

**Effective 1/24/2018**

**Title 53G. Public Education System -- Local Administration**

**Chapter 1  
Title Provisions**

**Part 1  
General Provisions**

**53G-1-101 Title.**

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

Enacted by Chapter 3, 2018 General Session

**53G-1-102 Public education code definitions.**

The terms defined in Section 53E-1-102 apply to this title.

Enacted by Chapter 3, 2018 General Session

**53G-1-103 Definitions.**

As used in this title, "electronic cigarette product" means the same as that term is defined in Section 76-10-101.

Amended by Chapter 161, 2020 General Session

Amended by Chapter 161, 2020 General Session, (Coordination Clause)

**Chapter 2  
Local Public Education System Policy**

**Part 1  
General Provisions**

**53G-2-101 Title.**

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

Enacted by Chapter 3, 2018 General Session

**53G-2-102 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

## **Chapter 3 School District Creation and Change**

### **Part 1 General Provisions**

#### **53G-3-101 Title.**

This chapter is known as "School District Creation and Change."

Enacted by Chapter 3, 2018 General Session

#### **53G-3-102 Definitions.**

As used in this chapter:

- (1) "Allocation date" means:
  - (a) June 20 of the second calendar year after the local school board general election date described in Subsection 53G-3-302(3)(a)(i); or
  - (b) another date that the transition teams under Section 53G-3-302 mutually agree to.
- (2) "Canvass date" means the date of the canvass of an election under Subsection 53G-3-301(5) at which voters approve the creation of a new school district under Section 53G-3-302.
- (3) "Consolidation" means the merger of two or more school districts into a single administrative unit.
- (4) "Creation election date" means the date of the election under Subsection 53G-3-301(9) at which voters approve the creation of a new school district under Section 53G-3-302.
- (5) "Divided school district," "existing district," or "existing school district" means a school district from which a new district is created.
- (6) "New district" or "new school district" means a school district created under Section 53G-3-301 or 53G-3-302.
- (7) "Remaining district" or "remaining school district" means an existing district after the creation of a new district.
- (8) "Restructuring" means the transfer of territory from one school district to another school district.

Renumbered and Amended by Chapter 3, 2018 General Session

### **Part 2 Miscellaneous Provisions**

#### **53G-3-201 School districts.**

School districts may be created, merged, dissolved, or their boundaries changed only as provided in this chapter.

Renumbered and Amended by Chapter 3, 2018 General Session

#### **53G-3-202 School districts independent of municipal and county governments -- School district name -- Control of property.**

- (1)

- (a) Each school district shall be controlled by its local school board and shall be independent of municipal and county governments.
- (b) The name of each school district created after May 1, 2000, shall comply with Subsection 17-50-103(2)(a).
- (2) The local school board shall have direction and control of all school property in the district.
- (3)
  - (a) Each school district shall register and maintain the school district's registration as a limited purpose entity, in accordance with Section 67-1a-15.
  - (b) A school district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Amended by Chapter 293, 2019 General Session

**53G-3-203 Filing of notice and plat relating to school district boundary changes including creation, consolidation, division, or dissolution -- Recording requirements -- Effective date.**

- (1) The county legislative body shall:
  - (a) within 30 days after the creation, consolidation, division, or dissolution of a school district, file with the lieutenant governor:
    - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
    - (ii) except in the case of a dissolution, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
  - (b) upon the lieutenant governor's issuance of a certificate of boundary action under Section 67-1a-6.5:
    - (i) if the school district is or, in the case of dissolution, was located within the boundary of a single county, submit to the recorder of that county:
      - (A) the original:
        - (I) notice of an impending boundary action;
        - (II) certificate of boundary action; and
        - (III) except in the case of dissolution, approved final local entity plat; and
      - (B) if applicable, a certified copy of the resolution approving the boundary action; or
    - (ii) if the school district is or, in the case of a dissolution, was located within the boundaries of more than a single county:
      - (A) submit to the recorder of one of those counties:
        - (I) the original of the documents listed in Subsections (1)(b)(i)(A)(I), (II), and (III); and
        - (II) if applicable, a certified copy of the resolution approving the boundary action; and
      - (B) submit to the recorder of each other county:
        - (I) a certified copy of the documents listed in Subsections (1)(b)(i)(A)(I), (II), and (III); and
        - (II) if applicable, a certified copy of the resolution approving the boundary action.
- (2)
  - (a) Upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the creation, consolidation, division, dissolution, or other change affecting the boundary of a new or existing school district that was the subject of the action has legal effect.
  - (b)
    - (i) As used in this Subsection (2)(b), "affected area" means:
      - (A) in the case of the creation of a school district, the area within the school district's boundary;

- (B) in the case of the consolidation of multiple school districts, the area within the boundary of each school district that is consolidated into another school district;
  - (C) in the case of the division of a school district, the area within the boundary of the school district created by the division; and
  - (D) in the case of an addition to an existing school district, the area added to the school district.
- (ii) The effective date of a boundary action, as defined in Section 17-23-20, for purposes of assessing property within the school district is governed by Section 59-2-305.5.
  - (iii) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of each county in which the property is located, a school district may not levy or collect a property tax on property within the affected area.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-3-204 Notice before preparing or amending a long-range plan or acquiring certain property.**

(1) As used in this section:

- (a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:
  - (i) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or
  - (ii) that has filed with the school district a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.
- (b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2)

- (a) If a school district located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the school district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.
- (b) Each notice under Subsection (2)(a) shall:
  - (i) indicate that the school district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;
  - (ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;
  - (iii) be:
    - (A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;
    - (B) sent to each affected entity;
    - (C) sent to the Automated Geographic Reference Center created in Section 63F-1-506;
    - (D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

- (E) placed on the Utah Public Notice Website created under Section 63F-1-701;
  - (iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii) (A) and affected entities, invite them to provide information for the school district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:
    - (A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and
    - (B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and
  - (v) include the address of an Internet website, if the school district has one, and the name and telephone number of a person where more information can be obtained concerning the school district's proposed long-range plan or amendments to a long-range plan.
- (3)
- (a) Except as provided in Subsection (3)(d), each school district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:
    - (i) the anticipated use of the property under the county or municipality's general plan; or
    - (ii) the property's current zoning designation.
  - (b) Each notice under Subsection (3)(a) shall:
    - (i) indicate that the school district intends to acquire real property;
    - (ii) identify the real property; and
    - (iii) be sent to:
      - (A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and
      - (B) each affected entity.
  - (c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).
  - (d)
    - (i) The notice requirement of Subsection (3)(a) does not apply if the school district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.
    - (ii) If a school district is not required to comply with the notice requirement of Subsection (3) (a) because of application of Subsection (3)(d)(i), the school district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-3-205 Rights of transferred employees -- Salary during first year -- Leave and tenure benefits.**

- (1) If a school employee is transferred from one district to another because of district consolidation or restructuring, the employee's salary may not be less, during the first year after the transfer, than it would have been had the transfer not taken place.
- (2) The district to which an employee is transferred under Subsection (1) shall credit the employee with all accumulated leave and tenure recognized by the district from which the employee was transferred.
- (3) If the district to which an employee is transferred does not have a leave benefit which reasonably corresponds to one the employee seeks to transfer, that district shall compensate

the employee for the benefit on the same basis as would have been done had the employee retired.

Renumbered and Amended by Chapter 3, 2018 General Session

### **Part 3 Creating a New School District**

#### **53G-3-301 Creation of new school district -- Initiation of process -- Procedures to be followed.**

- (1) A new school district may be created from one or more existing school districts, as provided in this section.
- (2) The process to create a new school district may be initiated:
  - (a) through a citizens' initiative petition;
  - (b) at the request of the local school board of the existing district or districts to be affected by the creation of the new district; or
  - (c) at the request of a city within the boundaries of the school district or at the request of interlocal agreement participants, pursuant to Section 53G-3-302.
- (3)
  - (a) An initiative petition submitted under Subsection (2)(a) shall be signed by qualified electors residing within the geographical boundaries of the proposed new school district in an amount equal to at least 15% of all votes cast within the geographic boundaries of the proposed new school district for all candidates for president of the United States at the last regular general election at which a president of the United States was elected.
  - (b) Each request or petition submitted under Subsection (2) shall:
    - (i) be filed with the clerk of each county in which any part of the proposed new school district is located;
    - (ii) indicate the typed or printed name and current residence address of each governing board member making a request, or registered voter signing a petition, as the case may be;
    - (iii) describe the proposed new school district boundaries; and
    - (iv) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each.
  - (c) The process described in Subsection (2)(a) may only be initiated once during any four-year period.
  - (d) A new district may not be formed under Subsection (2) if the student population of the proposed new district is less than 3,000 or the existing district's student population would be less than 3,000 because of the creation of the new school district.
- (4) A signer of a petition described in Subsection (2)(a) may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the petition by filing a written request for withdrawal or reinstatement with the county clerk.
- (5) Within 45 days after the day on which a petition described in Subsection (2)(a) is filed, or five business days after the day on which a request described in Subsection (2)(b) or (c) is filed, the clerk of each county with which the request or petition is filed shall:
  - (a) determine whether the request or petition complies with Subsections (2) and (3), as applicable; and
  - (b)

- (i) if the county clerk determines that the request or petition complies with the applicable requirements:
    - (A) certify the request or petition and deliver the certified request or petition to the county legislative body; and
    - (B) mail or deliver written notification of the certification to the contact sponsor; or
  - (ii) if the county clerk determines that the request or petition fails to comply with any of the applicable requirements, reject the request or petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.
- (6)
- (a) If the county clerk fails to certify or reject a request or petition within the time specified in Subsection (5), the request or petition is considered to be certified.
  - (b)
    - (i) If the county clerk rejects a request or petition, the person that submitted the request or petition may amend the request or petition to correct the deficiencies for which the request or petition was rejected, and refile the request or petition.
    - (ii) Subsection (3)(c) does not apply to a request or petition that is amended and refiled after having been rejected by a county clerk.
  - (c) If, on or before December 1, a county legislative body receives a request from a local school board under Subsection (2)(b) or a petition under Subsection (2)(a) that is certified by the county clerk:
    - (i) the county legislative body shall appoint an ad hoc advisory committee, as provided in Subsection (7), on or before January 1;
    - (ii) the ad hoc advisory committee shall submit its report and recommendations to the county legislative body, as provided in Subsection (7), on or before July 1; and
    - (iii) if the legislative body of each county with which a request or petition is filed approves a proposal to create a new district, each legislative body shall submit the proposal to the respective county clerk to be voted on by the electors of each existing district at the regular general or municipal general election held in November.
- (7)
- (a) The legislative body of each county with which a request or petition is filed shall appoint an ad hoc advisory committee to review and make recommendations on a request for the creation of a new school district submitted under Subsection (2)(a) or (b).
  - (b) The advisory committee shall:
    - (i) seek input from:
      - (A) those requesting the creation of the new school district;
      - (B) the local school board and school personnel of each existing school district;
      - (C) those citizens residing within the geographical boundaries of each existing school district;
      - (D) the state board; and
      - (E) other interested parties;
    - (ii) review data and gather information on at least:
      - (A) the financial viability of the proposed new school district;
      - (B) the proposal's financial impact on each existing school district;
      - (C) the exact placement of school district boundaries; and
      - (D) the positive and negative effects of creating a new school district and whether the positive effects outweigh the negative if a new school district were to be created; and
    - (iii) make a report to the county legislative body in a public meeting on the committee's activities, together with a recommendation on whether to create a new school district.
- (8) For a request or petition submitted under Subsection (2)(a) or (b):

- (a) The county legislative body shall provide for a 45-day public comment period on the report and recommendation to begin on the day the report is given under Subsection (7)(b)(iii).
  - (b) Within 14 days after the end of the comment period, the legislative body of each county with which a request or petition is filed shall vote on the creation of the proposed new school district.
  - (c) The proposal is approved if a majority of the members of the legislative body of each county with which a request or petition is filed votes in favor of the proposal.
  - (d) If the proposal is approved, the legislative body of each county with which a request or petition is filed shall submit the proposal to the county clerk to be voted on:
    - (i) by the legal voters of each existing school district affected by the proposal;
    - (ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and
    - (iii) at the next regular general election or municipal general election, whichever is first.
  - (e) Creation of the new school district shall occur if a majority of the electors within both the proposed school district and each remaining school district voting on the proposal vote in favor of the creation of the new district.
  - (f) Each county legislative body shall comply with the requirements of Section 53G-3-203.
  - (g) If a proposal submitted under Subsection (2)(a) or (b) to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.
- (9)
- (a) If a proposal submitted under Subsection (2)(c) is certified under Subsection (5) or (6)(a), the legislative body of each county in which part of the proposed new school district is located shall submit the proposal to the respective clerk of each county to be voted on:
    - (i) by the legal voters residing within the proposed new school district boundaries;
    - (ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and
    - (iii) at the next regular general election or municipal general election, whichever is first.
  - (b)
    - (i) If a majority of the legal voters within the proposed new school district boundaries voting on the proposal at an election under Subsection (9)(a) vote in favor of the creation of the new district:
      - (A) each county legislative body shall comply with the requirements of Section 53G-3-203; and
      - (B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the new district is created.
    - (ii) Notwithstanding the creation of a new district as provided in Subsection (9)(b)(i)(B):
      - (A) a new school district may not begin to provide educational services to the area within the new district until July 1 of the second calendar year following the local school board general election date described in Subsection 53G-3-302(3)(a)(i);
      - (B) a remaining district may not begin to provide educational services to the area within the remaining district until the time specified in Subsection (9)(b)(ii)(A); and
      - (C) each existing district shall continue, until the time specified in Subsection (9)(b)(ii)(A), to provide educational services within the entire area covered by the existing district.

Amended by Chapter 293, 2019 General Session



**53G-3-302 Proposal initiated by a city or by interlocal agreement participants to create a school district -- Boundaries -- Election of local school board members -- Allocation of assets and liabilities -- Startup costs -- Transfer of title.**

- (1)
  - (a) After conducting a feasibility study, a city with a population of at least 50,000, as determined by the lieutenant governor using the process described in Subsection 67-1a-2(3), may by majority vote of the legislative body, submit for voter approval a measure to create a new school district with boundaries contiguous with that city's boundaries, in accordance with Section 53G-3-301.
  - (b)
    - (i) The determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study under Subsection (1)(a) is within the exclusive discretion of the city's legislative body.
    - (ii) An inadequacy of a feasibility study under Subsection (1)(a) may not be the basis of a legal action or other challenge to:
      - (A) an election for voter approval of the creation of a new school district; or
      - (B) the creation of the new school district.
- (2)
  - (a) By majority vote of the legislative body, a city of any class, a town, or a county, may, together with one or more other cities, towns, or the county enter into an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose of submitting for voter approval a measure to create a new school district.
  - (b)
    - (i) In accordance with Section 53G-3-301, interlocal agreement participants under Subsection (2)(a) may submit a proposal for voter approval if:
      - (A) the interlocal agreement participants conduct a feasibility study prior to submitting the proposal to the county;
      - (B) the combined population within the proposed new school district boundaries is at least 50,000;
      - (C) the new school district boundaries:
        - (I) are contiguous;
        - (II) do not completely surround or otherwise completely geographically isolate a portion of an existing school district that is not part of the proposed new school district from the remaining part of that existing school district, except as provided in Subsection (2)(d)(iii);
        - (III) include the entire boundaries of each participant city or town, except as provided in Subsection (2)(d)(ii); and
        - (IV) subject to Subsection (2)(b)(ii), do not cross county lines; and
      - (D) the combined population within the proposed new school district of interlocal agreement participants that have entered into an interlocal agreement proposing to create a new school district is at least 80% of the total population of the proposed new school district.
    - (ii) The determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study under Subsection (2)(b)(i)(A), including whether to conduct a new feasibility study or revise a previous feasibility study due to a change in the proposed new school district boundaries, is within the exclusive discretion of the legislative bodies of the interlocal agreement participants that enter into an interlocal agreement to submit for voter approval a measure to create a new school district.
    - (iii) An inadequacy of a feasibility study under Subsection (2)(b)(i)(A) may not be the basis of a legal action or other challenge to:

- (A) an election for voter approval of the creation of a new school district; or
- (B) the creation of the new school district.
- (iv) For purposes of determining whether the boundaries of a proposed new school district cross county lines under Subsection (2)(b)(i)(C)(IV):
  - (A) a municipality located in more than one county and entirely within the boundaries of a single school district is considered to be entirely within the same county as other participants in an interlocal agreement under Subsection (2)(a) if more of the municipality's land area and population is located in that same county than outside the county; and
  - (B) a municipality located in more than one county that participates in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries on the basis of the exception stated in Subsection (2)(d)(ii)(B) may not be considered to cross county lines.
- (c)
  - (i) A county may only participate in an interlocal agreement under this Subsection (2) for the unincorporated areas of the county.
  - (ii) Boundaries of a new school district created under this section may include:
    - (A) a portion of one or more existing school districts; and
    - (B) a portion of the unincorporated area of a county, including a portion of a township.
- (d)
  - (i) As used in this Subsection (2)(d):
    - (A) "Isolated area" means an area that:
      - (I) is entirely within the boundaries of a municipality that, except for that area, is entirely within a school district different than the school district in which the area is located; and
      - (II) would, because of the creation of a new school district from the existing district in which the area is located, become completely geographically isolated.
    - (B) "Municipality's school district" means the school district that includes all of the municipality in which the isolated area is located except the isolated area.
  - (ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries if:
    - (A) the portion of the municipality proposed to be included in the new school district would, if not included, become an isolated area upon the creation of the new school district; or
    - (B)
      - (I) the portion of the municipality proposed to be included in the new school district is within the boundaries of the same school district that includes the other interlocal agreement participants; and
      - (II) the portion of the municipality proposed to be excluded from the new school district is within the boundaries of a school district other than the school district that includes the other interlocal agreement participants.
  - (iii)
    - (A) Notwithstanding Subsection (2)(b)(i)(C)(II), a proposal to create a new school district may be submitted for voter approval pursuant to an interlocal agreement under Subsection (2)(a), even though the new school district boundaries would create an isolated area, if:
      - (I) the potential isolated area is contiguous to one or more of the interlocal agreement participants;
      - (II) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal

- agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to create a new school district that includes the potential isolated area; and
- (III) 90 days after a request under Subsection (2)(d)(iii)(A)(II) is submitted, the municipality has not entered into an interlocal agreement as requested in the request.
- (B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold one or more public hearings to allow input from the public and affected school districts regarding whether or not the municipality should enter into an interlocal agreement with respect to the potential isolated area.
- (C)
- (I) This Subsection (2)(d)(iii)(C) applies if:
- (Aa) a new school district is created under this section after a measure is submitted to voters based on the authority of Subsection (2)(d)(iii)(A); and
- (Bb) the creation of the new school district results in an isolated area.
- (II) The isolated area shall, on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), become part of the municipality's school district.
- (III) Unless the isolated area is the only remaining part of the existing district, the process described in Subsection (4) shall be modified to:
- (Aa) include a third transition team, appointed by the local school board of the municipality's school district, to represent that school district; and
- (Bb) require allocation of the existing district's assets and liabilities among the new district, the remaining district, and the municipality's school district.
- (IV) The existing district shall continue to provide educational services to the isolated area until July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i).
- (3)
- (a) If a proposal under this section is approved by voters:
- (i) an election shall be held at the next regular general election to elect:
- (A) members to the local school board of the existing school district whose terms are expiring;
- (B) all members to the local school board of the new school district; and
- (C) all members to the local school board of the remaining district;
- (ii) the assets and liabilities of the existing school district shall be divided between the remaining school district and the new school district as provided in Subsection (5) and Section 53G-3-307;
- (iii) transferred employees shall be treated in accordance with Sections 53G-3-205 and 53G-3-308;
- (iv)
- (A) an individual residing within the boundaries of a new school district at the time the new school district is created may, for six school years after the creation of the new school district, elect to enroll in a secondary school located outside the boundaries of the new school district if:
- (I) the individual resides within the boundaries of that secondary school as of the day before the new school district is created; and
- (II) the individual would have been eligible to enroll in that secondary school had the new school district not been created; and
- (B) the school district in which the secondary school is located shall provide educational services, including, if provided before the creation of the new school district, busing, to

each individual making an election under Subsection (3)(a)(iv)(A) for each school year for which the individual makes the election; and

