties -- Proficient level -- Student growth -- English learner adequate progress.

- (1)
 - (a) For the purpose of determining whether a student scores at or above the proficient level on a statewide assessment, the state board shall determine, through a process that evaluates student performance based on specific criteria, the minimum level that demonstrates proficiency for each statewide assessment.
 - (b) If the state board adjusts the minimum level that demonstrates proficiency described in Subsection (1)(a), the state board shall report the adjustment and the reason for the adjustment to the Education Interim Committee no later than 30 days after the day on which the state board makes the adjustment.
- (2)
 - (a) For the purpose of determining whether a student's performance on a statewide assessment is equal to or exceeds the student's academic growth target, the state board shall calculate, for each individual student, the amount of growth necessary to achieve or maintain proficiency by a future school year determined by the state board.
 - (b) For the purpose of determining the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores, the state board shall calculate growth as a percentile for a student using appropriate statistical methods.
- (3) For the purpose of determining whether an English learner achieves adequate progress on an English learner assessment established by the state board, the state board shall determine the minimum progress that demonstrates adequate progress.

Amended by Chapter 186, 2019 General Session

53E-5-211 Reporting.

- (1) Except as provided in Subsection (2), the state board shall annually publish on the state board's website a report card that includes for each school:
 - (a) the school's overall rating described in Subsection 53E-5-204(1);
 - (b) the school's performance on each indicator described in:
 - (i) Section 53E-5-205, for an elementary school or a middle school; or

- (ii) Section 53E-5-206, for a high school;
- (c) information comparing the school's performance on each indicator described in Subsection (1) (b) with:
 - (i) the average school performance; and
 - (ii) the school's performance in all previous years for which data is available;
- (d) the percentage of students who participated in statewide assessments;
- (e) for an elementary school, the percentage of students who read on grade level in grades 1 through 3; and
- (f) for a high school, performance on Advanced Placement exams.
- (2) The state board shall collect, but is not required to publish the information described in Subsection (1) related to the 2020-2021 school year.
- (3) A school may include in the school's report card described in Subsection (1) up to two self-reported school quality indicators that:
 - (a) are approved by the state board for inclusion; and
 - (b) may include process or input indicators.
- (4)
 - (a) The state board shall develop an individualized student achievement report that includes:
 - (i) information on the student's level of proficiency as measured by a statewide assessment; and
 - (ii) a comparison of the student's academic growth target and actual academic growth as measured by a statewide assessment.
 - (b) The state board shall, subject to the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, make the individualized student achievement report described in Subsection (4) (a) available for a school district or charter school to access electronically.
 - (c) A school district or charter school shall distribute an individualized student achievement report to the parent of the student to whom the report applies.

Amended by Chapter 346, 2021 General Session

Part 3

School Improvement and Leadership Development

53E-5-301 Definitions.

As used in this part:

- (1) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.
- (2) "Cohort" means all district schools and charter schools identified as:
 - (a) springboard schools based on school accountability results from the same school year; or
 - (b) elevate schools based on school accountability results from the same school year.
- (3) "Continuous improvement expert" means a person identified by the state board under Section 53E-5-305.
- (4) "Educator" means the same as that term is defined in Section 53E-6-102.
- (5) "Elevate school" means a district school or charter school that:
 - (a) is not a Title I school;
 - (b) is implementing targeted support and improvement activities under 20 U.S.C. Sec. 6311; and
 - (c) has applied and been designated by the state board as an elevate school as described in Section 53E-5-302.1.

- (6) "Final remedial year" means the second or third school year following the initial remedial year, as determined by the state board.
- (7) "Initial remedial year" means the school year a district school or charter school is designated as a springboard school under Section 53E-5-302 or elevate school under Section 53E-5-302.1.
- (8) "LEA governing board" means a local school board or charter school governing board.
- (9) "School accountability system" means the school accountability system established in Part 2, School Accountability System.
- (10) "School improvement committee" means a committee established under:
 - (a) for a district school, Section 53E-5-303; or
 - (b) for a charter school, Section 53E-5-304.
- (11) "School improvement plan" means a plan described in:
 - (a) for a district school, Section 53E-5-303; or
 - (b) for a charter school, Section 53E-5-304.
- (12) "Springboard school" means a district school or charter school that has been designated a springboard school by the state board because the school:
 - (a) is not a Title I school; and
 - (b) when ranked according to the percentage of possible points the state board awards under Title 53E, Chapter 5, Part 2, School Accountability System, averaged over three school years is:
 - (i) one of the five lowest performing elementary, middle, or junior high schools statewide; or
 - (ii) one of the two lowest performing high schools statewide.

Amended by Chapter 164, 2023 General Session

53E-5-302 State board to designate springboard schools -- Needs assessment.

- (1) The state board shall:
 - (a) beginning in the 2025-2026 school year, and every four years thereafter, designate a school as a springboard school; and
 - (b) conduct a needs assessment for a springboard school by thoroughly analyzing the root causes of the springboard school's performance qualifying the school for designation as a springboard school.
- (2) The state board may use up to 5% of the appropriation provided under this part to hire or contract with one or more individuals to conduct a needs assessment described in Subsection (1)(b).

Amended by Chapter 473, 2022 General Session

53E-5-302.1 State board to designate elevate schools -- Needs assessment.

- (1) Beginning in the 2022-2023 school year, in every year that the state board does not designate a springboard school, the state board shall:
 - (a) accept applications to be designated an elevate school from schools that:
 - (i) are not Title I schools; and
 - (ii) are implementing targeted support and improvement activities under 20 U.S.C. Sec. 6311;
 - (b) identify at least six schools as elevate schools; and
 - (c) conduct a needs assessment for an elevate school by thoroughly analyzing the root causes of the school's previous performance of targeted support and improvement student groups.

- (2) The state board may use up to 5% of the appropriation provided under this part to hire or contract with one or more individuals to conduct a needs assessment described in Subsection (1)(c).

Enacted by Chapter 473, 2022 General Session

53E-5-303 Required action for district springboard schools and district elevate schools -- Notification to parents and municipality for springboard schools.

- (1) In accordance with deadlines established by the state board, a local school board of a springboard school or elevate school shall:
 - (a) establish a school improvement committee composed of the following members:
 - (i) the local school board member who represents the voting district where the springboard school or elevate school is located;
 - (ii) the school principal;
 - (iii) three parents of students enrolled in the springboard school or elevate school appointed by the chair of the school community council;
 - (iv) one teacher at the springboard school or elevate school appointed by the principal;
 - (v) one teacher at the springboard school or elevate school appointed by the school district superintendent; and
 - (vi) one school district administrator;
 - (b) solicit proposals from a continuous improvement expert identified by the state board under Section 53E-5-305;
 - (c) partner with the school improvement committee to select a proposal;
 - (d) submit the proposal described in Subsection (1)(b) to the state board for review and approval; and
 - (e) subject to Subsections (3) and (4), contract with a continuous improvement expert.
- (2) A proposal described in Subsection (1)(b) shall include a:
 - (a) strategy to address the root causes of the springboard school's or elevate school's low performance identified through the needs assessment described in Section 53E-5-302; and
 - (b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection (4)(b).
- (3) A local school board may not select a continuous improvement expert that is:
 - (a) the school district; or
 - (b) an employee of the school district.
- (4) A contract between a local school board and a continuous improvement expert:
 - (a) shall be based on an explicit stipulation of desired outcomes and consequences for not meeting goals, including cancellation of the contract;
 - (b) shall include a scope of work that requires the continuous improvement expert to at a minimum:
 - (i) develop and implement, in partnership with the school improvement committee, a school improvement plan that meets the criteria described in Subsection (5);
 - (ii) monitor the effectiveness of a school improvement plan through reliable means of evaluation, including on-site visits, observations, surveys, analysis of student achievement data, and interviews;
 - (iii) provide ongoing implementation support and project management for a school improvement plan;
 - (iv) provide high-quality professional learning personalized for school staff that is designed to build:

- (A) the leadership capacity of the school principal;
- (B) the instructional capacity of school staff;
- (C) educators' capacity with data-driven strategies by providing actionable, embedded data practices; and
- (v) leverage support from community partners to coordinate an efficient delivery of supports to students inside and outside the classroom;
- (c) may include a scope of work that requires the continuous improvement expert to:
 - (i) develop sustainable school district and school capacities to effectively respond to the academic and behavioral needs of students in high poverty communities; or
 - (ii) other services that respond to the needs assessment conducted under Section 53E-5-302;
- (d) shall include travel costs and payment milestones; and
- (e) may include pay for performance provisions.
- (5) A school improvement committee shall partner with the continuous improvement expert selected under Subsection (1) to develop and implement a school improvement plan that:
 - (a) addresses the root causes of the springboard school's or elevate school's low performance identified through the needs assessment described in Section 53E-5-302;
 - (b) includes recommendations regarding changes to the springboard school's or elevate school's personnel, culture, curriculum, assessments, instructional practices, governance, leadership, finances, policies, or other areas that may be necessary to implement the school improvement plan;
 - (c) includes measurable student achievement goals and objectives and benchmarks by which to measure progress;
 - (d) includes a professional development plan that identifies a strategy to address problems of instructional practice;
 - (e) includes a detailed budget specifying how the school improvement plan will be funded;
 - (f) includes a plan to assess and monitor progress;
 - (g) includes a plan to communicate and report data on progress to stakeholders; and
 - (h) includes a timeline for implementation.
- (6) A local school board of a springboard school or elevate school shall:
 - (a) prioritize school district funding and resources to the springboard school or elevate school;
 - (b) grant the springboard school or elevate school streamlined authority over staff, schedule, policies, budget, and academic programs to implement the school improvement plan;
 - (c) assist the continuous improvement expert and the springboard school or elevate school with:
 - (i) addressing the root cause of the springboard school's or elevate school's low performance; and
 - (ii) the development or implementation of a school improvement plan; and
 - (d) for a springboard school, provide initial and annual notice:
 - (i) that includes the following information regarding the springboard school:
 - (A) the school's improvement status;
 - (B) the goals, benchmarks, and timetable in the school's improvement plan and any progress toward the goals, benchmarks, and timetable; and
 - (C) how the community may provide support to the school and students of the school inside and outside the classroom; and
 - (ii) to:
 - (A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents; and
 - (B) the governing council and the mayor of the municipality in which the school is located.
- (7)

- (a) On or before June 1 of an initial remedial year, a school improvement committee shall submit the school improvement plan to the local school board for approval.
 - (b) Except as provided in Subsection (7)(c), on or before July 1 of an initial remedial year, a local school board of a springboard school or elevate school shall submit the school improvement plan to the state board for approval.
 - (c) If the local school board does not approve the school improvement plan submitted under Subsection (7)(a), the school improvement committee may appeal the disapproval in accordance with rules made by the state board as described in Subsection 53E-5-305(6).
- (8) A local school board, or a local school board's designee, shall annually report to the state board progress toward the goals, benchmarks, and timetable in a springboard school's or elevate school's improvement plan.

Amended by Chapter 473, 2022 General Session

53E-5-304 Required action for a springboard charter school or elevate charter school -- Notification to parents and municipality for a springboard charter school.

- (1) In accordance with deadlines established by the state board, a charter school authorizer of a springboard school shall initiate a review to determine whether the charter school is in compliance with the school's charter agreement described in Section 53G-5-303, including the school's established minimum standards for student achievement.
- (2) If a springboard school is found to be out of compliance with the school's charter agreement, the charter school authorizer may terminate the school's charter agreement in accordance with Section 53G-5-503.
- (3) A charter school authorizer shall make a determination on the status of a springboard school's charter agreement under Subsection (2) on or before a date specified by the state board in an initial remedial year.
- (4) In accordance with deadlines established by the state board, if a charter school authorizer does not terminate a springboard school's charter agreement under Subsection (2), a charter school governing board of a springboard school or elevate school shall:
 - (a) establish a school improvement committee composed of the following members:
 - (i) a member of the charter school governing board, appointed by the chair of the charter school governing board;
 - (ii) the school principal;
 - (iii) three parents of students enrolled in the springboard school or elevate school, appointed by the chair of the charter school governing board; and
 - (iv) two teachers at the springboard school or elevate school, appointed by the school principal;
 - (b) solicit proposals from a continuous improvement expert identified by the state board under Section 53E-5-305;
 - (c) partner with the school improvement committee to select a proposal;
 - (d) submit the proposal described in Subsection (4)(b) to the state board for review and approval; and
 - (e) subject to Subsections (6) and (7), contract with a continuous improvement expert.
- (5) A proposal described in Subsection (4)(b) shall include a:
 - (a) strategy to address the root causes of the springboard school's or elevate school's low performance identified through the needs assessment described in Section 53E-5-302; and
 - (b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection 53E-5-303(4)(b).
- (6) A charter school governing board may not select a continuous improvement expert that:

- (a) is a member of the charter school governing board;
 - (b) is an employee of the charter school; or
 - (c) has a contract to operate the charter school.
- (7) A contract entered into between a charter school governing board and a continuous improvement expert shall include and reflect the requirements described in Subsection 53E-5-303(4).
- (8)
- (a) A school improvement committee shall partner with the continuous improvement expert selected under Subsection (4) to develop and implement a school improvement plan that includes the elements described in Subsection 53E-5-303(5).
 - (b) A charter school governing board shall assist a continuous improvement expert and a springboard school or elevate school with:
 - (i) addressing the root cause of the springboard school's low performance; and
 - (ii) the development or implementation of a school improvement plan.
- (9)
- (a) On or before June 1 of an initial remedial year, a school improvement committee shall submit the school improvement plan to the charter school governing board for approval.
 - (b) Except as provided in Subsection (9)(c), on or before July 1 of an initial remedial year, a charter school governing board of a springboard school or elevate school shall submit the school improvement plan to the state board for approval.
 - (c) If the charter school governing board does not approve the school improvement plan submitted under Subsection (9)(a), the school improvement committee may appeal the disapproval in accordance with rules made by the state board as described in Subsection 53E-5-305(6).
- (10) The provisions of this part do not modify or limit a charter school authorizer's authority at any time to terminate a charter school's charter agreement in accordance with Section 53G-5-503.
- (11)
- (a) A charter school governing board or a charter school governing board's designee shall annually report to the state board progress toward the goals, benchmarks, and timetable in a springboard school's or elevate school's improvement plan.
 - (b) A charter school governing board of a springboard school shall provide initial and annual notice:
 - (i) that includes the following information regarding the springboard school:
 - (A) the school's improvement status;
 - (B) the goals, benchmarks, and timetable in the school's improvement plan and any progress toward the goals, benchmarks, and timetable; and
 - (C) how the community may provide support to the school and students of the school inside and outside the classroom; and
 - (ii) to:
 - (A) parents of students enrolled in the school, using the same form of communication the charter school governing board regularly uses to communicate with parents; and
 - (B) the governing council and the mayor of the municipality in which the school is located.

Amended by Chapter 473, 2022 General Session

53E-5-305 State board to identify continuous improvement experts -- Review and approval of school improvement plans -- Appeals process.

- (1) Beginning with the 2023-2024 school year, and every three years thereafter, the state board shall identify two or more approved continuous improvement experts, through a standard procurement process, that a springboard school or elevate school may contract with to:
 - (a) respond to the needs assessment conducted under Section 53E-5-302; and
 - (b) provide the services described in Section 53E-5-303 or 53E-5-304, as applicable.
- (2) In identifying continuous improvement experts under Subsection (1), the state board shall identify experts that:
 - (a) have a credible track record of improving student academic achievement in public schools with various demographic characteristics, as measured by statewide assessments described in Section 53E-4-301;
 - (b) have experience designing, implementing, and evaluating data-driven instructional systems in public schools;
 - (c) have experience coaching public school administrators and teachers on designing data-driven school improvement plans;
 - (d) have experience working with the various education entities that govern public schools;
 - (e) have experience coordinating the services provided to participating schools by other experts or providers;
 - (f) have experience delivering high-quality professional development in instructional effectiveness to public school administrators and teachers; and
 - (g) are willing to partner with any springboard school or elevate school in the state, regardless of location.
- (3)
 - (a) The state board shall:
 - (i) review a proposal submitted for approval under Section 53E-5-303 or 53E-5-304 no later than 30 days after the day on which the proposal is submitted;
 - (ii) review a school improvement plan submitted for approval under Subsection 53E-5-303(7)(b) or under Subsection 53E-5-304(9)(b) within 30 days of submission; and
 - (iii) approve a school improvement plan that:
 - (A) is timely;
 - (B) is well-developed; and
 - (C) meets the criteria described in Subsection 53E-5-303(5).
 - (b) The state board may not approve a school improvement plan that is not aligned with the needs assessment conducted under Section 53E-5-302.
- (4)
 - (a) Subject to legislative appropriations, when a school improvement plan is approved by the state board, the state board shall distribute funds to each LEA governing board with a springboard school or elevate school to carry out the provisions of Sections 53E-5-303 and 53E-5-304.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules establishing a distribution method and allowable uses of the funds described in Subsection (4)(a).
- (5) The state board shall:
 - (a) monitor and assess progress toward the goals, benchmarks and timetable in each school improvement plan; and
 - (b) act as a liaison between a local school board, springboard school or elevate school, and continuous improvement expert.
- (6)

- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish an appeals process for:
 - (i) a springboard district school or elevate district school that is not granted approval from the district school's local school board under Subsection 53E-5-303(7)(b);
 - (ii) a springboard charter school or elevate charter school that is not granted approval from the charter school's charter school governing board under Subsection 53E-5-304(9)(b); and
 - (iii) a local school board or charter school governing board that is not granted approval from the state board under Subsection (3)(a) or (b).
- (b) The state board shall ensure that rules made under Subsection (6)(a) require an appeals process described in:
 - (i) Subsections (6)(a)(i) and (ii) to be resolved on or before July 1 of the initial remedial year; and
 - (ii) Subsection (6)(a)(iii) to be resolved on or before August 15 of the initial remedial year.
- (7) Except as provided in Subsection (8), if the amount is approved by the state board in an open meeting, the state board may use a portion of the funds appropriated by the Legislature to carry out the provisions of this part for:
 - (a) administration; or
 - (b) other school improvement supports for all public schools, including for data resources.
- (8) For the 2020-21, 2021-22, and 2022-23 school years, if the state board approves the use in an open meeting, the state board may use funds the Legislature appropriated in prior years to carry out the provisions of this part:
 - (a) for administration;
 - (b) up to \$1,000,000 to contract with a provider, through a request for proposals process, to pilot complementary approaches to school improvement that draw on community resources and engagement; and
 - (c) to analyze the effectiveness of supports provided:
 - (i) under this part; and
 - (ii) by other school improvement programs.

Amended by Chapter 473, 2022 General Session

53E-5-306 Implications for failing to improve school performance.

- (1) As used in this section, "high performing charter school" means the same as that term is defined in Section 53G-5-502.
- (2)
 - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules establishing:
 - (i) the final remedial year for a cohort;
 - (ii) exit criteria for a springboard school or elevate school;
 - (iii) criteria for granting a school an extension as described in Subsection (3); and
 - (iv) implications for a springboard school that does not meet exit criteria after the school's final remedial year or the last school year of the extension period described in Subsection (3).
 - (b) In establishing exit criteria for a springboard school, the state board shall:
 - (i) determine for each springboard school the number of points awarded under the school accountability system that represent a substantive improvement over the number of points awarded under the school accountability system in the school year immediately preceding the initial remedial year; and
 - (ii) establish a method to provide a target for each springboard school.

- (c) The state board shall through a competitively awarded contract engage a third party with expertise in school accountability and assessments to verify the exit criteria adopted under Subsections (2)(a)(i) and (ii).
- (3)
 - (a) A springboard school may petition the state board for an extension to continue school improvement efforts for up to two years if the springboard school does not meet the exit criteria established by the state board as described in Subsection (2).
 - (b) A school that has been granted an extension under this Subsection (3) is eligible for continued funding under Section 53E-5-305.
- (4) If a springboard school does not meet exit criteria after the school's final remedial year or the last school year of the extension period, the state board may intervene by:
 - (a) restructuring a district school, which may include:
 - (i) contract management; or
 - (ii) conversion to a charter school;
 - (b) restructuring a charter school by:
 - (i) terminating a school's charter agreement;
 - (ii) closing a charter school; or
 - (iii) transferring operation and control of the charter school to:
 - (A) a high performing charter school; or
 - (B) the school district in which the charter school is located; or
 - (c) other appropriate action as determined by the state board.

Amended by Chapter 164, 2023 General Session

53E-5-309 School Leadership Development Program.

- (1) As used in this section, "school leader" means a school principal or assistant principal.
- (2) There is created the School Leadership Development Program to increase the supply of highly effective school leaders capable of:
 - (a) initiating, achieving, and sustaining school improvement efforts; and
 - (b) forming and sustaining community partnerships as described in Section 53F-5-402.
- (3) The state board shall identify one or more providers, through a request for proposals process, to develop or provide leadership development training for school leaders that:
 - (a) may provide in-depth training in proven strategies to improve springboard schools and elevate schools;
 - (b) may emphasize hands-on and job-embedded learning;
 - (c) aligns with the state's leadership standards established by state board rule;
 - (d) reflects the needs of a school district or charter school where a school leader serves;
 - (e) may include training on using student achievement data to drive decisions;
 - (f) may develop skills in implementing and evaluating evidence-based instructional practices;
 - (g) may develop skills in leading collaborative school improvement structures, including professional learning communities; and
 - (h) includes instruction on forming and sustaining community partnerships as described in Section 53F-5-402.
- (4) Subject to legislative appropriations, the state board shall provide incentive pay to a school leader who:
 - (a) completes leadership development training under this section; and

- (b) agrees to work, for at least five years, in a school that ranked in the lowest performing 20% of schools under the school accountability system in the school year previous to the first year the school leader:
 - (i) completes leadership development training; and
 - (ii) begins to work, or continues to work, in a school described in this Subsection (4)(b).
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules specifying:
 - (a) eligibility criteria for a school leader to participate in the School Leadership Development Program;
 - (b) application procedures for the School Leadership Development Program;
 - (c) criteria for selecting school leaders from the application pool; and
 - (d) procedures for awarding incentive pay under Subsection (4).

Amended by Chapter 164, 2023 General Session

53E-5-310 Reporting requirement.

In accordance with Section 53E-1-203, the state board shall report on the provisions of this part.

Amended by Chapter 186, 2019 General Session

Amended by Chapter 324, 2019 General Session

53E-5-311 Coordination with the Partnerships for Student Success Grant Program.

If a springboard school or elevate school is a member of a partnership that receives a grant under Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program, the school improvement committee shall:

- (1) coordinate the school improvement committee's efforts with the efforts of the partnership; and
- (2) ensure that the goals and outcomes of the partnership are aligned with the school improvement plan described in this part.

Amended by Chapter 473, 2022 General Session

**Chapter 6
Education Professional Licensure**

**Part 1
General Provisions**

53E-6-101 Title.

This chapter is known as "Education Professional Licensure."

Enacted by Chapter 1, 2018 General Session

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53E-6-102 Definitions.

As used in this chapter:

- (1) "Certificate" means a license issued by a governmental jurisdiction outside the state.
- (2) "Educator" means:
 - (a) a person who holds a license;
 - (b) a teacher, counselor, administrator, librarian, or other person required, under rules of the state board, to hold a license; or
 - (c) a person who is the subject of an allegation which has been received by an LEA, the state board, or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.
- (3) "License" means an authorization issued by the state board that permits the holder to serve in a professional capacity in the public schools.
- (4) "National Board certification" means a current certificate issued by the National Board for Professional Teaching Standards.
- (5) "School" means a public or private entity that provides educational services to a minor child.
- (6) "UPPAC" means the Utah Professional Practices Advisory Commission.

(j)
53E-6-103 Legislative findings on teacher quality -- Declaration of education as a profession.

- (1)
 - (a) The Legislature acknowledges that education is perhaps the most important function of state and local governments, recognizing that the future success of our state and nation depend in large part upon the existence of a responsible and educated citizenry.
 - (b) The Legislature further acknowledges that the primary responsibility for the education of children within the state resides with their parents and that the role of state and local governments is to support and assist parents in fulfilling that responsibility.
- (2)
 - (a) The Legislature finds that:
 - (i) quality teaching is the basic building block of successful schools and, outside of home and family circumstances, the essential component of student achievement;
 - (ii) the high quality of teachers is absolutely essential to enhance student achievement and to assure educational excellence in each classroom in the state's public schools; and
 - (iii) the implementation of a comprehensive continuum of data-driven strategies regarding recruitment, preservice, licensure, induction, professional development, and evaluation is essential if the state and its citizens expect every classroom to be staffed by a skilled, caring, and effective teacher.
 - (b) In providing for the safe and effective performance of the function of educating Utah's children, the Legislature further finds it to be of critical importance that education, including instruction, administrative, and supervisory services, be recognized as a profession, and that those who are licensed or seek to become licensed and to serve as educators:
 - (i) meet high standards both as to qualifications and fitness for service as educators through quality recruitment and preservice programs designed to provide opportunities to demonstrate competency in a school classroom setting;
 - (ii) maintain those standards in the performance of their duties while holding licenses, in large part through participating in induction and ongoing professional development programs focused on instructional improvement;
 - (iii) receive fair, systematic evaluations of their performance at school for the purpose of enhancing the quality of public education and student achievement; and

- (iv) have access to a process for fair examination and review of allegations made against them and for the administration of appropriate sanctions against those found, in accordance with due process, to have failed to conduct themselves in a manner commensurate with their authority and responsibility to provide appropriate professional services to the children of the state.