- (v) within one year after the new district begins providing educational services, the superintendent of each remaining district affected and the superintendent of the new district shall meet, together with the state superintendent, to determine if further boundary changes should be proposed in accordance with Section 53G-3-501.
- (b)
- (i) The terms of the initial members of the local school board of the new district and remaining district shall be staggered and adjusted by the county legislative body so that approximately half of the local school board is elected every two years.
  - (ii) The term of a member of the existing local school board, including a member elected under Subsection (3)(a)(i)(A), terminates on July 1 of the second year after the local school board general election date described in Subsection (3)(a)(i), regardless of when the term would otherwise have terminated.
  - (iii) Notwithstanding the existence of a local school board for the new district and a local school board for the remaining district under Subsection (3)(a)(i), the local school board of the existing district shall continue, until the time specified in Subsection 53G-3-301(9)(b)(ii) (A), to function and exercise authority as a local school board to the extent necessary to continue to provide educational services to the entire existing district.
  - (iv) An individual may simultaneously serve as or be elected to be a member of the local school board of an existing district and a member of the local school board of:
    - (A) a new district; or
    - (B) a remaining district.
- (4)
- (a) Within 45 days after the canvass date for the election at which voters approve the creation of a new district:
    - (i) a transition team to represent the remaining district shall be appointed by the members of the existing local school board who reside within the area of the remaining district, in consultation with:
      - (A) the legislative bodies of all municipalities in the area of the remaining district; and
      - (B) the legislative body of the county in which the remaining district is located, if the remaining district includes one or more unincorporated areas of the county; and
    - (ii) another transition team to represent the new district shall be appointed by:
      - (A) for a new district located entirely within the boundaries of a single city, the legislative body of that city; or
      - (B) for each other new district, the legislative bodies of all interlocal agreement participants.
  - (b) The local school board of the existing school district shall, within 60 days after the canvass date for the election at which voters approve the creation of a new district:
    - (i) prepare an inventory of the existing district's:
      - (A) assets, both tangible and intangible, real and personal; and
      - (B) liabilities; and
    - (ii) deliver a copy of the inventory to each of the transition teams.
  - (c) The transition teams appointed under Subsection (4)(a) shall:
    - (i) determine the allocation of the existing district's assets and, except for indebtedness under Section 53G-3-307, liabilities between the remaining district and the new district in accordance with Subsection (5);
    - (ii) prepare a written report detailing how the existing district's assets and, except for indebtedness under Section 53G-3-307, liabilities are to be allocated; and

- (iii) deliver a copy of the written report to:
  - (A) the local school board of the existing district;
  - (B) the local school board of the remaining district; and
  - (C) the local school board of the new district.
- (d) The transition teams shall determine the allocation under Subsection (4)(c)(i) and deliver the report required under Subsection (4)(c)(ii) before August 1 of the year following the election at which voters approve the creation of a new district, unless that deadline is extended by the mutual agreement of:
  - (i) the local school board of the existing district; and
  - (ii)
    - (A) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or
    - (B) the legislative bodies of all interlocal agreement participants, for each other new district.
- (e)
  - (i) All costs and expenses of the transition team that represents a remaining district shall be borne by the remaining district.
  - (ii) All costs and expenses of the transition team that represents a new district shall initially be borne by:
    - (A) the city whose legislative body appoints the transition team, if the transition team is appointed by the legislative body of a single city; or
    - (B) the interlocal agreement participants, if the transition team is appointed by the legislative bodies of interlocal agreement participants.
  - (iii) The new district may, to a maximum of \$500,000, reimburse the city or interlocal agreement participants for:
    - (A) transition team costs and expenses; and
    - (B) startup costs and expenses incurred by the city or interlocal agreement participants on behalf of the new district.
- (5)
  - (a) As used in this Subsection (5):
    - (i) "Associated property" means furniture, equipment, or supplies located in or specifically associated with a physical asset.
    - (ii)
      - (A) "Discretionary asset or liability" means, except as provided in Subsection (5)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or employee by law or school district accounting practice.
      - (B) "Discretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.
    - (iii)
      - (A) "Nondiscretionary asset or liability" means, except as provided in Subsection (5)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee by law or school district accounting practice.
      - (B) "Nondiscretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.
    - (iv) "Physical asset" means a building, land, or water right together with revenue derived from the lease or use of the building, land, or water right.
  - (b) Except as provided in Subsection (5)(c), the transition teams appointed under Subsection (4) (a) shall allocate all assets and liabilities the existing district owns on the allocation date, both tangible and intangible, real and personal, to the new district and remaining district as follows:

- (i) a physical asset and associated property shall be allocated to the school district in which the physical asset is located;
  - (ii) a discretionary asset or liability shall be allocated between the new district and remaining district in proportion to the student populations of the school districts;
  - (iii) a nondiscretionary asset shall be allocated to the school district where the project, school, student, or employee to which the nondiscretionary asset is tied will be located;
  - (iv) vehicles used for pupil transportation shall be allocated:
    - (A) according to the transportation needs of schools, as measured by the number and assortment of vehicles used to serve transportation routes serving schools within the new district and remaining district; and
    - (B) in a manner that gives each school district a fleet of vehicles for pupil transportation that is equivalent in terms of age, condition, and variety of carrying capacities; and
  - (v) other vehicles shall be allocated:
    - (A) in proportion to the student populations of the school districts; and
    - (B) in a manner that gives each district a fleet of vehicles that is similar in terms of age, condition, and carrying capacities.
  - (c) By mutual agreement, the transition teams may allocate an asset or liability in a manner different than the allocation method specified in Subsection (5)(b).
- (6)
- (a) As used in this Subsection (6):
    - (i) "New district startup costs" means:
      - (A) costs and expenses incurred by a new district in order to prepare to begin providing educational services on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i); and
      - (B) the costs and expenses of the transition team that represents the new district.
    - (ii) "Remaining district startup costs" means:
      - (A) costs and expenses incurred by a remaining district in order to:
        - (I) make necessary adjustments to deal with the impacts resulting from the creation of the new district; and
        - (II) prepare to provide educational services within the remaining district once the new district begins providing educational services within the new district; and
      - (B) the costs and expenses of the transition team that represents the remaining district.
  - (b)
    - (i) By January 1 of the year following the local school board general election date described in Subsection (3)(a)(i), the existing district shall make half of the undistributed reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the remaining district and the new district, as provided in this Subsection (6).
    - (ii) The existing district may make additional funds available for the use of the remaining district and the new district beyond the amount specified in Subsection (6)(b)(i) through an interlocal agreement.
  - (c) The existing district shall make the money under Subsection (6)(b) available to the remaining district and the new district proportionately based on student population.
  - (d) The money made available under Subsection (6)(b) may be accessed and spent by:
    - (i) for the remaining district, the local school board of the remaining district; and
    - (ii) for the new district, the local school board of the new district.
  - (e)
    - (i) The remaining district may use its portion of the money made available under Subsection (6)(b) to pay for remaining district startup costs.

- (ii) The new district may use its portion of the money made available under Subsection (6)(b) to pay for new district startup costs.
- (7)
- (a) The existing district shall transfer title or, if applicable, partial title of property to the new school district in accordance with the allocation of property by the transition teams, as stated in the report under Subsection (4)(c)(ii).
  - (b) The existing district shall complete each transfer of title or, if applicable, partial title to real property and vehicles by July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), except as that date is changed by the mutual agreement of:
    - (i) the local school board of the existing district;
    - (ii) the local school board of the remaining district; and
    - (iii) the local school board of the new district.
  - (c) The existing district shall complete the transfer of all property not included in Subsection (7)(b) by November 1 of the second calendar year after the local school board general election date described in Subsection (3)(a)(i).
- (8) Except as provided in Subsections (6) and (7), after the creation election date an existing school district may not transfer or agree to transfer title to district property without the prior consent of:
- (a) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or
  - (b) the legislative bodies of all interlocal agreement participants, for each other new district.
- (9) This section does not apply to the creation of a new district initiated through a citizens' initiative petition or at the request of a local school board under Section 53G-3-301.

Amended by Chapter 293, 2019 General Session

**53G-3-303 New school district property tax -- Limitations.**

- (1)
- (a) A new school district created under Section 53G-3-302 may not impose a property tax prior to the fiscal year in which the new school district assumes responsibility for providing student instruction.
  - (b) The remaining school district retains authority to impose property taxes on the existing school district, including the territory of the new school district, until the fiscal year in which the new school district assumes responsibility for providing student instruction.
- (2)
- (a) If at the time a new school district created pursuant to Section 53G-3-302 assumes responsibility for student instruction any portion of the territory within the new school district was subject to a levy pursuant to Section 53F-8-301, the new school district's board may:
    - (i) discontinue the levy for the new school district;
    - (ii) impose a levy on the new school district as provided in Section 53F-8-301; or
    - (iii) impose the levy on the new school district, subject to Subsection (2)(b).
  - (b) If the new school district's board applies a levy to the new school district pursuant to Subsection (2)(a)(iii), the levy may not exceed the maximum duration or rate authorized by the voters of the existing district or districts at the time of the vote to create the new school district.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-3-304 Property tax levies in new district and remaining district -- Distribution of property tax revenue.**

- (1) Notwithstanding terms defined in Section 53G-3-102, as used in this section:
  - (a) "Divided school district" or "existing district" means a school district from which a new district is created.
  - (b) "New district" means a school district created under Section 53G-3-302 after May 10, 2011.
  - (c) "Property tax levy" means a property tax levy that a school district is authorized to impose, except:
    - (i) the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable;
    - (ii) a debt service levy imposed under Section 11-14-310; or
    - (iii) a judgment levy imposed under Section 59-2-1330.
  - (d) "Qualifying taxable year" means the calendar year in which a new district begins to provide educational services.
  - (e) "Remaining district" means an existing district after the creation of a new district.
- (2) A new district and remaining district shall continue to impose property tax levies that were imposed by the divided school district in the taxable year prior to the qualifying taxable year.
- (3) Except as provided in Subsection (6), a property tax levy that a new district and remaining district are required to impose under Subsection (2) shall be set at a rate that:
  - (a) is uniform in the new district and remaining district; and
  - (b) generates the same amount of revenue that was generated by the property tax levy within the divided school district in the taxable year prior to the qualifying taxable year.
- (4) The county treasurer of the county in which a property tax levy is imposed under Subsection (2) shall distribute revenues generated by the property tax levy to the new district and remaining district in proportion to the percentage of the divided school district's enrollment on the October 1 prior to the new district commencing educational services that were enrolled in schools currently located in the new district or remaining district.
- (5) On or before March 31, a county treasurer shall distribute revenues generated by a property tax levy imposed under Subsection (2) in the prior calendar year to a new district and remaining district as provided in Subsection (4).
- (6)
  - (a) Subject to the notice and public hearing requirements of Section 59-2-919, a new district or remaining district may set a property tax rate higher than the rate required by Subsection (3), up to:
    - (i) the maximum rate, if any, allowed by law; or
    - (ii) the maximum rate authorized by voters for a voted local levy under Section 53F-8-301.
  - (b) The revenues generated by the portion of a property tax rate in excess of the rate required by Subsection (3) shall be retained by the district that imposes the higher rate.

Renumbered and Amended by Chapter 3, 2018 General Session  
Amended by Chapter 281, 2018 General Session  
Amended by Chapter 456, 2018 General Session

**53G-3-305 Reapportionment -- Local school board membership.**

- (1) Upon the creation of a new school district, the county legislative body shall reapportion the affected school districts pursuant to Section 20A-14-201.



- (2) Except as provided in Section 53G-3-302, local school board membership in the affected school districts shall be determined under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

Amended by Chapter 293, 2019 General Session

**53G-3-306 Transfer of school property to new school district.**

- (1)
- (a)
- (i) On July 1 of the year following the local school board elections for a new district created pursuant to a citizens' initiative petition or local school board request under Section 53G-3-301 and an existing district as provided in Section 53G-3-305, the local school board of the existing district shall convey and deliver to the local school board of the new district all school property which the new district is entitled to receive.
- (ii) Any disagreements as to the disposition of school property shall be resolved by the county legislative body.
- (iii) Subsection (1)(a)(ii) does not apply to disagreements between transition teams about the proper allocation of property under Subsection 53G-3-302(4).
- (b) An existing district shall transfer property to a new district created under Section 53G-3-302 in accordance with Section 53G-3-302.
- (2) Title vests in the new local school board, including all rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property.
- (3) The new local school board may bring and maintain actions to recover, protect, and preserve the property and rights of the district's schools and to enforce contracts.

Amended by Chapter 293, 2019 General Session

**53G-3-307 Tax to pay for indebtedness of divided school district.**

- (1)
- (a) For a new district created prior to May 10, 2011, the local school boards of the remaining and new districts shall determine the portion of the divided school district's bonded indebtedness and other indebtedness for which the property within the new district remains subject to the levy of taxes to pay a proportionate share of the divided school district's outstanding indebtedness.
- (b) The proportionate share of the divided school district's outstanding indebtedness for which property within the new district remains subject to the levy of taxes shall be calculated by determining the proportion that the total assessed valuation of the property within the new district bears to the total assessed valuation of the divided school district:
- (i) in the year immediately preceding the date the new district was created; or
- (ii) at a time mutually agreed upon by the local school boards of the new district and the remaining district.
- (c) The agreement reflecting the determinations made under this Subsection (1) shall take effect upon being filed with the county legislative body and the state board.
- (2)
- (a) Except as provided in Subsection (2)(b), the local school board of a new district created prior to May 10, 2011, shall levy a tax on property within the new district sufficient to pay the new district's proportionate share of the indebtedness determined under Subsection (1).

- (b) If a new district has money available to pay the new district's proportionate share of the indebtedness determined under Subsection (1), the new district may abate a property tax to the extent of money available.
- (3) As used in Subsections (4) and (5), "outstanding bonded indebtedness" means debt owed for a general obligation bond issued by the divided school district:
  - (a) prior to the creation of the new district; or
  - (b) in accordance with a mutual agreement of the local school boards of the remaining and new districts under Subsection (6).
- (4) If a new district is created on or after May 10, 2011, property within the new district and the remaining district is subject to the levy of a tax to pay the divided school district's outstanding bonded indebtedness as provided in Subsection (5).
- (5)
  - (a) Except as provided in Subsection (5)(b), the local school board of the new district and the local school board of the remaining district shall impose a tax levy at a rate that:
    - (i) generates from the combined districts the amount of revenue required each year to meet the outstanding bonded indebtedness of the divided school district; and
    - (ii) is uniform within the new district and remaining district.
  - (b) A local school board of a new district may abate a property tax required to be imposed under Subsection (5)(a) to the extent the new district has money available to pay to the remaining district the amount of revenue that would be generated within the new district from the tax rate specified in Subsection (5)(a).
- (6)
  - (a) The local school boards of the remaining and new districts shall determine by mutual agreement the disposition of bonds approved but not issued by the divided school district before the creation of the new district based primarily on the representation made to the voters at the time of the bond election.
  - (b) Before a determination is made under Subsection (6)(a), a remaining district may not issue bonds approved but not issued before the creation of the new district if property in the new district would be subject to the levy of a tax to pay the bonds.

Amended by Chapter 293, 2019 General Session

**53G-3-308 Employees of a new district.**

- (1) Upon the creation of a new district:
  - (a) an employee of an existing district who is employed at a school that is transferred to the new district shall become an employee of the new district; and
  - (b) the local school board of the new district shall:
    - (i) have discretion in the hiring of all other staff;
    - (ii) adopt the personnel policies and practices of the existing district, including salary schedules and benefits; and
    - (iii) enter into agreements with employees of the new district, or their representatives, that have the same terms as those in the negotiated agreements between the existing district and its employees.
- (2)
  - (a) Subject to Subsection (2)(b), an employee of a school district from which a new district is created who becomes an employee of the new district shall retain the same status as a career or provisional employee with accrued seniority and accrued benefits.
  - (b) Subsection (2)(a) applies to:

- (i) employees of an existing district who are transferred to a new district pursuant to Subsection (1)(a); and
  - (ii) employees of a school district from which a new district is created who are hired by the new district within one year of the date of the creation of the new district.
- (3) An employee who is transferred to a new district pursuant to Subsection (1)(a) and is rehired by the existing district within one year of the date of the creation of the new district shall, when rehired by the existing district, retain the same status as a career or provisional employee with accrued seniority and accrued benefits.

Amended by Chapter 293, 2019 General Session

## **Part 4**

### **Consolidating School Districts**

#### **53G-3-401 Consolidation of school districts -- Resolution by local school board members -- Petition by electors -- Election.**

- (1) Two or more school districts may unite and form a single school district in one of the following ways:
- (a) a majority of the members of each of the local school boards of the affected districts shall approve and present to the county legislative body of the affected counties a resolution to consolidate the districts. Once this is done, consolidation shall be established under this chapter; or
  - (b) a majority of the members of the local school board of each affected district, or 15% of the qualified electors in each of the affected districts, shall sign and present a petition to the county legislative body of each affected county. The question shall be voted upon at an election called for that purpose, which shall be the next general or municipal election. Consolidation shall occur if a majority of those voting on the question in each district favor consolidation.
- (2) The elections required under Subsection (1)(b) shall be conducted and the returns canvassed as provided by election laws.

Amended by Chapter 293, 2019 General Session

#### **53G-3-402 Transfer of property to new school district -- Rights and obligations of new local school board -- Outstanding indebtedness -- Special tax.**

- (1) On July 1 following the approval of the creation of a new school district under Section 53G-3-401, the local school boards of the former districts shall convey and deliver all school property to the local school board of the new district. Title vests in the new local school board. All rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property vest at once in the new local school board.
- (2) The new local school board may bring and maintain actions to recover, protect, and preserve the property and rights of the district schools and to enforce contracts.
- (3) The new local school board shall assume and be liable for all outstanding debts and obligations of each of the former school districts.

- (4) All of the bonded indebtedness, outstanding debts, and obligations of a former district, which cannot be reasonably paid from the assets of the former district, shall be paid by a special tax levied by the new local school board as needed. The tax shall be levied upon the property within the former district which was liable for the indebtedness at the time of consolidation. If bonds are approved in the new district under Section 53G-4-603, the special tax shall be discontinued and the bonded indebtedness paid as any other bonded indebtedness of the new district.
- (5) Bonded indebtedness of a former district which has been refunded shall be paid in the same manner as that which the new district assumes under Section 53G-4-602.
- (6) State funds received by the new district under Section 53F-3-202 may be applied toward the payment of outstanding bonded indebtedness of a former district in the same proportion as the bonded indebtedness of the territory within the former district bears to the total bonded indebtedness of the districts combined.

Amended by Chapter 293, 2019 General Session

**53G-3-403 School district consolidation -- State funding of consolidated districts.**

When districts consolidate, payments made by the state under Title 53F, Public Education System -- Funding , shall continue for a period of five years from the date of consolidation on the same basis as if no consolidation had occurred. At the end of the five-year period, the consolidated district shall receive funding as a single district.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-3-404 Additional levies -- Local school board options to abolish or continue after consolidation.**

- (1) If a school district that has approved an additional levy under Section 53F-8-301 is consolidated with a district which does not have such a levy, the local school board of the consolidated district may choose to abolish the levy, or apply it in whole or in part to the entire consolidated district.
- (2) If the local school board chooses to apply any part of the levy to the entire district, the levy may continue in force for no more than three years, unless approved by the electors of the consolidated district in the manner set forth in Section 53F-8-301.