Part 2 Licensing

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53E-6-201 State board licensure.

- (1) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a system for educator licensing that includes:
 - (a) an associate educator license that permits an individual to provide educational services in a public school while working to meet the requirements of a professional educator license;
 - (b) a professional educator license that permits an individual to provide educational services in a public school after demonstrating that the individual meets licensure requirements established in state board rule;
 - (c) an LEA-specific educator license issued by the state board at the request of an LEA's governing body that is valid for an individual to provide educational services in the requesting LEA's schools;
 - (d) beginning in the 2023-2024 school year, a provider-specific license issued by the state board at the request of an authorized online course provider described in Subsection 53F-4-504 that:
 - (i) is valid for an individual to provide educational services to a student enrolled in an online course described in 53F-4-503; and
 - (ii) contains eligibility criteria that is no more stringent than the requirements for a license described in Subsection (1)(c); and
 - (e) beginning in the 2029-2030 school year, the creation or modification of licenses if any are created or modified under Section 53G-6-206.
- (2) An individual employed in a position that requires licensure by the state board shall hold the license that is appropriate to the position.
- (3)
 - (a)
 - (i) Except as provided in Subsection (3)(a)(ii), the state board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rank, endorse, or otherwise classify licenses and establish the criteria for obtaining, retaining, and reinstating licenses.
 - (ii) The state board may not make licensure contingent upon passage of a pedagogical performance assessment.
 - (b) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the state board requirements for retaining a license is exempt from tuition, except for a semester registration fee established by the Utah Board of Higher Education, if:

- (i) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and
- (ii) enrollments are determined by each institution under rules and guidelines established by the Utah Board of Higher Education in accordance with findings of fact that space is available for the educator's enrollment.

53E-6-204 Exemptions from licensure.

Except as otherwise provided by statute or rule, a spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state may work as an educator without being licensed under this title if:

- (1) the spouse holds a valid educator license issued by any other state or jurisdiction recognized by the state board; and
- (2) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Amended by Chapter 186, 2019 General Session

53E-6-205 License by endorsement.

- (1) Subject to Subsections (3) through (6), the state board shall issue a license to an applicant who has been issued a certificate in another state, district, or territory of the United States if:
 - (a) the state board determines that the certificate encompasses a similar scope of practice as the license sought in this state;
 - (b) the applicant has at least one year of experience practicing under the certificate; and
 - (c) the applicant's certificate is in good standing in the other state, district, or territory.
- (2) Subject to Subsections (3) through (6), the state board may issue a license to an applicant who:
 - (a) has been issued a certificate in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:
 - (i)
 - (A) the state board determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and
 - (B) the applicant has at least one year of experience practicing under the certificate; or
 - (ii) the state board determines that the certification requirements of the other state, district, territory, or jurisdiction at the time the certificate was issued were substantially similar to the requirements for the license sought in this state; or
 - (b) has never been issued a certificate in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:
 - (i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and
 - (ii) the state board determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.
- (3) The state board may refuse to issue a license to an applicant under this section if:
 - (a) the state board determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or
 - (b) the applicant has a previous or pending disciplinary action related to the applicant's certificate.
- (4) Before the state board issues a license to an applicant under this section, the applicant shall:
 - (a) pay a fee determined by the state board under Section 63J-1-504; and

- (b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.
- (5) The state board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.
- (6) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific parts of this chapter.

Enacted by Chapter 222, 2023 General Session

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53E-6-206 Expansion of traditional and alternative programs for teacher training.

- (1)
 - (a) By July 1, 2028, the state board and the Utah Board of Higher Education, in consultation with administrators and staff directly responsible for hiring licensed educators at an LEA or regional education service agency as defined in Section 53G-4-410, shall develop a strategy for modifying traditional and alternative programs for training teachers.
 - (b) The strategy described in Subsection (1)(a) shall include consideration of:
 - (i) competency-based approaches;
 - (ii) experiential learning, including apprenticeships; and
 - (iii) degree-agnostic qualifications.
- (2)
 - (a) Subject to having an agreement between at least one institution of higher education and the state board, the state board shall modify requirements for traditional and alternative training program licenses to accommodate the strategy described in Subsection (1).
 - (b) The changes described in Subsection (2)(a) may include the modification of requirements necessary for:
 - (i) a license based on an associates degree;
 - (ii) competency-based training programs;
 - (iii) accommodations for non-traditional students;
 - (iv) credit for competency obtained through prior learning or experience; or
 - (v) other options that would accommodate the strategy described in Subsection (1).

Part 3
Licensing Requirements

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53E-6-301 Qualifications of applicants for licenses -- Changes in qualifications.

- (1) As used in this section:
 - (a) "Literacy preparation assessment" means an examination that evaluates an individual's knowledge of the science of reading, related to literacy instruction for an individual who teaches preschool, elementary school, or special education.
 - (b) "Required literacy preparation assessment" means a literacy preparation assessment that the state board uses to determine the qualifications of license applicants.

- (2) The state board shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the scholarship, competencies, training, and experience required of license applicants.
- (3)
 - (a) The state board shall announce any increase in the requirements when made.
 - (b) An increase in requirements shall become effective not less than one year from the date of the announcement.
- (4)
 - (a) Except as provided in Subsection (4)(b), the state board may determine by examination or otherwise the qualifications of license applicants.
 - (b) The state board may not make licensure contingent upon passage of a pedagogical performance assessment.
- (5) If the state board uses a required literacy preparation assessment under Subsection (4):
 - (a)
 - (i) the state board shall make rules to allow an LEA to hire a license applicant who does not successfully pass the required literacy preparation assessment for a limited duration pending successful passage; and
 - (ii) the license applicant is not eligible for a professional educator license described in Section 53E-6-201 until the license applicant successfully passes the required literacy preparation assessment; and
 - (b) the state board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
 - (i) establish exemptions for the required literacy preparation assessment; and
 - (ii) develop a pathway to demonstrate early literacy competency as an exception to the requirement to pass the required literacy preparation assessment.

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53E-6-302 Educator preparation programs.

- (1) As used in this section:
 - (a) "Educator preparation program" means:
 - (i) a university teacher education program; or
 - (ii) a program that prepares individuals using an alternative pathway to licensure, as the state board provides, that does not include content or time requirements that conflict with the content or time requirements described in rule made by the state board in accordance with Subsection (2).
 - (b) "Required literacy preparation assessment" means the same as that term is defined in Section 53E-6-301.
 - (c) "University teacher preparation program" means a program that an institution of higher education offers to prepare educators for licensure.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish standards for approval of an educator preparation program.
- (3) The state board shall ensure that standards adopted under Subsection (2):
 - (a) meet or exceed generally recognized national standards for preparation of educators; and
 - (b) include requirements for educator preparation programs to:
 - (i) provide instruction in the science of reading; and

- (ii) prepare license applicants to pass the required literacy preparation assessment at no cost to the applicants for the preparation, including providing ongoing preparation for up to three total attempts of the required literacy preparation assessment.
- (4) The state board shall designate an employee of the state board's staff to:
 - (a) work with education deans of state institutions of higher education to coordinate university teacher preparation programs that may include:
 - (i) monitoring courses for university teacher preparation programs; and
 - (ii) working with course instructors for university teacher preparation programs;
 - (b) act as a liaison between:
 - (i) the state board;
 - (ii) local school boards or charter school governing boards; and
 - (iii) representatives of university teacher preparation programs; and
 - (c) report the employee's findings and recommendations for the improvement of teacher preparation programs to:
 - (i) the state board; and
 - (ii) education deans of state institutions of higher education.
- (5) The state board shall:
 - (a) in good faith, consider the findings and recommendations described in Subsection (4)(c); and
 - (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as the state board determines is necessary, to implement recommendations described in Subsection (4)(c).
- (6) Subject to legislative appropriations, the Utah Board of Higher Education shall:
 - (a) provide matching funds to each of the state's institutions of higher education with a university teacher preparation program:
 - (i) to hire an additional faculty member who has training in the science of reading and the science of reading instruction; and
 - (ii) in an amount equal to 75% of the cost of making the hire described in Subsection (6)(a) if the institution provides 25% of the cost; and
 - (b) consult the state superintendent regarding:
 - (i) criteria for the hire described in Subsection (6)(a) that would qualify for a distribution of funding; and
 - (ii) an individual institution's fulfillment of the criteria described in Subsection (6)(b)(i) before distributing funding.
- (7) An institution that hires an additional faculty member shall coordinate with the science of reading panel described in Section 53E-3-1003 to include two members of the panel in the institution's hiring process.
- (8) The state board shall:
 - (a) monitor accreditation of university programs regarding the science of reading preparation described in Subsection (3)(b) at the institutions described in Subsection (6)(a); and
 - (b)
 - (i) develop strategies to provide support for preparation programs with low rates of passage on the required literacy preparation assessment; and
 - (ii) provide increasing levels of support to a preparation program with low rates of passage on the required literacy preparation assessment for two consecutive years.

53E-6-303 Prohibition on use of degrees or credit from unapproved institutions.

- (1) An individual may not use a postsecondary degree or credit awarded by a postsecondary institution or program to gain a license, employment, or any other benefit within the public school system unless the institution or program was, at the time the degree or credit was awarded:
 - (a) approved for the granting of the degree or credit by the state board; or
 - (b) accredited by an accrediting organization recognized by the state board.
- (2) The state board may grant an exemption from Subsection (1) to an individual who shows good cause for the granting of the exemption.

Amended by Chapter 186, 2019 General Session

53E-6-307 Certification in other jurisdictions -- Impact on licensing in Utah.

- (1) An applicant for a license, renewal of a license, or reinstatement of a license shall provide the administrator of teacher licensing with an affidavit, stating under oath the current status of any certificate, license, or other authorization required for a professional position in education, which the applicant holds or has held in any other jurisdiction.
- (2) An applicant for a license who has held a teacher's license in any other jurisdiction or who graduated from an institution of higher education in another state shall also provide the administrator of teacher licensing with:
 - (a) a complete listing of the higher education institutions attended by the applicant, whether the applicant's enrollment or eligibility for completion of a program was terminated by the institution, and, if so, the reasons for termination;
 - (b) a complete list of prior school employers; and
 - (c) a release on a form provided by the administrator permitting the state board to obtain records from other jurisdictions and from institutions of higher education attended by the applicant, including expunged or otherwise protected records, relating to any offense described substantially in the same language as in Section 53G-11-405.
- (3) If the applicant's certificate, license, or authorization as an educator in any other jurisdiction is under investigation, has expired or been surrendered, suspended or revoked, or is currently not valid for any other reason, the state board may not grant the requested license, renewal, or reinstatement until it has received confirmation from the administrator of professional certification in that jurisdiction that the applicant would be eligible for certification or licensure in that jurisdiction.
- (4) The state board may not withhold a license for the sole reason that the applicant would be ineligible for certification, licensure, or authorization in the jurisdiction referred to in Subsection (3) because of failure to meet current requirements in that jurisdiction relating to education, time in service, or residence.

Amended by Chapter 186, 2019 General Session

Part 4
Background and Employment Checks

53E-6-401 Background checks.

In accordance with Section 53G-11-403, the state board shall require a license applicant to submit to a criminal background check and ongoing monitoring as a condition for licensing.

Amended by Chapter 186, 2019 General Session

53E-6-402 State board-required licensing or employment recommendations -- Local public school-required licensing recommendations -- Notice requirements for affected parties -- Exemption from liability.

- (1)
 - (a) The state board shall provide the appropriate administrator of a public or private school or of an agency outside the state that is responsible for licensing or certifying educational personnel with a recommendation or other information possessed by the state board that has significance in evaluating the employment or license of:
 - (i) a current or prospective school employee;
 - (ii) an educator or education license holder; or
 - (iii) a license applicant.
 - (b) Information supplied under Subsection (1)(a) shall include:
 - (i) the complete record of a hearing; and
 - (ii) the investigative report for matters that:
 - (A) the educator has had an opportunity to contest; and
 - (B) did not proceed to a hearing.
- (2) At the request of the state board, an administrator of a public school or school district shall, and an administrator of a private school may, provide the state board with a recommendation or other information possessed by the school or school district that has significance in evaluating the:
 - (a) license of an educator or education license holder; or
 - (b) potential licensure of a license applicant.
- (3) If the state board decides to deny licensure or to take action against an educator's license based upon information provided under this section, the state board shall:
 - (a) give notice of the information to the educator or license applicant; and
 - (b) afford the educator or license applicant an opportunity to respond to the information.
- (4) A person who, in good faith, provides a recommendation or discloses or receives information under this section is exempt from civil and criminal liability relating to that recommendation, receipt, or disclosure.

Amended by Chapter 186, 2019 General Session

53E-6-403 Tie-in with the Criminal Investigations and Technical Services Division.

- (1) The state board shall:
 - (a) designate employees to act, with state board supervision, as an online terminal agency with the Department of Public Safety's Criminal Investigations and Technical Services Division under Section 53-10-108; and
 - (b) provide relevant information concerning current or prospective employees or volunteers upon request to other school officials as provided in Section 53E-6-402.
- (2) The cost of the online service shall be borne by the entity making the inquiry.

Amended by Chapter 186, 2019 General Session

Part 5
Utah Professional Practices Advisory Commission

53E-6-501 Utah Professional Practices Advisory Commission established.

The Utah Professional Practices Advisory Commission, UPPAC, is established to assist and advise the state board in matters relating to the professional practices of educators.

Amended by Chapter 186, 2019 General Session

53E-6-502 UPPAC members -- Executive secretary.

- (1) UPPAC shall consist of a nonvoting executive secretary and 11 voting members, nine of whom shall be licensed educators in good standing, and two of whom shall be members nominated by the education organization within the state that has the largest membership of parents of students and teachers.
- (2) Six of the voting members shall be persons whose primary responsibility is teaching.
- (3)
 - (a) The state superintendent shall appoint an employee to serve as executive secretary.
 - (b) Voting members are appointed by the state superintendent as provided under Section 53E-6-503.
- (4) State board employees shall staff UPPAC activities.

Amended by Chapter 186, 2019 General Session

53E-6-503 Nominations -- Appointment of commission members -- Reappointments.

- (1)
 - (a) The state board shall adopt rules establishing procedures for nominating and appointing individuals to voting membership on UPPAC.
 - (b) Nomination petitions must be filed with the state superintendent prior to June 16 of the year of appointment.
 - (c) A nominee for appointment as a member of UPPAC as an educator must have been employed in the representative class in the Utah public school system or a private school accredited by the state board during the three years immediately preceding the date of appointment.
- (2) The state superintendent shall appoint the members of the commission.
- (3) Appointments begin July 1 and are for terms of three years and until a successor is appointed.
- (4) Terms of office are staggered so that approximately 1/3 of UPPAC members are appointed annually.
- (5) A member may not serve more than two terms.

Amended by Chapter 186, 2019 General Session

53E-6-504 Filling of vacancies.

- (1) A UPPAC vacancy occurs if a member resigns, fails to attend three or more meetings during a calendar year, or no longer meets the requirements for nomination and appointment.
- (2) If a vacancy occurs, the state superintendent shall appoint a successor to fill the unexpired term.

- (3) If the state superintendent does not fill the vacancy within 60 days, the state board shall make the appointment.
- (4) Nominations to fill vacancies are submitted to the state superintendent in accordance with procedures established under rules of the state board.

Amended by Chapter 186, 2019 General Session

53E-6-505 Meetings and expenses of UPPAC members.

- (1) UPPAC shall meet at least quarterly and at the call of the chair or of a majority of the members.
- (2) Members of UPPAC serve without compensation but are allowed reimbursement for actual and necessary expenses under the rules of the Division of Finance.
- (3) The state board shall pay reimbursement to UPPAC members out of the Income Tax Fund.

Amended by Chapter 456, 2022 General Session

(j)

53E-6-506 UPPAC duties and procedures.

- (1) The state board may direct UPPAC to review a complaint about an educator and recommend that the state board:
 - (a) dismiss the complaint; or
 - (b) investigate the complaint in accordance with this section.
- (2)
 - (a) The state board may direct UPPAC to:
 - (i) in accordance with this section, investigate a complaint's allegation or decision; or
 - (ii) hold a hearing.
 - (b) UPPAC may initiate a hearing as part of an investigation.
 - (c) Upon completion of an investigation or hearing, UPPAC shall:
 - (i) provide findings to the state board; and
 - (ii) make a recommendation for state board action.
 - (d) UPPAC may not make a recommendation described in Subsection (2)(c)(ii) to adversely affect an educator's license unless UPPAC gives the educator an opportunity for a hearing.
- (3)
 - (a) The state board may:
 - (i) select an independent investigator to conduct a UPPAC investigation with UPPAC oversight; or
 - (ii) authorize UPPAC to select and oversee an independent investigator to conduct an investigation.
 - (b) In conducting an investigation, UPPAC or an independent investigator shall conduct the investigation independent of and separate from a related criminal investigation.
 - (c) In conducting an investigation, UPPAC or an independent investigator may:
 - (i) in accordance with Section 53E-6-606 administer oaths and issue subpoenas; or
 - (ii) receive evidence related to an alleged offense, including sealed or expunged records released to the state board under Section 77-40a-403.
 - (d) If UPPAC finds that reasonable cause exists during an investigation, UPPAC may recommend that the state board initiate a background check on an educator as described in Section 53G-11-403.
 - (e) UPPAC has a rebuttable presumption that an educator committed a sexual offense against a minor child if the educator voluntarily surrendered a license or certificate or allowed a license

or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.

- (4) The state board may direct UPPAC to:
 - (a) recommend to the state board procedures for:
 - (i) receiving and processing complaints;
 - (ii) investigating a complaint's allegation or decision;
 - (iii) conducting hearings; or
 - (iv) reporting findings and making recommendations to the state board for state board action;
 - (b) recommend to the state board or a professional organization of educators:
 - (i) standards of professional performance, competence, and ethical conduct for educators; or
 - (ii) suggestions for improvement of the education profession; or
 - (c) fulfill other duties the state board finds appropriate.
- (5) UPPAC may not participate as a party in a dispute relating to negotiations between:
 - (a) a school district and the school district's educators; or
 - (b) a charter school and the charter school's educators.
- (6) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish UPPAC duties and procedures.

Part 6

License Denial and Discipline

53E-6-601 Definition.

As used in this part "hearing" means a proceeding held in accordance with generally accepted principles of due process and administrative law in which definite issues of fact or of law are tried before a hearing body, and in which proceeding evidence is presented and witnesses heard, and in which the party against whom the proceedings are held has a right to:

- (1) appear with or without counsel to present evidence, confront and cross-examine witnesses, or subpoena witnesses; and
- (2) obtain a decision based solely upon evidence presented to the hearing body in the presence of both parties or representatives of both parties, recognizing that presence is satisfied if a party has been given a reasonable opportunity to attend, even if the party fails to do so.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-6-602 Licensing power of the state board -- Licensing final action -- Appeal rights.

- (1) The state board holds the power to license educators.
- (2)
 - (a) The state board shall take final action with regard to an educator license.
 - (b) An entity other than the state board may not take final action with regard to an educator license.
- (3)
 - (a) In accordance with Subsection (3)(b), a license applicant or an educator may seek judicial review of a final action made by the state board under this chapter.

- (b) A license applicant or educator may file a petition for judicial review of the state board's final action if the license applicant or educator files a petition within 30 days after the day on which the license applicant or educator received notice of the final action.

Amended by Chapter 186, 2019 General Session

53E-6-603 Ineligibility for educator license.

- (1) The state board may refuse to issue a license to a license applicant if the state board finds good cause for the refusal, including behavior of the applicant:
 - (a) found pursuant to a criminal, civil, or administrative matter after reasonable opportunity for the applicant to contest the allegation; and
 - (b) considered, as behavior of an educator, to be:
 - (i) immoral, unprofessional, or incompetent behavior; or
 - (ii) a violation of standards of ethical conduct, performance, or professional competence.
- (2) The state board may not issue, renew, or reinstate an educator license if the license applicant or educator:
 - (a) was convicted of a felony of a sexual nature;
 - (b) pled guilty to a felony of a sexual nature;
 - (c) entered a plea of no contest to a felony of a sexual nature;
 - (d) entered a plea in abeyance to a felony of a sexual nature;
 - (e) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
 - (f) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;
 - (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who:
 - (i) is not enrolled in an adult education program in an LEA;
 - (ii) is not a minor; and
 - (iii)
 - (A) is enrolled in an LEA where the license applicant or educator is employed; or
 - (B) is a participant in an extracurricular program in which the educator is involved; or
 - (h) admits to the state board or UPPAC that the license applicant or educator committed conduct that amounts to:
 - (i) a felony of a sexual nature; or
 - (ii) a sexual offense or sexually explicit conduct described in Subsection (2)(e), (f), or (g).
- (3) If an individual is ineligible for licensure under Subsection (1) or (2), a public school may not:
 - (a) employ the person in the public school; or
 - (b) allow the person to volunteer in the public school.
- (4)
 - (a) If the state board denies licensure under this section, the state board shall immediately notify the applicant of:
 - (i) the denial; and
 - (ii) the applicant's right to request a hearing before UPPAC.
 - (b) Upon receipt of a notice described in Subsection (4)(a), an applicant may, within 30 days after the day on which the applicant received the notice, request a hearing before UPPAC for the applicant to review and respond to all evidence upon which the state board based the denial.
 - (c) If the state board receives a request for a hearing described in Subsection (4)(b), the state board shall direct UPPAC to hold a hearing.

Amended by Chapter 327, 2020 General Session

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53E-6-604 State board disciplinary action against an educator.

- (1)
 - (a) The state board shall direct UPPAC to investigate an allegation, administrative decision, or judicial decision that evidences an educator is unfit for duty because the educator exhibited behavior that:
 - (i) is immoral, unprofessional, or incompetent; or
 - (ii) violates standards of ethical conduct, performance, or professional competence.
 - (b) If the state board determines an allegation or decision described in Subsection (1)(a) does not evidence an educator's unfitness for duty, the state board may dismiss the allegation or decision without an investigation or hearing.
- (2) The state board shall direct UPPAC to investigate and allow an educator to respond in a UPPAC hearing if the state board receives an allegation that the educator:
 - (a) was charged with a felony of a sexual nature;
 - (b) was convicted of a felony of a sexual nature;
 - (c) pled guilty to a felony of a sexual nature;
 - (d) entered a plea of no contest to a felony of a sexual nature;
 - (e) entered a plea in abeyance to a felony of a sexual nature;
 - (f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
 - (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor; or
 - (h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who:
 - (i) is not enrolled in an adult education program in an LEA;
 - (ii) is not a minor; and
 - (iii)
 - (A) is enrolled in an LEA where the educator is employed; or
 - (B) is a participant in an extracurricular program in which the educator is involved.
- (3) Upon notice that an educator allegedly violated Section 53E-6-701, the state board shall direct UPPAC to:
 - (a) investigate the alleged violation; and
 - (b) hold a hearing to allow the educator to respond to the allegation.
- (4) Upon completion of an investigation or hearing described in this section, UPPAC shall:
 - (a) provide findings to the state board; and
 - (b) make a recommendation for state board action.
- (5)
 - (a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and recommendation, the state board may:
 - (i) revoke the educator's license;
 - (ii) suspend the educator's license;
 - (iii) restrict or prohibit the educator from renewing the educator's license;
 - (iv) warn or reprimand the educator;
 - (v) enter into a written agreement with the educator that requires the educator to comply with certain conditions;
 - (vi) direct UPPAC to further investigate or gather information; or

- (vii) take other action the state board finds to be appropriate for and consistent with the educator's behavior.
- (b) Upon review of UPPAC's findings and recommendation, the state board shall revoke the license of an educator who:
 - (i) was convicted of a felony of a sexual nature;
 - (ii) pled guilty to a felony of a sexual nature;
 - (iii) entered a plea of no contest to a felony of a sexual nature;
 - (iv) entered a plea in abeyance to a felony of a sexual nature;
 - (v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
 - (vi) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;
 - (vii) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who:
 - (A) is not enrolled in an adult education program in an LEA;
 - (B) is not a minor; and
 - (C) is enrolled in an LEA where the educator is employed or is a participant in an extracurricular program in which the educator is involved; or
 - (viii) admits to the state board or UPPAC that the applicant committed conduct that amounts to:
 - (A) a felony of a sexual nature; or
 - (B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi), or (vii).
- (c) The state board may not reinstate a revoked license.
- (d) Before the state board takes adverse action against an educator under this section, the state board shall ensure that the educator had an opportunity for a UPPAC hearing.
- (6) Notwithstanding any other provision in this section, the state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that require an LEA to notify the state board, UPPAC, and the educator of a complaint from a parent against an educator alleging a violation of educator licensing standards.

53E-6-605 Designation of hearing officer or panel -- Review of findings.

- (1) UPPAC or a state or local school board charged with responsibility for conducting a hearing may conduct the hearing itself or appoint a hearing officer or panel to conduct the hearing and make recommendations concerning findings.
- (2) UPPAC or the local school board shall review the record of the hearing and the recommendations, and may obtain and review, in the presence of the parties or their representatives, additional relevant information, prior to issuing official findings.
- (3) UPPAC shall provide a panel of its members to serve as fact finders in a hearing at the request of the educator who is the subject of the hearing.

Amended by Chapter 186, 2019 General Session

53E-6-606 Administering of oaths -- Issuance of subpoenas.

- (1) UPPAC or a state or local school board charged with responsibility for conducting an investigation or a hearing under this chapter may administer oaths and issue subpoenas in connection with the investigation or hearing.
- (2) If a hearing is before a hearing officer or panel, the hearing officer or panel may administer oaths, and the appointing body may issue subpoenas upon the request of the hearing officer or panel.

- (3) Subpoenas shall be enforced upon the petition of the issuing body by the district court in the jurisdiction where the subpoena was issued, in the same manner as subpoenas issued by the court.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-6-607 Policies for conducting hearings -- Standard of proof.

- (1) The state board and each local school board shall adopt policies for the conduct of hearings to ensure that requirements of due process are met.
- (2) An accused party shall be provided not less than 15 days before a hearing with:
 - (a) notice of the hearing;
 - (b) the law, rule, or policy alleged to have been violated;
 - (c) sufficient information about the allegations and the evidence to be presented in support of the allegations to permit the accused party to prepare a meaningful defense; and
 - (d) a copy of the policies under which the hearing will be conducted.
- (3) If an accused party fails to request a hearing within 30 days after written notice is sent to the party's address as shown on the records of the local school board, for actions taken under the auspices of a local school board, or on the records of the state board, for actions taken under the auspices of the state board, then the accused party shall be considered to have waived the right to a hearing and the action may proceed without further delay.
- (4) Hearing fact finders shall use the preponderance of evidence standard in deciding all questions unless a higher standard is required by law.
- (5) Unless otherwise provided in this public education code, the decisions of state and local school boards are final determinations under this section, appealable to the appropriate court for review.

Amended by Chapter 186, 2019 General Session

Part 7
Unprofessional and Unlawful Conduct

53E-6-701 Mandatory reporting of physical or sexual abuse of students.

- (1) For purposes of this section, "educator" means, in addition to a person included under Section 53E-6-102, a person, including a volunteer or temporary employee, who at the time of an alleged offense was performing a function in a private school for which a license would be required in a public school.
- (2) In addition to any duty to report suspected cases of child abuse or neglect under Section 80-2-602, an educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report the belief and all other relevant information to the school principal, to the superintendent, or to the state board.
- (3) A school administrator who has received a report under Subsection (2) or who otherwise has reasonable cause to believe that a student may have been physically or sexually abused by an educator shall immediately report that information to the state board.
- (4) Upon notice that an educator allegedly violated Subsection (2) or (3), the state board shall direct UPPAC to investigate the educator's alleged violation as described in Section 53E-6-604.

- (5) A person who makes a report under this section in good faith shall be immune from civil or criminal liability that might otherwise arise by reason of that report.

Amended by Chapter 335, 2022 General Session

53E-6-702 Reimbursement of legal fees and costs to educators.

- (1) As used in this section:
- (a) "Action" means any action, except those referred to in Section 52-6-201, brought against an educator by an individual or entity other than:
 - (i) the entity who licenses the educator; and
 - (ii) the LEA that employs the educator or employed the educator at the time of the alleged act or omission.
 - (b) "Educator" means an individual who holds or is required to hold a license as defined by the state board and is employed by an LEA located within the state.
- (2) Except as otherwise provided in Section 52-6-201, an educator is entitled to recover reasonable attorneys' fees and costs incurred in the educator's defense against an individual or entity who initiates an action against the educator if:
- (a) the action is brought for any act or omission of the educator during the performance of the educator's duties within the scope of the educator's employment; and
 - (b) it is dismissed or results in findings favorable to the educator.
- (3) An educator who recovers under this section is also entitled to recover reasonable attorneys' fees and costs necessarily incurred by the educator in recovering the attorneys' fees and costs allowed under Subsection (2).

Amended by Chapter 186, 2019 General Session

53E-6-703 Professional competence or performance -- Administrative hearing by local school board -- Action on complaint.

- (1)
- (a) No civil action by or on behalf of a student relating to the professional competence or performance of a licensed employee of a school district, or to the discipline of students by a licensed employee, application of in loco parentis, or a violation of ethical conduct by an employee of a school district, may be brought in a court until at least 60 days after the filing of a written complaint with the local school board of the district, or until findings have been issued by the local school board after a hearing on the complaint, whichever is sooner.
 - (b) As used in Subsection (1)(a), "in loco parentis" means the power of professional school personnel to exercise the rights, duties, and responsibilities of a reasonable, responsible parent in dealing with students in school-related matters.
 - (c) A parent of a student has standing to file a civil action against an employee who provides services to a school attended by the student.
- (2) Within 15 days of receiving a complaint under Subsection (1), a local school board may elect to refer the complaint to the state board.
- (3) If a complaint is referred to the state board, no civil action may be brought in a court on matters relating to the complaint until the state board has provided a hearing and issued its findings or until 90 days after the filing of the complaint with the local school board, whichever is sooner.

Amended by Chapter 186, 2019 General Session

Part 8

Dispute Resolution for Contract Negotiations

53E-6-801 Mediation of contract negotiations.

- (1) The president of a professional local organization which represents a majority of the licensed employees of a school district or the chairman or president of a local school board may, after negotiating for 90 days, declare an impasse by written notification to the other party and to the state board.
- (2) The party declaring the impasse may request the state superintendent to appoint a mediator for the purpose of helping to resolve the impasse if the parties to the dispute have not been able to agree on a third party mediator.
- (3) Within five working days after receipt of the written request, the state superintendent shall appoint a mediator who is mutually acceptable to the local school board and the professional organization representing a majority of the licensed employees.
- (4) The mediator shall meet with the parties, either jointly or separately, and attempt to settle the impasse.
- (5) The mediator may not, without the consent of both parties, make findings of fact or recommend terms for settlement.
- (6) Both parties shall equally share the costs of mediation.
- (7) Nothing in this section prevents the parties from adopting a written mediation procedure other than that provided in this section.
- (8) If the parties have a mediation procedure, they shall follow that procedure.

Amended by Chapter 186, 2019 General Session

53E-6-802 Appointment of hearing officer -- Hearing process.

- (1) If a mediator appointed under Section 53E-6-801 is unable to effect settlement of the controversy within 15 working days after his appointment, either party to the mediation may by written notification to the other party and to the state superintendent request that their dispute be submitted to a hearing officer who shall make findings of fact and recommend terms of settlement.
- (2) Within five working days after receipt of the request, the state superintendent shall appoint a hearing officer who is mutually acceptable to the local school board and the professional organization representing a majority of the certificated employees.
- (3) The hearing officer may not, without consent of both parties, be the same person who served as mediator.
- (4) The hearing officer shall meet with the parties, either jointly or separately, may make inquiries and investigations, and may issue subpoenas for the production of persons or documents relevant to all issues in dispute.
- (5) The state board and departments, divisions, authorities, bureaus, agencies, and officers of the state, local school boards, and the professional organization shall furnish the hearing officer, on request, all relevant records, documents, and information in their possession.
- (6) If the final positions of the parties are not resolved before the hearing ends, the hearing officer shall prepare a written report containing the agreements of the parties with respect to all resolved negotiated contract issues and the positions that the hearing officer considers appropriate on all unresolved final positions of the parties.

- (7) The hearing officer shall submit the report to the parties privately within 10 working days after the conclusion of the hearing or within the date established for the submission of posthearing briefs, but not later than 20 working days after the hearing officer's appointment.
- (8) Either the hearing officer, the professional organization, or the local school board may make the report public if the dispute is not settled within 10 working days after its receipt from the hearing officer.
- (9)
 - (a) The state superintendent may determine the majority status of any professional organization which requests assistance under this section.
 - (b) The decision of the state superintendent is final unless it is clearly inconsistent with the evidence.

Amended by Chapter 186, 2019 General Session

Part 9 Additional Credentials

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53E-6-901 Substitute teachers.

- (1) As used in this section, "substitute teacher" means a licensed or non-licensed individual who is employed by a school district to fill in for a regular classroom teacher during the teacher's temporary absence from the classroom.
- (2) When hiring substitute teachers, school districts shall prioritize licensed educators as substitutes when available.
- (3) An individual shall submit to a background check in accordance with Section 53G-11-402 prior to employment as a substitute teacher.
- (4) A teacher's position in the classroom may not be filled by a non-licensed substitute teacher for more than a total of 20 days during any school year unless a licensed educator is not available.
- (5) An individual who is ineligible to hold a license for reasons described in Title 53E, Chapter 6, Part 6, License Denial and Discipline, may not serve as a substitute teacher.

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53E-6-902 Teacher leaders.

- (1) As used in this section, "teacher" means an educator who has an assignment to teach in a classroom.
- (2) There is created the role of a teacher leader to:
 - (a) work with a student teacher and a teacher who supervises a student teacher;
 - (b) assist with the training of a recently hired teacher;
 - (c) support school-based professional learning; and
 - (d) provide feedback on the demonstration of competencies for an applicant seeking licensure through a preparation program.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:
 - (a) define the role of a teacher leader, including the functions described in Subsection (2); and
 - (b) establish the minimum criteria for a teacher to qualify as a teacher leader.

- (4) The state board shall solicit recommendations from school districts and educators regarding:
 - (a) appropriate resources to provide a teacher leader; and
 - (b) appropriate ways to compensate a teacher leader.

53E-6-903 STEM education endorsements and incentive program.

- (1) As used in this section, "STEM" means science, technology, engineering, and mathematics.
- (2) The state board shall:
 - (a) develop STEM education endorsements; and
 - (b) create and implement financial incentives for:
 - (i) an educator to earn an elementary or secondary STEM education endorsement described in Subsection (2)(a); and
 - (ii) a school district or a charter school to have STEM endorsed educators on staff.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules establishing the uses of STEM education endorsements described in Subsection (2), including that:
 - (a) an incentive for an educator to take a course leading to a STEM education endorsement may only be given for a course that carries higher-education credit; and
 - (b) a school district or a charter school may consider a STEM education endorsement as part of an educator's salary schedule.

Amended by Chapter 408, 2020 General Session

Part 11
Interstate Teacher Mobility Compact

53E-6-1100 Article I -- Purpose.

- (1) The purpose of this compact is to facilitate the mobility of teachers across the member states, with the goal of supporting teachers through a new pathway to licensure. Through this compact, the member states seek to establish a collective regulatory framework that expedites and enhances the ability of teachers to move across state lines.
- (2) This compact is intended to achieve the following objectives and should be interpreted accordingly. The member states hereby ratify the same intentions by subscribing hereto:
 - (a) create a streamlined pathway to licensure mobility for teachers;
 - (b) support the relocation of eligible military spouses;
 - (c) facilitate and enhance the exchange of licensure, investigative, and disciplinary information between the member states;
 - (d) enhance the power of state and district level education officials to hire qualified, competent teachers by removing barriers to the employment of out-of-state teachers;
 - (e) support the retention of teachers in the profession by removing barriers to relicensure in a new state; and
 - (f) maintain state sovereignty in the regulation of the teaching profession.

Enacted by Chapter 222, 2023 General Session

53E-6-1101 Article II -- Definitions.

- (1) As used in this compact, and except as otherwise provided, the following definitions shall govern the terms herein:
- (a) "Active military member" means any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve;
 - (b) "Adverse action" means any limitation or restriction imposed by a member state's licensing authority, such as revocation, suspension, reprimand, probation, or limitation on the licensee's ability to work as a teacher;
 - (c) "Bylaws" means those bylaws established by the commission;
 - (d) "Career and technical education license" means a current, valid authorization issued by a member state's licensing authority allowing an individual to serve as a teacher in P-12 public educational settings in a specific career and technical education area;
 - (e) "Charter member states" means a member state that has enacted legislation to adopt this compact where such legislation predates the initial meeting of the commission after the effective date of the compact;
 - (f) "Commission" means the interstate administrative body which membership consists of delegates of all states that have enacted this compact, and which is known as the Interstate Teacher Mobility Compact Commission;
 - (g) "Commissioner" means the delegate of a member state;
 - (h) "Eligible license" means a license to engage in the teaching profession which requires at least a bachelor's degree and the completion of a state approved program for teacher licensure;
 - (i) "Eligible military spouse" means the spouse of an individual in full-time duty status in the active armed forces of the United States including members of the National Guard and Reserve moving as a result of a military mission or military career progression requirements or are on their terminal move as a result of separation or retirement, to include surviving spouses of deceased military members;
 - (j) "Executive committee" means a group of commissioners elected or appointed to act on behalf of, and within the powers granted to them by, the commission as provided for herein;
 - (k) "Licensing authority" means an official, agency, board, or other entity of a state that is responsible for the licensing and regulation of teachers authorized to teach in P-12 public educational settings;
 - (l) "Member state" means any state that has adopted this compact, including all agencies and officials of such a state;
 - (m) "Receiving state" means any state where a teacher has applied for licensure under this compact;
 - (n) "Rule" means any regulation promulgated by the commission in accordance with Section 53E-6-1107, which shall have the force of law as a rule promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and which shall be binding in each member state;
 - (o) "State" means a state, territory, or possession of the United States, and the District of Columbia;
 - (p) "State practice laws" means a member state's laws, rules, and regulations that govern the teaching profession, define the scope of such profession, and create the methods and grounds for imposing discipline;
 - (q) "State specific requirements" means a requirement for licensure covered in coursework or examination that include content of unique interest to the state;
 - (r) "Teacher" means an individual who currently holds an authorization from a member state that forms the basis for employment in the P-12 public schools of the state to provide instruction in a specific subject area, grade level, or student population; and

- (s) "Unencumbered license" means a current, valid authorization issued by a member state's licensing authority allowing an individual to serve as a teacher in P-12 public educational settings. An unencumbered license is not a restricted, probationary, provisional, substitute, or temporary credential.
- (2) The definitions described in Section 53E-1-102 do not apply to this compact.

Enacted by Chapter 222, 2023 General Session

53E-6-1102 Article III -- Licensure under the compact.

- (1) Licensure under this compact pertains only to the initial grant of a license by the receiving state. Nothing herein applies to any subsequent or ongoing compliance requirements that a receiving state might require for teachers.
- (2) Each member state shall, in accordance with the rules of the commission, define, compile, and update as necessary, a list of eligible licenses and career and technical educational licenses that the member state is willing to consider for equivalency under this compact and provide the list to the commission. The list shall include those licenses that a receiving state is willing to grant to teachers from other member states, pending a determination of equivalency by the receiving state's licensing authority.
- (3) Upon the receipt of an application for licensure by a teacher holding an unencumbered eligible license, the receiving state shall determine which of the receiving state's eligible licenses the teacher is qualified to hold and shall grant such a license or licenses to the applicant. Such a determination shall be made in the sole discretion of the receiving state's licensing authority and may include a determination that the applicant is not eligible for any of the receiving state's eligible licenses. For all teachers who hold an unencumbered license, the receiving state shall grant one or more unencumbered license(s) that, in the receiving state's sole discretion, are equivalent to the license(s) held by the teacher in any other member state.
- (4) For active military members and eligible military spouses who hold a license that is not unencumbered, the receiving state shall grant an equivalent license or licenses that, in the receiving state's sole discretion, is equivalent to the license or licenses held by the teacher in any other member state, except where the receiving state does not have an equivalent license.
- (5) For a teacher holding an unencumbered career and technical education license, the receiving state shall grant an unencumbered license equivalent to the career and technical education license held by the applying teacher and issued by another member state, as determined by the receiving state in its sole discretion, except where a career and technical education teacher does not hold a bachelor's degree and the receiving state requires a bachelor's degree for licenses to teach career and technical education. A receiving state may require career and technical education teachers to meet state industry recognized requirements, if required by law in the receiving state.

Enacted by Chapter 222, 2023 General Session

53E-6-1103 Article IV -- Licensure not under the compact.

- (1) Except as provided in Section 53E-6-1105, nothing in this compact shall be construed to limit or inhibit the power of a member state to regulate licensure or endorsements overseen by the member state's licensing authority.
- (2) When a teacher is required to renew a license received pursuant to this compact, the state granting such a license may require the teacher to complete state specific requirements as a condition of licensure renewal or advancement in that state.

- (3) For the purposes of determining compensation, a receiving state may require additional information from teachers receiving a license under the provisions of this compact.
- (4) Nothing in this compact shall be construed to limit the power of a member state to control and maintain ownership of its information pertaining to teachers, or limit the application of a member state's laws or regulations governing the ownership, use, or dissemination of information pertaining to teachers.
- (5) Nothing in this compact shall be construed to invalidate or alter any existing agreement or other cooperative arrangement which a member state may already be a party to, or limit the ability of a member state to participate in any future agreement or other cooperative arrangement to:
 - (a) award teaching licenses or other benefits based on additional professional credentials, including, but not limited to National Board Certification;
 - (b) participate in the exchange of names of teachers whose license has been subject to an adverse action by a member state; or
 - (c) participate in any agreement or cooperative arrangement with a nonmember state.

Enacted by Chapter 222, 2023 General Session

53E-6-1104 Article V -- Teacher qualifications and requirements for licensure under the compact.

- (1) Except as provided for active military members or eligible military spouses in Subsection 53E-6-1102(4), a teacher may only be eligible to receive a license under this compact where that teacher holds an unencumbered license in a member state.
- (2) A teacher eligible to receive a license under this compact shall, unless otherwise provided for herein:
 - (a) upon their application to receive a license under this compact, undergo a criminal background check in the receiving state in accordance with the laws and regulations of the receiving state; and
 - (b) provide the receiving state with the information in addition to the information required for licensure for the purposes of determining compensation, if applicable.

Enacted by Chapter 222, 2023 General Session

53E-6-1105 Article VI -- Discipline and adverse actions.

- (1) Nothing in this Compact shall be deemed or construed to limit the authority of a member state to investigate or impose disciplinary measures on teachers according to the state practice laws thereof.
- (2) Member states shall be authorized to receive, and shall provide, files and information regarding the investigation and discipline, if any, of teachers in other member states upon request. Any member state receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another member state, the disclosing state shall communicate its intention and purpose for such disclosure to the member state which originally provided that information.

Enacted by Chapter 222, 2023 General Session

53E-6-1106 Article VII -- Establishment of the Interstate Teacher Mobility Compact Commission.

- (1) The interstate compact member states hereby create and establish a joint public agency known as the Interstate Teacher Mobility Compact Commission:
 - (a) the commission is a joint interstate governmental agency comprised of states that have enacted the Interstate Teacher Mobility Compact; and
 - (b) nothing in this interstate compact shall be construed to be a waiver of sovereign immunity.
- (2)
 - (a) Each member state shall have and be limited to one delegate to the commission, who shall be given the title of commissioner.
 - (b) The commissioner shall be the primary administrative officer of the state licensing authority or their designee.
 - (c) Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed.
 - (d) The member state shall fill any vacancy occurring in the commission within 90 days.
 - (e) Each commissioner shall be entitled to one vote about the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.
 - (f) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.
 - (g) The commission shall establish by rule a term of office for commissioners.
- (3) The commission shall have the following powers and duties:
 - (a) establish a code of ethics for the commission;
 - (b) establish the fiscal year of the commission;
 - (c) establish bylaws for the commission;
 - (d) maintain its financial records in accordance with the bylaws of the commission;
 - (e) meet and take such actions as are consistent with the provisions of this interstate compact, the bylaws, and rules of the commission;
 - (f) promulgate uniform rules to implement and administer this interstate compact. The rules shall have the force and effect of law and shall be binding in all member states. In the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law;
 - (g) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any member state licensing authority to sue or be sued under applicable law shall not be affected;
 - (h) purchase and maintain insurance and bonds;
 - (i) borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state, or an associated nongovernmental organization that is open to membership by all states;
 - (j) hire employees, elect, or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
 - (k) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal or mixed, provided that at all times the commission shall avoid any appearance of impropriety;

- (l) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
 - (m) establish a budget and make expenditures;
 - (n) borrow money;
 - (o) appoint committees, including standing committees composed of members and such other interested persons as may be designated in this interstate compact, rules, or bylaws;
 - (p) provide and receive information from, and cooperate with, law enforcement agencies;
 - (q) establish and elect an executive committee;
 - (r) establish and develop a charter for an Executive Information Governance Committee to advise on facilitating exchange of information; use of information, data privacy, and technical support needs, and provide reports as needed;
 - (s) perform such other functions as may be necessary or appropriate to achieve the purposes of this interstate compact consistent with the state regulation of teacher licensure; and
 - (t) determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact.
- (4)
- (a) The executive committee of the Interstate Teacher Mobility Compact Commission shall have the power to act on behalf of the commission according to the terms of this interstate compact.
 - (b) The executive committee shall be composed of eight voting members:
 - (i) the commission chair, vice chair, and treasurer; and
 - (ii) five members who are elected by the commission from the current membership:
 - (A) four voting members representing geographic regions in accordance with commission rules; and
 - (B) one at large voting member in accordance with commission rules.
 - (c) The commission may add or remove members of the executive committee as provided in commission rules.
 - (d) The executive committee shall meet at least once annually.
 - (e) The executive committee shall have the following duties and responsibilities:
 - (i) recommend to the entire commission changes to the rules or bylaws, changes to the compact legislation, fees paid by interstate compact member states such as annual dues, and any compact fee charged by the member states on behalf of the commission;
 - (ii) ensure commission administration services are appropriately provided, contractual or otherwise;
 - (iii) prepare and recommend the budget;
 - (iv) maintain financial records on behalf of the commission;
 - (v) monitor compliance of member states and provide reports to the commission; and
 - (vi) perform other duties as provided in rules or bylaws.
 - (f)
 - (i) All meetings of the commission shall be open to the public, and public notice of meetings shall be given in accordance with commission bylaws.
 - (ii) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:
 - (A) non-compliance of a Member State with its obligations under the compact;
 - (B) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

- (C) current, threatened, or reasonably anticipated litigation;
 - (D) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
 - (E) accusing any person of a crime or formally censuring any person;
 - (F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;
 - (G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (H) disclosure of investigative records compiled for law enforcement purposes;
 - (I) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;
 - (J) matters specifically exempted from disclosure by federal or member state statute; and
 - (K) other matters as set forth by commission bylaws and rules.
- (iii) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.
- (iv) The commission shall keep minutes of commission meetings and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.
- (g)
- (i) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
 - (ii) The commission may accept all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest.
 - (iii) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission, in accordance with the commission rules.
 - (iv) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.
 - (v) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to accounting procedures established under commission bylaws. All receipts and disbursements of funds of the commission shall be reviewed annually in accordance with commission bylaws, and a report of the review shall be included in and become part of the annual report of the commission.
- (h)
- (i) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any

damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

- (ii) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.
- (iii) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Enacted by Chapter 222, 2023 General Session

53E-6-1107 Article VIII -- Rulemaking.

- (1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this interstate compact and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.
- (2) The commission shall promulgate reasonable rules to achieve the intent and purpose of this interstate compact. In the event the commission exercises its rulemaking authority in a manner that is beyond purpose and intent of this interstate compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law in the member states.
- (3) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.
- (4) Rules or amendments to the rules shall be adopted or ratified at a regular or special meeting of the commission in accordance with commission rules and bylaws.
- (5) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 48 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
 - (a) meet an imminent threat to public health, safety, or welfare;
 - (b) prevent a loss of Commission or Member State funds;
 - (c) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
 - (d) protect public health and safety.

Enacted by Chapter 222, 2023 General Session

53E-6-1108 Article IX -- Facilitating information exchange.

- (1) The commission shall provide for facilitating the exchange of information to administer and implement the provisions of this compact in accordance with the rules of the commission, consistent with generally accepted data protection principles.
- (2) Nothing in this compact shall be deemed or construed to alter, limit, or inhibit the power of a member state to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing licensee information in the member state.

Enacted by Chapter 222, 2023 General Session

53E-6-1109 Article X -- Oversight, dispute resolution, and enforcement.

- (1)
 - (a) The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact shall have standing as statutory law.
 - (b) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.
 - (c) All courts and all administrative agencies shall take judicial notice of the compact, the rules of the commission, and any information provided to a member state pursuant thereto in any judicial or quasijudicial proceeding in a member state pertaining to the subject matter of this compact, or which may affect the powers, responsibilities, or actions of the commission.
 - (d) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or promulgated rules.
- (2)
 - (a) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:
 - (i) provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and
 - (ii) provide remedial training and specific technical assistance regarding the default.
- (3) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the commissioners of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
- (4) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the state licensing authority and each of the member states.