Amended by Chapter 293, 2019 General Session

**Part 5  
Restructuring a School District**

**53G-3-501 Transfer of a portion of a school district -- State board resolution -- Local school board petition -- Elector petition -- Transfer election.**

- (1) Part of a school district may be transferred to another district in one of the following ways:
  - (a) presentation to the county legislative body of each of the affected counties of a resolution requesting the transfer, approved by at least four-fifths of the members of the local school board of each affected school district;

- (b) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by a majority of the members of the local school board of each affected school district; or
  - (c) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by 15% of the qualified electors in each of the affected school districts within that county.
- (2)
- (a) If an annexation of property by a city would result in its residents being served by more than one school district, then the presidents of the affected local school boards shall meet within 60 days prior to the effective date of the annexation to determine whether it would be advisable to adjust school district boundaries to permit all residents of the expanded city to be served by a single school district.
  - (b) Upon conclusion of the meeting, the local school board presidents shall prepare a recommendation for presentation to their respective local school boards as soon as reasonably possible.
  - (c) The local school boards may then initiate realignment proceedings under Subsection (1)(a) or (b).
  - (d) If a local school board rejects realignment under Subsection (1)(a) or (b), the other local school board may initiate the following procedures by majority vote within 60 days of the vote rejecting realignment:
    - (i)
      - (A) within 30 days after a vote to initiate these procedures, each local school board shall appoint one member to a boundary review committee; or
      - (B) if the local school board becomes deadlocked in selecting the appointee under Subsection (2)(d)(i)(A), the local school board's chair shall make the appointment or serve as the appointee to the review committee.
    - (ii) The two local school board-appointed members of the committee shall meet and appoint a third member of the committee.
    - (iii) If the two local school board-appointed members are unable to agree on the appointment of a third member within 30 days after both are appointed, the state superintendent shall appoint the third member.
    - (iv) The committee shall meet as necessary to prepare recommendations concerning resolution of the realignment issue, and shall submit the recommendations to the affected local school boards within six months after the appointment of the third member of the committee.
    - (v) If a majority of the members of each local school board accepts the recommendation of the committee, or accepts the recommendation after amendment by the local school boards, then the accepted recommendation shall be implemented.
    - (vi) If the committee fails to submit its recommendation within the time allotted, or if one local school board rejects the recommendation, the affected local school boards may agree to extend the time for the committee to prepare an acceptable recommendation or either local school board may request the state board to resolve the question.
    - (vii) If the committee has submitted a recommendation which the state board finds to be reasonably supported by the evidence, the state board shall adopt the committee's recommendation.
    - (viii) The decision of the state board is final.
- (3)
- (a) The electors of each affected district shall vote on the transfer requested under Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general election.

- (b) The election shall be conducted and the returns canvassed as provided by election law.
- (c) A transfer is effected only if a majority of votes cast by the electors in both the proposed transferor district and in the proposed transferee district are in favor of the transfer.

Amended by Chapter 293, 2019 General Session

**53G-3-502 Transfer of school district property -- Indebtedness on transferred property.**

- (1) If a transfer of a portion of one school district to another school district is approved under Section 53G-3-501, the state superintendent and the superintendents and presidents of the local school boards of each of the affected school districts shall determine the basis for a transfer of all school property reasonably and fairly allocable to that portion being transferred.
- (2)
  - (a) Title to property transferred vests in the transferee local school board.
  - (b) The transfer of a school building that is in operation at the time of determination shall be made at the close of a fiscal year.
  - (c) The transfer of all other school property shall be made five days after approval of the transfer of territory under Section 53G-3-501.
- (3)
  - (a) The individuals referred to in Subsection (1) shall determine the portion of bonded indebtedness and other indebtedness of the transferor local school board for which the transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor local school board.
  - (b) This is done by:
    - (i) determining the amount of the outstanding bonded indebtedness and other indebtedness of the transferor local school board;
    - (ii) determining the total taxable value of the property of the transferor district and the taxable value of the property to be transferred; and
    - (iii) calculating the portion of the indebtedness of the transferor local school board for which the transferred portion retains liability.
- (4)
  - (a) The agreement reflecting these determinations takes effect upon being filed with the state board.
  - (b) The transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor local school board.
  - (c) The transferee local school board may assume the obligation to pay the proportionate share of the transferor local school board's indebtedness that has been determined under Subsection (3) to be the obligation of the transferred portion by the approval of a resolution by a majority of the qualified electors of the transferee school district at an election called and held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.
- (5) If the transferee school district assumes the obligation to pay this proportionate share of the transferor local school board's indebtedness, the transferee local school board shall levy a tax in the whole of the transferee district, including the transferred portion, sufficient to pay the assumed indebtedness, and shall turn over the proceeds of the tax to the business administrator of the transferor local school board.
- (6) If the transferee local school board does not assume this obligation, the transferee local school board shall levy a tax on the transferred territory sufficient to pay the proportionate share of the indebtedness determined under this section, and shall turn over the proceeds of the tax to the business administrator of the transferor local school board.

(7) For the purposes of school districts affected by repealed laws governing the annexation of an unincorporated area of a school district by a city which included what was formerly known as a city school district, transitions of unincorporated areas and property from the transferor district to the transferee district in progress on the effective date of this act shall revert to the boundaries and ownership prior to the initiation of annexation and may then proceed under this section and Section 53G-3-501.

Amended by Chapter 293, 2019 General Session

**53G-3-503 Additional levies in transferred territory -- Transferee local school board option to abolish or continue.**

If two or more districts undergo restructuring that results in a district receiving territory that increases the population of the district by at least 25%, and if the transferred territory was, at the time of transfer, subject to an additional levy under Section 53F-8-301, the local school board of the transferee district may abolish the levy or apply the levy in whole or in part to the entire restructured district. Any such levy made applicable to the entire district may continue in force for no more than five years, unless approved by the electors of the restructured district in the manner set forth in Section 53F-8-301.

Amended by Chapter 293, 2019 General Session

**Chapter 4  
School Districts**

**Part 1  
General Provisions**

**53G-4-101 Title.**

This chapter is known as "School Districts."

Enacted by Chapter 3, 2018 General Session

**53G-4-102 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

**Part 2  
Local School Board Organization and Meetings**

**53G-4-201 Selection and election of members to local school boards.**

Members of local school boards shall be elected as provided in Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

Amended by Chapter 293, 2019 General Session

**53G-4-202 Local school board meetings -- Rules of order and procedure -- Location requirements -- Expulsion of members prohibited -- Exceptions.**

(1) As used in this section:

(a) "Disaster" means an event that:

- (i) causes, or threatens to cause, loss of life, human suffering, public or private property damage, or economic or social disruption resulting from attack, internal disturbance, natural phenomenon, or technological hazard; and
- (ii) requires resources that are beyond the scope of local agencies in routine responses to emergencies and accidents and may be of a magnitude or involve unusual circumstances that require a response by a governmental, not-for-profit, or private entity.

(b) "Local emergency" means a condition in any municipality or county of the state that requires that emergency assistance be provided by the affected municipality or county or another political subdivision to save lives and protect property within its jurisdiction in response to a disaster or to avoid or reduce the threat of a disaster.

(c) "Rules of order and procedure" means a set of policies that governs and prescribes in a public meeting:

- (i) parliamentary order and procedure;
- (ii) ethical behavior; and
- (iii) civil discourse.

(2) Subject to Subsection (4), a local school board shall:

(a) adopt rules of order and procedure to govern a public meeting of the local school board;

(b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and

(c) make the rules of order and procedure described in Subsection (2)(a) available to the public:

- (i) at each public meeting of the local school board; and
- (ii) on the local school board's public website, if available.

(3)

(a) Except as provided in Subsections (3)(b) and (c), a local school board may not hold a public meeting outside of the geographic boundary of the local school board's school district.

(b) A local school board may hold a public meeting outside of the geographic boundary of the local school board's school district if it is necessary for the local school board to hold a meeting during a disaster or local emergency.

(c) A local school board may hold a public meeting outside of the geographic boundary of the local school board's school district to conduct a site visit if:

- (i) the location of the site visit provides the local school board members the opportunity to see or experience an activity that:
  - (A) relates to the local school board's responsibilities; and
  - (B) does not exist within the geographic boundaries of the local school board's school district;and

- (ii) the local school board does not vote or take other action during the public meeting held at the site visit location.

(d) This Subsection (3) does not apply to a charter school governing board.

(4) The requirements of this section do not affect a local school board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(5)



- (a) Except as provided in Subsection (5)(b), a local school board may not expel a member of the local school board from an open public meeting or prohibit the member from attending an open public meeting.
- (b) Except as provided in Subsection (5)(c), following a two-thirds vote of the members of the local school board, the local school board may fine or expel a member of the local school board for:
  - (i) disorderly conduct at the open public meeting;
  - (ii) a member's direct or indirect financial conflict of interest regarding an issue discussed at or action proposed to be taken at the open public meeting; or
  - (iii) a commission of a crime during the open public meeting.
- (c) A local school board may adopt policies or ordinances that expand the reasons or establish more restrictive procedures for the expulsion of a member from a public meeting.

Amended by Chapter 293, 2019 General Session

**53G-4-203 Election of officers -- Terms -- Time of election -- Removal of officers -- Quorum requirements.**

- (1) A local school board shall elect a president and a vice president whose terms of office are for two years and until their successors are elected.
- (2) The elections shall be held during the first local school board meeting in January following a regular local school board election held in the district.
- (3) An officer appointed or elected by a local school board may be removed from office for cause by a vote of two-thirds of the local school board.
- (4) When a vacancy occurs in the office of president or vice president of the local school board for any reason, a replacement shall be elected for the unexpired term.
- (5) Attendance of a simple majority of the local school board members constitutes a quorum for the transaction of official business.

Amended by Chapter 293, 2019 General Session

**53G-4-204 Compensation for services -- Additional per diem -- Approval of expenses.**

- (1) Each member of a local school board, except the student member, shall receive compensation for services and for necessary expenses in accordance with compensation schedules adopted by the local school board in accordance with the provisions of this section.
- (2) Beginning on July 1, 2007, if a local school board decides to adopt or amend its compensation schedules, the local school board shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.
- (3) Notice of the time, place, and purpose of the meeting shall be provided at least seven days prior to the meeting by:
  - (a)
    - (i) publication at least once in a newspaper published in the county where the school district is situated and generally circulated within the school district; and
    - (ii) publication on the Utah Public Notice Website created in Section 63F-1-701; and
  - (b) posting a notice:
    - (i) at each school within the school district;
    - (ii) in at least three other public places within the school district; and
    - (iii) on the Internet in a manner that is easily accessible to citizens that use the Internet.

- (4) After the conclusion of the public hearing, the local school board may adopt or amend its compensation schedules.
- (5) Each member shall submit an itemized account of necessary travel expenses for local school board approval.
- (6) A local school board may, without following the procedures described in Subsections (2) and (3), continue to use the compensation schedule that was in effect prior to July 1, 2007, until, at the discretion of the local school board, the compensation schedule is amended or a new compensation schedule is adopted.

Amended by Chapter 293, 2019 General Session

**53G-4-205 Duties of president.**

- (1) The president of each local school board shall preside at all meetings of the local school board, appoint all committees, and sign all warrants ordered by the local school board to be drawn upon the business administrator for school money.
- (2) If the president is absent or acquires a disability, these duties are performed by the vice president.

Amended by Chapter 293, 2019 General Session

**Part 3**  
**Local School Board Administrative Officers**

**53G-4-301 Local superintendent of schools -- Appointment -- Qualifications -- Term -- Compensation.**

- (1) Subject to Subsection (7), a local school board shall appoint a district superintendent of schools who serves as the local school board's chief executive officer.
- (2) A local school board shall appoint the superintendent on the basis of outstanding professional qualifications.
- (3)
  - (a) A superintendent's term of office is for two years and until, subject to Subsection (7), a successor is appointed and qualified.
  - (b) A local school board that appoints a superintendent in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the superintendent.
- (4) Unless a vacancy occurs during an interim vacancy period subject to Subsection (7), if it becomes necessary to appoint an interim superintendent due to a vacancy in the office of superintendent, the local school board shall make an appointment during a public meeting for an indefinite term not to exceed one year, which term shall end upon the appointment and qualification of a new superintendent.
- (5) A local school board shall set the superintendent's compensation for services.
- (6) A superintendent qualifies for office by taking the constitutional oath of office.
- (7)
  - (a) As used in this Subsection (7), "interim vacancy period" means the period of time that:
    - (i) begins on the day on which a general election described in Section 20A-1-202 is held to elect a member of a local school board; and

- (ii) ends on the day on which the member-elect begins the member's term.
- (b)
  - (i) The local school board may not appoint a superintendent during an interim vacancy period.
  - (ii) Notwithstanding Subsection (7)(b)(i):
    - (A) the local school board may appoint an interim superintendent during an interim vacancy period; and
    - (B) the interim superintendent's term shall expire once a new superintendent is appointed by the new local school board after the interim vacancy period has ended.
- (c) Subsection (7)(b) does not apply if all the local school board members who held office on the day of the general election whose term of office was vacant for the election are re-elected to the local school board for the following term.

Renumbered and Amended by Chapter 3, 2018 General Session  
Amended by Chapter 22, 2018 General Session

**53G-4-302 Business administrator -- Term -- Oath.**

- (1) Subject to Subsection (5), a local school board shall appoint a business administrator.
- (2)
  - (a) The business administrator's term of office is for two years and until, subject to Subsection (5), a successor is appointed and qualified.
  - (b) A local school board that appoints a business administrator in accordance with this section may not, on or after May 8, 2012, enter into an employment contract that contains an automatic renewal provision with the business administrator.
- (3) Unless a vacancy occurs during an interim vacancy period subject to Subsection (5), if it becomes necessary to appoint an interim business manager due to a vacancy in the office of business administrator, then the local school board shall make an appointment during a public meeting for an indefinite term not to exceed one year, which term shall end upon the appointment and qualification of a new business manager.
- (4) The business administrator qualifies for office by taking the constitutional oath of office.
- (5)
  - (a) As used in this Subsection (5), "interim vacancy period" means the period of time that:
    - (i) begins on the day on which a general election described in Section 20A-1-202 is held to elect a member of a local school board; and
    - (ii) ends on the day on which the member-elect begins the member's term.
  - (b)
    - (i) A local school board may not appoint a business administrator during an interim vacancy period.
    - (ii) Notwithstanding Subsection (5)(b)(i):
      - (A) the local school board may appoint an interim business administrator during an interim vacancy period; and
      - (B) the interim business administrator's term shall expire once a new business administrator is appointed by the new local school board after the interim vacancy period has ended.
  - (c) Subsection (5)(b) does not apply if all the local school board members who held office on the day of the general election whose term of office was vacant for the election are reelected to the local school board for the following term.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-4-303 Duties of business administrator.**

Subject to the direction of the district superintendent of schools, the district's business administrator shall:

- (1) attend all meetings of the local school board, keep an accurate record of its proceedings, and have custody of the seal and records;
- (2) be custodian of all district funds, be responsible and accountable for all money received and disbursed, and keep accurate records of all revenues received and their sources;
- (3) countersign with the president of the local school board all warrants and claims against the district as well as other legal documents approved by the local school board;
- (4) prepare and submit to the local school board each month a written report of the district's receipts and expenditures;
- (5) use uniform budgeting, accounting, and auditing procedures and forms approved by the state board, which shall be in accordance with generally accepted accounting principles or auditing standards and Title 63J, Chapter 1, Budgetary Procedures Act;
- (6) prepare and submit to the local school board a detailed annual statement for the period ending June 30, of the revenue and expenditures, including beginning and ending fund balances;
- (7) assist the superintendent in the preparation and submission of budget documents and statistical and fiscal reports required by law or the state board;
- (8) insure that adequate internal controls are in place to safeguard the district's funds; and
- (9) perform other duties as the superintendent may require.

Amended by Chapter 293, 2019 General Session

**53G-4-304 Other local school board officers.**

- (1) A local school board may appoint other necessary officers who serve at the pleasure of the local school board.
- (2) These officers shall qualify by taking the constitutional oath of office before assuming office.

Amended by Chapter 293, 2019 General Session

**Part 4**

**Local School Board Powers and Miscellaneous Duties**

**53G-4-401 Local school boards are bodies corporate -- Seal -- Authority to sue -- Conveyance of property -- Duty to residents of the local school board member's district -- Establishment of public education foundation .**

- (1) As used in this section, "body corporate" means a public corporation and legal subdivision of the state, vested with the powers and duties of a government entity as specified in this chapter.
- (2) The local school board of a school district is a body corporate under the name of the "Board of Education of ..... School District" (inserting the proper name), and shall have an official seal conformable to its name.
- (3) The seal is used by its business administrator in the authentication of all required matters.
- (4) A local school board may sue and be sued, and may take, hold, lease, sell, and convey real and personal property as the interests of the schools may require.
- (5) Notwithstanding a local school board's status as a body corporate, an elected member of a local school board serves and represents the residents of the local school board member's

district, and that service and representation may not be restricted or impaired by the local school board member's membership on, or obligations to, the local school board.

(6) A local school board may establish a foundation in accordance with Section 53E-3-403.

Amended by Chapter 293, 2019 General Session

**53G-4-402 Powers and duties generally.**

(1) A local school board shall:

- (a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;
- (b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;
- (c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;
- (d) develop early warning systems for students or classes failing to make progress;
- (e) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts;
- (f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and
- (g) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

- (3)
- (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.
  - (b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

- (4)
- (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.
  - (b) Any agreement for the joint operation or construction of a school shall:
    - (i) be signed by the president of the local school board of each participating district;
    - (ii) include a mutually agreed upon pro rata cost; and
    - (iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A local school board may establish and support school libraries.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

- (9) A local school board may authorize guidance and counseling services for children and their parents before, during, or following enrollment of the children in schools.
- (10)
- (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.
  - (b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.
- (11)
- (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.
  - (b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.
  - (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.
  - (d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.
- (12)
- (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.
  - (b) These contributions are not subject to appropriation by the Legislature.
- (13)
- (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).
  - (b) A person may not be appointed to serve as a compliance officer without the person's consent.
  - (c) A teacher or student may not be appointed as a compliance officer.
- (14) A local school board shall adopt bylaws and policies for the local school board's own procedures.
- (15)
- (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.
  - (b) Local school board policies shall be in writing, filed, and referenced for public access.
- (16) A local school board may hold school on legal holidays other than Sundays.
- (17)
- (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).
  - (b) The committee shall be composed of one representative of:
    - (i) the schools within the district;
    - (ii) the Parent Teachers' Association of the schools within the district;
    - (iii) the municipality or county;
    - (iv) state or local law enforcement; and
    - (v) state or local traffic safety engineering.
  - (c) The committee shall:
    - (i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

- (ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;
  - (iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and
  - (iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.
- (d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).
- (18)
- (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.
  - (b) The plan shall:
    - (i) include prevention, intervention, and response components;
    - (ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;
    - (iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;
    - (iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and
    - (v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:
      - (A) participating in a school-related activity; or
      - (B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.
  - (c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).
  - (d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.
- (19)
- (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.
  - (b) The plan may be implemented by each secondary school in the district that has a sports program for students.
  - (c) The plan may:
    - (i) include emergency personnel, emergency communication, and emergency equipment components;
    - (ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and
    - (iii) provide for coordination with individuals and agency representatives who:
      - (A) are not employees of the school district; and

- (B) would be involved in providing emergency services to students injured while participating in sports events.
- (d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.
- (e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).
- (20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.
- (21)
  - (a) Before closing a school or changing the boundaries of a school, a local school board shall:
    - (i) at least 120 days before approving the school closure or school boundary change, provide notice to the following that the local school board is considering the closure or boundary change:
      - (A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;
      - (B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and
      - (C) the governing council and the mayor of the municipality in which the school is located;
    - (ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and
    - (iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).
  - (b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:
    - (i) indicate the:
      - (A) school or schools under consideration for closure or boundary change; and
      - (B) the date, time, and location of the public hearing;
    - (ii) at least 10 days before the public hearing, be:
      - (A) published:
        - (I) in a newspaper of general circulation in the area; and
        - (II) on the Utah Public Notice Website created in Section 63F-1-701; and
      - (B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and
    - (iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections (21)(a)(i)(A), (B), and (C).
- (22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.
- (23) A local school board may establish or partner with a certified youth court program, in accordance with Section 78A-6-1203, or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

Amended by Chapter 347, 2020 General Session

**53G-4-403 School district fiscal year -- Statistical reports.**

- (1) A school district's fiscal year begins on July 1 and ends on June 30.



- (2)
  - (a) A school district shall forward statistical reports for the preceding school year, containing items required by law or by the state board, to the state superintendent on or before November 1 of each year.
  - (b) The reports shall include information to enable the state superintendent to complete the statement of funds required under Section 53E-1-203.
- (3) A school district shall forward the accounting report required under Section 51-2a-201 to the state superintendent on or before October 15 of each year.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 324, 2019 General Session

**53G-4-404 Annual financial report -- Audit report.**

- (1)
  - (a) The annual financial report of each school district, containing items required by law or by the state board and attested to by independent auditors, shall be prepared as required by Section 51-2a-201.
  - (b) A school district shall use fund and program accounting methods and standardized account codes capable of producing financial reports that comply with:
    - (i) generally accepted accounting principles;
    - (ii) financial reporting requirements established by the state board under Section 53E-3-501; and
    - (iii) accounting report standards established by the state auditor as described in Section 51-2a-301.
- (2) If auditors are employed under Section 51-2a-201, the auditors shall complete their field work in sufficient time to allow them to verify necessary audit adjustments included in the annual financial report to the state superintendent.
- (3)
  - (a)
    - (i) The district shall forward the annual financial report to the state superintendent not later than October 1.
    - (ii) The report shall include information to enable the state superintendent to complete the statement of funds required under Section 53E-1-203.
  - (b) The state board shall publish electronically a copy of the report on the Internet not later than January 15.
- (4) The completed audit report shall be delivered to the school district local school board and the state superintendent not later than November 30 of each year.

Amended by Chapter 192, 2020 General Session

**53G-4-405 Approval of purchases or indebtedness -- Local school board approval of identified purchases.**

- (1) An officer or employee of a school district may not make a purchase or incur indebtedness on behalf of the district without the approval and order of the local school board.
- (2) The local school board shall adopt one of the following approval methods, or a combination of the two:

- (a) The local school board shall approve an appropriation for identified purchases in the district budget. Each purchase made under an identified purchase does not require additional local school board approval.
- (b) The local school board shall approve individual purchases when made throughout the fiscal year.

Amended by Chapter 293, 2019 General Session

**53G-4-406 Claims against the local school board -- Itemized.**

Except for salary which is regularly authorized by the local school board, the local school board may not hear or consider any claim against the local school board which is not itemized.

Amended by Chapter 293, 2019 General Session

**53G-4-407 Tax exemption of school board property.**

- (1) Real and personal property held by a local school board is exempt from general and special taxation and from local assessments.
- (2) This property may not be taken in any manner for debt.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-4-408 Residence not condition of employment.**

A local school board may not require an employee to reside within its school district as a condition of employment.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-4-409 Activity disclosure statements.**

- (1) A local school board shall require the development of activity disclosure statements for each school-sponsored group or program which involves students and faculty in grades 9 through 12 in contests, performances, events, or other activities that require them to miss normal class time or takes place outside regular school time.
- (2) The activity disclosure statements shall be disseminated to the students desiring involvement in the specific activity or to the students' parents or to both students and their parents.
- (3) An activity disclosure statement shall contain the following information:
  - (a) the specific name of the team, group, or activity;
  - (b) the maximum number of students involved;
  - (c) whether or not tryouts are used to select students, specifying date and time requirements for tryouts, if applicable;
  - (d) beginning and ending dates of the activity;
  - (e) a tentative schedule of the events, performances, games, or other activities with dates, times, and places specified if available;
  - (f) if applicable, designation of any nonseason events or activities, including an indication of the status, required, expected, suggested, or optional, with the dates, times, and places specified;
  - (g) personal costs associated with the activity;
  - (h) the name of the school employee responsible for the activity; and
  - (i) any additional information considered important for the students and parents to know.

Amended by Chapter 293, 2019 General Session

**53G-4-410 Regional education service agencies.**

- (1) As used in this section:
  - (a) "Eligible regional education service agency" means a regional education service agency in existence before July 1, 2020.
  - (b) "Regional education service agency" means an entity formed by two or more school districts as an interlocal entity, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with the authority and duties described in this section.
- (2) The Legislature strongly encourages school districts to collaborate and cooperate to provide educational services in a manner that will best utilize resources for the overall operation of the public education system.
- (3) A regional education service agency formed by an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act:
  - (a) for an eligible regional education service agency, may receive a distribution described in Subsection (6) if the Legislature appropriates money for eligible regional education service agencies;
  - (b) may apply directly for any grant or program in which an LEA may participate if the agency has the written consent of the LEAs that the agency serves;
  - (c) may receive services from or partner with any department, division, or agency of the state, including coverage by the Division of Risk Management;
  - (d) may recommend educators for licensing;
  - (e) may provide services for students as approved by the regional education service agency's board;
  - (f) may access as necessary LEA systems that the board provides; and
  - (g) does not have authority over the LEAs which the agency serves.
- (4) A regional education service agency may elect to participate as an employer for retirement programs under:
  - (a) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;
  - (b) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and
  - (c) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.
- (5)
  - (a) If local school boards enter into an interlocal agreement to confirm or formalize a regional education service agency in operation before July 1, 2011, the interlocal agreement may not eliminate any rights or obligations of the regional education service agency in effect before entering into the interlocal agreement.
  - (b) An interlocal agreement entered into to confirm or formalize an existing regional education service agency shall have the effect of confirming and ratifying in the regional education service agency, the title to any property held in the name, or for the benefit of the regional education service agency as of the effective date of the interlocal agreement.
- (6)
  - (a) The state board shall distribute any funding appropriated to eligible regional education service agencies as provided by the Legislature.
  - (b) The state board may provide funding to an eligible regional education service agency in addition to legislative appropriations.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules regarding regional education service agencies including:
  - (a) the authority, scope, and duties of a regional education service agency;

- (b) the creation of a regional education service agency coordinating council, including:
    - (i) defining the council's role and authority; and
    - (ii) provisions for the council's membership;
  - (c) the distribution of legislative appropriations to eligible regional education service agencies;
  - (d) the designation of eligible regional education service agencies as agents to distribute Utah Education and Telehealth Network services; and
  - (e) the designation of eligible regional education service agencies as agents for regional coordination of public education and higher education services.
- (8) The board shall annually:
- (a) review the funding the Legislature appropriates to support regional education service agencies; and
  - (b) recommend any adjustments as part of the board's annual budget request.

Amended by Chapter 253, 2020 General Session

Amended by Chapter 408, 2020 General Session

**53G-4-411 Interlocal agreement for public education transportation services.**

- (1) In accordance with Title 11, Chapter 13, Interlocal Cooperation Act, at least two school districts may, for the purpose of coordinating public education transportation services:
- (a) create an interlocal entity as defined in Section 11-13-103 if the school districts establish an interlocal entity governing board as described in Subsection (2); or
  - (b) enter into a joint or cooperative undertaking as described in Section 11-13-207 if the school districts establish a joint board as described in Subsection (2).
- (2) A governing board described in Subsection (1)(a) or a joint board described in Subsection (1)(b) shall consist of:
- (a) at least one elected member of a local school board from each school district that creates the interlocal entity or enters into the joint or cooperative undertaking; and
  - (b) only elected members of the local school boards of the school districts that create the interlocal entity or enter into the joint or cooperative undertaking.

Renumbered and Amended by Chapter 3, 2018 General Session

**Part 5**  
**Utah School Boards Association**

**53G-4-501 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

**53G-4-502 Utah School Boards Association.**

The Utah School Boards Association is recognized as an organization and agency of the local school boards of Utah and is representative of those local school boards.

Amended by Chapter 293, 2019 General Session

**53G-4-503 Boards of education authorized to become members of association.**

The state board, local school boards, and their agencies may become members of the Utah School Boards Association and cooperate with the association and its members on activities and problems relating to the state's educational system.

Amended by Chapter 293, 2019 General Session

**53G-4-504 Payment of dues -- Expenses in attending meetings -- Contributions.**

- (1) Member boards may pay dues and make other contributions to the association for its educational activities.
- (2) They may also incur reasonable travel and subsistence expenses for the purpose of attending meetings and conferences of the association.
- (3) Dues and contributions expenses shall be paid in the same manner as are other expenses of the member boards.

Renumbered and Amended by Chapter 3, 2018 General Session

**Part 6  
School District Indebtedness**

**53G-4-601 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

**53G-4-602 School district tax anticipation notes.**

- (1) A local school board may borrow money in anticipation of the collection of taxes or other revenue of the school district so long as it complies with Title 11, Chapter 14, Local Government Bonding Act.
- (2) The local school board may incur indebtedness under this section for any purpose for which district funds may be expended, but not in excess of the estimated district revenues for the current school year.
- (3) Revenues include all revenues of the district from the state or any other source.
- (4) The district may incur the indebtedness prior to imposing or collecting the taxes or receiving the revenues. The indebtedness bears interest at the lowest obtainable rate or rates.

Amended by Chapter 293, 2019 General Session

**53G-4-603 Additional indebtedness -- Election -- Voter information pamphlet.**

- (1) As used in this section:
  - (a) "Qualifying general obligation bond" means a bond:
    - (i) issued pursuant to Title 11, Chapter 14, Local Government Bonding Act; and
    - (ii) authorized by an election held on or after July 1, 2014.
  - (b) "Voter information pamphlet" means the notification required by Section 11-14-202.

- (2) A local school board may require the qualified electors of the district to vote on a proposition as to whether to incur indebtedness, subject to conditions provided in Title 11, Chapter 14, Local Government Bonding Act, if:
  - (a) the debts of the district are equal to school taxes and other estimated revenues for the school year, and it is necessary to create and incur additional indebtedness in order to maintain and support schools within the district; or
  - (b) the local school board determines it advisable to issue school district bonds to purchase school sites, buildings, or furnishings or to improve existing school property.
- (3) A local school board shall specify, in the voter information pamphlet for a bond election, a plan of finance, including:
  - (a) the specific project or projects for which a bond is to be issued; and
  - (b) a priority designation for each project.
- (4) Except as provided in Subsection (5), a local school board shall ensure that qualifying general obligation bond proceeds are used to complete projects in accordance with the plan of finance described in Subsection (3).
- (5)
  - (a) After distribution to the public of the voter information pamphlet, with two-thirds majority approval of the local school board, a local school board may upon a determination of compelling circumstances adjust the plan of finance described in Subsection (3) by:
    - (i) changing the priority designation of a project;
    - (ii) adding a project that was not listed in the voter information pamphlet; or
    - (iii) removing a project that was listed in the voter information pamphlet.
  - (b) A local school board may not vote on more than one adjustment described in Subsection (5)
    - (a) per meeting.
- (6) For a qualifying general obligation bond, a local school board shall post on the local school board's website:
  - (a) the plan of finance as described in the voter information pamphlet; and
  - (b) a progress report detailing the status of the projects listed in the plan of finance, including:
    - (i) the status of any construction contracts related to a project;
    - (ii) the bid amount;
    - (iii) the estimated and actual construction start date;
    - (iv) the estimated and actual construction end date; and
    - (v) the final cost.
- (7)
  - (a) If a local school board violates Subsection (4), a registered voter in the school district may file an action for an extraordinary writ to prohibit the local school board from adjusting the plan of finance without obtaining the necessary local school board approval.
  - (b) If a registered voter prevails in an action under Subsection (7)(a), the court shall award reasonable costs and attorney fees to the registered voter.
  - (c) The action described in Subsection (7)(a) may not be used to challenge the validity of a bond.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-4-604 Consolidated school district bonds.**

- (1) A consolidated county school district may issue bonds, without an election, to fund, purchase, or redeem the district's outstanding indebtedness if the debt was incurred prior to consolidation and assumed by the consolidated school district.

- (2) The legality, regularity, and validity of the outstanding indebtedness shall be determined in the same manner used to determine the validity of other bonds to be refunded by the local school board.

Amended by Chapter 293, 2019 General Session

**53G-4-605 Testing validity of bonds to be refunded -- Procedure.**

If considered advisable by the local school board, the validity of any bonds intended to be refunded may be determined in the following manner:

- (1) The local school board shall:
  - (a) publish a notice describing with sufficient particularity for identification the bond or bonds intended to be refunded:
    - (i) once a week for two successive weeks in a newspaper published in the school district; and
    - (ii) as required in Section 45-1-101; and
  - (b) post a notice for two successive weeks in three public and conspicuous places describing with sufficient particularity for identification the bond or bonds intended to be refunded.
- (2) The notice shall require any person objecting to the legality, regularity, or validity of the bonds, their issue or sale, or the indebtedness represented by the bonds, to appear before the local school board at a specified place within the district on a specified day and time.
- (3) The time may not be less than 14 nor more than 60 days after the first publication or posting of the notice.
- (4) The notice shall require the person to appear at the meeting with his objections in writing, duly verified.
- (5) The local school board shall convene at the time and place specified in the notice and receive all objections as prescribed in Subsection (4).
- (6) The objections shall be filed with and preserved by the local school board.
- (7) If no written objections are presented at the time and place specified in the notice, the local school board shall so certify.
- (8) All persons are then prohibited from questioning in any manner or proceeding the legality, regularity, or validity of the bond or bonds, their issue or sale, or the indebtedness represented by the bonds, and the local school board may then refund the bonds.
- (9) Any person filing a written objection under Subsection (4) shall, within 20 days after the filing, commence appropriate legal proceedings against the local school board and others as may be proper parties, in the district court for the county in which the school district is situated, to challenge and determine the legality, regularity, and validity of the bond or bonds, their issue and sale, or the indebtedness represented by them.
- (10) Failure to commence the proceedings within 20 days bars the person filing objections from questioning, in any manner or proceeding, the legality, regularity, or validity of the bond or bonds, their issue or sale, or the indebtedness represented by the bonds.
- (11) Upon proof of failure to commence proceedings, by certificate of the clerk of the court, the local school board may refund the bonds.

Amended by Chapter 293, 2019 General Session

**53G-4-606 Sinking fund -- Investment.**

- (1) The money levied and collected to create a sinking fund for the redemption of bonds issued by a local school board shall be immediately credited to a special fund.

- (2) After retaining an amount sufficient to pay the principal of the bonds maturing during the year, the local school board shall invest the fund and any surplus as provided under Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 293, 2019 General Session

**53G-4-607 Bonds a lien on property -- Levy of tax to pay bonds.**

- (1) Bonds issued under this part are a lien upon the taxable property of the school district issuing them.
- (2) If the local school board neglects or refuses to cause a tax to be levied in accordance with law to meet the outstanding bonds or the interest on the bonds, the county legislative body of the county in which the district is located shall levy the tax and apply the money collected to the payment of the bonds and the interest.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-4-608 Requirement to conduct seismic safety evaluations when issuing a bond.**

- (1) As used in this section:
  - (a) "Federal guidelines" means guidelines and procedures specified in "Rapid Visual Screening of Buildings for Potential Seismic Hazards: A Handbook, 2nd Edition" published by the United States Federal Emergency Management Agency.
  - (b) "Qualifying general obligation bond" means a bond:
    - (i) issued pursuant to Title 11, Chapter 14, Local Government Bonding Act; and
    - (ii) authorized by an election held on or after July 1, 2013.
  - (c) "Seismic safety evaluation" means a seismic safety rapid visual screening evaluated in accordance with federal guidelines or a more detailed seismic structural evaluation.
- (2) If a school district issues a qualifying general obligation bond, the school district shall:
  - (a) except as provided in Subsection (4), conduct or update a seismic safety evaluation of each school district building:
    - (i) constructed before 1975; and
    - (ii) used by the school district as a school; and
  - (b) provide a copy of a seismic safety evaluation prepared under Subsection (2)(a) to the Utah Seismic Safety Commission created in Section 63C-6-101.
- (3) A seismic safety evaluation conducted under Subsection (2) shall be conducted by a licensed structural engineer familiar with seismic codes.
- (4) A school district is not required to conduct or update a seismic safety evaluation of a building as required in Subsection (2)(a) if:
  - (a) a seismic safety evaluation was performed on the building within the 25-year period before the school district issues the qualifying general obligation bond; and
  - (b) the school district provides a copy of the school district's seismic safety evaluation described in Subsection (4)(a) to the Utah Seismic Safety Commission.
- (5) Creation of a seismic safety evaluation of a school, or a list of schools needing seismic upgrades, shall not be construed as expanding or changing the state's or a school district's common law duty of care for liability purposes.

Renumbered and Amended by Chapter 3, 2018 General Session



**Part 7**  
**Local School Board Building Reserve Fund**

**53G-4-701 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

**53G-4-702 School board reserve fund.**

Each local school board may establish and maintain a reserve fund to accumulate funds to meet the capital outlay costs of the school district, including costs for planning, constructing, replacing, improving, equipping, and furnishing school buildings and purchasing school sites.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-4-703 Revenues to be allocated to fund.**

A local school board may annually allocate to the fund any revenues from the state which are made available for capital outlay purposes, and not otherwise earmarked, and such other revenues as the school district may raise locally for this purpose.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-4-704 Building Reserve Fund -- Investment of fund.**

- (1) The fund shall be known as the Building Reserve Fund of \_\_\_\_\_ (name of school district) School District.
- (2) Any interest or capital gains accrue to the benefit of the fund.
- (3) The fund may only be invested as provided in Title 51, Chapter 7, State Money Management Act of 1974.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-4-705 Accumulations -- Expenditures from fund -- Public notice -- Transfer to other funds.**

- (1) The money in the fund shall accumulate from year to year.
- (2) However, the local school board may make expenditures from the fund if public notice is given stating the purpose for which the expenditures are to be made.
- (3) The procedure for giving public notice is set forth in Section 53G-7-303.
- (4) Expenditures shall be made for capital outlay costs only.
- (5) Money in the fund at the end of the year shall remain intact and may not be transferred to any other fund or used for any other purpose.

Renumbered and Amended by Chapter 3, 2018 General Session

**Part 8**  
**School District Bond Guaranty**

**53G-4-801 Definitions.**

- (1) "Bond" means any general obligation bond or refunding bond issued after the effective date of this part.
- (2) "Default avoidance program" means the school bond guaranty program established by this part.
- (3) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a local school board payable in whole or in part from revenues derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.
- (4) "Paying agent" means the corporate paying agent selected by the local school board for a bond issue who is:
  - (a) duly qualified; and
  - (b) acceptable to the state treasurer.
- (5) "Permanent school fund" means the state school fund described in the Utah Constitution, Article X, Section 5(1).
- (6) "Refunding bond" means any general obligation bond issued by a local school board for the purpose of refunding its outstanding general obligation bonds.
- (7) "School district" means any school district existing now or later under the laws of the state.

Amended by Chapter 293, 2019 General Session

**53G-4-802 Contract with bondholders -- Full faith and credit of state is pledged -- Limitation as to certain refunded bonds.**

- (1)
  - (a) The state of Utah pledges to and agrees with the holders of any bonds that the state will not alter, impair, or limit the rights vested by the default avoidance program with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.
  - (b) Notwithstanding Subsection (1)(a), nothing contained in this part precludes an alteration, impairment, or limitation if adequate provision is made by law for the protection of the holders of the bonds.
  - (c) Each local school board may refer to this pledge and undertaking by the state in its bonds.
- (2)
  - (a) The full faith and credit and unlimited taxing power of the state is pledged to guarantee full and timely payment of the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, bonds as such payments shall become due (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default of otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration).
  - (b) This guaranty does not extend to the payment of any redemption premium.
  - (c) Reference to this part by its title on the face of any bond conclusively establishes the guaranty provided to that bond under provisions of this part.
- (3)
  - (a) Any bond guaranteed under this part that is refunded and considered paid for the purposes of and within the meaning of Subsection 11-27-3(6), no longer has the benefit of the guaranty provided by this part from and after the date on which that bond was considered to be paid.
  - (b) Any refunding bond issued by a local school board that is itself secured by government obligations until the proceeds are applied to pay refunded bonds, as provided in Title 11,

Chapter 27, Utah Refunding Bond Act, is not guaranteed under the provisions of this part, until the refunding bonds cease to be secured by government obligations as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

- (4) Only validly issued bonds issued after the effective date of this part are guaranteed under this part.