- (5) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
- (6) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.
- (7) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.
- (8)
 - (a) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.
 - (b) The commission shall promulgate a rule providing for both binding and nonbinding alternative dispute resolutions for disputes as appropriate.
- (9)
 - (a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
 - (b) By majority vote, the commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Enacted by Chapter 222, 2023 General Session

53E-6-1110 Article XI -- Effectuation, withdrawal, and amendment.

- (1) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state.
 - (a) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different from the model compact statute.
 - (b) A charter member state whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Section 53E-6-1109.
 - (c) Member states enacting the compact subsequent to the charter member states shall be subject to the process set forth in Subsection 53E-6-1106(3)(t) to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.
- (2) If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member States should be less than 10.
- (3) Any state that joins the compact after the commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall

have the full force and effect of law on the day the compact becomes law in that state, as the rules and bylaws may be amended as provided in this compact.

- (4)
 - (a) Any member state may withdraw from this compact by enacting a statute repealing the same.
 - (b) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.
 - (c) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.
- (5) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Enacted by Chapter 222, 2023 General Session

53E-6-1111 Article XII -- Construction and severability.

- (1) This compact shall be liberally construed to effectuate the purposes thereof.
- (2) The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state or a state seeking membership in the compact, or of the United States or the applicability thereof to any other government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.
- (3) If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Enacted by Chapter 222, 2023 General Session

53E-6-1112 Article XIII -- Consistent effect and conflict with other state laws.

- (1) Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.
- (2) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.
- (3) All permissible agreements between the commission and the member states are binding in accordance with their terms.

Enacted by Chapter 222, 2023 General Session

**Chapter 7
Special Education**

**Part 1
General Provisions**

53E-7-101 Title.

This chapter is known as "Special Education."

Enacted by Chapter 1, 2018 General Session

**Part 2
Special Education Program**

53E-7-201 Definitions.

As used in this part:

- (1) "Child with a disability" means the same as that term is defined in 34 C.F.R. Sec. 300.308.
- (2) "Due process hearing" means an administrative due process hearing authorized by 20 U.S.C. Sec. 1415.
- (3) "IEP team" means the same as that term is defined in 34 C.F.R. Sec. 300.321.
- (4) "LEA special education program" means systems an LEA establishes to:
 - (a) implement an eligible student's IEP;
 - (b) appropriately and timely identify eligible students;
 - (c) evaluate and classify eligible students by qualified personnel;
 - (d) implement standards for special education classes and services;
 - (e) deliver special education service responsibilities;
 - (f) ensure special education instructional staff are appropriately credentialed; and
 - (g) provide services for dual enrollment students that are:
 - (i) eligible students; and
 - (ii) attending public school on a part-time basis.
- (5) "Least restrictive environment" means the same as that term is defined in 34 C.F.R. Secs. 300.114 through 300.116.
- (6) "Special education" means the same as that term is defined in 34 C.F.R. Sec. 300.39.
- (7) "Specially designed instruction" means the same as that term is defined in 34 C.F.R. Sec. 300.39.
- (8) "Student who is eligible for special education services" or "eligible student" means a child with a disability who is:
 - (a) at least 3 years old but younger than 22 years old; or
 - (b) 22 years old, if the school year in which the child with a disability turned 22 years old has not yet ended.

Amended by Chapter 431, 2022 General Session

53E-7-202 Free appropriate public education for eligible students.

An eligible student who has not received a regular high school diploma is entitled to a free appropriate public education.

Repealed and Re-enacted by Chapter 187, 2019 General Session

53E-7-204 State board special education authority and duties -- Rulemaking.

- (1) The state board shall have general control and supervision over LEA special education programs in the state for eligible students.

- (2) A program described in Subsection (1) shall comply with state board rule.
- (3) In accordance with federal and state law, the state board shall make rules to implement this part, including provisions that ensure:
 - (a) appropriate and timely identification of a potentially eligible student;
 - (b) the evaluation of a student and classification of a student as an eligible student by qualified personnel;
 - (c) standards for special education services and supports;
 - (d) availability of LEA special education programs;
 - (e) delivery of special education in the least restrictive environment as determined by an eligible student's IEP team;
 - (f) certification and qualification for the instructional staff of eligible students; and
 - (g) special education services for eligible students who are dual enrollment students attending public school on a part-time basis as described in Section 53G-6-702.
- (4) In accordance with federal and state law, the state board may make rules to otherwise administer the state board's authority described in Subsection (1).

Amended by Chapter 431, 2022 General Session

53E-7-206 Special education funding.

In accordance with Title 53F, Chapter 2, State Funding -- Minimum School Program, state board rule, and other applicable law, the state board shall administer the payment of restricted state and federal funds to an LEA to provide special education to an eligible student.

Amended by Chapter 431, 2022 General Session

Effective until 7/1/2024

53E-7-207 Local education agency special education duty and authority.

- (1) An LEA shall, at no cost to the eligible student, provide a full continuum of special education services and placements to an eligible student enrolled at the LEA.
- (2) As determined by an eligible student's IEP team, an LEA may provide special education to an eligible student in the least restrictive environment as determined by the eligible student's IEP team, regardless of whether the other students in the class or setting are eligible students.
- (3)
 - (a) Upon request of the Division of Child and Family Services and if the LEA obtains appropriate consent for the evaluation, an LEA shall provide an initial special education evaluation to an individual who enters the custody of the Division of Child and Family Services, if the Division of Child and Family Services suspects the individual may be an eligible student.
 - (b)
 - (i) Except as provided in Subsection (3)(b)(ii), the LEA shall conduct an evaluation described in Subsection (3)(a) within 30 days after the day on which the Division of Child and Family Services makes the request.
 - (ii) An LEA may refuse to conduct an evaluation described in Subsection (3)(a) if the LEA reviews the relevant data regarding the individual and, within 10 days after the day on which the LEA received the request described in Subsection (3)(a), gives the Division of Child and Family Services written prior notice of refusal to evaluate.
- (4)
 - (a) In accordance with Subsection (4)(b), an LEA may provide education or training for an individual with a disability who is:

- (i) younger than 3 years old; or
 - (ii) at least 22 years old and not an eligible student.
- (b)
- (i) Except as provided in Subsection (4)(b)(ii), an LEA may not use funding described in Title 53F, Chapter 2, State Funding -- Minimum School Program, to pay for the cost of education or training described in Subsection (4)(a).
 - (ii) An LEA may use adult education program funding described in Section 53F-2-401, in accordance with the requirements described in Section 53F-2-401, to pay for the cost of the education or training described in Subsection (4)(a).
- (c) To pay for the cost of education or training described in Subsection (4)(a), an LEA may use fees, contributions, or other funds received by the LEA if the purpose of the fees, contributions, or other funds is to provide the education or training.

Amended by Chapter 431, 2022 General Session

Effective 7/1/2024

53E-7-207 Local education agency special education duty and authority.

- (1) An LEA shall, at no cost to the eligible student, provide a full continuum of special education services and placements to an eligible student enrolled at the LEA.
 - (2) As determined by an eligible student's IEP team, an LEA may provide special education to an eligible student in the least restrictive environment as determined by the eligible student's IEP team, regardless of whether the other students in the class or setting are eligible students.
- (3)
- (a) Upon request of the Division of Child and Family Services and if the LEA obtains appropriate consent for the evaluation, an LEA shall provide an initial special education evaluation to an individual who enters the custody of the Division of Child and Family Services, if the Division of Child and Family Services suspects the individual may be an eligible student.
- (b)
- (i) Except as provided in Subsection (3)(b)(ii), the LEA shall conduct an evaluation described in Subsection (3)(a) within 30 days after the day on which the Division of Child and Family Services makes the request.
 - (ii) An LEA may refuse to conduct an evaluation described in Subsection (3)(a) if the LEA reviews the relevant data regarding the individual and, within 10 days after the day on which the LEA received the request described in Subsection (3)(a), gives the Division of Child and Family Services written prior notice of refusal to evaluate.
- (4)
- (a) In accordance with Subsection (4)(b), an LEA may provide education or training for an individual with a disability who is:
 - (i) younger than 3 years old; or
 - (ii) at least 22 years old and not an eligible student.
- (b)
- (i) Except as provided in Subsection (4)(b)(ii), an LEA may not use funding described in Title 53F, Chapter 2, State Funding -- Minimum School Program, to pay for the cost of education or training described in Subsection (4)(a).
 - (ii) An LEA may use adult education program funding described in Section 53F-2-401, in accordance with the requirements described in Section 53F-2-401, to pay for the cost of the education or training described in Subsection (4)(a).

- (c) To pay for the cost of education or training described in Subsection (4)(a), an LEA may use fees, contributions, or other funds received by the LEA if the purpose of the fees, contributions, or other funds is to provide the education or training.
- (5) In accordance with Subsection (6) and beginning July 1, 2025:
 - (a) An LEA shall provide education to all students within the LEA in the least restrictive environment possible that does not predictably threaten serious bodily injury to educators, school staff, or other students.
 - (b) An LEA shall provide education to all students within the LEA in the least restrictive environment possible that does not result in a pattern of behavior that interferes substantially and materially with the instruction of the other students in the classroom.
 - (c) An LEA shall provide an environment to all educators, school staff, and students in the least restrictive environment possible that does not allow for repeated:
 - (i) verbal or physical sexual harassment; or
 - (ii) sexual assault.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to ensure implementation of the requirements described in Subsection (5).
- (7) Nothing in this section creates a private right of action or constitutes a waiver of immunity under Section 63G-7-301.

53E-7-208 Special education dispute resolution -- Rulemaking -- Due process hearing -- Right to appeal.

- (1) In accordance with this section, the state board shall make rules that:
 - (a) allow for a prompt, fair, and final resolution of a dispute that arises over the provision of special education to an eligible student;
 - (b) establish and maintain procedural safeguards that meet the requirements of 20 U.S.C. Sec. 1415; and
 - (c) establish timelines that provide adequate time to address and resolve a dispute described in Subsection (1)(a) without unnecessarily disrupting or delaying an eligible student's free appropriate public education.
- (2) A party to a dispute described in Subsection (1)(a), including an LEA, shall make a diligent and good faith effort to resolve the dispute informally at the LEA level before seeking a due process hearing under state board rule.
- (3)
 - (a) If a dispute is not resolved informally as described in Subsection (2), a party to the dispute may request a due process hearing in accordance with state board rule.
 - (b) Upon request of a party to a dispute described in Subsection (2), the state board shall, in accordance with state board rule and 20 U.S.C. Sec. 1415:
 - (i) conduct a due process hearing; and
 - (ii) issue a decision on the due process hearing.
- (4)
 - (a) A party to a due process hearing may appeal the decision resulting from the due process hearing by filing a civil action with a court described in 20 U.S.C. Sec. 1415(i), if the party files the action within 30 days after the day on which the due process hearing decision was issued.
 - (b) If parties to a due process hearing fail to reach agreement on the payment of attorney fees for the due process hearing, a party may seek to recover attorney fees in accordance with 20 U.S.C. Sec. 1415(i) by filing a court action within 30 days after the day on which the due process hearing decision was issued.

Amended by Chapter 431, 2022 General Session

53E-7-209 Use of state special education funds.

- (1) An LEA may use state special education funds to:
 - (a) provide an LEA special education program and specially designed instruction and related services and supports to an eligible student in the least restrictive environment;
 - (b) employ appropriately credentialed staff necessary to provide specially designed instruction and related services; or
 - (c) employ staff who are trained and supervised by appropriately credentialed staff necessary to provide specially designed instruction and related services.
- (2) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act for:
 - (a) accounting for the use of state special education funds; and
 - (b) documentation required for an LEA to demonstrate appropriate use of state special education funds under this section.
- (3) The state board shall annually provide training and training materials to LEAs on:
 - (a) appropriate use of state special education funds;
 - (b) rules the state board creates under Subsection (2)(a); and
 - (c) the documentation described in Subsection (2)(b).

Enacted by Chapter 431, 2022 General Session

Part 4
Special Needs Opportunity Scholarship Program

(j)
53E-7-401 Definitions.

As used in this part:

- (1) "The Carson Smith Opportunity Scholarship Program" or "program" means the program established in Section 53E-7-402.
- (2) "Eligible student" means:
 - (a) a student who:
 - (i) is:
 - (A) eligible to participate in public school, in kindergarten, or grades 1 through 12;
 - (B) enrolled in a qualifying school as defined in Subsection (11);
 - (C) a home-based scholarship student as defined in Subsection (6); or
 - (D) at least three years old before September 2 of the year the scholarship is awarded;
 - (ii) is a resident of the state;
 - (iii) has a qualified disability identified under 20 U.S.C. Sec. 140(3) as determined by:
 - (A) having an IEP within the previous three years; or
 - (B) a multidisciplinary team evaluation described in Subsection (7); and
 - (iv) during the school year for which the student is applying for the scholarship, is not:
 - (A) a student who receives a scholarship under the Carson Smith Scholarship Program created in Section 53F-4-302; or
 - (B) enrolled as a public school student; or

- (b) a student who:
 - (i) meets the requirement of Subsections (2)(a)(i) and (ii); and
 - (ii) is a sibling of and resides in the same household as a student described in Subsection (2)(a) if:
 - (A) the student described in Subsection (2)(a) is a scholarship student and has verified enrollment or intent to enroll at a qualifying school or participate in services provided by a qualifying provider; and
 - (B) the sibling is applying for a scholarship to attend the same qualifying school or participate in the same services provided by a qualifying provider.
- (3)
 - (a) "Employee" means an individual working in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from:
 - (i) program donations to a scholarship granting organization; or
 - (ii) scholarship money allocated to a qualifying school or qualifying provider by a scholarship granting organization under Section 53E-7-405.
 - (b) "Employee" does not include an individual who volunteers at the scholarship granting organization, qualifying school, or qualifying provider.
- (4) "Family income" means the annual income of the parent, parents, legal guardian, or legal guardians with whom a scholarship student lives.
- (5) "Federal poverty level" means the poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.
- (6) "Home-based scholarship student" means a student who:
 - (a) is eligible to participate in public school, in kindergarten or grades 1 through 12;
 - (b) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to attend a home school; and
 - (c) receives a benefit from a scholarship under the program.
- (7) "Multidisciplinary evaluation team" means two or more individuals:
 - (a) who are qualified in two or more separate disciplines or professions; and
 - (b) who evaluate a child.
- (8) "Officer" means:
 - (a) a member of the board of a scholarship granting organization, qualifying school, or qualifying provider; or
 - (b) the chief administrative officer of a scholarship granting organization, qualifying school, or qualifying provider.
- (9) "Program donation" means a donation to the program under Section 53E-7-405.
- (10) "Qualifying provider" means:
 - (a) an entity that:
 - (i) is not a public school and is autonomous and not an agent of the state, in accordance with Section 53E-7-406; and
 - (ii) meets the requirement described in Section 53E-7-403; and
 - (b) is an eligible service provider approved by the scholarship granting organization in accordance with Section 53E-7-408.5.
- (11) "Qualifying school" means a private school that:
 - (a) provides kindergarten, elementary, or secondary education;
 - (b) is approved by the state board under Section 53E-7-408; and
 - (c) meets the requirements described in Section 53E-7-403.

- (12) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.
- (13) "Scholarship" means a grant awarded to an eligible student:
- (a) by a scholarship granting organization out of program donations; and
 - (b) for the purpose of paying for a scholarship expense.
- (14) "Scholarship expense" means an expense that a parent or eligible student incurs in the education of the eligible student for goods or a service that a qualifying school or qualifying provider provides or facilitates, including:
- (a) published tuition and fees of a qualifying school or qualifying provider;
 - (b) fees and instructional materials at a technical college;
 - (c) tutoring services;
 - (d) fees for after-school or summer education programs;
 - (e) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum, qualifying provider, or a qualifying school recommends;
 - (f) educational software and applications;
 - (g) supplies or other equipment related to an eligible student's educational needs;
 - (h) computer hardware or other technological devices that are intended primarily for an eligible student's educational needs;
 - (i) fees for the following examinations, or for a preparation course for the following examinations, that the scholarship granting organization approves:
 - (i) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;
 - (ii) a state-recognized industry certification examination; and
 - (iii) an examination related to college or university admission;
 - (j) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;
 - (k) contracted services that the scholarship granting organization approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;
 - (l) ride fees or fares for a fee-for-service transportation provider to transport the eligible student to and from a qualifying school or qualifying provider, not to exceed \$750 in a given school year;
 - (m) expenses related to extracurricular activities, field trips, educational supplements, and other educational experiences; or
 - (n) the scholarship granting organization approves in accordance with Subsection 53E-7-405(3).
- (15) "Scholarship granting organization" means an organization that is:
- (a) qualified as tax exempt under Section 501(c)(3), Internal Revenue Code; and
 - (b) recognized through an agreement with the state board as a scholarship granting organization, as described in Section 53E-7-404.
- (16) "Scholarship student" means an eligible student, including a home-based scholarship student, who receives a scholarship under this part.
- (17) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

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53E-7-402 Carson Smith Opportunity Scholarship Program.

- (1) There is established the Carson Smith Opportunity Scholarship Program under which a parent may apply to a scholarship granting organization on behalf of the parent's student for a scholarship to help cover the cost of a scholarship expense.
- (2)
 - (a) A scholarship granting organization shall award, in accordance with this part, scholarships to eligible students.
 - (b) In awarding scholarships, a scholarship granting organization shall give priority to an eligible student described in Subsection 53E-7-401(1)(a) by:
 - (i) establishing an August 10 deadline for an eligible student described in Subsection 53E-7-401(1)(b) to apply for a scholarship; and
 - (ii) awarding a scholarship to an eligible student described in Subsection 53E-7-401(2)(b) only if funds exist after awarding scholarships to all eligible students described in Subsection 53E-7-401(2)(a) who have applied and qualify.
 - (c) Subject to available funds, a scholarship awarded to an eligible student described in Subsection 53E-7-401(2)(b) shall be for a similar term as a scholarship awarded to the eligible student's sibling.
- (3) A scholarship granting organization shall determine a full-year scholarship award to pay for the cost of one or more scholarship expenses in an amount not more than:
 - (a) for an eligible student described in Subsection 53E-7-401(2)(a) who is:
 - (i) in kindergarten through grade 12 and whose family income is:
 - (A) at or below 185% of the federal poverty level, the value of the weighted pupil unit multiplied by 2.5;
 - (B) except as provided in Subsection (3)(a)(i)(C), above 185% of the federal poverty level, the value of the weighted pupil unit multiplied by two; or
 - (C) above 185% of the federal poverty level and the eligible student would have received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, the value of the weighted pupil unit multiplied by 2.5; or
 - (ii) in preschool, the value of the weighted pupil unit; or
 - (b) for an eligible student described in Subsection 53E-7-401(2)(b), half the value of the weighted pupil unit.
- (4) Eligibility for a scholarship as determined by a multidisciplinary evaluation team under this program does not establish eligibility for an IEP under the Individuals with Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419, and is not binding on any LEA that is required to provide an IEP under the Individuals with Disabilities Education Act.
- (5) The scholarship granting organizations shall prepare and disseminate information on the program to a parent applying for a scholarship on behalf of a student.

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53E-7-403 Qualifying school and qualifying provider requirements.

- (1) A qualifying school or qualifying provider shall:
 - (a) notify a scholarship granting organization of the qualifying school's or qualifying provider's intention to participate in the program;
 - (b) submit evidence to the scholarship granting organization that the qualifying school has been approved by the state board under Section 53E-7-408; and

- (c) submit a signed affidavit to the scholarship granting organization that the qualifying school or qualifying provider will comply with the requirements of this part.
- (2) A qualifying school or qualifying provider shall comply with 42 U.S.C. Sec. 1981, and meet state and local health and safety laws and codes.
- (3) Before the beginning of the school year immediately following a school year in which a qualifying school or qualifying provider receives scholarship money equal to or more than \$500,000, the qualifying school or qualifying provider shall file with a scholarship granting organization that allocates scholarship money to the qualifying school:
 - (a) a surety bond payable to the scholarship granting organization in an amount equal to the aggregate amount of scholarship money expected to be received during the school year; or
 - (b) financial information that demonstrates the financial viability of the qualifying school or qualifying provider, as required by the scholarship granting organization.
- (4) If a scholarship granting organization determines that a qualifying school or qualifying provider has violated a provision of this part, the scholarship granting organization may interrupt disbursement of or withhold scholarship money from the qualifying school or qualifying provider.
- (5)
 - (a) If the state board determines that a qualifying school no longer meets the eligibility requirements described in Section 53E-7-408, the state board may withdraw the state board's approval of the school.
 - (b) A private school that does not have the state board's approval under Section 53E-7-408 may not accept scholarship money under this part.
- (6) A qualifying school shall, when administering an annual assessment required under Section 53E-7-408, ensure that the qualifying school uses a norm-referenced assessment.
- (7) If a scholarship granting organization determines that a qualifying provider no longer meets the requirements described in Section 53E-7-208.5, the scholarship granting organization may interrupt disbursement of or withhold scholarship money for the qualifying provider.

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53E-7-404 State board duties.

- (1) The state board shall:
 - (a) publish on the state board's website:
 - (i) information about the program; and
 - (ii) information about each scholarship granting organization;
 - (b) conduct a financial review or audit of a scholarship granting organization, if the state board receives evidence of fraudulent practice by the scholarship granting organization;
 - (c) conduct a criminal background check on each scholarship granting organization employee and scholarship granting organization officer;
 - (d) establish uniform financial accounting standards for scholarship granting organizations;
 - (e) in accordance with Section 53E-1-202.1, annually submit a report on the program to the Public Education Appropriations Subcommittee that includes:
 - (i) administrative costs of the program;
 - (ii) the number of scholarship students that are eligible students described in Subsection 53E-7-401(2)(a) and the number of scholarship students that are eligible students described in Subsection 53E-7-401(2)(b) from each school district;
 - (iii) standards used by the scholarship granting organization to determine whether a student is an eligible student; and

- (iv) savings to the state and LEAs as a result of scholarship students exiting the public school system.
- (2)
- (a) In accordance with Subsection (3) and Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue a request for proposals and enter into at least one agreement with an organization that is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code, to be recognized by the state board as a scholarship granting organization.
 - (b) An organization that responds to a request for proposals described in Subsection (2)(a) shall submit the following information in the organization's response:
 - (i) a copy of the organization's incorporation documents;
 - (ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;
 - (iii) a description of the methodology the organization will use to verify that a student is an eligible student under this part; and
 - (iv) a description of the organization's proposed scholarship application process.
- (3)
- (a) The state board shall enter into an agreement described in Subsection (2)(a) with one scholarship granting organization on or before January 1, 2021.
 - (b) The state board may enter into an agreement described in Subsection (2)(a) with additional scholarship granting organizations after January 1, 2023, if the state board makes rules regarding how multiple scholarship granting organizations may issue tax credit certificates in accordance with Section 53E-7-407.
- (c)
- (i) No later than 10 days after the day on which the state board enters into an agreement with a scholarship granting organization, the state board shall forward the name and contact information of the scholarship granting organization to the State Tax Commission.
 - (ii) If, under Subsection (4)(c)(i), the state board bars a scholarship granting organization from further participation in the program, the state board shall, no later than 10 days after the day on which the state board bars the scholarship granting organization, forward the name and contact information of the barred scholarship granting organization to the State Tax Commission.
- (4)
- (a) If the state board determines that a scholarship granting organization has violated a provision of this part or state board rule, the state board shall send written notice to the scholarship granting organization explaining the violation and the remedial action required to correct the violation.
 - (b) A scholarship granting organization that receives a notice described in Subsection (4)(a) shall, no later than 60 days after the day on which the scholarship granting organization receives the notice, correct the violation and report the correction to the state board.
- (c)
- (i) If a scholarship granting organization that receives a notice described in Subsection (4)(a) fails to correct a violation in the time period described in Subsection (4)(b), the state board may bar the scholarship granting organization from further participation in the program.
 - (ii) A scholarship granting organization may appeal a decision made by the state board under Subsection (4)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (d) A scholarship granting organization may not accept program donations while the scholarship granting organization:
- (i) is barred from participating in the program under Subsection (4)(c)(i); or

- (ii) has an appeal pending under Subsection (4)(c)(ii).
- (e) A scholarship granting organization that has an appeal pending under Subsection (4)(c)(ii) may continue to administer scholarships from previously donated program donations during the pending appeal.
- (5) The state board shall provide for a process for a scholarship granting organization to report information as required under Section 53E-7-405.
- (6) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules for:
 - (a) the administration of scholarships to a qualifying school or qualifying provider receiving scholarship money from a scholarship granting organization that is barred from participating in the program under Subsection (4)(c)(i);
 - (b) when an eligible student does not continue in enrollment at a qualifying school or participation in services provided by a qualifying provider:
 - (i) requiring the scholarship granting organization to:
 - (A) notify the state board; and
 - (B) obtain reimbursement of scholarship money from the qualifying school in which the eligible student is no longer enrolled or qualifying provider in which the eligible student is no longer participating; and
 - (ii) requiring the qualifying school or qualifying provider in which the eligible student is no longer enrolled to reimburse scholarship money to the scholarship granting organization;
 - (c) audit and report requirements as described in Section 53E-7-405; and
 - (d) requiring the scholarship granting organization, in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, to submit to the state board:
 - (i) the number of scholarship students that are eligible students described in Subsection 53E-7-401(2)(a) and the number of scholarship students that are eligible students described in Subsection 53E-7-401(2)(b) from each school district;
 - (ii) standards used to determine whether a student is an eligible student; and
 - (iii) any other information requested by the Public Education Appropriations Subcommittee for the state board to include in the annual report described in Section 53E-1-202.1.

(j)
53E-7-405 Program donations -- Scholarship granting organization requirements --
Legislative appropriations.

- (1) A person that makes a donation to a scholarship granting organization to help fund scholarships through the program may be eligible to receive a nonrefundable tax credit as described in Sections 59-7-625 and 59-10-1041.
- (2) In accordance with Section 53E-7-404, an organization may enter into an agreement with the state board to be a scholarship granting organization.
- (3) A scholarship granting organization shall:
 - (a) accept program donations and allow a person that makes a program donation to designate a qualifying school or qualifying provider to which the donation shall be directed for scholarships;
 - (b) adopt an application process in accordance with Subsection (5);
 - (c) review scholarship applications and determine scholarship awards;
 - (d) allocate scholarship money to a scholarship student's parent or, on the parent's behalf, to a qualifying school or qualifying provider in which the scholarship student is enrolled or participates;

- (e) adopt a process, with state board approval, that allows a parent to use a scholarship to pay for a nontuition scholarship expense for the scholarship student;
 - (f) ensure that during the state fiscal year:
 - (i) at least 92% of the scholarship granting organization's revenue from program donations and other funding sources are spent on scholarships;
 - (ii) up to 5% of the scholarship granting organization's revenue from program donations and other funding sources are spent on administration of the program;
 - (iii) up to 3% of the scholarship granting organization's revenue from program donations and other funding sources are spent on marketing and fundraising costs; and
 - (iv) all revenue from interest or investments is spent on scholarships;
 - (g) carry forward no more than 60% of the scholarship granting organization's funds, less funds for a scholarship that has been awarded, and funds expended for administration and marketing, from the state fiscal year in which the scholarship granting organization received the funds to the following state fiscal year;
 - (h) at the end of a state fiscal year, remit to the state treasurer donation amounts greater than the amount described in Subsection (3)(g);
 - (i) prohibit a scholarship granting organization employee or officer from handling, managing, or processing program donations or other funds, if, based on a criminal background check conducted by the state board in accordance with Section 53E-7-404, the state board identifies the employee or officer as posing a risk to the appropriate use of program donations or other funds;
 - (j) ensure that a scholarship can be transferred during the school year to a different qualifying school or qualifying provider that accepts the scholarship student;
 - (k) report to the state board on or before November 1 of each year the following information, prepared by a certified public accountant:
 - (i) the name and address of the scholarship granting organization;
 - (ii) the total number and total dollar amount of program donations and other funding sources that the scholarship granting organization received during the previous calendar year;
 - (iii)
 - (A) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous state fiscal year to eligible students described in Subsection 53E-7-401(2)(a); and
 - (B) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous state fiscal year to eligible students described in Subsection 53E-7-401(2)(b); and
 - (iv) the percentage of first-time scholarship recipients who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;
 - (l) issue tax credit certificates as described in Section 53E-7-407; and
 - (m)
 - (i) require a parent to notify a scholarship granting organization if the parent's scholarship recipient:
 - (A) receives scholarship money for tuition expenses; and
 - (B) does not have continuing enrollment and attendance at a qualifying school; or
 - (ii) has transitioned to be a home-based student.
- (4) The state treasurer shall deposit the money described in Subsection (3)(h) into the Income Tax Fund.
- (5)

- (a) An application for a scholarship shall contain an acknowledgment by the applicant's parent that the qualifying school or qualifying provider selected by the parent for the applicant to attend or participate in using a scholarship is capable of providing the level of disability services required for the student.
- (b) A scholarship application form shall contain the following statement:
 - "I acknowledge that:
 - (1) A private school may not provide the same level of disability services that are provided in a public school;
 - (2) I will assume full financial responsibility for the education of my scholarship recipient if I accept this scholarship;
 - (3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and
 - (4) My child may return to a public school at any time."
- (c) Upon acceptance of a scholarship, the parent assumes full financial responsibility for the education of the scholarship recipient.
- (d) Acceptance of a scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (e) The creation of the program or granting of a scholarship does not:
 - (i) imply that a public school did not provide a free and appropriate public education for a student; or
 - (ii) constitute a waiver or admission by the state.
- (6) A scholarship granting organization shall demonstrate the scholarship granting organization's financial accountability by annually submitting to the state board a financial information report that:
 - (a) complies with the uniform financial accounting standards described in Section 53E-7-404; and
 - (b) is prepared by a certified public accountant.
- (7)
 - (a) If a scholarship granting organization allocates \$500,000 or more in scholarships annually through the program, the scholarship granting organization shall:
 - (i) contract for an annual audit, conducted by a certified public accountant who is independent from:
 - (A) the scholarship granting organization; and
 - (B) the scholarship granting organization's accounts and records pertaining to program donations and other funding sources; and
 - (ii) in accordance with Subsection (7)(b), report the results of the audit to the state board for review.
 - (b) For the report described in Subsection (7)(a)(ii), the scholarship granting organization shall:
 - (i) include the scholarship granting organization's financial statements in a format that meets generally accepted accounting standards; and
 - (ii) submit the report to the state board no later than November 1.
 - (c) The certified public accountant shall conduct an audit described in Subsection (7)(a)(i) in accordance with generally accepted auditing standards and rules made by the state board.
 - (d)
 - (i) The state board shall review a report submitted under this section and may request that the scholarship granting organization revise or supplement the report if the report is not in compliance with the provisions of this Subsection (7) or rules adopted by the state board.

- (ii) A scholarship granting organization shall provide a revised report or supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (7)(d)(i).
- (8)
- (a) A scholarship granting organization may not allocate scholarship money to a qualifying school or qualifying provider if:
 - (i) the scholarship granting organization determines that the qualifying school or qualifying provider intentionally or substantially misrepresented information on overpayment;
 - (ii) the qualifying school or qualifying provider fails to refund an overpayment in a timely manner; or
 - (iii) the qualifying school or qualifying provider routinely fails to provide scholarship recipients with promised educational goods or services.
 - (b) A scholarship granting organization shall notify a scholarship recipient if the scholarship granting organization stops allocation of the recipient's scholarship money to a qualifying school or qualifying provider under Subsection (8)(a).
- (9) If a scholarship recipient transfers to another qualifying school or qualifying provider during the school year, the scholarship granting organization may prorate scholarship money between the qualifying schools or qualifying providers according to the time the scholarship recipient spends at each school or each provider.
- (10) A scholarship granting organization may not:
- (a) award a scholarship to a relative of the scholarship granting organization's officer; or
 - (b) allocate scholarship money to a qualifying school or qualifying provider at which the scholarship recipient has a relative who is an officer or an administrator of the qualifying school or qualifying provider.
- (11) The Legislature may appropriate funds to the board to be distributed in an equal amount to each scholarship granting organization for the same purposes program donations are used.

(j)
53E-7-406 Qualifying school or qualifying provider regulatory autonomy -- Home school autonomy -- Student records -- Scholarship student status.

- (1) Nothing in this part:
- (a) except as expressly described in this part, grants additional authority to any state agency or LEA to regulate or control:
 - (i) a qualifying school, qualifying provider, or home school; or
 - (ii) students receiving education from a qualifying school, qualifying provider, or home school;
 - (b) applies to or otherwise affects the freedom of choice of an out-of-program home school student, including the curriculum, resources, developmental planning, or any other aspect of the out-of-program home school student's education; or
 - (c) expands the regulatory authority of the state, a state office holder, or an LEA to impose any additional regulation of a qualifying school or qualifying provider beyond any regulation necessary to administer this part.
- (2) A qualifying school or qualifying provider:
- (a) has a right to maximum freedom from unlawful governmental control in providing for the educational needs of a scholarship student who attends or engages with the qualifying school or qualifying provider; and
 - (b) is not an agent of the state by virtue of the provider's acceptance of payment from a scholarship account in accordance with this part.

- (3) Except as provided in Section 53E-7-403 regarding qualifying schools or qualifying providers, Section 53E-7-408 regarding eligible schools, or Section 53E-7-408.5 regarding eligible service providers, a scholarship granting organization may not require a qualifying provider to alter the qualifying provider's creed, practices, admissions policies, hiring practices, or curricula in order to accept scholarship funds.
- (4) An LEA or a school in an LEA in which a scholarship student was previously enrolled shall provide to the scholarship student's parent a copy of all school records relating to the student that the LEA possesses within 30 days after the day on which the LEA or school receives the parent's request for the student's records, subject to:
 - (a) Title 53E, Chapter 9, Student Privacy and Data Protection; and
 - (b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.
- (5) By virtue of a scholarship student's involvement in the program and unless otherwise expressly provided in statute, a scholarship student is not:
 - (a) enrolled in the public education system; or
 - (b) otherwise subject to statute, administrative rules, or other state regulations as if the student was enrolled in the public education system.

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53E-7-407 Tax credit certificates issued by a scholarship granting organization.

- (1) In accordance with this section, a scholarship granting organization shall provide a tax credit certificate, on a form provided by the State Tax Commission, to a person that makes a donation as described in Section 53E-7-405.
- (2)
 - (a) The scholarship granting organization shall provide the information from a completed tax credit certificate to the State Tax Commission electronically and in a manner prescribed by the State Tax Commission.
 - (b) A scholarship granting organization shall issue a tax credit certificate within 30 days after the day on which a person makes a donation to the program.
- (3)
 - (a) Before accepting a donation to the program from a person, the scholarship granting organization shall provide the person with notice:
 - (i) that the donation may not be eligible for a tax credit;
 - (ii) of the process described in Subsection (3)(b); and
 - (iii) of the total amount of tax credit certificates that the scholarship granting organization has issued for the calendar year.
 - (b) During a calendar year, a scholarship granting organization shall:
 - (i) issue tax credit certificates in the order that the scholarship granting organization received a corresponding donation; and
 - (ii) track the total amount of program donations received during the year as corresponding tax credit certificates are issued.
 - (c) If a scholarship granting organization accepts a donation that, when added to the current total amount of program donations received that year, will exceed the program donations cap described in Subsection (4), the scholarship granting organization shall issue a tax credit certificate in the amount that is the difference between the program donations cap and the total amount of program donations received before the donation was received.
- (4)
 - (a) The program donations cap for the 2021 calendar year is \$5,940,000.

- (b) For a calendar year after 2021, the state board shall calculate the program donations cap as follows:
 - (i) if the total program donations for the previous calendar year exceed 90% of the cap amount for that calendar year, the cap for the current calendar year is the cap amount for the previous calendar year increased by 10% plus a percentage equal to the percentage of growth in the participation of the program from the previous calendar year; or
 - (ii) if the total program donations for the previous calendar year did not exceed 90% of the cap amount for that calendar year, the cap for the current calendar year is the same as the cap amount for the previous calendar year.
- (5) A person that receives a tax credit certificate in accordance with this section shall retain the certificate for the same time period a person is required to keep books and records under Section 59-1-1406.

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53E-7-408 Eligible private schools.

- (1) To be eligible to enroll a scholarship student, a private school shall:
 - (a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;
 - (b)
 - (i) contract with an independent licensed certified public accountant to conduct an Agreed Upon Procedures engagement as adopted by the state board, or obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:
 - (A) the audit shall be performed in accordance with generally accepted auditing standards;
 - (B) the financial statements shall be presented in accordance with generally accepted accounting principles; and
 - (C) the audited financial statements shall be as of a period within the last 12 months; and
 - (ii) submit the audit report or report of the agreed upon procedure to the state board when the private school applies to accept scholarship students;
 - (c) comply with the antidiscrimination provisions of 42 U.S.C. 2000d;
 - (d) meet state and local health and safety laws and codes;
 - (e) provide a written disclosure to the parent of each prospective student, before the student is enrolled, of:
 - (i) the special education services that will be provided to the student, including the cost of those services;
 - (ii) tuition costs;
 - (iii) additional fees a parent will be required to pay during the school year; and
 - (iv) the skill or grade level of the curriculum in which the prospective student will participate;
 - (f)
 - (i) administer an annual assessment of each scholarship student's academic progress; and
 - (ii) report the results of the assessment described in Subsection (1)(f)(i) to the scholarship student's parent;
 - (g) employ or contract with teachers who:
 - (i) hold baccalaureate or higher degrees;
 - (ii) have at least three years of teaching experience in public or private schools; or
 - (iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to provide instruction;

- (A) in the subject or subjects taught; and
 - (B) to the special needs students taught;
 - (h) maintain documentation demonstrating that teachers at the private school meet the qualifications described in Subsection (1)(g);
 - (i) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:
 - (i) an employee who does not hold a current Utah educator license issued by the state board under Chapter 6, Education Professional Licensure;
 - (ii) a contract employee; and
 - (iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and
 - (j) provide to the parent of a scholarship student the relevant credentials of the teachers who will be teaching the scholarship student.
- (2) A private school is not eligible to enroll scholarship students if:
- (a) the private school requires a student to sign a contract waiving the student's rights to transfer to another qualifying school during the school year;
 - (b) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph;
 - (c) the report of the agreed upon procedures submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b); or
 - (d) the private school charges a scholarship student more in tuition or fees than another student based solely upon the scholarship student being a scholarship recipient under this part.
- (3) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.
- (4) A private school intending to enroll scholarship students shall submit an application to the state board.
- (5) The state board shall:
- (a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and
 - (b) publish on the state board's website, a list of private schools approved under this section.
- (6) A private school approved under this section that changes ownership shall:
- (a) submit a new application to the state board; and
 - (b) demonstrate that the private school continues to meet the eligibility requirements of this section.

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53E-7-408.5 Eligible service provider.

- (1) To be an eligible service provider, a private program or service:
- (a) shall provide to the scholarship granting organization:
 - (i) a federal employer identification number;
 - (ii) the provider's address and contact information;
 - (iii) a description of each program or service the provider proposes to offer directly to a scholarship student; and

- (iv) subject to Subsection (2), any other information as required by the scholarship granting organization;
 - (b) shall comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and
 - (c) may not act as a consultant, clearing house, or intermediary that connects a scholarship student with or otherwise facilitates the student's engagement with a program or service that another entity provides.
- (2) The scholarship granting organization shall adopt policies that maximize the number of eligible service providers, including accepting new providers throughout the school year, while ensuring education programs or services provided through the program meet student needs and otherwise comply with this part.
- (3) A private program or service intending to receive scholarship funds shall:
- (a) submit an application to the scholarship granting organization; and
 - (b) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship students' parents in any manner except remittances or refunds to a scholarship account in accordance with this part and procedures that the program manager establishes.
- (4) The scholarship granting organization shall:
- (a) if the private program or service meets the eligibility requirements of this section, recognize the private program or service as an eligible service provider and approve a private program or service's application to receive scholarship funds on behalf of a scholarship student; and
 - (b) make available to the public a list of eligible service providers approved under this section.
- (5) A private program or service approved under this section that changes ownership shall:
- (a) cease operation as an eligible service provider until:
 - (i) the program or service submits a new application to the scholarship granting organization; and
 - (ii) the scholarship granting organization approves the new application; and
 - (b) demonstrate that the private program or service continues to meet the eligibility requirements of this section.

53E-7-409 Public Education Appropriations Subcommittee to conduct feasibility study.

The Public Education Appropriations Subcommittee shall:

- (1) study the feasibility of combining the program with the Carson Smith Scholarship Program created in Section 53F-4-302;
- (2) prepare a written report of the study's findings, including any legislative recommendations; and
- (3) on or before the Executive Appropriations Committee's November 2023 meeting, submit the report to the Executive Appropriations Committee.

Enacted by Chapter 3, 2020 Special Session 4

53E-7-410 Background checks for scholarship granting organizations -- State board responsibilities -- Bureau responsibilities -- Fees.

- (1) As used in this section:
 - (a) "Applicant" means an employee or officer of a scholarship granting organization.
 - (b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.
 - (c) "Department" means the Department of Public Safety.
 - (d) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.

- (e) "FBI" means the Federal Bureau of Investigation.
 - (f) "FBI Rap Back System" means the rap back system maintained by the FBI.
 - (g) "Personal identifying information" means:
 - (i) current name;
 - (ii) former names;
 - (iii) nicknames;
 - (iv) aliases;
 - (v) date of birth;
 - (vi) address;
 - (vii) telephone number;
 - (viii) driver license number or other government-issued identification number;
 - (ix) social security number; and
 - (x) fingerprints.
 - (h) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.
 - (i) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.
- (2) The state board shall:
- (a) require an applicant to submit to a nationwide criminal background check and ongoing monitoring in accordance with Section 53E-7-404;
 - (b) collect the following from an applicant:
 - (i) personal identifying information;
 - (ii) a fee described in Subsection (4); and
 - (iii) consent, on a form specified by the state board, for:
 - (A) an initial fingerprint-based background check by the FBI and bureau;
 - (B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Subsection (3); and
 - (C) disclosure of any criminal history information to the state board;
 - (c) submit an applicant's personal identifying information to the bureau for:
 - (i) an initial fingerprint-based background check by the FBI and bureau; and
 - (ii) ongoing monitoring through registration with the systems described in Subsection (3) if the results of the initial background check do not contain disqualifying criminal history information as determined by the state board in accordance with Section 53E-7-404;
 - (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the state board only receives notifications for individuals with whom the state board maintains an authorizing relationship; and
 - (e) submit the information to the bureau for ongoing monitoring through registration with the systems described in Subsection (3)(a).
- (3) The bureau shall:
- (a) upon request from the state board, register the fingerprints submitted by the state board as part of a background check with:
 - (i) the WIN Database rap back system, or any successor system; and
 - (ii) the FBI Rap Back System;
 - (b) notify the state board when a new entry is made against an individual whose fingerprints are registered with the rap back systems described in Subsection (3)(a) regarding:
 - (i) an alleged offense; or
 - (ii) a conviction, including a plea in abeyance;

- (c) assist the state board to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the state board only receives notifications for individuals with whom the authorized entity maintains an authorizing relationship; and
 - (d) collaborate with the state board to provide training to appropriate state board employees on the notification procedures and privacy risk mitigation strategies described in this section.
- (4)
- (a) The division shall impose fees set in accordance with Section 63J-1-504 for an applicant fingerprint card, name check, and to register fingerprints under this section.
 - (b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

Enacted by Chapter 3, 2020 Special Session 4

Chapter 8 Utah Schools for the Deaf and the Blind

Part 1 General Provisions

53E-8-101 Title.

This chapter is known as "Utah Schools for the Deaf and the Blind."

Enacted by Chapter 1, 2018 General Session

53E-8-102 Definitions.

As used in this chapter:

- (1) "Advisory council" means the Advisory Council for the Utah Schools for the Deaf and the Blind.
- (2) "Alternate format" includes braille, audio, digital text, or large print.
- (3) "Associate superintendent" means:
 - (a) the associate superintendent of the Utah School for the Deaf; or
 - (b) the associate superintendent of the Utah School for the Blind.
- (4) "Blind" means:
 - (a) if the person is three years of age or older but younger than 22 years of age, having a visual impairment that, even with correction, adversely affects educational performance or substantially limits one or more major life activities; and
 - (b) if the person is younger than three years of age, having a visual impairment.
- (5) "Blindness" means an impairment in vision in which central visual acuity:
 - (a) does not exceed 20/200 in the better eye with correcting lenses; or
 - (b) is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.
- (6) "Cortical visual impairment" means a cortical or cerebral visual impairment:
 - (a) that:
 - (i) affects the visual cortex or visual tracts of the brain;
 - (ii) is caused by damage to the visual pathways to the brain;
 - (iii) affects a person's visual discrimination, acuity, processing, and interpretation; and

- (iv) is often present in conjunction with other disabilities or eye conditions that cause visual impairment; and
 - (b) in which the eyes and optic nerves of the affected person appear normal and the person's pupil responses are normal.
- (7) "Deaf" means:
- (a) if the person is three years of age or older but younger than 22 years of age, having hearing loss, whether permanent or fluctuating, that, even with amplification, adversely affects educational performance or substantially limits one or more major life activities; and
 - (b) if the person is younger than three years of age, having hearing loss.
- (8) "Deafblind" means:
- (a) if the person is three years of age or older but younger than 22 years of age:
 - (i) deaf;
 - (ii) blind; and
 - (iii) having hearing loss and visual impairments that cause such severe communication and other developmental and educational needs that the person cannot be accommodated in special education programs solely for students who are deaf or blind; or
 - (b) if the person is younger than three years of age, having both hearing loss and vision impairments that are diagnosed as provided in Section 53E-8-401.
- (9) "Deafness" means a hearing loss so severe that the person is impaired in processing linguistic information through hearing, with or without amplification.
- (10) "Educator" means an individual who is:
- (a) licensed by the state board under Section 53E-6-201; or
 - (b) credentialed by the governing body of the individual's area of professional practice.
- (11) "Functional blindness" means a disorder in which the physical structures of the eye may be functioning, but the person does not attend to, examine, utilize, or accurately process visual information.
- (12) "Functional hearing loss" means a central nervous system impairment that results in abnormal auditory perception, including an auditory processing disorder or auditory neuropathy/dys-synchrony, in which parts of the auditory system may be functioning, but the person does not attend to, respond to, localize, utilize, or accurately process auditory information.
- (13) "Hard of hearing" means having a hearing loss, excluding deafness.
- (14) "Individualized education program" or "IEP" means:
- (a) a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; or
 - (b) an individualized family service plan developed:
 - (i) for a child with a disability who is younger than three years of age; and
 - (ii) in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (15) "LEA" means a local education agency that has administrative control and direction for public education.
- (16) "LEA of record" means the school district of residence of a student as determined under Section 53G-6-302.
- (17) "Low vision" means an impairment in vision in which:
- (a) visual acuity is at 20/70 or worse;
 - (b) the visual field is reduced to less than 20 degrees;
 - (c) even with correction, educational performance is affected; or
 - (d) at least one major life activity is substantially limited.

- (18) "Parent Infant Program" means a program at the Utah Schools for the Deaf and the Blind that provides services:
- (a) through an interagency agreement with the Department of Health to children younger than three years of age who are deaf, blind, or deafblind; and
 - (b) to children younger than three years of age who are deafblind through Deafblind Services of the Utah Schools for the Deaf and the Blind.
- (19) "Section 504" means Section 504 of the Rehabilitation Act of 1973.
- (20) "Superintendent" means the superintendent of the Utah Schools for the Deaf and the Blind.
- (21) "Visual impairment" includes partial sightedness, low vision, blindness, cortical visual impairment, functional blindness, and degenerative conditions that lead to blindness or severe loss of vision.

Amended by Chapter 186, 2019 General Session

Amended by Chapter 314, 2019 General Session

Part 2

Organization, Powers, and Duties

53E-8-201 Utah Schools for the Deaf and the Blind created -- Designated LEA -- Services statewide.

- (1) The Utah Schools for the Deaf and the Blind is created as a single public school agency that includes:
- (a) the Utah School for the Deaf;
 - (b) the Utah School for the Blind;
 - (c) programs for students who are deafblind; and
 - (d) the Parent Infant Program.
- (2) Under the general control and supervision of the state board, consistent with the state board's constitutional authority, the Utah Schools for the Deaf and the Blind:
- (a) may provide services to students statewide:
 - (i) who are deaf, blind, or deafblind; or
 - (ii) who are neither deaf, blind, nor deafblind, if allowed under rules of the state board established pursuant to Section 53E-8-401; and
 - (b) shall serve as the designated LEA for a student and assume the responsibilities of providing services as prescribed through the student's IEP or Section 504 accommodation plan when the team that develops the student's IEP or Section 504 accommodation plan determines that the student be placed at the Utah Schools for the Deaf and the Blind.
- (3) When the Utah Schools for the Deaf and the Blind becomes a student's designated LEA, the LEA of record and the Utah Schools for the Deaf and the Blind shall ensure that all rights and requirements regarding individual student assessment, eligibility, services, placement, and procedural safeguards provided through the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq. and Section 504 of the Rehabilitation Act of 1973, as amended, remain in force.
- (4) Nothing in this section diminishes the responsibility of a student's LEA of record for the education of the student as provided in Chapter 7, Part 2, Special Education Program.

Amended by Chapter 186, 2019 General Session

Amended by Chapter 314, 2019 General Session

53E-8-202 Corporate powers -- Property -- Establishment of a foundation.