Amended by Chapter 293, 2019 General Session

**53G-4-803 Program eligibility -- Option to forego guaranty.**

- (1)
- (a) Any local school board may request that the state treasurer issue a certificate evidencing eligibility for the state's guaranty under this part.
  - (b) After reviewing the request, if the state treasurer determines that the local school board is eligible, the state treasurer shall promptly issue the certificate and provide it to the requesting local school board.
  - (c)
    - (i) The local school board receiving the certificate and all other persons may rely on the certificate as evidencing eligibility for the guaranty for one year from and after the date of the certificate, without making further inquiry of the state treasurer during that year.
    - (ii) The certificate of eligibility is valid for one year even if the state treasurer later determines that the local school board is ineligible.
- (2) Any local school board that chooses to forego the benefits of the guaranty provided by this part for a particular issue of bonds may do so by not referring to this part on the face of its bonds.
- (3) Any local school board that has bonds, the principal of or interest on which has been paid, in whole or in part, by the state under this part may not issue any additional bonds guaranteed by this act until:
- (a) all payment obligations of the local school board to the state under the default avoidance program are satisfied; and
  - (b) the state treasurer and the state superintendent each certify in writing, to be kept on file by the state treasurer and the state superintendent, that the local school board is fiscally solvent.
- (4) Bonds not guaranteed by this part are not included in the definition of "bonds" in Section 53G-4-802 as used generally in this part and are not subject to the requirements of and do not receive the benefits of this part.

Amended by Chapter 293, 2019 General Session

**53G-4-804 Fiscal solvency of school districts -- Duties of state treasurer and attorney general.**

- (1) The state superintendent shall:
- (a) monitor the financial affairs and condition of each local school board in the state to evaluate each local school board's financial solvency; and
  - (b) report immediately to the governor and state treasurer any circumstances suggesting that a school district will be unable to timely meet its debt service obligations and recommend a course of remedial action.
- (2)
- (a) The state treasurer shall determine whether the financial affairs and condition of a local school board are such that it would be imprudent for the state to guarantee the bonds of that local school board.

- (b) If the state treasurer determines that the state should not guarantee the bonds of that local school board, the state treasurer shall:
    - (i) prepare a determination of ineligibility; and
    - (ii) keep it on file in the office of the state treasurer.
  - (c) The state treasurer may remove a local school board from the status of ineligibility when a subsequent report or other information made available to the state treasurer evidences that it is no longer imprudent for the state to guarantee the bonds of that local school board.
- (3) Nothing in this section affects the state's guaranty of bonds of a local school board issued:
- (a) before determination of ineligibility;
  - (b) after the eligibility of the local school board is restored; or
  - (c) under a certificate of eligibility issued under Section 53G-4-803.

Amended by Chapter 293, 2019 General Session

**53G-4-805 Business administrator duties -- Paying agent to provide notice -- State treasurer to execute transfer to paying agents -- Effect of transfer.**

- (1)
- (a) The business administrator of each local school board with outstanding, unpaid bonds shall transfer money sufficient for the scheduled debt service payment to its paying agent at least 15 days before any principal or interest payment date for the bonds.
  - (b) The paying agent may, if instructed to do so by the business administrator, invest the money at the risk and for the benefit of the local school board until the payment date.
  - (c) A business administrator who is unable to transfer the scheduled debt service payment to the paying agent 15 days before the payment date shall immediately notify the paying agent and the state treasurer by:
    - (i) telephone;
    - (ii) a writing sent by facsimile transmission; and
    - (iii) a writing sent by first-class United States mail.
- (2) If sufficient funds are not transferred to the paying agent as required by Subsection (1), the paying agent shall notify the state treasurer of that failure in writing at least 10 days before the scheduled debt service payment date by:
- (a) telephone;
  - (b) a writing sent by facsimile transmission; and
  - (c) a writing sent by first-class United States mail.
- (3)
- (a) If sufficient money to pay the scheduled debt service payment has not been transferred to the paying agent, the state treasurer shall, on or before the scheduled payment date, transfer sufficient money to the paying agent to make the scheduled debt service payment.
  - (b) The payment by the treasurer:
    - (i) discharges the obligation of the issuing local school board to its bondholders for the payment; and
    - (ii) transfers the rights represented by the general obligation of the local school board from the bondholders to the state.
  - (c) The local school board shall pay the transferred obligation to the state as provided in this part.

Amended by Chapter 293, 2019 General Session

**53G-4-806 State financial assistance intercept mechanism -- State treasurer duties -- Interest and penalty provisions.**

- (1)
- (a) If one or more payments on bonds are made by the state treasurer as provided in Section 53G-4-805, the state treasurer shall:
    - (i) immediately intercept any payments from the Uniform School Fund or from any other source of operating money provided by the state to the local school board that issued the bonds that would otherwise be paid to the local school board by the state; and
    - (ii) apply the intercepted payments to reimburse the state for payments made pursuant to the state's guaranty until all obligations of the local school board to the state arising from those payments, including interest and penalties, are paid in full.
  - (b) The state has no obligation to the local school board or to any person or entity to replace any money intercepted under authority of Subsection (1)(a).
- (2) The local school board that issued bonds for which the state has made all or part of a debt service payment shall:
- (a) reimburse all money drawn by the state treasurer on its behalf;
  - (b) pay interest to the state on all money paid by the state from the date the money was drawn to the date they are repaid at a rate not less than the average prime rate for national money center banks plus 1%; and
  - (c) pay all penalties required by this part.
- (3)
- (a) The state treasurer shall establish the reimbursement interest rate after considering the circumstances of any prior draws by the local school board on the state, market interest and penalty rates, and the cost of funds, if any, that were required to be borrowed by the state to make payment on the bonds.
  - (b) The state treasurer may, after considering the circumstances giving rise to the failure of the local school board to make payment on its bonds in a timely manner, impose on the local school board a penalty of not more than 5% of the amount paid by the state pursuant to its guaranty for each instance in which a payment by the state is made.
- (4)
- (a)
    - (i) If the state treasurer determines that amounts obtained under this section will not reimburse the state in full within one year from the state's payment of a local school board's scheduled debt service payment, the state treasurer shall pursue any legal action, including mandamus, against the local school board to compel it to:
      - (A) levy and provide property tax revenues to pay debt service on its bonds when due as required by Title 11, Chapter 14, Local Government Bonding Act; and
      - (B) meet its repayment obligations to the state.
    - (ii) In pursuing its rights under this Subsection (4)(a), the state shall have the same substantive and procedural rights under Title 11, Chapter 14, Local Government Bonding Act, as would a holder of the bonds of a local school board.
  - (b) The attorney general shall assist the state treasurer in these duties.
  - (c) The local school board shall pay the attorney's fees, expenses, and costs of the state treasurer and the attorney general.
- (5)
- (a) Except as provided in Subsection (5)(c), any local school board whose operating funds were intercepted under this section may replace those funds from other local school board money or from ad valorem property taxes, subject to the limitations provided in this Subsection (5).

- (b) A local school board may use ad valorem property taxes or other money to replace intercepted funds only if the ad valorem property taxes or other money was derived from:
  - (i) taxes originally levied to make the payment but which were not timely received by the local school board;
  - (ii) taxes from a special levy made to make the missed payment or to replace the intercepted money;
  - (iii) money transferred from the capital outlay fund of the local school board or the undistributed reserve, if any, of the local school board; or
  - (iv) any other source of money on hand and legally available.
- (c) Notwithstanding the provisions of Subsections (5)(a) and (b), a local school board may not replace operating funds intercepted by the state with money collected and held to make payments on bonds if that replacement would divert money from the payment of future debt service on the bonds and increase the risk that the state's guaranty would be called upon a second time.

Amended by Chapter 293, 2019 General Session

**53G-4-807 Backup liquidity arrangements -- Issuance of notes.**

- (1)
  - (a) If, at the time the state is required to make a debt service payment under its guaranty on behalf of a local school board, sufficient money of the state is not on hand and available for that purpose, the state treasurer may:
    - (i) seek a loan from the Permanent School Fund sufficient to make the required payment; or
    - (ii) issue state debt as provided in Subsection (2).
  - (b) Nothing in this Subsection (1) requires the Permanent School Fund to lend money to the state treasurer.
- (2)
  - (a) The state treasurer may issue state debt in the form of general obligation notes to meet its obligations under this part.
  - (b) The amount of notes issued may not exceed the amount necessary to make payment on all bonds with respect to which the notes are issued plus all costs of issuance, sale, and delivery of the notes, rounded up to the nearest natural multiple of \$5,000.
  - (c) Each series of notes issued may not mature later than 18 months from the date the notes are issued.
  - (d) Notes issued may be refunded using the procedures set forth in this part for the issuance of notes, in an amount not more than the amount necessary to pay principal of and accrued but unpaid interest on any refunded notes plus all costs of issuance, sale, and delivery of the refunding notes, rounded up to the nearest natural multiple of \$5,000.
  - (e) Each series of refunding notes may not mature later than 18 months from the date the refunding notes are issued.
- (3)
  - (a) Before issuing or selling any general obligation note to other than a state fund or account, the state treasurer shall:
    - (i) prepare a written plan of financing; and
    - (ii) file it with the governor.
  - (b) The plan of financing shall provide for:
    - (i) the terms and conditions under which the notes will be issued, sold, and delivered;
    - (ii) the taxes or revenues to be anticipated;

- (iii) the maximum amount of notes that may be outstanding at any one time under the plan of financing;
- (iv) the sources of payment of the notes;
- (v) the rate or rates of interest, if any, on the notes or a method, formula, or index under which the interest rate or rates on the notes may be determined during the time the notes are outstanding; and
- (vi) all other details relating to the issuance, sale, and delivery of the notes.
- (c) In identifying the taxes or revenues to be anticipated and the sources of payment of the notes in the financing plan, the state treasurer may include:
  - (i) the taxes authorized by Section 53G-4-808;
  - (ii) the intercepted revenues authorized by Section 53G-4-806;
  - (iii) the proceeds of refunding notes; or
  - (iv) any combination of Subsections (3)(c)(i), (ii), and (iii).
- (d) The state treasurer may include in the plan of financing the terms and conditions of arrangements entered into by the state treasurer on behalf of the state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure the notes, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the state treasurer.
- (e) When issuing the notes, the state treasurer shall issue an order setting forth the interest, form, manner of execution, payment, manner of sale, prices at, above, or below face value, and all details of issuance of the notes.
- (f) The order and the details set forth in the order shall conform with any applicable plan of financing and with this part.
- (g)
  - (i) Each note shall recite that it is a valid obligation of the state and that the full faith, credit, and resources of the state are pledged for the payment of the principal of and interest on the note from the taxes or revenues identified in accordance with its terms and the constitution and laws of Utah.
  - (ii) These general obligation notes do not constitute debt of the state for the purposes of the 1.5% debt limitation of the Utah Constitution, Article XIV, Section 1.
- (h) Immediately upon the completion of any sale of notes, the state treasurer shall:
  - (i) make a verified return of the sale to the state auditor, specifying the amount of notes sold, the persons to whom the notes were sold, and the price, terms, and conditions of the sale; and
  - (ii) credit the proceeds of sale, other than accrued interest and amounts required to pay costs of issuance of the notes, to the General Fund to be applied to the purpose for which the notes were issued.

Amended by Chapter 293, 2019 General Session

**53G-4-808 Unlimited ad valorem tax as pledge of full faith and credit -- State Tax Commission duties -- Property tax abated.**

- (1)
  - (a) In each year after the issuance of general obligation notes under this part and until all outstanding notes are retired, there is levied a direct annual tax on all real and personal property within the state subject to state taxation, sufficient to pay all principal of and interest on the general obligation notes as they become due.

- (b) If money expected to be intercepted under Section 53G-4-806 is expected to be insufficient to reimburse the state for its payments of school districts' scheduled debt service payments or if it is necessary for the state treasurer to borrow as provided in Section 53G-4-807 and amounts to be intercepted under Section 53G-4-806 are expected to be insufficient to timely pay the general obligation notes issued or other borrowing undertaken under that section, the state treasurer shall certify to and give notice to the state tax commission of the amount of the deficiency.
- (c) After receipt of that certified notice from the state treasurer, the state tax commission shall:
  - (i) immediately fix the tax rate necessary and levy direct ad valorem property tax on all real and personal property in the state subject to state taxation sufficient to provide money in the amount of the deficiency stated in the notice; and
  - (ii) require that the tax be collected and remitted as soon as may be in the ordinary course of ad valorem tax levy and collection.
- (2) To the extent that other legally available revenues and funds of the state are sufficient to meet the certified deficiency, the property tax for this purpose is abated.

Renumbered and Amended by Chapter 3, 2018 General Session

## **Part 9**

### **Surplus School District Land**

#### **53G-4-901 Definitions.**

As used in this part:

- (1) "Eligible entity" means:
  - (a) a city or town with a population density of 3,000 or more people per square mile; or
  - (b) a county whose unincorporated area includes a qualifying planning advisory area.
- (2) "Purchase price" means the greater of:
  - (a) an amount that is the average of:
    - (i) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the eligible entity; and
    - (ii) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the school district; and
  - (b) the amount the school district paid to acquire the surplus property.
- (3) "Qualifying planning advisory area" means a planning advisory area under Section 17-27a-306 that has a population density of 3,000 or more people per square mile within the boundaries of the planning advisory area.
- (4) "Surplus property" means land owned by a school district that:
  - (a) was purchased with taxpayer money;
  - (b) is located within a city or town that is an eligible entity or within a qualifying planning advisory area;
  - (c) consists of one contiguous tract at least three acres in size; and
  - (d) has been declared by the school district to be surplus.

Renumbered and Amended by Chapter 3, 2018 General Session

#### **53G-4-902 Purchase of surplus property.**



- (1) An eligible entity may purchase, and each school district shall sell, surplus property as provided in this section.
- (2)
  - (a) Upon declaring land to be surplus property, each school district shall give written notice to each eligible entity in which the surplus property is located.
  - (b) Each notice under Subsection (2)(a) shall:
    - (i) state that the school district has declared the land to be surplus property; and
    - (ii) describe the surplus property.
- (3) Subject to Subsection (4), an eligible entity may purchase the surplus property by paying the school district the purchase price.
- (4)
  - (a) The legislative body of each eligible entity desiring to purchase surplus property under this section shall:
    - (i) within 90 days after the eligible entity receives notice under Subsection (2), adopt a resolution declaring the intent to purchase the surplus property and deliver a copy of the resolution to the school district; and
    - (ii) within 90 days after delivering a copy of the resolution under Subsection (4)(a)(i) to the school district, deliver to the school district an earnest money offer to purchase the surplus property at the purchase price.
  - (b) If an eligible entity fails to comply with either of the requirements under Subsection (4)(a) within the applicable time period, the eligible entity forfeits the right to purchase the surplus property.
- (5)
  - (a) An eligible entity may waive its right to purchase surplus property under this part by submitting a written waiver to the school district.
  - (b) If an eligible entity submits a waiver under Subsection (5)(a), the school district has no further obligation under this part to sell the surplus property to the eligible entity.
- (6) Surplus property acquired by an eligible entity may not be used for any purpose other than:
  - (a) a county, city, or town hall;
  - (b) a park or other open space;
  - (c) a cultural center or community center;
  - (d) a facility for the promotion, creation, or retention of public or private jobs within the state through planning, design, development, construction, rehabilitation, business relocation, or any combination of these, within a county, city, or town;
  - (e) office, industrial, manufacturing, warehousing, distribution, parking, or other public or private facilities, or other improvements that benefit the state or a county, city, or town; or
  - (f) a facility for a charter school under Chapter 5, Charter Schools.
- (7)
  - (a) A school district that sells surplus property under this part may use proceeds from the sale only for bond debt reduction or school district capital facilities.
  - (b) Each school district that sells surplus property under this part shall place all proceeds from the sale that are not used for bond debt reduction in a capital facilities fund of the school district for use for school district capital facilities.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-4-903 Resale of surplus property.**

- (1) If an eligible entity that has acquired surplus property under Section 53G-4-902 afterwards declares that property to be surplus, the school district from which the eligible entity acquired the property may purchase, and the eligible entity shall sell, the property as provided in Section 53G-4-902, except that the price at which the school district shall be entitled to reacquire the property shall be the price that the eligible entity paid for the property, plus the cost of any existing improvements that the eligible entity made to the property after it purchased the property.
- (2) If the school district does not reacquire the surplus property under Subsection (1) and the eligible entity sells the surplus property to another buyer, the eligible entity and the school district shall equally share any proceeds of that sale that exceed the amount the eligible entity paid for the property plus the cost of any existing improvements the eligible entity made to the property after it purchased the property.

Renumbered and Amended by Chapter 3, 2018 General Session

## **Part 10**

### **School Construction Due to New Industrial Plants**

#### **53G-4-1001 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

#### **53G-4-1002 New industrial plants in school district -- Duty of school district.**

A school district confronted with actual or anticipated large increases in enrollment because of the construction of a new industrial plant or plants to a degree that new buildings or additions to existing buildings are required shall make the following efforts to raise funds to meet those building needs:

- (1) bond to its maximum capacity and maintain maximum bonding by rebonding at least once every other year until building needs are met;
- (2) maintain an annual property tax levy for capital outlay and debt service combined of not less than .0036 per dollar of taxable value; and
- (3) initiate any action necessary to qualify for any state, federal, or other funds for capital outlay for which the district may be eligible.

Renumbered and Amended by Chapter 3, 2018 General Session

#### **53G-4-1003 Funds raised -- Highest priority projects.**

- (1) Funds raised by the school district in accordance with this part shall be used on the highest priority projects established by the district's five-year comprehensive capital outlay plan, which shall be approved by the state board.
- (2) The plan must include appropriate priorities for the construction of minimal facilities for new students.
- (3) If priority use of the funds raised by the district in accordance with this part does not provide minimal facilities as defined by the state board for students in any new and remote community established in the district, or for students in existing communities because of the location of new

or expanded industries in the area, the district may enter into lease-purchase agreements or lease with option to purchase agreements with private builders to furnish the minimal facilities required by the district and approved by the state board.

- (4) The district may make payments on these agreements from any of its otherwise uncommitted capital outlay funds.

Amended by Chapter 293, 2019 General Session

**53G-4-1004 Minimal school facilities -- Lease-purchase or lease with option to purchase agreement authorized.**

- (1) If a school district is unable to find any private builder who is capable of furnishing minimal school facilities in new or existing communities, on terms acceptable to the district and to the state board, the developers of the industrial plant, or plants, may agree to provide minimal school facilities under a lease-purchase agreement or lease with option to purchase agreement with the district.
- (2) The district shall pay the developers according to the terms of the agreement from sources listed for such payments in this part.

Amended by Chapter 293, 2019 General Session

**53G-4-1005 Remote industrial plant requiring new school building -- Construction permit requirements.**

A state officer or local governmental official may not issue a construction permit or other authorization for the construction of a remote industrial plant requiring the provision of a new community, including new public elementary and secondary school buildings, until the local school board of the district in which the plant will be located has certified to the state office or local official, in writing, that the district has obtained the funds, or a firm commitment that funds will be made available as necessary, to build the required minimal school facilities.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-4-1006 Rules and regulations authorized.**

The state board shall adopt all standards and rules necessary for the administration and enforcement of this part.

Amended by Chapter 293, 2019 General Session

**Chapter 5  
Charter Schools**

**Part 1  
General Provisions**

**53G-5-101 Title.**

This chapter is known as "Charter Schools."