- (1) The Utah Schools for the Deaf and the Blind is a public corporation with perpetual succession and a corporate seal.
- (2) The Utah Schools for the Deaf and the Blind may:
 - (a) sue and be sued;
 - (b) contract and be contracted with;
 - (c) take and hold by purchase, gift, devise, or bequest real and personal property required for its uses; and
 - (d) convert property, if not suitable for its use, into other property or money.
- (3) The property of the Utah Schools for the Deaf and the Blind is exempt from taxes and assessments.
- (4) The Utah Schools for the Deaf and the Blind may establish a foundation as described in Section 53E-3-403.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-8-203 Applicability of statutes to the Utah Schools for the Deaf and the Blind.

- (1) The Utah Schools for the Deaf and the Blind is subject to this public education code and other state laws applicable to public schools, except as otherwise provided by this chapter.
- (2) The following provisions of this public education code do not apply to the Utah Schools for the Deaf and the Blind:
 - (a) provisions governing the budgets, funding, or finances of school districts or charter schools; and
 - (b) provisions governing school construction.
- (3) Except as provided in this chapter, the Utah Schools for the Deaf and the Blind is subject to state laws governing state agencies, including:
 - (a) Title 51, Chapter 5, Funds Consolidation Act;
 - (b) Title 51, Chapter 7, State Money Management Act;
 - (c) Title 52, Chapter 4, Open and Public Meetings Act;
 - (d) Title 63A, Utah Government Operations Code;
 - (e) Title 63G, Chapter 2, Government Records Access and Management Act;
 - (f) Title 63G, Chapter 4, Administrative Procedures Act;
 - (g) Title 63G, Chapter 6a, Utah Procurement Code;
 - (h) Title 63J, Chapter 1, Budgetary Procedures Act;
 - (i) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
 - (j) Title 63A, Chapter 17, Utah State Personnel Management Act.

Amended by Chapter 345, 2021 General Session

53E-8-204 Authority of the state board -- Rulemaking -- Superintendent -- Advisory council.

- (1) The state board is the governing board of the Utah Schools for the Deaf and the Blind.
- (2)
 - (a) The state board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind.

- (b) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the qualifications, terms of employment, and duties of the superintendent for the Utah Schools for the Deaf and the Blind.
- (3) The superintendent shall:
 - (a) subject to the approval of the state board, appoint an associate superintendent to administer the Utah School for the Deaf based on:
 - (i) demonstrated competency as an expert educator of deaf persons; and
 - (ii) knowledge of school management and the instruction of deaf persons;
 - (b) subject to the approval of the state board, appoint an associate superintendent to administer the Utah School for the Blind based on:
 - (i) demonstrated competency as an expert educator of blind persons; and
 - (ii) knowledge of school management and the instruction of blind persons, including an understanding of the unique needs and education of deafblind persons.
- (4) The state board shall approve the annual budget and expenditures of the Utah Schools for the Deaf and the Blind.
- (5)
 - (a) The state board shall submit a report in accordance with Section 53E-1-201 on the Utah Schools for the Deaf and the Blind.
 - (b) The state board shall ensure that the report described in Subsection (5)(a) includes:
 - (i) a financial report;
 - (ii) a report on Utah Schools for the Deaf and the Blind programs and activities; and
 - (iii) a report of student academic performance.

Amended by Chapter 408, 2020 General Session

Part 3 Educators

53E-8-301 Educators exempt from Division of Human Resource Management rules -- Collective bargaining agreement.

- (1) Educators employed by the Utah Schools for the Deaf and the Blind are exempt from mandatory compliance with rules of the Division of Human Resource Management.
- (2) The state board may enter into a collective bargaining agreement to establish compensation and other personnel policies with educators employed by the Utah Schools for the Deaf and the Blind to replace rules of the Division of Human Resource Management.
- (3) A collective bargaining agreement made under Subsection (2) is subject to the same requirements that are imposed on local school boards by Section 53G-11-202.

Amended by Chapter 344, 2021 General Session

53E-8-302 Annual salary adjustments for educators.

- (1) In accordance with Section 53F-7-301, the Legislature shall appropriate money to the state board for the salary adjustments described in this section.
- (2) The state board shall include in its annual budget request for the Utah Schools for the Deaf and the Blind an amount of money sufficient to adjust educators' salaries as described in Subsection (3) and fund step and lane changes.

- (3)
- (a) The state board shall determine the salary adjustment specified in Subsection (2) by:
 - (i) calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state, with the average weighted by the number of teachers in each school district; and
 - (ii) increasing the weighted average salary adjustment by 10% in any year in which teachers of the Utah Schools for the Deaf and the Blind are not ranked in the top 10 in 20-year earnings when compared to earnings of teachers in the school districts of the state.
 - (b) In calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state under Subsection (3)(a), the state board shall exclude educator salary adjustments provided pursuant to Section 53F-2-405.
- (4) From money appropriated to the state board for salary adjustments, the state board shall adjust the salary schedule applicable to educators at the school each year.

Amended by Chapter 186, 2019 General Session

Part 4 **Eligibility, Services, and Programs**

(1)
53E-8-401 Eligibility for services of the Utah Schools for the Deaf and the Blind.

- (1) Except as provided in Subsections (3), (4), and (5), an individual is eligible to receive services of the Utah Schools for the Deaf and the Blind if the individual is:
- (a) a resident of Utah;
 - (b) younger than 22 years old;
 - (c) referred to the Utah Schools for the Deaf and the Blind by:
 - (i) the individual's school district of residence;
 - (ii) a local early intervention program; or
 - (iii) if the referral is consistent with the Individual with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the Parent Infant Program; and
 - (d) identified as deaf, blind, or deafblind through:
 - (i) the special education eligibility determination process; or
 - (ii) the Section 504 eligibility determination process.
- (2)
- (a) In determining eligibility for an individual who is younger than age three and is deafblind, the following information may be used:
 - (i) ophthalmological and audiological documentation;
 - (ii) functional vision or hearing assessments and evaluations; or
 - (iii) informed clinical opinion conducted by a person with expertise in deafness, blindness, or deafblindness.
 - (b) Informed clinical opinion shall be:
 - (i) included in the determination of eligibility when documentation is incomplete or not conclusive; and
 - (ii) based on pertinent records related to the individual's current health status and medical history, an evaluation and observations of the individual's level of sensory functioning, and the needs of the family.

- (3)
 - (a) A student who qualifies for special education shall have services and placement determinations made through the IEP process.
 - (b) A student who qualifies for accommodations under Section 504 shall have services and placement determinations made through the Section 504 team process.
- (4)
 - (a) A nonresident may receive services of the Utah Schools for the Deaf and the Blind in accordance with the rules of the state board described in Subsection (6).
 - (b) Notwithstanding Section 53G-7-503, the state board shall ensure that the rules described in Subsection (6) require the payment of tuition for services provided to a nonresident.
- (5) An individual is eligible to receive services from the Utah Schools for the Deaf and the Blind under circumstances described in Section 53E-8-408.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board:
 - (a) shall make rules that determine the eligibility of students to be served by the Utah Schools for the Deaf and the Blind; and
 - (b) may make rules to allow a resident of Utah who is neither deaf, blind, nor deafblind to receive services of the Utah Schools for the Deaf and the Blind if the resident is younger than 22 years old.

53E-8-402 Entrance policies and procedures.

With input from the Utah Schools for the Deaf and the Blind, school districts, parents, and the advisory council, the state board shall establish entrance policies and procedures that IEP teams and Section 504 teams are to consider in making placement recommendations at the Utah Schools for the Deaf and the Blind.

Amended by Chapter 186, 2019 General Session

53E-8-403 Educational programs.

- (1) The Utah Schools for the Deaf and the Blind shall provide an educational program for a student:
 - (a) based on assessments of the student's abilities; and
 - (b) in accordance with the student's IEP or Section 504 accommodation plan.
- (2) If a student's ability to access the core curriculum is impaired primarily due to a severe sensory loss and requires intensive sensory-based instruction or services, the Utah Schools for the Deaf and the Blind shall provide an educational program that will enable the student, with accommodations, to access the core curriculum.
- (3) The Utah Schools for the Deaf and the Blind shall provide instruction in Braille to students who are blind.

Amended by Chapter 354, 2020 General Session

53E-8-404 Administration of statewide assessments.

The Utah Schools for the Deaf and the Blind shall annually administer, as applicable, the statewide assessments described in Section 53E-4-301, except a student may take an alternative test in accordance with the student's IEP.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-8-405 Collaboration with Department of Health and Human Services.

The Utah Schools for the Deaf and the Blind shall collaborate with the Department of Health and Human Services to provide services to children with disabilities who are younger than three years old in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

Amended by Chapter 328, 2023 General Session

53E-8-406 Programs for deafblind individuals -- State deafblind education specialist.

- (1) The state board shall adopt policies and programs for providing appropriate educational services to individuals who are deafblind.
- (2) Except as provided in Subsection (4), the state board shall designate an employee who holds a deafblind credential issued by the state board or equivalent training and expertise to:
 - (a) act as a resource coordinator for the state board on public education programs designed for individuals who are deafblind;
 - (b) facilitate the design and implementation of professional development programs to assist school districts, charter schools, and the Utah Schools for the Deaf and the Blind in meeting the educational needs of those who are deafblind; and
 - (c) facilitate the design of and assist with the implementation of one-on-one intervention programs in school districts, charter schools, and at the Utah Schools for the Deaf and the Blind for those who are deafblind, serving as a resource for, or team member of, individual IEP teams.
- (3) The state board may authorize and approve the costs of an employee to obtain a deafblind credential issued by the state board or equivalent training and expertise to qualify for the position described in Subsection (2).
- (4) The state board may contract with a third party for the services required under Subsection (2).

Amended by Chapter 186, 2019 General Session

Amended by Chapter 314, 2019 General Session

53E-8-407 Educational Enrichment Program for Deaf, Hard of Hearing, Blind, and Visually Impaired Students -- Funding for the program.

- (1) There is established the Educational Enrichment Program for Deaf, Hard of Hearing, Blind, and Visually Impaired Students.
- (2) The purpose of the program is to provide opportunities that will, in a family friendly environment, enhance the educational services required for deaf, hard of hearing, blind, visually impaired, or deafblind students.
- (3) The advisory council shall make recommendations to the state board regarding the design and implementation of the program.
- (4) The program shall be funded from the revenue distributed from the permanent funds created for the Utah Schools for the Deaf and the Blind pursuant to Section 12 of the Utah Enabling Act and distributed by the director of the School and Institutional Trust Lands Administration under Section 53C-3-103.

Amended by Chapter 186, 2019 General Session

Amended by Chapter 314, 2019 General Session

53E-8-408 Educational services for an individual with a hearing loss.

- (1) Subject to Subsection (2), the Utah Schools for the Deaf and the Blind shall provide educational services to an individual:
 - (a) who seeks to receive the educational services; and
 - (b)
 - (i) whose results of a test for hearing loss are reported to the Utah Schools for the Deaf and the Blind in accordance with Section 26B-4-319 or 26B-4-323; or
 - (ii) who has been diagnosed with a hearing loss by a physician or an audiologist.
- (2) If the individual who will receive the services described in Subsection (1) is a minor, the Utah Schools for the Deaf and the Blind may not provide the services to the individual until after receiving permission from the individual's parent.

Amended by Chapter 328, 2023 General Session

53E-8-409 Instructional Materials Access Center -- Board to make rules.

- (1) The state board shall collaborate with the Utah Schools for the Deaf and the Blind, school districts, and charter schools in establishing the Utah State Instructional Materials Access Center to provide students with print disabilities access to instructional materials in alternate formats in a timely manner.
- (2) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
 - (a) establish the Utah State Instructional Materials Access Center;
 - (b) define how the Utah Schools for the Deaf and the Blind shall collaborate in the operation of the Utah State Instructional Materials Access Center;
 - (c) specify procedures for the operation of the Utah State Instructional Materials Access Center, including procedures to:
 - (i) identify students who qualify for instructional materials in alternate formats; and
 - (ii) distribute and store instructional materials in alternate formats; and
 - (d) require textbook publishers, as a condition of contract, to provide electronic file sets in conformance with the National Instructional Materials Accessibility Standard.

Amended by Chapter 408, 2020 General Session

53E-8-410 School districts to provide space for programs.

A school district with students who reside within the school district's boundaries and are served by the Utah Schools for the Deaf and the Blind shall make a good faith effort to provide the Utah Schools for the Deaf and the Blind with space required for programs offered by the Utah Schools for the Deaf and the Blind.

Amended by Chapter 314, 2019 General Session

Chapter 9
Student Privacy and Data Protection

Part 1

General Provisions

53E-9-101 Title.

This chapter is known as "Student Privacy and Data Protection."

Enacted by Chapter 1, 2018 General Session

Part 2 Student Privacy

53E-9-201 Definitions.

Reserved

Enacted by Chapter 1, 2018 General Session

53E-9-202 Application of state and federal law to the administration and operation of public schools -- Local school board and charter school governing board policies.

(1) As used in this section "education entity" means:

- (a) the state board;
- (b) a local school board or charter school governing board;
- (c) a school district;
- (d) a public school; or
- (e) the Utah Schools for the Deaf and the Blind.

(2) An education entity and an employee, student aide, volunteer, third party contractor, or other agent of an education entity shall protect the privacy of a student, the student's parents, and the student's family and support parental involvement in the education of their children through compliance with the protections provided for family and student privacy under this part and the Family Educational Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h, in the administration and operation of all public school programs, regardless of the source of funding.

(3) A local school board or charter school governing board shall enact policies governing the protection of family and student privacy as required by this part.

Amended by Chapter 186, 2019 General Session

Effective until 7/1/2024

53E-9-203 Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.

(1) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, policies adopted by a school district or charter school under Section 53E-9-202 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent, in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

- (a) political affiliations or, except as provided under Section 53G-10-202 or rules of the state board, political philosophies;
 - (b) mental or psychological problems;
 - (c) sexual behavior, orientation, or attitudes;
 - (d) illegal, anti-social, self-incriminating, or demeaning behavior;
 - (e) critical appraisals of individuals with whom the student or family member has close family relationships;
 - (f) religious affiliations or beliefs;
 - (g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
 - (h) income, except as required by law.
- (2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.
- (3) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent has been obtained.
- (4)
- (a) Written parental consent is valid only if a parent has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:
 - (i) records or information, including information about relationships, that may be examined or requested;
 - (ii) the means by which the records or information shall be examined or reviewed;
 - (iii) the means by which the information is to be obtained;
 - (iv) the purposes for which the records or information are needed;
 - (v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
 - (vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.
 - (b) For a survey described in Subsection (1), written notice described in Subsection (4)(a) shall include an Internet address where a parent can view the exact survey to be administered to the parent's student.
- (5)
- (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports, or by order of a court, disclosure to a parent must be given at least two weeks before information protected under this section is sought.
 - (b) Following disclosure, a parent may waive the two week minimum notification period.
 - (c) Unless otherwise agreed to by a student's parent and the person requesting written consent, the authorization is valid only for the activity for which it was granted.
 - (d) A written withdrawal of authorization submitted to the school principal by the authorizing parent terminates the authorization.
 - (e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.
- (6)
- (a) This section does not limit the ability of a student under Section 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.

- (b)
 - (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent without delay.
 - (ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent of any possible investigation, prior to the student's return home from school.
 - (iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of the student's parent, or if that notification is otherwise prohibited by state or federal law.
- (7)
 - (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:
 - (i) referring the student to appropriate prevention services; and
 - (ii) informing the student's parent.
 - (b) On or before September 1, 2014, a school district or charter school shall develop and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.
- (8) Local school boards and charter school governing boards shall provide inservice for teachers and administrators on the implementation of this section.
- (9) The state board shall provide procedures for disciplinary action for violations of this section.
- (10) Data collected from a survey described in Subsection (1):
 - (a) is a private record as provided in Section 63G-2-302;
 - (b) may not be shared except in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
 - (c) may not be included in a student's Student Achievement Backpack, as that term is defined in Section 53E-3-511.

Amended by Chapter 335, 2022 General Session

Effective 7/1/2024

53E-9-203 Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.

- (1)
 - (a) Except as provided in Subsection (8), Section 53G-9-604, and Section 53G-9-702, an LEA shall include in policies the LEA adopts under Section 53E-9-202a requirement for obtaining prior written consent from the student's parent when administering to a student:
 - (i) any psychological or psychiatric examination, test, or treatment; and
 - (ii) any survey, analysis, or evaluation in which the purpose or effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:
 - (A) political affiliations or, except as provided under Section 53G-10-202 or rules of the state board, political philosophies;

- (B) mental or psychological problems;
 - (C) sexual behavior, orientation, gender identity, or attitudes;
 - (D) illegal, anti-social, self-incriminating, or demeaning behavior;
 - (E) critical appraisals of individuals with whom the student or family member has close family relationships;
 - (F) religious affiliations or beliefs;
 - (G) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
 - (H) income, except as required by law.
- (b) An LEA shall annually obtain prior written consent for the following at the time a student registers with the LEA:
- (i) surveys related to an early warning system described in Section 53F-4-207;
 - (ii) surveys that include social emotional learning questions; and
 - (iii) the school climate survey described in Section 53G-8-802.
- (2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.
- (3) Except as provided in Subsection (8), Section 53G-9-604, and Section 53G-9-702, the requirements under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent has been obtained.
- (4) An LEA may not:
- (a) use the prior written consent described in Subsection (1) that a different LEA obtained for a student who transfers to the LEA after the beginning of the school year; or
 - (b) provide:
 - (i) a reward to a student for a student's participation in any psychological or psychiatric examination, test, treatment, survey, analysis, or evaluation; or
 - (ii) a consequence to a student for a student's lack of participation in any psychological or psychiatric examination, test, treatment, survey, analysis, or evaluation.
- (5)
- (a) Written parental consent is valid only if a parent has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:
 - (i) records or information, including information about relationships, that may be examined or requested;
 - (ii) the means by which the records or information shall be examined or reviewed;
 - (iii) the means by which the information is to be obtained;
 - (iv) the purposes for which the records or information are needed;
 - (v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
 - (vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.
 - (b) For a survey described in Subsection (1), the LEA shall ensure that the written notice described in Subsection (5)(a) includes:
 - (i) the survey the LEA will administer to the parent's student;
 - (ii) the intended purposes and uses of the data collected;
 - (iii) the types of persons or governmental entities that:
 - (A) share the collected data, including a list of recipients who will receive the student-level data; or

- (B) receive the data collected from a governmental entity on a regular or contractual basis;
and
 - (iv) the record series as defined in Section 63G-2-103 in which the data is or will be included, if applicable.
- (6)
- (a) Except in response to a situation which a school employee reasonably believes to be an emergency, as authorized under Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports, by order of a court, or as described in Subsection (1)(b), disclosure to a parent must be given at least two weeks before information protected under this section is sought.
 - (b) Following disclosure, a parent may waive the two week minimum notification period.
 - (c) Unless otherwise agreed to by a student's parent and the person requesting written consent, the authorization is valid only for the activity for which it was granted.
 - (d) A written withdrawal of authorization submitted to the school principal by the authorizing parent terminates the authorization.
 - (e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.
- (7)
- (a) This section does not limit the ability of a student under Section 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.
 - (b)
 - (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent without delay.
 - (ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent of any possible investigation, prior to the student's return home from school.
 - (iii) The division may be exempted from the notification requirements described in this Subsection (7)(b)(ii) only if it determines that the student would be endangered by notification of the student's parent, or if that notification is otherwise prohibited by state or federal law.
- (8)
- (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:
 - (i) referring the student to appropriate prevention services; and
 - (ii) informing the student's parent.
 - (b) An LEA shall develop and adopt a policy regarding intervention measures consistent with Subsection (8)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.
- (9) An LEA governing board shall provide inservice for teachers and administrators on the implementation of this section.
- (10) The state board shall provide procedures for disciplinary action for violations of this section.
- (11) Data collected from a survey described in Subsection (1):
- (a) is a private record as provided in Section 63G-2-302;

- (b) may not be shared except in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g;
- (c) may only be used by an individual, organization, or governmental entity, including the state board, for the purposes identified in the notice described in Subsection (5); and
- (d) may not be included in a student's Student Achievement Backpack, as that term is defined in Section 53E-3-511.

53E-9-204 Access to education records -- Training requirement -- Certification.

- (1) As used in this section, "education record" means the same as that term is defined in the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.
- (2) A local school board or charter school governing board shall require each public school to:
 - (a) create and maintain a list that includes the name and position of each school employee who the public school authorizes, in accordance with Subsection (4), to have access to an education record; and
 - (b) provide the list described in Subsection (2)(a) to the school's local school board or charter school governing board.
- (3) A local school board or charter school governing board shall:
 - (a) provide training on student privacy laws; and
 - (b) require a school employee on the list described in Subsection (2) to:
 - (i) complete the training described in Subsection (3)(a); and
 - (ii) provide to the local school board or charter school governing board a certified statement, signed by the school employee, that certifies that the school employee completed the training described in Subsection (3)(a) and that the school employee understands student privacy requirements.
- (4)
 - (a) Except as provided in Subsection (4)(b), a local school board, charter school governing board, public school, or school employee may only share an education record with a school employee if:
 - (i) that school employee's name is on the list described in Subsection (2); and
 - (ii) federal and state privacy laws authorize the education record to be shared with that school employee.
 - (b) A local school board, charter school governing board, public school, or school employee may share an education record with a school employee if the board, school, or employee obtains written consent from:
 - (i) the parent of the student to whom the education record relates, if the student is younger than 18 years old; or
 - (ii) the student to whom the education record relates, if the student is 18 years old or older.

Amended by Chapter 186, 2019 General Session

53E-9-205 Parental right to student information.

- (1) As used in this section:
 - (a) "Education record" means the same as that term is defined in Section 53E-9-204.
 - (b) "Gender identity" means the same as that term is defined in Section 34A-5-102.
 - (c) "Parent" means a parent or legal guardian with legal custody of the child in question.
 - (d) "Sex" means the biological, physical condition of being male or female, determined by an individual's genetics and anatomy at birth.

- (2) In accordance with Section 53E-2-201, each school and each local governing board shall ensure that no policy or action of the school or LEA:
 - (a) except as provided in Subsection 53E-9-203(6), operates to shield a student's education record from the student's parent; and
 - (b) interferes with a parent's:
 - (i) fundamental parental right and primary responsibility to direct the education of the parent's child; and
 - (ii) freedom of access to information regarding the parent's child.
- (3) Notwithstanding any other provision of law, a school or LEA may not:
 - (a) prohibit a parent of a child from accessing the child's education record; or
 - (b) without written parental consent make changes to a student's education record regarding a student's gender identity that does not conform with the student's sex.

Enacted by Chapter 13, 2023 General Session

Part 3

Student Data Protection

53E-9-301 Definitions.

As used in this part:

- (1) "Adult student" means a student who:
 - (a) is at least 18 years old;
 - (b) is an emancipated student; or
 - (c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.
- (2) "Aggregate data" means data that:
 - (a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;
 - (b) do not reveal personally identifiable student data; and
 - (c) are collected in accordance with state board rule.
- (3)
 - (a) "Biometric identifier" means a:
 - (i) retina or iris scan;
 - (ii) fingerprint;
 - (iii) human biological sample used for valid scientific testing or screening; or
 - (iv) scan of hand or face geometry.
 - (b) "Biometric identifier" does not include:
 - (i) a writing sample;
 - (ii) a written signature;
 - (iii) a voiceprint;
 - (iv) a photograph;
 - (v) demographic data; or
 - (vi) a physical description, such as height, weight, hair color, or eye color.
- (4) "Biometric information" means information, regardless of how the information is collected, converted, stored, or shared:
 - (a) based on an individual's biometric identifier; and

- (b) used to identify the individual.
- (5) "Data breach" means an unauthorized release of or unauthorized access to personally identifiable student data that is maintained by an education entity.
- (6) "Data governance plan" means an education entity's comprehensive plan for managing education data that:
 - (a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;
 - (b) describes the role, responsibility, and authority of an education entity data governance staff member;
 - (c) provides for necessary technical assistance, training, support, and auditing;
 - (d) describes the process for sharing student data between an education entity and another person;
 - (e) describes the education entity's data expungement process, including how to respond to requests for expungement;
 - (f) describes the data breach response process; and
 - (g) is published annually and available on the education entity's website.
- (7) "Education entity" means:
 - (a) the state board;
 - (b) a local school board;
 - (c) a charter school governing board;
 - (d) a school district;
 - (e) a charter school; or
 - (f) the Utah Schools for the Deaf and the Blind.
- (8) "Expunge" means to seal or permanently delete data, as described in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, under Section 53E-9-306.
- (9) "General audience application" means an Internet website, online service, online application, mobile application, or software program that:
 - (a) is not specifically intended for use by an audience member that attends kindergarten or a grade from 1 to 12, although an audience member may attend kindergarten or a grade from 1 to 12; and
 - (b) is not subject to a contract between an education entity and a third-party contractor.
- (10) "Local education agency" or "LEA" means:
 - (a) a school district;
 - (b) a charter school; or
 - (c) the Utah Schools for the Deaf and the Blind.
- (11) "Metadata dictionary" means a record that:
 - (a) defines and discloses all personally identifiable student data collected and shared by the education entity;
 - (b) comprehensively lists all recipients with whom the education entity has shared personally identifiable student data, including:
 - (i) the purpose for sharing the data with the recipient;
 - (ii) the justification for sharing the data, including whether sharing the data was required by federal law, state law, or a local directive; and
 - (iii) how sharing the data is permitted under federal or state law; and
 - (c) without disclosing personally identifiable student data, is displayed on the education entity's website.