Enacted by Chapter 3, 2018 General Session

**53G-5-102 Definitions.**

As used in this chapter:

- (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:
  - (a) cash;
  - (b) stock or other investments;
  - (c) real property;
  - (d) equipment and supplies;
  - (e) an ownership interest;
  - (f) a license;
  - (g) a cause of action; and
  - (h) any similar property.
- (2) "Board of trustees of a higher education institution" or "board of trustees" means:
  - (a) the board of trustees of:
    - (i) the University of Utah;
    - (ii) Utah State University;
    - (iii) Weber State University;
    - (iv) Southern Utah University;
    - (v) Snow College;
    - (vi) Dixie State University;
    - (vii) Utah Valley University; or
    - (viii) Salt Lake Community College; or
  - (b) a technical college board of trustees described in Section 53B-2a-108.
- (3) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.

Amended by Chapter 365, 2020 General Session

**53G-5-103 Charter school funding.**

Unless otherwise specified, the provisions of Title 53F, Public Education System -- Funding, govern charter school funding, including Title 53F, Chapter 2, Part 7, Charter School Funding, which governs levies imposed for charter school funding.

Enacted by Chapter 3, 2018 General Session

**53G-5-104 Purpose of charter schools.**

The purposes of the state's charter schools as a whole are to:

- (1) continue to improve student learning;
- (2) encourage the use of different and innovative teaching methods;
- (3) create new professional opportunities for educators that will allow them to actively participate in designing and implementing the learning program at the school;
- (4) increase choice of learning opportunities for students;
- (5) establish new models of public schools and a new form of accountability for schools that emphasizes the measurement of learning outcomes and the creation of innovative measurement tools;

- (6) provide opportunities for greater parental involvement in management decisions at the school level; and
- (7) expand public school choice in areas where schools have been identified for school improvement, corrective action, or restructuring under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.

Renumbered and Amended by Chapter 3, 2018 General Session

## **Part 2**

### **State Charter School Board**

#### **53G-5-201 State Charter School Board created.**

- (1) As used in this section, "organization that represents Utah's charter schools" means an organization, except a governmental entity, that advocates for charter schools, charter school parents, or charter school students.
- (2)
  - (a) The State Charter School Board is created consisting of the following members appointed by the governor with the advice and consent of the Senate :
    - (i) one member who has expertise in finance or small business management;
    - (ii) three members who:
      - (A) are nominated by an organization that represents Utah's charter schools; and
      - (B) have expertise or experience in developing or administering a charter school;
    - (iii) two members who are nominated by the state board; and
    - (iv) one member who:
      - (A) has expertise in personalized learning, including digital teaching and learning or deliberate practice; and
      - (B) supports innovation in education.
  - (b) Each appointee shall have demonstrated dedication to the purposes of charter schools as outlined in Section 53G-5-104.
  - (c) At least two candidates shall be nominated for each appointment made under Subsection (2)(a)(ii) or (iii).
  - (d) The governor may seek nominations for a prospective appointment under Subsection (2)(a)(ii) from one or more organizations that represent Utah's charter schools.
- (3)
  - (a) State Charter School Board members shall serve four-year terms.
  - (b) If a vacancy occurs, the governor shall, with the advice and consent of the Senate, appoint a replacement for the unexpired term.
- (4) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.
- (5)
  - (a) The State Charter School Board shall annually elect a chair from its membership.
  - (b) Four members of the State Charter School Board shall constitute a quorum.
  - (c) Meetings may be called by the chair or upon request of three members of the State Charter School Board.
- (6) A member may not receive compensation or benefits for the member's service, but 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 352, 2020 General Session

**53G-5-202 Status and powers of State Charter School Board.**

The State Charter School Board may:

- (1) enter into contracts;
- (2) sue and be sued; and
- (3)
  - (a) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and
  - (b) charge fees for the provision of services or functions.

Renumbered and Amended by Chapter 3, 2018 General Session

Amended by Chapter 383, 2018 General Session

**53G-5-203 State Charter School Board -- Staff director -- Facilities.**

- (1)
  - (a) The State Charter School Board, with the consent of the state superintendent, shall appoint a staff director for the State Charter School Board.
  - (b) The State Charter School Board shall have authority to remove the staff director with the consent of the state superintendent.
  - (c) The position of staff director is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act.
- (2) The state superintendent shall provide space for staff of the State Charter School Board in facilities occupied by the state board or the state board's employees, with costs charged for the facilities equal to those charged other sections and divisions under the state board.

Amended by Chapter 293, 2019 General Session

**53G-5-204 Charter school innovative practices -- Report to State Charter School Board.**

Prior to July 31 of each year, a charter school may identify and report to the State Charter School Board its innovative practices which fulfill the purposes of charter schools as outlined in Section 53G-5-104, including:

- (1) unique learning opportunities providing increased choice in education;
- (2) new public school models;
- (3) innovative teaching practices;
- (4) opportunities for educators to actively participate in the design and implementation of the learning program;
- (5) new forms of accountability emphasizing the measurement of learning outcomes and the creation of new measurement tools;
- (6) opportunities for greater parental involvement, including involvement in management decisions; and
- (7) the impact of the innovative practices on student achievement.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-205 Charter school authorizers -- Power and duties -- Charter application minimum standard.**

- (1) The following entities are eligible to authorize charter schools:
  - (a) the State Charter School Board;
  - (b) a local school board; or
  - (c) a board of trustees of an institution in the state system of higher education as described in Section 53B-1-102.
- (2) A charter school authorizer shall:
  - (a) annually review and evaluate the performance of charter schools authorized by the authorizer and hold a charter school accountable for the school's performance; and
  - (b) monitor charter schools authorized by the authorizer for compliance with federal and state laws, rules, and regulations.
- (3) A charter school authorizer may:
  - (a) authorize and promote the establishment of charter schools, subject to the provisions in this part;
  - (b) make recommendations on legislation and rules pertaining to charter schools to the Legislature and state board, respectively;
  - (c) make recommendations to the state board on the funding of charter schools;
  - (d) provide technical support to charter schools and persons seeking to establish charter schools by:
    - (i) identifying and promoting successful charter school models;
    - (ii) facilitating the application and approval process for charter school authorization;
    - (iii) directing charter schools and persons seeking to establish charter schools to sources of funding and support;
    - (iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a charter school authorizer; or
    - (v) assisting charter schools to understand and carry out their charter obligations; or
  - (e) provide technical support, as requested, to another charter school authorizer relating to charter schools.
- (4) Within 60 days after an authorizer's approval of an application for a new charter school, the state board may direct an authorizer to do the following if the authorizer or charter school applicant failed to follow statutory or state board rule requirements made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
  - (a) reconsider the authorizer's approval of an application for a new charter school; and
  - (b) correct deficiencies in the charter school application or authorizer's application process as described in statute or state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, before approving the new application.
- (5) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing minimum standards that a charter school authorizer is required to apply when:
  - (a) evaluating a charter school application; or
  - (b) monitoring charter school compliance.
- (6) The minimum standards described in Subsection (5) shall include:
  - (a) reasonable consequences for an authorizer that fails to comply with statute or state board rule;
  - (b) a process for an authorizer to review:

- (i) the skill and expertise of a proposed charter school's governing board; and
- (ii) the functioning operation of the charter school governing board of an authorized charter school;
- (c) a process for an authorizer to review the financial viability of a proposed charter school and of an authorized charter school;
- (d) a process to evaluate:
  - (i) how well an authorizer's authorized charter school complies with the charter school's charter agreement;
  - (ii) whether an authorizer's authorized charter school maintains reasonable academic standards; and
  - (iii) standards that an authorizer is required to meet to demonstrate the authorizer's capacity to oversee, monitor, and evaluate the charter schools the authorizer authorizes.

Amended by Chapter 408, 2020 General Session

### **Part 3**

### **Charter School Authorization**

#### **53G-5-301 State Charter School Board to request applications for certain types of charter schools.**

- (1) To meet the unique learning styles and needs of students, the State Charter School Board shall seek to expand the types of instructional methods and programs offered by schools, as provided in this section.
- (2)
  - (a) The State Charter School Board shall request individuals, groups of individuals, or not-for-profit legal entities to submit an application to the State Charter School Board to establish a charter school that employs new and creative methods to meet the unique learning styles and needs of students, such as:
    - (i) a military charter school;
    - (ii) a charter school whose mission is to enhance learning opportunities for students at risk of academic failure;
    - (iii) a charter school whose focus is career and technical education;
    - (iv) a single gender charter school; or
    - (v) a charter school with an international focus that provides opportunities for the exchange of students or teachers.
  - (b) In addition to a charter school identified in Subsection (2)(a), the State Charter School Board shall request applications for other types of charter schools that meet the unique learning styles and needs of students.
- (3) The State Charter School Board shall publicize a request for applications to establish a charter school specified in Subsection (2).
- (4) A charter school application submitted pursuant to Subsection (2) shall be subject to the application and approval procedures specified in Section 53G-5-304.
- (5) The State Charter School Board and the state board may approve one or more applications for each charter school specified in Subsection (2), subject to the Legislature appropriating funds for, or authorizing, an increase in charter school enrollment capacity as provided in Section 53G-6-504.



- (6) The state board shall submit a request to the Legislature to appropriate funds for, or authorize, the enrollment of students in charter schools tentatively approved under this section.

Amended by Chapter 293, 2019 General Session

**53G-5-302 Charter school application -- Applicants -- Contents.**

- (1)
  - (a) An application to establish a charter school may be submitted by:
    - (i) an individual;
    - (ii) a group of individuals; or
    - (iii) a nonprofit legal entity organized under Utah law.
  - (b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.
- (2) A charter school application shall include:
  - (a) the purpose and mission of the school;
  - (b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;
  - (c) a description of the governance structure of the school, including:
    - (i) a list of the charter school governing board members that describes the qualifications of each member; and
    - (ii) an assurance that the applicant shall, within 30 days of authorization, complete a background check for each member consistent with Section 53G-5-408;
  - (d) a description of the target population of the school that includes:
    - (i) the projected maximum number of students the school proposes to enroll;
    - (ii) the projected school enrollment for each of the first three years of school operation; and
    - (iii) the ages or grade levels the school proposes to serve;
  - (e) academic goals;
  - (f) qualifications and policies for school employees, including policies that:
    - (i) comply with the criminal background check requirements described in Section 53G-5-408;
    - (ii) require employee evaluations;
    - (iii) address employment of relatives within the charter school; and
    - (iv) address human resource management and ensure that:
      - (A) at least one of the school's employees or another person is assigned human resource management duties, as defined in Section 17B-1-805; and
      - (B) the assigned employee or person described in Subsection (2)(f)(iv)(A) receives human resource management training, as defined in Section 17B-1-805;
  - (g) a description of how the charter school will provide, as required by state and federal law, special education and related services;
  - (h) for a public school converting to charter status, arrangements for:
    - (i) students who choose not to continue attending the charter school; and
    - (ii) teachers who choose not to continue teaching at the charter school;
  - (i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:
    - (i) whether the charter school intends to lease or purchase the charter school's facilities; and
    - (ii) financing arrangements;
  - (j) a market analysis of the community the school plans to serve;
  - (k) a business plan;

- (l) other major issues involving the establishment and operation of the charter school; and
  - (m) the signatures of the charter school governing board members.
- (3) A charter school authorizer may require a charter school application to include:
- (a) the charter school's proposed:
    - (i) curriculum;
    - (ii) instructional program; or
    - (iii) delivery methods;
  - (b) a method for assessing whether students are reaching academic goals, including, at a minimum, administering the statewide assessments described in Section 53E-4-301;
  - (c) a proposed calendar;
  - (d) sample policies;
  - (e) a description of opportunities for parental involvement;
  - (f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or
  - (g) other information that demonstrates an applicant's ability to establish and operate a charter school.

Amended by Chapter 293, 2019 General Session

**53G-5-303 Charter agreement -- Content -- Modification.**

- (1) As used in this section, "satellite charter school" means a charter school affiliated with an operating charter school, which has the same charter school governing board and a similar program of instruction, but has a different school number than the affiliated charter.
- (2) A charter agreement:
- (a) is a contract between the charter school applicant and the charter school authorizer;
  - (b) shall describe the rights and responsibilities of each party; and
  - (c) shall allow for the operation of the applicant's proposed charter school.
- (3) A charter agreement shall include:
- (a) the name of:
    - (i) the charter school; and
    - (ii) the charter school applicant;
  - (b) the mission statement and purpose of the charter school;
  - (c) the charter school's opening date;
  - (d) the grade levels the charter school will serve;
  - (e)
    - (i) subject to Section 53G-6-504, the maximum number of students a charter school will serve;  
or
    - (ii) for an operating charter school with satellite charter schools, the maximum number of students of all satellite charter schools collectively served by the operating charter school;
  - (f) a description of the structure of the charter school governing board, including:
    - (i) the number of charter school governing board members;
    - (ii) how members of the charter school governing board are appointed; and
    - (iii) charter school governing board members' terms of office;
  - (g) assurances that:
    - (i) the charter school governing board will comply with:
      - (A) the charter school's bylaws;
      - (B) the charter school's articles of incorporation; and
      - (C) applicable federal law, state law, and state board rules;

- (ii) the charter school governing board will meet all reporting requirements described in Section 53G-5-404; and
  - (iii) except as provided in Part 6, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;
  - (h) which administrative rules the state board will waive for the charter school;
  - (i) minimum financial standards for operating the charter school;
  - (j) minimum standards for student achievement; and
  - (k) signatures of the charter school authorizer and the charter school governing board members.
- (4)
- (a) Except as provided in Subsection (4)(b), a charter agreement may not be modified except by mutual agreement between the charter school authorizer and the charter school governing board.
  - (b) A charter school governing board may modify the charter school's charter agreement without the mutual agreement described in Subsection (4)(a) to include an enrollment preference described in Subsection 53G-6-502(4)(g).

Amended by Chapter 293, 2019 General Session

**53G-5-304 Charter schools authorized by the State Charter School Board -- Application process -- Prohibited basis of application denial.**

- (1)
- (a) An applicant seeking authorization of a charter school from the State Charter School Board shall provide a copy of the application to the local school board of the school district in which the proposed charter school shall be located either before or at the same time it files its application with the State Charter School Board.
  - (b) The local school board may review the application and may offer suggestions or recommendations to the applicant or the State Charter School Board prior to its acting on the application.
  - (c) The State Charter School Board shall give due consideration to suggestions or recommendations made by the local school board under Subsection (1)(b).
  - (d) The State Charter School Board shall review and, by majority vote, either approve or deny the application.
  - (e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:
    - (i) an enrollment decline;
    - (ii) a decrease in funding; or
    - (iii) a modification of programs or services.
- (2) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by the State Charter School Board.
- (3) After approval of a charter school application and in accordance with Section 53G-5-303, the applicant and the State Charter School Board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.
- (4) The State Charter School Board shall, in accordance with state board rules, establish and make public the State Charter School Board's:
- (a) application requirements, in accordance with Section 53G-5-302;

- (b) application process, including timelines, in accordance with this section; and
- (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 408, 2020 General Session

**53G-5-305 Charters authorized by local school boards -- Application process -- Local school board responsibilities.**

- (1)
  - (a) An applicant identified in Section 53G-5-302 may submit an application to a local school board to establish and operate a charter school within the geographical boundaries of the school district administered by the local school board.
  - (b)
    - (i) The principal, teachers, or parents of students at an existing public school may submit an application to the local school board to convert the school or a portion of the school to charter status.
      - (A) If the entire school is applying for charter status, at least two-thirds of the licensed educators employed at the school and at least two-thirds of the parents of students enrolled at the school must have signed a petition approving the application prior to its submission to the charter school authorizer.
      - (B) If only a portion of the school is applying for charter status, the percentage is reduced to a simple majority.
    - (ii) The local school board may not approve an application submitted under Subsection (1)(b)(i) unless the local school board determines that:
      - (A) students opting not to attend the proposed converted school would have access to a comparable public education alternative; and
      - (B) current teachers who choose not to teach at the converted charter school or who are not retained by the school at the time of its conversion would receive a first preference for transfer to open teaching positions for which they qualify within the school district, and, if no positions are open, contract provisions or local school board policy regarding reduction in staff would apply.
- (2)
  - (a) An existing public school that converts to charter status under a charter granted by a local school board may:
    - (i) continue to receive the same services from the school district that it received prior to its conversion; or
    - (ii) contract out for some or all of those services with other public or private providers.
  - (b) Any other charter school authorized by a local school board may contract with the local school board to receive some or all of the services referred to in Subsection (2)(a).
  - (c) Except as specified in a charter agreement, local school board assets do not transfer to an existing public school that converts to charter status under a charter granted by a local school board under this section.
- (3)
  - (a) A local school board that receives an application for a charter school under this section shall, within 45 days, either accept or reject the application.
  - (b) If the local school board rejects the application, it shall notify the applicant in writing of the reason for the rejection.
  - (c) The applicant may submit a revised application for reconsideration by the local school board.

- (d) If the local school board refuses to authorize the applicant, the applicant may seek a charter from another authorizer.
- (4) The state board shall make a rule providing for a timeline for the opening of a charter school following the approval of a charter school application by a local school board.
- (5) After approval of a charter school application and in accordance with Section 53G-5-303, the applicant and the local school board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.
- (6) A local school board may terminate a charter school it authorizes as provided in Sections 53G-5-501 and 53G-5-503.
- (7) In addition to the exemptions described in Sections 53G-5-405, 53G-7-202, and 53G-5-407, a charter school authorized by a local school board is:
  - (a) not required to separately submit a report or information required under this public education code to the state board if the information is included in a report or information that is submitted by the local school board or school district; and
  - (b) exempt from the requirement under Section 53G-5-404 that a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- (8) Before a local school board accepts a charter school application, the local school board shall, in accordance with state board rules, establish and make public the local school board's:
  - (a) application requirements, in accordance with Section 53G-5-302;
  - (b) application process, including timelines, in accordance with this section; and
  - (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 293, 2019 General Session

**53G-5-306 Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.**

- (1) Except as provided in Subsection (6), an applicant identified in Section 53G-5-302 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.
- (2)
  - (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school will be located either before or at the same time the applicant files the application with the board of trustees.
  - (b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.
  - (c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).
- (3) The state board shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.
- (4) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.
- (5)

- (a) The school's charter agreement may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Section 53G-5-205.
  - (b) In the first two years that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.
  - (c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.
  - (d) An annual fee described in Subsection (5)(a) shall be:
    - (i) paid to the board of trustees' higher education institution; and
    - (ii) expended as directed by the board of trustees.
- (6)
- (a) In addition to complying with the requirements of this section, a technical college board of trustees described in Section 53B-2a-108 shall obtain the approval of the Utah Board of Higher Education before entering into an agreement to establish and operate a charter school.
  - (b) If a technical college board of trustees approves an application to establish and operate a charter school, the technical college board of trustees shall submit the application to the Utah Board of Higher Education.
  - (c) The Utah Board of Higher Education shall, by majority vote, within 60 days of receipt of an application described in Subsection (6)(b), approve or deny the application.
  - (d) The Utah Board of Higher Education may deny an application approved by a technical college board of trustees if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53G-5-104.
  - (e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:
    - (i) an enrollment decline;
    - (ii) a decrease in funding; or
    - (iii) a modification of programs or services.
- (7)
- (a) Subject to the requirements of this chapter and other related provisions, a technical college board of trustees may establish:
    - (i) procedures for submitting applications to establish and operate a charter school; or
    - (ii) criteria for approval of an application to establish and operate a charter school.
  - (b) The Utah Board of Higher Education may not establish policy governing the procedures or criteria described in Subsection (7)(a).
- (8) Before a technical college board of trustees accepts a charter school application, the technical college board of trustees shall, in accordance with state board rules, establish and make public:
- (a) application requirements, in accordance with Section 53G-5-302;
  - (b) the application process, including timelines, in accordance with this section; and
  - (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 365, 2020 General Session

**53G-5-307 Charter school authorization -- Initial review period.**

- (1) An authorizer shall grant a charter school approved under this title initial approval for a three-year review period, beginning with the first year of the charter school's operation.
- (2) Beginning in the first year of the initial review period, the authorizer shall comply with the accountability and review procedures described in Section 53G-5-406.
- (3) The authorizer may extend the initial review period for one year, up to two times during the initial review period.
- (4) At the end of the initial review period, the authorizer shall:
  - (a) grant the charter school ongoing approval; or
  - (b) terminate the charter agreement, subject to the requirements of Section 53G-5-503.
- (5) The authorizer shall, under the minimum standards described in Section 53G-5-205, base the decision to grant ongoing approval or terminate the charter agreement on:
  - (a) the charter school's compliance with the terms of the charter agreement;
  - (b) whether the charter school is meeting academic standards in the charter school's charter agreement;
  - (c) the charter school's financial viability; and
  - (d) the charter school's capacity to meet governance standards.
- (6) A charter school that is granted initial approval under this section may not participate in the Charter School Credit Enhancement Program until the authorizer grants ongoing approval of the charter school's charter.

Enacted by Chapter 192, 2020 General Session

## **Part 4 Powers and Duties**

### **53G-5-401 Status of charter schools.**

- (1) Charter schools are:
  - (a) considered to be public schools within the state's public education system;
  - (b) subject to Subsection 53E-3-401(8); and
  - (c) governed by independent boards and held accountable to a legally binding written contractual agreement.
- (2) A charter school may be established by:
  - (a) creating a new school; or
  - (b) converting an existing public school to charter status.
- (3) A parochial school or home school is not eligible for charter school status.

Renumbered and Amended by Chapter 3, 2018 General Session

### **53G-5-402 Property tax exemption for property owned by a charter school.**

For purposes of a property tax exemption for property of school districts under Subsection 59-2-1101(3)(a)(ii)(B), a charter school is considered to be a school district.

Renumbered and Amended by Chapter 3, 2018 General Session

### **53G-5-403 Charter school assets.**

- (1)

- (a) A charter school may receive, hold, manage, and use any devise, bequest, grant, endowment, gift, or donation of any asset made to the school for any of the purposes of this chapter and other related provisions.
- (b) Unless a donor or grantor specifically provides otherwise in writing, all assets described in Subsection (1)(a) shall be presumed to be made to the charter school and shall be included in the charter school's assets.
- (2) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.
- (3) All assets purchased with charter school funds shall be included in the charter school's assets.
- (4) A charter school may not dispose of its assets in violation of the provisions of this chapter or other related provisions, state board rules, policies of its charter school authorizer, or its charter agreement, including the provisions governing the closure of a charter school under Section 53G-5-504.

Amended by Chapter 293, 2019 General Session

**53G-5-404 Requirements for charter schools.**

- (1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.
- (2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.
- (3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.
- (4)
  - (a) A charter school shall:
    - (i) make the same annual reports required of other public schools under this public education code, including an annual financial audit report described in Section 53G-4-404;
    - (ii) ensure that the charter school meets the data and reporting standards described in Section 53E-3-501; and
    - (iii) use fund and program accounting methods and standardized account codes capable of producing financial reports that comply with:
      - (A) generally accepted accounting principles;
      - (B) the financial reporting requirements applicable to LEAs established by the state board under Section 53E-3-501; and
      - (C) accounting report standards established by the state auditor as described in Section 51-2a-301.
  - (b) Before, and as a condition for opening a charter school:
    - (i) a charter school shall:
      - (A) certify to the authorizer that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); or
      - (B) if the authorizer requires, conduct a performance demonstration to verify that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); and
    - (ii) the authorizer shall certify to the state board that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii).



- (c) A charter school shall file the charter school's annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.
  - (d) For the limited purpose of compliance with federal and state law governing use of public education funds, including restricted funds, and making annual financial audit reports under this section, a charter school is a government entity governed by the public education code.
- (5)
- (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter agreement.
  - (b) To measure the performance of a charter school, an authorizer may use data contained in:
    - (i) the charter school's annual financial audit report;
    - (ii) a report submitted by the charter school as required by statute; or
    - (iii) a report submitted by the charter school as required by its charter agreement.
  - (c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise provided in law.
- (6) A charter school may not advocate unlawful behavior.
- (7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.
- (8) A charter school shall provide adequate liability and other appropriate insurance, including:
  - (a) general liability, errors and omissions, and directors and officers liability coverage through completion of the closure of a charter school under Section 53G-5-504; and
  - (b) tail coverage or closeout insurance covering at least one year after closure of the charter school.
- (9) Beginning on July 1, 2014, a charter school, including a charter school that has not yet opened, shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice before the charter school enters the lease, agreement, or contract.
- (10) A charter school may not employ an educator whose license is suspended or revoked by the state board under Section 53E-6-604.
- (11)
- (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.
  - (b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.
  - (c) If a charter school is an operating charter school with affiliated satellite charter schools, as defined in Section 53G-5-303:
    - (i) the operating charter school shall register as a limited purpose entity as defined in Section 67-1a-15;
    - (ii) each affiliated satellite charter school is not required to register separately from the operating charter school; and
    - (iii) the operating charter school shall:
      - (A) register on behalf of each affiliated satellite charter school; and
      - (B) when submitting entity registry information under Section 67-1a-15 on behalf of each affiliated satellite charter school, identify and distinguish registry information for each affiliated satellite, including the address of each affiliated satellite charter school and the

name and contact information of a primary contact for each affiliated satellite charter school.

(12)

- (a) As used in this Subsection (12), "contracting entity" means a person with which a charter school contracts.
- (b) A charter school shall provide to the charter school's authorizer any information or documents requested by the authorizer, including documents held by a subsidiary of the charter school or a contracting entity:
  - (i) to confirm the charter school's compliance with state or federal law governing the charter school's finances or governance; or
  - (ii) to carry out the authorizer's statutory obligations, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.
- (c) A charter school shall comply with a request described in Subsection (12)(b), including after an authorizer recommends closure of the charter school or terminates the charter school's contract.
- (d) Documents held by a contracting entity or subsidiary of a charter school that are necessary to demonstrate the charter school's compliance with state or federal law are the property of the charter school.
- (e) A charter school shall include in an agreement with a subsidiary of the charter school or a contracting entity a provision that stipulates that documents held by the subsidiary or a contracting entity, that are necessary to demonstrate the charter school's financial compliance with federal or state law, are the property of the charter school.

Amended by Chapter 30, 2020 General Session

Amended by Chapter 192, 2020 General Session

**53G-5-405 Application of statutes and rules to charter schools.**

- (1) A charter school shall operate in accordance with its charter agreement and is subject to this public education code and other state laws applicable to public schools, except as otherwise provided in this chapter and other related provisions.
- (2)
  - (a) Except as provided in Subsection (2)(b), state board rules governing the following do not apply to a charter school:
    - (i) school libraries;
    - (ii) required school administrative and supervisory services; and
    - (iii) required expenditures for instructional supplies.
  - (b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.
- (3) The following provisions of this public education code, and rules adopted under those provisions, do not apply to a charter school:
  - (a) Section 53E-4-408, requiring an independent evaluation of instructional materials;
  - (b) Section 53G-4-409, requiring the use of activity disclosure statements;
  - (c) Sections 53G-7-304 and 53G-7-306, pertaining to fiscal procedures of school districts and local school boards;
  - (d) Section 53G-7-606, requiring notification of intent to dispose of textbooks;
  - (e) Section 53G-7-1202, requiring the establishment of a school community council; and
  - (f) Section 53G-10-404, requiring annual presentations on adoption.

- (4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in Section 63G-6a-103.
- (5) Each charter school shall be subject to:
  - (a) Title 52, Chapter 4, Open and Public Meetings Act; and
  - (b) Title 63G, Chapter 2, Government Records Access and Management Act.
- (6) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53G-5-404.
- (7)
  - (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.
  - (b)
    - (i) The State Charter School Board shall present recommendations for exemption to the state board for consideration.
    - (ii) The state board shall consider the recommendations of the State Charter School Board and respond within 60 days.

Amended by Chapter 192, 2020 General Session

#### **53G-5-406 Accountability -- Rules.**

The state board shall, after consultation with chartering entities, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

- (1) require a charter school to develop an accountability plan, approved by its charter school authorizer, during its first year of operation;
- (2) require an authorizer to:
  - (a) visit a charter school at least once during:
    - (i) its first year of operation; and
    - (ii) the review period described under Subsection (3); and
  - (b) provide written reports to its charter schools after the visits; and
- (3) establish a review process that is required of a charter school once every five years by its authorizer.

Amended by Chapter 408, 2020 General Session

#### **53G-5-407 Employees of charter schools.**

- (1) A charter school shall select its own employees.
- (2) The charter school governing board shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this chapter and other related provisions.
- (3) The following statutes governing public employees and officers do not apply to a charter school:
  - (a) Chapter 11, Part 5, School District and Utah Schools for the Deaf and the Blind Employee Requirements; and
  - (b) Title 52, Chapter 3, Prohibiting Employment of Relatives.
- (4)
  - (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the state board, shall employ teachers who are licensed.
  - (b) The charter school governing board shall disclose the qualifications of its teachers to the parents of its students.

- (5) State board rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.
- (6)
  - (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.
  - (b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the local school board mutually agree.
- (7)
  - (a) A proposed or authorized charter school may elect to participate as an employer for retirement programs under:
    - (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;
    - (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and
    - (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.
  - (b) An election under this Subsection (7):
    - (i) shall be documented by a resolution adopted by the charter school governing board; and
    - (ii) applies to the charter school as the employer and to all employees of the charter school.
  - (c) The charter school governing board may offer employee benefit plans for its employees:
    - (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or
    - (ii) under any other program.
- (8) A charter school may not revoke an election to participate made under Subsection (7).
- (9) The charter school governing board shall ensure that, prior to the beginning of each school year:
  - (a) each of the charter school's employees signs a document acknowledging that the employee:
    - (i) has received:
      - (A) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or
      - (B) written disclosure similar to the disclosure required under Section 63A-4-204.5 if the charter school does not participate in the Risk Management Fund; and
    - (ii) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure; and
  - (b)
    - (i) at least one of the charter school's employees or another person is assigned human resource management duties, as defined in Section 17B-1-805; and
    - (ii) the assigned employee or person described in Subsection (9)(b)(i) receives human resource management training, as defined in Section 17B-1-805.

Amended by Chapter 293, 2019 General Session

**53G-5-408 Criminal background checks on school personnel.**

The following individuals are required to submit to a criminal background check and ongoing monitoring as provided in Section 53G-11-402:

- (1) an employee of a charter school who does not hold a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure;
- (2) a volunteer for a charter school who is given significant unsupervised access to a student in connection with the volunteer's assignment;
- (3) a contract employee, as defined in Section 53G-11-401, who works at a charter school; and
- (4) a charter school governing board member.

Amended by Chapter 293, 2019 General Session

**53G-5-409 Regulated transactions and relationships -- Definitions -- Rulemaking.**

(1) As used in this section:

(a) "Charter school officer" means:

- (i) a member of a charter school's governing board;
- (ii) a member of a board or an officer of a nonprofit corporation under which a charter school is organized and managed; or
- (iii) the chief administrative officer of a charter school.

(b)

- (i) "Employment" means a position in which a person's salary, wages, pay, or compensation, whether as an employee or contractor, is paid from charter school funds.
- (ii) "Employment" does not include a charter school volunteer.

(c) "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.

(2)

(a) Except as provided in Subsection (2)(b), a relative of a charter school officer may not be employed at a charter school.

(b) If a relative of a charter school officer is to be considered for employment in a charter school, the charter school officer shall:

- (i) disclose the relationship, in writing, to the other charter school officers;
- (ii) submit the employment decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;
- (iii) abstain from voting on the issue; and
- (iv) be absent from the portion of the meeting where the employment is being considered and determined.

(3)

(a) Except as provided in Subsections (3)(b) and (3)(c), a charter school officer or a relative of a charter school officer may not have a financial interest in a contract or other transaction involving a charter school in which the charter school officer serves as a charter school officer.

(b) If a charter school's governing board considers entering into a contract or executing a transaction in which a charter school officer or a relative of a charter school officer has a financial interest, the charter school officer shall:

- (i) disclose the financial interest, in writing, to the other charter school officers;
- (ii) submit the contract or transaction decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;
- (iii) abstain from voting on the issue; and
- (iv) be absent from the portion of the meeting where the contract or transaction is being considered and determined.

(c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of employment for:

- (i) the chief administrative officer of a charter school; or
- (ii) a relative of the chief administrative officer of a charter school whose employment is approved in accordance with the provisions in Subsection (2).

(4) The state board or State Charter School Board may not operate a charter school.

Amended by Chapter 293, 2019 General Session

**53G-5-410 Safe technology utilization and digital citizenship.**

A charter school governing board, or a council formed by a charter school governing board to prepare a plan for the use of School LAND Trust Program money under Section 53G-7-1206:

- (1) shall provide for education and awareness on safe technology utilization and digital citizenship that empowers:
  - (a) a student to make smart media and online choices; and
  - (b) a parent to know how to discuss safe technology use with the parent's child;
- (2) shall partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with charter school governing board policy and Subsection 53G-7-216(3); and
- (3) may partner with one or more non-profit organizations to fulfill the duties described in Subsections (1) and (2).

Amended by Chapter 293, 2019 General Session

**53G-5-411 Charter school fiscal year -- Statistical reports.**

- (1) A charter school's fiscal year begins on July 1 and ends on June 30.
- (2)
  - (a) A charter school shall forward statistical reports for the preceding school year, containing items required by law or by the state board, to the state superintendent on or before November 1 of each year.
  - (b) The reports shall include information to enable the state superintendent to complete the statement of funds required under Section 53E-1-203.
- (3) A charter school shall forward the accounting report required under Section 51-2a-201 to the state superintendent on or before October 15 of each year.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 324, 2019 General Session

**53G-5-412 Contract with regional education service agencies.**

A public school that is a charter school may enter into a contract with an eligible regional education service agency, as defined in Section 53G-4-410, to receive education-related services from the eligible regional education service agency.

Amended by Chapter 253, 2020 General Session

**53G-5-413 Charter school governing board meetings -- Rules of order and procedure.**

- (1) As used in this section, "rules of order and procedure" means a set of rules that governs and prescribes in a public meeting:
  - (a) parliamentary order and procedure;
  - (b) ethical behavior; and
  - (c) civil discourse.
- (2) A charter school governing board shall:
  - (a) adopt rules of order and procedure to govern a public meeting of the charter school governing board;

- (b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and
- (c) make the rules of order and procedure described in Subsection (2)(a) available to the public:
  - (i) at each public meeting of the charter school governing board; and
  - (ii) on the charter school governing board's public website, if available.
- (3) The requirements of this section do not affect a charter school governing board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 136, 2019 General Session

## **Part 5**

### **Noncompliance, Charter Termination, and Liability**

#### **53G-5-501 Noncompliance -- Rulemaking.**

- (1) If a charter school is found to be out of compliance with the requirements of Section 53G-5-404 or the school's charter agreement, the charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53G-5-503(4):
  - (a) the charter school governing board; and
  - (b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.
- (2)
  - (a) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:
    - (i) subject to the requirements of Subsection (4), take one or more of the following actions:
      - (A) remove a charter school director or finance officer;
      - (B) remove a charter school governing board member;
      - (C) appoint an interim director, mentor, or finance officer to work with the charter school; or
      - (D) appoint a governing board member;
    - (ii) subject to the requirements of Section 53G-5-503, terminate the school's charter agreement; or
    - (iii) transfer operation and control of the charter school to a high performing charter school, as defined in Subsection 53G-5-502(1), including reconstituting the governing board to effectuate the transfer.
  - (b) The authorizer may prohibit the charter school governing board from removing an appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the appointment.
- (3) The costs of an interim director, mentor, or finance officer appointed under Subsection (2) (a) shall be paid from the funds of the charter school for which the interim director, mentor, or finance officer is working.
- (4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in Subsection (2)(a)(i) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:
- (a) specifying the timeline for remedying deficiencies under Subsection (1); and
  - (b) ensuring the compliance of a charter school with its approved charter agreement.
- (6)
- (a) An authorizer may petition the district court where a charter school is located or incorporated to appoint a receiver, and the district court may appoint a receiver if the authorizer establishes that the charter school:
    - (i) is subject to closure under Section 53G-5-503; and
    - (ii)
      - (A) has disposed, or there is a demonstrated risk that the charter school will dispose, of the charter school's assets in violation of Subsection 53G-5-403(4); or
      - (B) cannot, or there is a demonstrated risk that the charter school will not, make repayment of amounts owed to the federal government or the state.
  - (b) The court shall describe the powers and duties of the receiver in the court's appointing order, and may amend the order from time to time.
  - (c) Among other duties ordered by the court, the receiver shall:
    - (i) ensure the protection of the charter school's assets;
    - (ii) preserve money owed to creditors; and
    - (iii) if requested by the authorizer, carry out charter school closure procedures described in Section 53G-5-504, and state board rules, as directed by the authorizer.
  - (d) If the authorizer does not request, or the court does not appoint, a receiver:
    - (i) the authorizer may reconstitute the governing board of a charter school; or
    - (ii) if a new governing board cannot be reconstituted, the authorizer shall complete the closure procedures described in Section 53G-5-504, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.
  - (e) For a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the consent of the Utah Charter School Finance Authority before the authorizer takes the following actions:
    - (i) petitions a district court to appoint a receiver, as described in Subsection (6)(a);
    - (ii) reconstitutes the governing board, as described in Subsection (6)(d)(i); or
    - (iii) carries out closure procedures, as described in Subsection (6)(d)(ii).

Amended by Chapter 192, 2020 General Session

Amended by Chapter 408, 2020 General Session

**53G-5-502 Voluntary school improvement process.**

- (1) As used in this section:
- (a) " High performing charter school" means a charter school that:
    - (i) satisfies all requirements of state law and state board rules;
    - (ii) has operated for at least three years meeting the terms of the school's charter agreement; and
    - (iii) is in good standing with the charter school's authorizer.
  - (b) "Low performing charter school" means a charter school that is designated a low performing school, as that term is defined in Section 53E-5-301.
  - (c) "School turnaround plan" means the same as that term is defined in Section 53E-5-301.
- (2)



- (a) Subject to Subsection (2)(b), a charter school governing board may voluntarily request the charter school's authorizer to place the charter school, including a low performing charter school that has a school turnaround plan, in a school improvement process.
- (b) A charter school governing board shall provide notice and a hearing on the charter school governing board's intent to make a request under Subsection (2)(a) to parents of students enrolled in the charter school.
- (3) An authorizer may grant a charter school governing board's request to be placed in a school improvement process if the charter school governing board has provided notice and a hearing under Subsection (2)(b).
- (4) An authorizer that has entered into a school improvement process with a charter school governing board shall:
  - (a) enter into a contract with the charter school governing board on the terms of the school improvement process;
  - (b) notify the state board that the authorizer has entered into a school improvement process with the charter school governing board;
  - (c) make a report to a committee of the state board regarding the school improvement process; and
  - (d) notify the Utah Charter School Finance Authority that the authorizer has entered into a school improvement process with the charter school governing board if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.
- (5) Upon notification under Subsection (4)(b), and after the report described in Subsection (4)(c), the state board shall notify charter schools and the school district in which the charter school is located that the charter school governing board has entered into a school improvement process with the charter school's authorizer.
- (6) A high performing charter school or the school district in which the charter school is located may apply to the charter school governing board to assume operation and control of the charter school that has been placed in a school improvement process.
- (7) A charter school governing board that has entered into a school improvement process shall review applications submitted under Subsection (6) and submit a proposal to the charter school's authorizer to:
  - (a) terminate the school's charter, notwithstanding the requirements of Section 53G-5-503; and
  - (b) transfer operation and control of the charter school to:
    - (i) the school district in which the charter school is located; or
    - (ii) a high performing charter school.
- (8) Except as provided in Subsection (9) and subject to Subsection (10), an authorizer may:
  - (a) approve a charter school governing board's proposal under Subsection (7); or
  - (b)
    - (i) deny a charter school governing board's proposal under Subsection (7); and
    - (ii)
      - (A) terminate the school's charter agreement in accordance with Section 53G-5-503;
      - (B) allow the charter school governing board to submit a revised proposal; or
      - (C) take no action.
- (9) An authorizer may not take an action under Subsection (8) for a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.
- (10)

- (a) An authorizer that intends to transfer operation and control of a charter school as described in Subsection (7)(b) shall request approval from the state board.
- (b)
  - (i) The state board shall consider an authorizer's request under Subsection (10)(a) within 30 days of receiving the request.
  - (ii) If the state board denies an authorizer's request under Subsection (10)(a), the authorizer may not transfer operation and control of the charter school as described in Subsection (7)(b).
  - (iii) If the state board does not take action on an authorizer's request under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to transfer operation and control of the charter school as described in Subsection (7)(b).
- (11) If operation and control of a low performing charter school that has a school turnaround plan is transferred to a high performing charter school as described in Subsection (7)(b), the low performing charter school shall complete the requirements of the school turnaround plan and any other requirements imposed by the authorizer for school improvement.