- (12) "Necessary student data" means data required by state statute or federal law to conduct the regular activities of an education entity, including:
- (a) name;
 - (b) date of birth;
 - (c) sex;
 - (d) parent contact information;
 - (e) custodial parent information;
 - (f) contact information;
 - (g) a student identification number;
 - (h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;
 - (i) courses taken and completed, credits earned, and other transcript information;
 - (j) course grades and grade point average;
 - (k) grade level and expected graduation date or graduation cohort;
 - (l) degree, diploma, credential attainment, and other school exit information;
 - (m) attendance and mobility;
 - (n) drop-out data;
 - (o) immunization record or an exception from an immunization record;
 - (p) race;
 - (q) ethnicity;
 - (r) tribal affiliation;
 - (s) remediation efforts;
 - (t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening described in Section 53G-9-404;
 - (u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26B-7-115;
 - (v) student injury information;
 - (w) a disciplinary record created and maintained as described in Section 53E-9-306;
 - (x) juvenile delinquency records;
 - (y) English language learner status; and
 - (z) child find and special education evaluation data related to initiation of an IEP.
- (13)
- (a) "Optional student data" means student data that is not:
 - (i) necessary student data; or
 - (ii) student data that an education entity may not collect under Section 53E-9-305.
 - (b) "Optional student data" includes:
 - (i) information that is:
 - (A) related to an IEP or needed to provide special needs services; and
 - (B) not necessary student data;
 - (ii) biometric information; and
 - (iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.
- (14) "Parent" means:
- (a) a student's parent;
 - (b) a student's legal guardian; or
 - (c) an individual who has written authorization from a student's parent or legal guardian to act as a parent or legal guardian on behalf of the student.
- (15)

- (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.
- (b) "Personally identifiable student data" includes:
 - (i) a student's first and last name;
 - (ii) the first and last name of a student's family member;
 - (iii) a student's or a student's family's home or physical address;
 - (iv) a student's email address or other online contact information;
 - (v) a student's telephone number;
 - (vi) a student's social security number;
 - (vii) a student's biometric identifier;
 - (viii) a student's health or disability data;
 - (ix) a student's education entity student identification number;
 - (x) a student's social media user name and password or alias;
 - (xi) if associated with personally identifiable student data, the student's persistent identifier, including:
 - (A) a customer number held in a cookie; or
 - (B) a processor serial number;
 - (xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;
 - (xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and
 - (xiv) information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
- (16) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.
- (17)
 - (a) "Student data" means information about a student at the individual student level.
 - (b) "Student data" does not include aggregate or de-identified data.
- (18) "Student data manager" means:
 - (a) the state student data officer; or
 - (b) an individual designated as a student data manager by an education entity under Section 53E-9-303, who fulfills the duties described in Section 53E-9-308.
- (19)
 - (a) "Targeted advertising" means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or student data.
 - (b) "Targeted advertising" does not include advertising to a student:
 - (i) at an online location based upon that student's current visit to that location; or
 - (ii) in response to that student's request for information or feedback, without retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.
- (20) "Third-party contractor" means a person who:
 - (a) is not an education entity; and
 - (b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

- (21) "Written consent" means written authorization to collect or share a student's student data, from:
- (a) the student's parent, if the student is not an adult student; or
 - (b) the student, if the student is an adult student.

Amended by Chapter 328, 2023 General Session

(j)
53E-9-302 State student data protection governance.

- (1)
- (a) An education entity or a third-party contractor who collects, uses, stores, shares, or deletes student data shall protect student data as described in this part.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to administer this part, including student data protection standards for public education employees, student aides, and volunteers.
- (2) The state board shall oversee the preparation and maintenance of:
- (a) a statewide data governance plan; and
 - (b) a state-level metadata dictionary.
- (3)
- (a) The state board shall establish a student data protection advisory group to oversee student data protection in the state.
 - (b) The student data protection advisory group shall be composed of:
 - (i) members from the Legislature;
 - (ii) members from the state board;
 - (iii) the state student data officer;
 - (iv) one or more LEAs;
 - (v) state board employees; and
 - (vi) others who use student data at the local level.
 - (c) The student data protection advisory group shall:
 - (i) make recommendations to the state board regarding:
 - (A) enacted or proposed legislation; and
 - (B) state and local student data protection policies across the state;
 - (ii) review and monitor the state student data governance plan; and
 - (iii) perform other tasks related to student data protection as directed by the state board.
- (4)
- (a) The state board shall designate a state student data officer.
 - (b) The state student data officer shall:
 - (i) act as the primary point of contact for state student data protection administration in assisting the state board to administer this part;
 - (ii) ensure compliance with student privacy laws throughout the public education system, including:
 - (A) providing training and support to applicable state board and LEA employees; and
 - (B) producing resource materials, model plans, and model forms for local student data protection governance, including a model student data collection notice;
 - (iii) investigate complaints of alleged violations of this part;
 - (iv) report violations of this part to:
 - (A) the state board;
 - (B) an applicable education entity; and

- (C) the student data protection advisory group; and
 - (v) act as a state level student data manager.
- (5) The state board shall designate:
- (a) at least one support manager to assist the state student data officer; and
 - (b) a student data protection auditor to assist the state student data officer.
- (6) The state board shall establish a research review process for a request for data for the purpose of research or evaluation.

53E-9-303 Local student data protection governance.

- (1) An LEA shall adopt policies to protect student data in accordance with this part and state board rule, taking into account the specific needs and priorities of the LEA.
- (2)
- (a) An LEA shall designate an individual to act as a student data manager to fulfill the responsibilities of a student data manager described in Section 53E-9-308.
 - (b) If possible, an LEA shall designate the LEA's records officer as defined in Section 63G-2-103, as the student data manager.
- (3) An LEA shall create and maintain an LEA:
- (a) data governance plan; and
 - (b) metadata dictionary.
- (4) An LEA shall establish an external research review process for a request for data for the purpose of external research or evaluation.

Amended by Chapter 186, 2019 General Session

53E-9-304 Student data ownership and access -- Notification in case of significant data breach.

- (1)
- (a) A student owns the student's personally identifiable student data.
 - (b) An education entity shall allow the following individuals to access a student's student data that is maintained by the education entity:
 - (i) the student's parent;
 - (ii) the student; and
 - (iii) in accordance with the education entity's internal policy described in Section 53E-9-303 and in the absence of a parent, an individual acting as a parent to the student.
- (2)
- (a) If a significant data breach occurs at an education entity, the education entity shall notify:
 - (i) the student, if the student is an adult student; or
 - (ii) the student's parent, if the student is not an adult student.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to define a significant data breach described in Subsection (2)(a).

Amended by Chapter 408, 2020 General Session

53E-9-305 Collecting student data -- Prohibition -- Student data collection notice -- Written consent.

- (1) An education entity may not collect a student's:
- (a) social security number; or

- (b) except as required in Section 80-6-103, criminal record.
- (2) Except as provided in Subsection (3), an education entity that collects student data shall, in accordance with this section, prepare and distribute to parents and students a student data collection notice statement that:
 - (a) is a prominent, stand-alone document;
 - (b) is annually updated and published on the education entity's website;
 - (c) states the student data that the education entity collects;
 - (d) states that the education entity will not collect the student data described in Subsection (1);
 - (e) states the student data described in Section 53E-9-308 that the education entity may not share without written consent;
 - (f) includes the following statement:
 - "The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";
 - (g) describes in general terms how the education entity stores and protects student data; and
 - (h) states a student's rights under this part.
- (3) The state board may publicly post the state board's collection notice described in Subsection (2).
- (4) An education entity may collect the necessary student data of a student if the education entity provides a student data collection notice to:
 - (a) the student, if the student is an adult student; or
 - (b) the student's parent, if the student is not an adult student.
- (5) An education entity may collect optional student data if the education entity:
 - (a) provides, to an individual described in Subsection (4), a student data collection notice that includes a description of:
 - (i) the optional student data to be collected; and
 - (ii) how the education entity will use the optional student data; and
 - (b) obtains written consent to collect the optional student data from an individual described in Subsection (4).
- (6) An education entity may collect a student's biometric identifier or biometric information if the education entity:
 - (a) provides, to an individual described in Subsection (4), a biometric information collection notice that is separate from a student data collection notice, which states:
 - (i) the biometric identifier or biometric information to be collected;
 - (ii) the purpose of collecting the biometric identifier or biometric information; and
 - (iii) how the education entity will use and store the biometric identifier or biometric information; and
 - (b) obtains written consent to collect the biometric identifier or biometric information from an individual described in Subsection (4).
- (7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an evidence-based alternative intervention described in Section 53G-8-211 without written consent.
- (8) Nothing in this section prohibits an education entity from including additional information related to student and parent privacy in the notice described in Subsection (2).

Amended by Chapter 161, 2023 General Session

53E-9-306 Using and expunging student data -- Rulemaking -- Disciplinary records.

- (1) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules regarding using and expunging student data, including:
 - (a) a categorization of disciplinary records that includes the following levels of maintenance:
 - (i) one year;
 - (ii) three years; and
 - (iii) in accordance with Subsection (3), as determined by the education entity;
 - (b) the types of student data that may be expunged, including:
 - (i) medical records; and
 - (ii) behavioral test assessments;
 - (c) the types of student data that may not be expunged, including:
 - (i) grades;
 - (ii) transcripts;
 - (iii) a record of the student's enrollment; and
 - (iv) assessment information; and
 - (d) the timeline and process for a prior student or parent of a prior student to request that an education entity expunge all of the prior student's student data.
- (2) In accordance with state board rule, an education entity may create and maintain a disciplinary record for a student.
- (3)
 - (a) As recognized in Section 53E-9-304, and to ensure maximum student data privacy, an education entity shall, in accordance with state board rule, expunge a student's student data that is stored by the education entity.
 - (b) An education entity shall retain and dispose of records in accordance with Section 63G-2-604 and state board rule.

Amended by Chapter 408, 2020 General Session

53E-9-307 Securing and cataloguing student data.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

- (1) using reasonable data industry best practices, prescribe the maintenance and protection of stored student data by:
 - (a) an education entity;
 - (b) the Utah Registry of Autism and Developmental Disabilities, described in Section 26B-7-115, for student data obtained under Section 53E-9-308; and
 - (c) a third-party contractor; and
- (2) state requirements for an education entity's metadata dictionary.

Amended by Chapter 328, 2023 General Session

53E-9-308 Sharing student data -- Prohibition -- Requirements for student data manager -- Authorized student data sharing.

- (1)
 - (a) Except as provided in Subsection (1)(b), an education entity, including a student data manager, may not:
 - (i) share personally identifiable student data without written consent; or
 - (ii) share student data with a federal agency.

- (b) An education entity, including a student data manager, may share personally identifiable student data:
 - (i) in accordance with the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h;
 - (ii) as required by federal law; and
 - (iii) as described in Subsections (3), (5), and (6).
- (2) A student data manager shall:
 - (a) authorize and manage the sharing, outside of the student data manager's education entity, of personally identifiable student data for the education entity as described in this section;
 - (b) act as the primary local point of contact for the state student data officer described in Section 53E-9-302; and
 - (c) fulfill other responsibilities described in the data governance plan of the student data manager's education entity.
- (3) A student data manager may share a student's personally identifiable student data with a caseworker or representative of the Department of Health and Human Services if:
 - (a) the Department of Health and Human Services is:
 - (i) legally responsible for the care and protection of the student, including the responsibility to investigate a report of educational neglect, as provided in Subsection 80-2-701(5); or
 - (ii) providing services to the student;
 - (b) the student's personally identifiable student data is not shared with a person who is not authorized:
 - (i) to address the student's education needs; or
 - (ii) by the Department of Health and Human Services to receive the student's personally identifiable student data; and
 - (c) the Department of Health and Human Services maintains and protects the student's personally identifiable student data.
- (4) The Department of Health and Human Services, a school official, or the Utah Juvenile Court may share personally identifiable student data to improve education outcomes for youth:
 - (a) in the custody of, or under the guardianship of, the Department of Health and Human Services;
 - (b) receiving services from the Division of Juvenile Justice and Youth Services;
 - (c) in the custody of the Division of Child and Family Services;
 - (d) receiving services from the Division of Services for People with Disabilities; or
 - (e) under the jurisdiction of the Utah Juvenile Court.
- (5)
 - (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.
 - (b) A person who receives personally identifiable student data under Subsection (5)(a) may not use the personally identifiable student data outside of the use described in the subpoena.
- (6)
 - (a) A student data manager may share student data, including personally identifiable student data, in response to a request to share student data for the purpose of research or evaluation, if the student data manager:
 - (i) verifies that the request meets the requirements of 34 C.F.R. Sec. 99.31(a)(6);
 - (ii) submits the request to the education entity's research review process; and
 - (iii) fulfills the instructions that result from the review process.
 - (b)

- (i) In accordance with state and federal law, and subject to Subsection (6)(b)(ii), the state board shall share student data, including personally identifiable student data, as requested by the Utah Registry of Autism and Developmental Disabilities described in Section 26B-7-115.
- (ii)
 - (A) At least 30 days before the state board shares student data in accordance with Subsection (6)(b)(i), the education entity from which the state board received the student data shall provide notice to the parent of each student for which the state board intends to share student data.
 - (B) The state board may not, for a particular student, share student data as described in Subsection (6)(b)(i) if the student's parent requests that the state board not share the student data.
- (iii) A person who receives student data under Subsection (6)(b)(i):
 - (A) shall maintain and protect the student data in accordance with state board rule described in Section 53E-9-307;
 - (B) may not use the student data for a purpose not described in Section 26B-7-115; and
 - (C) is subject to audit by the state student data officer described in Section 53E-9-302.

Amended by Chapter 328, 2023 General Session

Amended by Chapter 381, 2023 General Session

53E-9-309 Third-party contractors.

- (1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service within the negotiated contract terms.
- (2) When contracting with a third-party contractor, an education entity, or a government agency contracting on behalf of an education entity, shall require the following provisions in the contract:
 - (a) requirements and restrictions related to the collection, use, storage, or sharing of student data by the third-party contractor that are necessary for the education entity to ensure compliance with the provisions of this part and state board rule;
 - (b) a description of a person, or type of person, including an affiliate of the third-party contractor, with whom the third-party contractor may share student data;
 - (c) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;
 - (d) except as provided in Subsection (4) and if required by the education entity, provisions that prohibit the secondary use of personally identifiable student data by the third-party contractor; and
 - (e) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract.
- (3) As authorized by law or court order, a third-party contractor shall share student data as requested by law enforcement.
- (4) A third-party contractor may:
 - (a) use student data for adaptive learning or customized student learning purposes;
 - (b) market an educational application or product to a parent of a student if the third-party contractor did not use student data, shared by or collected on behalf of an education entity, to market the educational application or product;
 - (c) use a recommendation engine to recommend to a student:

- (i) content that relates to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party; or
- (ii) services that relate to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party;
- (d) respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party;
- (e) use student data to allow or improve operability and functionality of the third-party contractor's application; or
- (f) identify for a student nonprofit institutions of higher education or scholarship providers that are seeking students who meet specific criteria:
 - (i) regardless of whether the identified nonprofit institutions of higher education or scholarship providers provide payment or other consideration to the third-party contractor; and
 - (ii) only if the third-party contractor obtains authorization in writing from:
 - (A) a student's parent through the student's school or LEA; or
 - (B) for an adult student, the student.
- (5) At the completion of a contract with an education entity, if the contract has not been renewed, a third-party contractor shall return or delete upon the education entity's request all personally identifiable student data under the control of the education entity unless a student or the student's parent consents to the maintenance of the personally identifiable student data.
- (6)
 - (a) A third-party contractor may not:
 - (i) except as provided in Subsection (6)(b), sell student data;
 - (ii) collect, use, or share student data, if the collection, use, or sharing of the student data is inconsistent with the third-party contractor's contract with the education entity; or
 - (iii) use student data for targeted advertising.
 - (b) A person may obtain student data through the purchase of, merger with, or otherwise acquiring a third-party contractor if the third-party contractor remains in compliance with this section.
- (7) The provisions of this section do not:
 - (a) apply to the use of a general audience application, including the access of a general audience application with login credentials created by a third-party contractor's application;
 - (b) apply if the student data is shared in accordance with the education entity's directory information policy, as described in 34 C.F.R. 99.37;
 - (c) apply to the providing of Internet service; or
 - (d) impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section.
- (8) A provision of this section that relates to a student's student data does not apply to a third-party contractor if the education entity or third-party contractor obtains authorization from the following individual, in writing, to waive that provision:
 - (a) the student's parent, if the student is not an adult student; or
 - (b) the student, if the student is an adult student.

Amended by Chapter 388, 2020 General Session

Effective until 7/1/2024
53E-9-310 Penalties.

- (1)
 - (a) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:
 - (i) except as provided in Subsection (1)(b), may not enter into a future contract with an education entity;
 - (ii) may be required by the state board to pay a civil penalty of up to \$25,000; and
 - (iii) may be required to pay:
 - (A) the education entity's cost of notifying parents and students of the unauthorized sharing or use of student data; and
 - (B) expenses incurred by the education entity as a result of the unauthorized sharing or use of student data.
 - (b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:
 - (i) the state board or education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and
 - (ii) the third-party contractor demonstrates:
 - (A) if the third-party contractor is under contract with an education entity, current compliance with this part; or
 - (B) an ability to comply with the requirements of this part.
 - (c) The state board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
 - (d) The state board may bring an action in the district court of the county in which the office of the state board is located, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).
 - (e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.
- (2)
 - (a) A parent or adult student may bring an action in a court of competent jurisdiction for damages caused by a knowing or reckless violation of Section 53E-9-309 by a third-party contractor.
 - (b) If the court finds that a third-party contractor has violated Section 53E-9-309, the court may award to the parent or student:
 - (i) damages; and
 - (ii) costs.

Amended by Chapter 186, 2019 General Session

Effective 7/1/2024

53E-9-310 Penalties.

- (1)
 - (a) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:
 - (i) except as provided in Subsection (1)(b), may not enter into a future contract with an education entity;
 - (ii) may be required by the state board to pay a civil penalty of up to \$25,000; and
 - (iii) may be required to pay:
 - (A) the education entity's cost of notifying parents and students of the unauthorized sharing or use of student data; and

- (B) expenses incurred by the education entity as a result of the unauthorized sharing or use of student data.
 - (b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:
 - (i) the state board or education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and
 - (ii) the third-party contractor demonstrates:
 - (A) if the third-party contractor is under contract with an education entity, current compliance with this part; or
 - (B) an ability to comply with the requirements of this part.
 - (c) The state board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
 - (d)
 - (i) The state board may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).
 - (ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the state board shall bring an action described in Subsection (1)(d)(i) in the county in which the office of the state board is located if the action is brought in the district court.
 - (e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.
- (2)
- (a) A parent or adult student may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for damages caused by a knowing or reckless violation of Section 53E-9-309 by a third-party contractor.
 - (b) If the court finds that a third-party contractor has violated Section 53E-9-309, the court may award to the parent or student:
 - (i) damages; and
 - (ii) costs.

Chapter 10 Other Programs

Part 1 General Provisions

53E-10-101 Title.

This chapter is known as "Other Programs."

Enacted by Chapter 1, 2018 General Session

Part 2 Adult Education

53E-10-201 Definitions.

Reserved

Enacted by Chapter 1, 2018 General Session

53E-10-202 State board to supervise.

- (1) The general control and supervision, but not the direct management, of adult education is vested in the state board.
- (2) The state board has the following powers:
 - (a) makes and enforces rules to organize, conduct, and supervise adult education;
 - (b) appoints state staff for the adult education program, establishes their duties, and fixes their compensation;
 - (c) determines the qualifications of, and issues teaching certificates to, persons employed to give adult education instruction; and
 - (d) determines the basis of apportionment and distributes funds made available for adult education.
- (3)
 - (a) The state board shall make rules providing for the establishment of fees which shall be imposed by local school boards for participation in adult education programs.
 - (b) A fee structure for adult education shall take into account the ability of a Utah resident who participates in adult education to pay the fees.
 - (c) Sections 53G-7-504 and 53G-7-505 pertaining to fees and fee waivers in secondary schools do not apply to adult education.

Amended by Chapter 186, 2019 General Session

53E-10-203 Director of adult education.

- (1) Upon recommendation of the state superintendent, the state board may appoint a full-time director for adult education to work under the supervision of the state board.
- (2) The director may coordinate the adult education program authorized under Sections 53E-10-202 through 53E-10-206 with other adult education programs.

Amended by Chapter 186, 2019 General Session

53E-10-204 Local school boards' authority to direct adult education programs.

A local school board may do the following:

- (1) establish and maintain classes for adult education, with classes being held at times and places convenient and accessible to the members of the class;
- (2) raise and appropriate funds for an adult education program;
- (3) subject to Section 53E-10-202 determine fees for participation in an adult education program; and
- (4) hire persons to instruct adult education classes.

Amended by Chapter 223, 2019 General Session

53E-10-205 Eligibility.

- (1) Adult education classes are open to an individual 16 years of age or over and to an individual who has completed high school.
- (2) Eligible nonresidents of the state shall be charged tuition at least equal to that charged nonresident students for similar classes at a local or nearby state college or university, unless waived in whole or in part by the local school board in an open meeting.
- (3) The district superintendent may, upon the recommendation of an authorized representative of the Division of Child and Family Services, exempt an adult domiciled in Utah from the payment of adult education fees.

Amended by Chapter 57, 2019 General Session

53E-10-206 Salaries -- Costs.

- (1) Salaries and other necessary expenses of the state adult education staff shall be paid from funds appropriated for adult education.
- (2) The state board shall determine the terms and conditions of payment.
- (3) A local school board shall pay all costs incident to the local administration and operation of its adult education program.
- (4) The local school board shall submit reports required by the state board for the administration of adult education.

Amended by Chapter 186, 2019 General Session

**Part 3
Concurrent Enrollment**

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53E-10-301 Definitions.

As used in this part:

- (1) "Career and technical education course" means a concurrent enrollment course in career and technical education, as determined by the policy established by the Utah Board of Higher Education under Section 53E-10-302.
- (2) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.
- (3) "Educator" means the same as that term is defined in Section 53E-6-102.
- (4) "Eligible institution" means:
 - (a) a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Section 53B-1-102; or
 - (b) a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Section 53B-1-102, that offers an online concurrent enrollment course.
- (5) "Eligible instructor" means an instructor who meets the requirements described in Section 53E-10-302.
- (6) "Eligible student" means a student who:
 - (a)
 - (i) is enrolled in, and counted in average daily membership in, a public school within the state;
 - or

- (ii) is in the custody of the Division of Juvenile Justice and Youth Services and subject to the jurisdiction of the Youth Parole Authority;
 - (b) has on file a plan for college and career readiness as described in Section 53E-2-304; and
 - (c) is in grade 9, 10, 11, or 12.
- (7) "License" means the same as that term is defined in Section 53E-6-102.
- (8) "Local education agency" or "LEA" means a school district or charter school.
- (9) "Qualifying experience" means an LEA employee's experience in an academic field that:
- (a) qualifies the LEA employee to teach a concurrent enrollment course in the academic field; and
 - (b) may include the LEA employee's:
 - (i) number of years teaching in the academic field;
 - (ii) holding a higher level secondary teaching credential issued by the state board;
 - (iii) research, publications, or other scholarly work in the academic field;
 - (iv) continuing professional education in the academic field;
 - (v) portfolio of work related to the academic field; or
 - (vi) professional work experience or certifications in the academic field.
- (10) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

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53E-10-302 Concurrent enrollment program.

- (1) The state board and the Utah Board of Higher Education shall establish and maintain a concurrent enrollment program that:
- (a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:
 - (i) toward high school graduation; and
 - (ii) at an eligible institution;
 - (b) includes only a course that:
 - (i) leads to a degree or certificate offered by an eligible institution; and
 - (ii) is one of the following:
 - (A) a general education course;
 - (B) a career and technical education course;
 - (C) a pre-major college level course;
 - (D) a foreign language concurrent enrollment course described in Section 53E-10-307; or
 - (E) an upper divisions course that the Utah Board of Higher Education approves under Subsection (3);
 - (c) requires that the instructor of a concurrent enrollment course is an eligible instructor; and
 - (d) is designed and implemented to take full advantage of the most current available education technology.
- (2) The state board and the Utah Board of Higher Education shall coordinate to:
- (a) establish a concurrent enrollment course approval process that ensures:
 - (i) credit awarded for concurrent enrollment is consistent and transferable to all eligible institutions; and
 - (ii) learning outcomes for a concurrent enrollment course align with:
 - (A) core standards for Utah public schools adopted by the state board; and

- (B) except for a foreign language concurrent enrollment course described in Section 53E-10-307 or an upper division course that the Utah Board of Higher Education approves under Subsection (3), an eligible institution lower division course numbered at or above the 1000 level; and
- (b) provide advising to an eligible student, including information on:
 - (i) general education requirements at eligible institutions; and
 - (ii) how to choose concurrent enrollment courses to avoid duplication or excess credit hours.
- (3) The Utah Board of Higher Education, after consulting with the state board, shall annually approve a prioritized list of upper division courses for which an eligible institution may use concurrent enrollment money.
- (4) After consultation with eligible institution concurrent enrollment directors, the Utah Board of Higher Education shall:
 - (a) provide guidelines to an eligible institution for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course; and
 - (b) establish a policy that:
 - (i) determines which concurrent enrollment courses are career and technical education courses; and
 - (ii) creates a process for:
 - (A) an LEA to appeal an eligible institution's decision under Subsection (7) if the eligible institution does not approve an LEA employee as an eligible instructor; and
 - (B) an LEA or eligible institution to determine whether an eligible instructor who previously taught a concurrent enrollment course is no longer qualified to teach the concurrent enrollment course.
- (5) To qualify for funds under Section 53F-2-409, an LEA and an eligible institution shall:
 - (a) enter into a contract, in accordance with Section 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);
 - (b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;
 - (c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (4)(a);
 - (d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and
 - (e) coordinate advising to eligible students.
- (6)
 - (a) An eligible institution faculty member is an eligible instructor.
 - (b) An LEA employee is an eligible instructor if the LEA employee:
 - (i) is licensed under Chapter 6, Education Professional Licensure;
 - (ii) is supervised by an eligible institution; and
 - (iii)
 - (A) as described in Subsection (7), is approved as an eligible instructor by the eligible institution that provides the concurrent enrollment course taught by the LEA employee;
 - (B) has an upper level mathematics credential issued by the state board;
 - (C) is approved as adjunct faculty by the eligible institution that provides the concurrent enrollment course taught by the LEA employee; or
 - (D) teaches a concurrent enrollment course that the LEA employee taught during the 2018 -2019 or 2019 -2020 school year.
- (7) An eligible institution shall approve an LEA employee as an eligible instructor:
 - (a) for a career and technical education concurrent enrollment course, if the LEA employee has:

- (i) a degree, certificate, or industry certification in the concurrent enrollment course's academic field; or
- (ii) qualifying experience, as determined by the eligible institution; or
- (b) for a concurrent enrollment course other than a career and technical education course, if the LEA employee has:
 - (i) a master's degree or higher in the concurrent enrollment course's academic field;
 - (ii)
 - (A) a master's degree or higher in any academic field; and
 - (B) at least 18 completed credit hours of graduate course work in an academic field that is relevant to the concurrent enrollment course; or
 - (iii) qualifying experience as defined in Section 53E-10-301, including:
 - (A) the number of years of teaching experience;
 - (B) student performance on qualifying test scores or AP exams on courses that the LEA employee teaches;
 - (C) continuing education in a master's degree or higher in any academic field; or
 - (D) other criteria established by the eligible institution.
- (8) An eligible institution shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the eligible institution.

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53E-10-303 Designated institution of higher education -- Concurrent enrollment course right of first refusal.

- (1) As used in this section, "designated institution of higher education" means an eligible institution, as that term is defined in Section 53E-10-301, that is designated by the Utah Board of Higher Education to provide a course or program of study within a specific geographic region.
- (2) To offer a concurrent enrollment course, an LEA shall contact the LEA's designated institution of higher education to request that the designated institution of higher education contract with the LEA to provide the concurrent enrollment course.
- (3) Except as provided in Subsection (4) or (5), if the LEA's designated institution of higher education chooses to offer the concurrent enrollment course, the LEA shall contract with the LEA's designated institution of higher education to provide the concurrent enrollment course.
- (4) An LEA shall contract with an eligible institution that is not the LEA's designated institution of higher education to provide a concurrent enrollment course if the LEA's designated institution of higher education:
 - (a) chooses not to offer the concurrent enrollment course proposed by the LEA;
 - (b) fails to respond to the LEA's request under Subsection (2) within 30 days after the day on which the LEA contacts the designated institution of higher education;
 - (c) uses instructional materials in a course that are sensitive materials, as defined in Section 53G-10-103, or that are materials otherwise prohibited by state law or state board rule for use in kindergarten through grade 12; or
 - (d)
 - (i) reaches the eligible institution's enrolled student capacity for the concurrent enrollment course; and
 - (ii) prohibits an LEA with an eligible instructor, as described in Section 53E-10-302, from expanding the concurrent enrollment course to eligible students.

- (5) For a student who wants to enroll in an existing concurrent enrollment course that is not offered online by an LEA's designated institution of higher education, the LEA shall contract with any eligible institution that offers the online concurrent enrollment course.

53E-10-304 Concurrent enrollment participation form -- Parental permission.

- (1) The Utah Board of Higher Education shall create a higher education concurrent enrollment participation form that includes a parental permission form.
- (2) Before allowing an eligible student to participate in concurrent enrollment, an LEA and an institution of higher education shall ensure that the eligible student has, for the current school year:
 - (a) submitted the participation form described in Subsection (1);
 - (b) signed an acknowledgment of program participation requirements; and
 - (c) obtained parental permission as indicated by the signature of a student's parent on the parental permission form.

Amended by Chapter 365, 2020 General Session

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53E-10-305 Tuition and fees.

- (1) Except as provided in this section, the Utah Board of Higher Education or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.
- (2)
 - (a) The Utah Board of Higher Education may charge a one-time fee for a student to participate in the concurrent enrollment program.
 - (b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.
- (3)
 - (a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.
 - (b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.
- (4)
 - (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course for which a student earns college credit.
 - (b) An institution of higher education may not charge more than:
 - (i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;
 - (ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Section 53E-10-302; or
 - (iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

53E-10-306 Funding.

Unless otherwise specified, the provisions of this part and Section 53F-2-409 govern concurrent enrollment funding.

Enacted by Chapter 1, 2018 General Session

53E-10-307 Concurrent enrollment courses for accelerated foreign language students.

- (1) As used in this section:
- (a) "Accelerated foreign language student" means an eligible student who has passed a world language Advanced Placement exam.
 - (b) "Blended learning delivery model" means an education delivery model in which a student learns, at least in part:
 - (i) through online learning with an element of student control over time, place, path, and pace; and
 - (ii) in the physical presence of an instructor.
 - (c) "State university" means an institution of higher education that offers courses leading to a bachelor's degree.
- (2) The University of Utah shall partner with all state universities to develop, as part of the concurrent enrollment program described in this part, concurrent enrollment courses that:
- (a) are age-appropriate foreign language courses for accelerated foreign language students;
 - (b) count toward a foreign language degree offered by an institution of higher education; and
 - (c) are delivered:
 - (i) using a blended learning delivery model; and
 - (ii) by an eligible instructor described in Subsection 53E-10-302(6)(a).
- (3) Subject to budget constraints, in addition to the base increases described in Section 53F-2-208, the Legislature shall annually increase the money appropriated for concurrent enrollment courses for accelerated foreign language students in proportion to the percentage increase over the previous school year in the value of the weighted pupil unit.

Amended by Chapter 129, 2023 General Session

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53E-10-308 Reporting.

The state board and the Utah Board of Higher Education shall submit an annual written report to the Higher Education Appropriations Subcommittee and in accordance with Section 53E-1-203 on student participation in the concurrent enrollment program, including:

- (1) data on the education tuition not charged due to the hours of education credit granted through concurrent enrollment;
- (2) tuition or fees charged under Section 53E-10-305;
- (3) an accounting of the money appropriated for concurrent enrollment; and
- (4) a justification of the distribution method described in Section 53F-2-409.

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53E-10-309 Utah PRIME Program -- LAUNCH certificate -- TRANSFORM certificate.

- (1) As used in this section:
- (a) "Eligible institution" means:
 - (i) a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Subsection 53B-2-101(1); or
 - (ii) a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

- (b) "Industry certification" means a career and technical education certification awarded through validation of skills in cooperation with a business, trade association, or other industry group, in accordance with rules adopted by the state board under Section 53F-2-311.
 - (c) "Institutional certificate" means a career and technical education program completion certificate awarded by the state board, an institution of higher education, or a technical college.
 - (d) "LAUNCH certificate" means a certificate of completion awarded by the state board to an eligible student who meets the criteria described in this section.
 - (e) "Participating LEA" means an LEA that participates in the program.
 - (f) "Program" means the Utah PRIME program described in Subsection (6).
 - (g) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.
 - (h) "Qualifying student" means an eligible student who meets the criteria for a LAUNCH certificate or a TRANSFORM certificate as described in this section.
 - (i) "Technical college" means the same as that term is defined in Section 53B-1-101.5.
 - (j) "TRANSFORM certificate" means a certificate of completion established by the Utah Board of Higher Education in accordance with Section 53B-16-105.
- (2) The state board shall award a LAUNCH certificate to an eligible student who:
- (a) completes six concurrent enrollment credits;
 - (b) is awarded an industry certification or institutional certificate; and
 - (c) has on file a plan for college and career readiness.
- (3) The state board shall award a TRANSFORM certificate to an eligible student who completes:
- (a) both:
 - (i) the requirements established by the Utah Board of Higher Education in accordance with Section 53B-16-105 and in coordination with the state board; and
 - (ii) completes five general education courses, each from a different general education category, as designated for concurrent enrollment by the Utah Board of Higher Education;
 - (b) a career and technical education program that is at least 300 hours or 6 courses; or
 - (c) a youth apprenticeship as described in Sections 35A-6-102 and 35A-6-104.5.
- (4)
- (a) Subject to appropriations by the Legislature, the Utah Board of Higher Education shall award to each student who earns a TRANSFORM certificate a PRIME scholarship to be used at an eligible institution.
 - (b) The Utah Board of Higher Education shall annually determine the PRIME scholarship amount based on:
 - (i) the number of eligible students; and
 - (ii) appropriations made by the Legislature.
 - (c) A student may earn the scholarship described in Subsection (4)(a) and an Opportunity Scholarship award described in Section 53B-8-201.
- (5) The Utah Board of Higher Education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure that credits described in Subsections (2) and (3) earned by a qualifying student are transferable to institutions of higher education.
- (6) In accordance with this section, and subject to appropriations by the Legislature for this purpose, the state board shall:
- (a) administer the Utah PRIME program to expand access to concurrent enrollment courses and career and technical education certificates by expanding digital delivery models for distance learning programs or funding enrollment in participating LEAs; and
 - (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (i) establish eligibility requirements for a participating LEA;
 - (ii) create an application process for LEAs to apply for the program; and
 - (iii) create a funding formula for participating LEAs.
- (c) A participating LEA shall offer concurrent enrollment courses, including career and technical education courses, that meet the requirements for the LAUNCH certificate and TRANSFORM certificate.

Part 7 ULEAD

53E-10-701 Definitions.

As used in this part:

- (1) "Director" means the director of ULEAD appointed under this part.
- (2) "Director Selection Committee" or "selection committee" means the committee created in Section 53E-10-704 that appoints the director.
- (3) "Local education agency" or "LEA" means a public:
 - (a) school district;
 - (b) school; or
 - (c) charter school.
- (4) "Participating institution" means a public or private research institution that enters into an arrangement with the director to provide research and other services described in this part.
- (5) "Research clearinghouse" means a collection of information maintained and distributed by ULEAD in accordance with Section 53E-10-706.
- (6) "Steering committee" means the committee that:
 - (a) advises the director;
 - (b) sets research priorities as described in this part; and
 - (c) is created in Section 53E-10-707.
- (7) "ULEAD" means Utah Leading through Effective, Actionable, and Dynamic Education through the efforts of the director, participating institutions, and the steering committee as described in this part.

Amended by Chapter 401, 2022 General Session

53E-10-702 ULEAD established -- Duties -- Funding.

There is created the Utah Leading through Effective, Actionable, and Dynamic Education, a collaborative effort in research and innovation between the director, participating institutions, and education leaders to:

- (1) gather and explain current education research in an electronic research clearinghouse for use by practitioners;
- (2) initiate and disseminate research reports on innovative and successful practices by Utah LEAs, and guided by the steering committee, practitioners, and policymakers;
- (3) promote statewide innovation and collaboration by:
 - (a) identifying experts in areas of practice;
 - (b) conducting conferences, webinars, and online forums for practitioners; and
 - (c) facilitating direct collaboration between schools; and

- (4)
 - (a) report to the Education Interim Committee and policymakers on innovative and successful K-12 practices in Utah and other states, prioritizing practices in Utah; and
 - (b) in the report, propose policy changes to remove barriers to implementation of successful practices.

Amended by Chapter 401, 2022 General Session

(j)
53E-10-703 ULEAD director -- Qualification and employment -- Duties -- Reporting -- Annual conference.

- (1) The ULEAD director shall:
 - (a)
 - (i) hold a doctorate degree in education or an equivalent degree; and
 - (ii) have demonstrated experience in research and dissemination of best practices in education; and
 - (b)
 - (i) be a full-time employee;
 - (ii) report to the state superintendent; and
 - (iii) provide a report to the selection committee, at least twice per year, on the status of the ULEAD program.
- (2) The state superintendent shall:
 - (a) evaluate the director's performance annually;
 - (b) report on the director's performance to the selection committee; and
 - (c) provide space for the director and the director's staff.
- (3) The director may:
 - (a) hire staff, using only money specifically appropriated to ULEAD; and
 - (b) with approval from the superintendent, utilize state board staff.
- (4) The director shall perform the following duties and functions:
 - (a) gather current research on innovative and effective practices in K-12 education for use by policymakers and practitioners;
 - (b) facilitate collaboration between LEAs, higher education researchers, and practitioners by:
 - (i) sharing innovative and effective practices in Utah shown to improve student learning;
 - (ii) identifying experts in Utah in specific areas of practice; and
 - (iii) maintaining a research clearinghouse and directory of researchers; and
 - (c) analyze barriers to replication or adaption of innovative and successful practices studied by ULEAD or contributed to the ULEAD research clearinghouse.
- (5) The director shall:
 - (a) prioritize reports and other research based on recommendations of the steering committee in accordance with Subsection 53E-10-707(5), and after consulting with individuals described in Subsection 53E-10-707(6);
 - (b) identify Utah LEAs, or schools outside of the public school system, that are:
 - (i) innovative in specific areas of practice; and
 - (ii) more effective or efficient than comparable LEAs in improving student learning, especially for students performing below proficiency;
 - (c) establish criteria for innovative practice reports to be performed by participating institutions and included in the research clearinghouse, including report templates;

- (d) arrange with participating institutions to generate innovative practice reports on effective and innovative K-12 education practices; and
- (e)
 - (i) disseminate each innovative practice report to the state board for dissemination to LEAs and school leaders; and
 - (ii) publish innovative practice reports on the ULEAD website.
- (6) In an innovative practice report, a participating institution shall:
 - (a) include or reference a review of research regarding the practice in which the subject LEA has demonstrated success;
 - (b) identify through academically acceptable, evidence-based research methods the causes of the LEA's successful practice;
 - (c) identify opportunities for LEAs to adopt or customize innovative or best practices;
 - (d) address limitations to successful replication or adaptation of the successful practice by other LEAs, which may include barriers arising from federal or state law, state or LEA policy, socioeconomic conditions, or funding limitations;
 - (e) include practical templates for successful replication and adaptation of successful practices, following criteria established by the director;
 - (f) identify experts in the successful practice that is the subject of the innovative practice report, including teachers or administrators at the subject LEA; and
 - (g) include:
 - (i) an executive summary describing the innovative practice report; and
 - (ii) a video component or other elements designed to ensure that an innovative practice report is readily understandable by practitioners.
- (7)
 - (a) The director may, if requested by an LEA leader or policymaker, conduct an evidence-based review of a possible innovation in an area of practice.
 - (b) The director shall:
 - (i) review the performance of an innovation program, as defined in Section 53G-10-601, to determine the extent to which the learning and performance of students in an opportunity class, as defined in Section 53G-10-601, met the criteria established in the innovation program;
 - (ii) report on the director's findings under Subsection (7)(b)(i):
 - (A) to the LEA governing board that approved the innovation program; and
 - (B) within 120 days after the completion of the school year during which the opportunity class was functioning; and
 - (iii) market the innovation program, as described in Title 53G, Chapter 10, Part 6, Education Innovation Program, to Utah educators.
- (8) The director may also accept innovative practice reports from trained practitioners that meet the criteria set by the director.
- (9) The director or a participating institution, to enable successful replication or adaptation of successful practices, may recommend to:
 - (a) the Legislature, amendments to state law; or
 - (b) the state board, revisions to state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or policy.
- (10)
 - (a) The director shall:
 - (i) report on the activities of ULEAD annually to the state board; and
 - (ii) provide reports or other information to the state board upon state board request.

- (b) The report described in Subsection (10)(a)(i) shall include:
 - (i) examples identified for innovative practice reports; and
 - (ii) the current status of ULEAD's relationship with participating institutions.
- (11) The director shall:
 - (a) prepare an annual report on ULEAD research and other activities;
 - (b) submit the report in accordance with Sections 53E-1-201 and 53E-1-202;
 - (c) publish the annual report on the ULEAD website; and
 - (d) disseminate the report to the state board for dissemination to LEAs and school leaders through electronic channels.
- (12) The director shall facilitate and conduct an annual conference on successful and innovative K-12 education practices in Utah, featuring:
 - (a) Utah education leaders; and
 - (b) practitioners and researchers, chosen by the director, to discuss the subjects of LEA and other ULEAD activities, or other innovative and successful education practices.

53E-10-704 Director Selection Committee -- Membership -- Powers and duties -- Compensation.

- (1) There is created the Director Selection Committee to appoint the director.
- (2) The selection committee shall consist of the following five members each appointed for two-year terms:
 - (a) one member of the office of the governor, who is the chair of the selection committee and appointed by the governor;
 - (b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;
 - (c) one member of the Senate, appointed by the president of the Senate;
 - (d) one member of the state board, appointed by the chair of the state board; and
 - (e) one member appointed by the state superintendent.
- (3)
 - (a) A member of the selection committee may be appointed for more than one term.
 - (b) If a midterm vacancy occurs on the selection committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.
- (4) A majority of the members shall constitute a quorum for the transaction of selection committee business.
- (5)
 - (a) The selection committee shall select and appoint a director for a four-year term.
 - (b) The director may be appointed for more than one term.
- (6)
 - (a) In addition to the meetings required under Subsections (6)(b) and (c), the selection committee shall hold at least one meeting each year.
 - (b) In a year in which the director is appointed, the selection committee shall:
 - (i) solicit applications for the director position to be submitted no later than June 1;
 - (ii) hold at least two meetings to discuss candidates for the open director position; and
 - (iii) select and appoint by majority vote a candidate to fill the director position to begin employment no later than August 1.
 - (c) Notwithstanding Subsection (6)(b), if a midterm vacancy in the director position occurs, the selection committee shall:

- (i) no later than 25 business days after the day on which the position is vacated, solicit applications for the director position;
 - (ii) hold at least two meetings to discuss candidates for the vacant position; and
 - (iii) no later than 60 business days after the day on which the position is vacated, select a candidate to fill the director position for the remainder of the term.
- (7)
- (a) The selection committee:
 - (i) may remove a director before the completion of the director's term only by a majority vote of the selection committee; and
 - (ii) is the only person empowered to remove the director.
 - (b) The chair shall hold a meeting to consider removing the director upon request of two or more selection committee members.
- (8) A member of the selection committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.
- (9) The selection committee shall:
- (a) establish criteria for evaluation of the ULEAD program, including the degree of participation by participating institutions and practitioners;
 - (b) evaluate the effectiveness of ULEAD every four years for purposes of continuing the program; and
 - (c) meet with the superintendent at least annually to discuss the progress of ULEAD projects and processes as described in this part.
- (10) The selection committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 401, 2022 General Session

53E-10-705 Participating institutions.

- (1) The director may arrange or collaborate with a participating institution:
- (a) to conduct an innovative practice report or provide other research services, including research regarding barriers to adoption of practices studied by ULEAD;
 - (b) to assist an LEA to:
 - (i) facilitate communities of practice for replication or adaptation of best practices identified by ULEAD; and
 - (ii) advise teachers and school leaders on conducting their own research to improve education practices;
 - (c) to assist an LEA with an application to the state board for waiver from a state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in accordance with Section 53G-7-202 to allow replication or adaptation of best practices; or
 - (d) for any other purpose that is consistent with and advances the director's duties and functions.
- (2) An agreement entered into by a participating institution with the state board or an LEA to perform ULEAD work shall:
- (a) include provisions allowing and governing external research data sharing; and
 - (b) comply with state and federal law.
- (3) The director shall support federal and private research funding requests by a participating institution for research that is in support of the director's duties and functions.

Amended by Chapter 408, 2020 General Session

53E-10-706 Electronic resources -- Research clearinghouse.

- (1) The state board shall publish a ULEAD website containing information provided by the director as described in this part.
- (2) The director shall within two years of appointment:
 - (a) develop and maintain a research clearinghouse publicly available through the website described in Subsection (1); and
 - (b) include in the research clearinghouse:
 - (i) research on K-12 education, including peer-reviewed research;
 - (ii) information on K-12 education innovation and best practices;
 - (iii) an index and explanation of academic, state, federal, or other K-12 education research repositories;
 - (iv) K-12 education research and policy briefs generated by Utah public and private institutions of higher education, including participating institutions, categorized and searchable by topic;
 - (v) access points to and explanation of currently available K-12 education data, including data managed by the Utah Data Research Center created in Section 53B-33-201 and data maintained by the state board;
 - (vi) other K-12 education information as determined by the director, including information regarding efforts by institutions or other individuals to promote innovative and effective education practices in Utah; and
 - (vii) each innovative practice report prepared by ULEAD, categorized and searchable by topic, location of the studied LEA, and socioeconomic and demographic profile.
- (3) The director shall publish:
 - (a) as identified in ULEAD research and reports, an electronic directory of:
 - (i) K-12 education experts; and
 - (ii) LEAs described in Subsection 53E-10-703(5)(b); and
 - (b) a monthly report to LEAs, via electronic channels provided by the state board, highlighting ULEAD activities and soliciting proposals from education practitioners for ULEAD research and reports.
- (4) The director may provide electronic seminars or forums for professional learning regarding subjects of ULEAD research and reports to K-12 practitioners.

Amended by Chapter 401, 2022 General Session

Amended by Chapter 461, 2022 General Session

53E-10-707 ULEAD Steering Committee.

- (1)
 - (a) There is created the ULEAD Steering Committee.
 - (b) The member described in Subsection (2)(b) and the member described in Subsection (2)(e) are the co-chairs of the steering committee.
- (2) The steering committee shall consist of the following members each appointed for a term of two years:
 - (a) the director;
 - (b) one member of the state board appointed by the chair of the state board;
 - (c) the state superintendent or the state superintendent's designee;
 - (d) the staff director of the State Charter School Board or the director's designee;
 - (e) one member appointed by the office of the governor;
 - (f) one member, appointed by the director, who is a superintendent of a school district;

- (g) one member, appointed by the director, of a local school board;
 - (h) two principals or other public school leaders of public schools that are not charter schools, appointed by the director;
 - (i) one principal or other public school leader of charter schools, appointed by the director;
 - (j) two educators who hold a current license under Chapter 6, Education Professional Licensure, nominated by LEA leaders and appointed by the director; and
 - (k) one member representing citizens or business, nominated by the members of the public and appointed by the director.
- (3)
- (a) A member of the steering committee may be appointed for more than one term.
 - (b) If a midterm vacancy occurs on the steering committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.
- (4)
- (a) The steering committee shall hold a meeting at least quarterly on dates chosen by the co-chairs, in consultation with the director.
 - (b) The state board shall provide physical space for the steering committee to meet, or a means to participate in a meeting remotely.
- (5) The steering committee shall:
- (a) discuss prospective and current ULEAD projects and findings;
 - (b) consult with and make recommendations to the director to prioritize ULEAD reports and areas of focused research;
 - (c) facilitate connections between the director and Utah's political, business, education technology, and academic communities;
 - (d) make recommendations to improve gathering, retaining, and disseminating education data and research and evaluation findings for use by participating institutions and other education policy researchers, including data managed by the Utah Data Research Center created in Section 53B-33-201; and
 - (e) annually vote on and establish steering committee priorities for ULEAD.
- (6) In order to determine research priorities for ULEAD, the director shall consult with:
- (a) members of the Legislature responsible for public education;
 - (b) members of Utah professional education associations, including principals and LEA governing board members; and
 - (c) policy-research centers based in Utah.
- (7) The state board or state superintendent may request that the director arrange with a participating institution to prepare a report on a specific LEA or area of practice meeting the criteria established in this part.
- (8) A member of the steering committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.
- (9) The steering committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 401, 2022 General Session

Amended by Chapter 461, 2022 General Session