Amended by Chapter 192, 2020 General Session

**53G-5-503 Termination of a charter agreement.**

- (1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter agreement for any of the following reasons:
  - (a) failure of the charter school to meet the requirements stated in the charter agreement;
  - (b) failure to meet generally accepted standards of fiscal management;
  - (c)
    - (i) designation as a low performing school under Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development; and
    - (ii) failure to improve the school's grade under the conditions described in Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development;
  - (d) violation of requirements under this chapter or another law; or
  - (e) other good cause shown.
- (2)
  - (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the charter school governing board may request an informal hearing before the authorizer:
    - (i) the charter school governing board; and
    - (ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.
  - (b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).
  - (c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the charter school governing board may appeal the decision to the state board.
  - (d)
    - (i) The state board shall hear an appeal of a termination made pursuant to Subsection (2)(c).
    - (ii) The state board's action is final action subject to judicial review.
  - (e)

- (i) If the authorizer proposes to terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:
  - (A) the charter school governing board of the qualifying charter school; and
  - (B) the Utah Charter School Finance Authority.
- (ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter agreement.
- (3) An authorizer may not terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.
- (4)
  - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.
  - (b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.
- (5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter agreement immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.
- (6) If a charter agreement is terminated, the following entities may apply to the charter school's authorizer to assume operation of the school:
  - (a) the school district where the charter school is located;
  - (b) the charter school governing board of another charter school;
  - (c) a private management company; or
  - (d) the governing board of a nonprofit corporation.
- (7)
  - (a) If a charter agreement is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of Chapter 6, Part 3, School District Residency, subject to space availability.
  - (b) Normal application deadlines shall be disregarded under Subsection (7)(a).

Amended by Chapter 192, 2020 General Session

Amended by Chapter 408, 2020 General Session

**53G-5-504 Charter school closure.**

- (1) As used in this section, "receiving charter school" means a charter school that an authorizer permits under Subsection (13)(a), to accept enrollment applications from students of a closing charter school.
- (2) If a charter school is closed for any reason, including the termination of a charter agreement in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.
- (3) A decision to close a charter school is made:
  - (a) when a charter school authorizer approves a motion to terminate described in Subsection 53G-5-503(2)(c);
  - (b) when the state board takes final action described in Subsection 53G-5-503(2)(d)(ii); or

- (c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.
- (4)
- (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:
    - (i) provide notice to the following, in writing, of the decision:
      - (A) if the charter school made the decision to close, the charter school's authorizer;
      - (B) the State Charter School Board;
      - (C) if the state board did not make the decision to close, the state board;
      - (D) parents of students enrolled at the charter school;
      - (E) the charter school's creditors;
      - (F) the charter school's lease holders;
      - (G) the charter school's bond issuers;
      - (H) other entities that may have a claim to the charter school's assets;
      - (I) the school district in which the charter school is located and other charter schools located in that school district; and
      - (J) any other person that the charter school determines to be appropriate; and
    - (ii) post notice of the decision on the Utah Public Notice Website, created in Section 63F-1-701.
  - (b) The notice described in Subsection (4)(a) shall include:
    - (i) the proposed date of the charter school closure;
    - (ii) the charter school's plans to help students identify and transition into a new school; and
    - (iii) contact information for the charter school during the transition.
- (5) No later than 10 days after the day on which a decision to close a charter school is made, the closing charter school shall:
- (a) designate a custodian for the protection of student files and school business records;
  - (b) designate a base of operation that will be maintained throughout the charter school closing, including:
    - (i) an office;
    - (ii) hours of operation;
    - (iii) operational telephone service with voice messaging stating the hours of operation; and
    - (iv) a designated individual to respond to questions or requests during the hours of operation;
  - (c) assure that the charter school will maintain private insurance coverage or risk management coverage for covered claims that arise before closure, throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;
  - (d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds are received or expended by the charter school a financial audit and any other procedure required by state board rule;
  - (e) inventory all assets of the charter school; and
  - (f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.
- (6) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (5).
- (7)
- (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.
  - (b) The closing charter school's authorizer shall liquidate assets at fair market value or assign the assets to another public school.

- (8) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with state board rule.
- (9) The closing charter school shall:
  - (a) comply with all state and federal reporting requirements; and
  - (b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the state board, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.
- (10) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.
- (11) On or before January 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from charter school authorizers, make rules that:
  - (a) provide additional closure procedures for charter schools; and
  - (b) establish a charter school closure process.
- (12)
  - (a) Upon termination of the charter school's charter agreement:
    - (i) notwithstanding provisions to the contrary in Title 16, Chapter 6a, Part 14, Dissolution, the nonprofit corporation under which the charter school is organized and managed may be unilaterally dissolved by the authorizer; and
    - (ii) the net assets of the charter school shall revert to the authorizer as described in Subsection (7).
  - (b) The charter school and the authorizer shall mutually agree in writing on the effective date and time of the dissolution described in Subsection (12)(a).
  - (c) The effective date and time of dissolution described in Subsection (12)(b) may not exceed five years after the date of the termination of the charter agreement.
- (13) Notwithstanding the provisions of Chapter 6, Part 5, Charter School Enrollment:
  - (a) an authorizer may permit a specified number of students from a closing charter school to be enrolled in another charter school, if the receiving charter school:
    - (i)
      - (A) is authorized by the same authorizer as the closing charter school; or
      - (B) is authorized by a different authorizer and the authorizer of the receiving charter school approves the increase in enrollment; and
    - (ii) agrees to accept enrollment applications from students of the closing charter school;
  - (b) a receiving charter school shall give new enrollment preference to applications from students of the closing charter school in the first school year in which the closing charter school is not operational; and
  - (c) a receiving charter school's enrollment capacity is increased by the number of students enrolled in the receiving charter school from the closing charter school under this Subsection (13).
- (14) A member of the governing board or staff of the receiving charter school that is also a member of the governing board of the receiving charter school's authorizer, shall recuse himself or herself from a decision regarding the enrollment of students from a closing charter school as described in Subsection (13).

Amended by Chapter 192, 2020 General Session  
Amended by Chapter 408, 2020 General Session

**53G-5-505 Tort liability.**

- (1) An employee of a charter school is a public employee and the charter school governing board is a public employer in the same manner as a local school board for purposes of tort liability.
- (2) The charter school governing board, the nonprofit corporation under which the charter school is organized and managed, and the school are solely liable for any damages resulting from a legal challenge involving the operation of the school.

Amended by Chapter 293, 2019 General Session

**Part 6**  
**Charter School Credit Enhancement Program**

**53G-5-601 Definitions.**

As used in this part:

- (1) "Annual charter school enrollment" means the total enrollment of all students in the state enrolled in a charter school in grades kindergarten through grade 12, based on October 1 enrollment counts.
- (2) "Annual state enrollment" means the total enrollment of all students in the state enrolled in a public school in grades kindergarten through grade 12, based on October 1 enrollment counts.
- (3) "Authority" means the Utah Charter School Finance Authority created by this part.
- (4) "Board" means the governing board of the authority described in Section 53G-5-602.
- (5) "Charter school" means a school created under this chapter.
- (6) "Credit enhancement program" means the Charter School Credit Enhancement Program established in Section 53G-5-606.
- (7) "Debt service reserve fund" means the reserve fund created or established by, or for the benefit of, a qualifying charter school for the purpose of paying principal of and interest on bonds issued under the credit enhancement program as the payments become due and other money of the qualifying charter school is not available to make the payments.
- (8) "Debt service reserve fund requirement" means, as of a particular date of computation, and with respect to a particular issue of bonds, the amount required to be on deposit in the debt service reserve fund, which amount:
  - (a) may be a sum certain or as set forth in a formula; and
  - (b) may not be less than the maximum annual debt service requirement for the related bonds.
- (9)
  - (a) "Obligations" mean any notes, debentures, revenue bonds, or other evidences of financial indebtedness, except as provided in Subsection (9)(b).
  - (b) "Obligations" do not include general obligation bonds.
- (10) "Project" means:
  - (a) any building, structure, or property owned, to be acquired, or used by a charter school for any of its educational purposes and the related appurtenances, easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities, and lands; or
  - (b) any capital equipment owned, to be acquired, or used by a charter school for any of its educational purposes, interests in land, and grounds, together with the personal property necessary, convenient, or appurtenant to them.
- (11) "Qualifying charter school" means a charter school that:

- (a) meets standards adopted by the authority for participation in the credit enhancement program; and
  - (b) is designated by the authority as a qualifying charter school for purposes of participation in the credit enhancement program.
- (12) "Reserve account" means the Charter School Reserve Account created in Section 53F-9-303.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-602 Utah Charter School Finance Authority created -- Members -- Compensation -- Services.**

- (1) There is created a body politic and corporate known as the Utah Charter School Finance Authority. The authority is created to provide an efficient and cost-effective method of financing charter school facilities.
- (2) The governing board of the authority shall be composed of:
  - (a) the governor or the governor's designee;
  - (b) the state treasurer; and
  - (c) the state superintendent or the state superintendent's designee.
- (3) A member may not receive compensation or benefits for the member's service, but 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.
- (4) Upon request, the state board shall provide staff support to the authority.

Amended by Chapter 293, 2019 General Session

**53G-5-603 Powers and duties of authority.**

- (1) The authority shall have perpetual succession as a body politic and corporate.
- (2) The authority may:
  - (a) sue and be sued in its own name;
  - (b) have, and alter at will, an official seal;
  - (c) contract with experts, advisers, consultants, and agents for needed services;
  - (d) receive and accept aid or contributions from any source, including the United States or this state, in the form of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this part, subject to the conditions upon which the aid and contributions are made, for any purpose consistent with this part;
  - (e) exercise the powers granted to municipalities and counties pursuant to Title 11, Chapter 17, Utah Industrial Facilities and Development Act, including the power to borrow money and issue obligations, including refunding obligations, subject to the same limitations as that imposed on a municipality or county under the act, except:
    - (i) the authority may only exercise powers under the act to finance or refinance a project as defined in Section 53G-5-601; and
    - (ii) the authority's area of operation shall include all areas of the state;
  - (f) employ advisers, consultants, and agents, including financial experts, independent legal counsel, and any advisers, consultants, and agents as may be necessary in its judgment and fix their compensation;
  - (g) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;

- (h) in accordance with Section 53G-5-606, designate a charter school as a qualifying charter school for purposes of participation in the credit enhancement program; and
  - (i) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this part.
- (3) Except as provided in Section 53G-5-607, 53G-5-608, or 53G-5-609, the Utah Charter School Finance Authority may not exercise power in any manner which would create general or moral obligations of the state or of any agency, department, or political subdivision of the state.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-604 Limited obligations.**

Except as provided in Section 53G-5-607, 53G-5-608, or 53G-5-609, bonds, notes, and other obligations issued by the authority:

- (1) do not constitute a debt, moral obligation, or liability of the state, or of any county, city, town, school district, or any other political subdivision of the state;
- (2) do not constitute the loan of credit of the state or of any county, city, town, school district, or any other political subdivision of the state; and
- (3) may not be paid from funds other than loan payments or lease revenues received from a charter school or other funds pledged by a charter school.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-605 State to succeed to property of authority when encumbrances paid or authority dissolved.**

- (1) If the authority is dissolved at any time, for any reason, all funds, property, rights, and interests of the authority, following the satisfaction of the authority's obligations, shall immediately vest in and become the property of the state, which shall succeed to all rights of the authority subject to any encumbrances which may then exist on any particular properties.
- (2) None of the net earnings of the authority shall inure to the benefit of any private person.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-606 Charter School Credit Enhancement Program -- Standards for the designation of qualifying charter schools -- Debt service reserve fund requirements.**

- (1) There is created the Charter School Credit Enhancement Program to assist qualifying charter schools in obtaining favorable financing by providing a means of replenishing a qualifying charter school's debt service reserve fund.
- (2) The authority shall establish standards for a charter school to be designated as a qualifying charter school.
- (3) In establishing the standards described in Subsection (2) the authority shall consider:
  - (a) whether a charter school has received an investment grade rating, independent of any rating enhancement resulting from the issuance of bonds pursuant to the credit enhancement program;
  - (b) the location of the charter school's project;
  - (c) the operating history of the charter school;
  - (d) the financial strength of the charter school; and
  - (e) any other criteria the authority determines are relevant.



- (4) The bonds issued by the authority for a qualifying charter school are not an indebtedness of the state or of the authority but are special obligations payable solely from:
  - (a) the revenues or other funds pledged by the qualifying charter school; and
  - (b) amounts appropriated by the Legislature pursuant to Subsection (9).
- (5) The authority shall notify the authorizer of a charter school that the charter school is participating in the credit enhancement program if the authority:
  - (a) designates the charter school as a qualifying charter school; and
  - (b) issues bonds for the qualifying charter school under the credit enhancement program.
- (6) One or more debt service reserve funds shall be established for a qualifying charter school with respect to bonds issued pursuant to the credit enhancement program.
- (7)
  - (a) Except as provided in Subsection (7)(b), money in a debt service reserve fund may not be withdrawn from the debt service reserve fund if the amount withdrawn would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement.
  - (b) So long as the applicable bonds issued under the credit enhancement program remain outstanding, money in a debt service reserve fund may be withdrawn in an amount that would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement if the money is withdrawn for the purpose of:
    - (i) paying the principal of, redemption price of, or interest on a bond when due and if no other money of the qualifying charter school is available to make the payment, as determined by the authority; or
    - (ii) paying any redemption premium required to be paid when the bonds are redeemed prior to maturity if no bonds will remain outstanding upon payment from the funds in the qualifying charter school's debt service reserve fund.
- (8) Money in a qualifying charter school's debt service reserve fund that exceeds the debt service reserve fund requirement may be withdrawn by the qualifying charter school.
- (9)
  - (a) The authority shall annually, on or before December 1, certify to the governor the amount, if any, required to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.
  - (b) The governor shall request from the Legislature an appropriation of the certified amount to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.
  - (c) The Legislature may appropriate money to the authority to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.
  - (d) A qualifying charter school that receives money from an appropriation to restore amounts on deposit in a debt service reserve fund to the debt service reserve fund requirement, shall repay the state at the time and in the manner as the authority shall require.
- (10) The authority may create and establish other funds for its purposes.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-607 Charter School Reserve Account contribution requirements for qualifying charter schools.**

- (1) When bonds are issued under the credit enhancement program for a qualifying charter school, the qualifying charter school shall contribute money to the reserve account in the amount determined as provided in Subsection (2).
- (2) The authority shall determine the up-front and ongoing requirements for contributions of money to the reserve account for each qualifying charter school.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-608 Bond issuance.**

- (1)
  - (a) The state may not alter, impair, or limit the rights of bondholders or persons contracting with a qualifying charter school until the bonds, including interest and other contractual obligations, are fully met and discharged.
  - (b) Nothing in this part precludes an alteration, impairment, or limitation if provision is made by law for the protection of bondholders or persons entering into contracts with a qualifying charter school.
- (2) The authority may require a qualifying charter school to vest in the authority the right to enforce any covenant made to secure bonds issued under the credit enhancement program by making appropriate provisions in the indenture related to the qualifying charter school's bonds.
- (3) The authority may require a qualifying charter school to make covenants and agreements in indentures or in a reimbursement agreement to protect the interests of the state and to secure repayment to the state of any money received by the qualifying charter school from an appropriation to restore amounts deposited in the qualifying charter school's debt service reserve fund to the debt service reserve fund requirement.
- (4) The authority may charge a fee to administer the issuance of bonds for a qualifying charter school.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-609 Limitation on participation in Charter School Credit Enhancement Program.**

- (1) In accordance with Subsection (2), on or before January 1 of each year, the authority shall determine the credit enhancement program's bond issuance limitation.
- (2) The authority may not issue bonds for a qualifying charter school under the credit enhancement program if the total par amount outstanding under the program would exceed an amount equal to the product of:
  - (a) 1.3;
  - (b) an amount equal to the quotient of:
    - (i) annual charter school enrollment; divided by
    - (ii) annual state enrollment; and
  - (c) the total par amount then outstanding under the school bond guarantee program established in Chapter 4, Part 8, School District Bond Guaranty.

Renumbered and Amended by Chapter 3, 2018 General Session

**Chapter 6**

## Participation in Public Schools

### Part 1 General Provisions

#### **53G-6-101 Title.**

This chapter is known as "Participation in Public Schools."

Enacted by Chapter 3, 2018 General Session

#### **53G-6-102 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

### Part 2 Compulsory Education

#### **53G-6-201 Definitions.**

As used in this part:

- (1)
  - (a) "Absence" or "absent" means the failure of a school-age child assigned to a class or class period to attend a class or class period.
  - (b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence for the sake of a truancy.
- (2) "Minor" means a person under the age of 18 years.
- (3) "Parent" includes:
  - (a) a custodial parent of the minor;
  - (b) a legally appointed guardian of a minor; or
  - (c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (3)(a) or (b).
- (4) "School day" means the portion of a day that school is in session in which a school-age child is required to be in school for purposes of receiving instruction.
- (5) "School year" means the period of time designated by a local school board or charter school governing board as the school year for the school where the school-age child:
  - (a) is enrolled; or
  - (b) should be enrolled, if the school-age child is not enrolled in school.
- (6) "School-age child" means a minor who:
  - (a) is at least six years old but younger than 18 years old; and
  - (b) is not emancipated.
- (7)
  - (a) "Truant" means a condition in which a school-age child, without a valid excuse, and subject to Subsection (7)(b), is absent for at least:
    - (i) half of the school day; or

- (ii) if the school-age child is enrolled in a learner verified program, as that term is defined by the state board, the relevant amount of time under the LEA's policy regarding the LEA's continuing enrollment measure as it relates to truancy.
- (b) A school-age child may not be considered truant under this part more than one time during one day.
- (8) "Truant minor" means a school-age child who:
  - (a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and
  - (b) is truant.
- (9)
  - (a) "Valid excuse" means:
    - (i) an illness, which may be either mental or physical;
    - (ii) a family death;
    - (iii) an approved school activity;
    - (iv) an absence permitted by a school-age child's:
      - (A) individualized education program; or
      - (B) Section 504 accommodation plan;
    - (v) an absence permitted in accordance with Subsection 53G-6-803(5); or
    - (vi) any other excuse established as valid by a local school board, charter school governing board, or school district.
  - (b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason other than a reason described in Subsections (9)(a)(i) through (vi), unless specifically permitted by the local school board, charter school governing board, or school district under Subsection (9)(a)(vi).

Amended by Chapter 20, 2020 General Session

**53G-6-202 Compulsory education.**

- (1) For purposes of this section:
  - (a) "Intentionally" means the same as that term is defined in Section 76-2-103.
  - (b) "Notice of compulsory education violation" means a notice issued in accordance with Subsections (3) and (4).
  - (c) "Remainder of the school year" means the portion of the school year beginning on the day after the day on which a notice of compulsory education violation is served and ending on the last day of the school year.
- (2) Except as provided in Section 53G-6-204 or 53G-6-702, the parent of a school-age child shall enroll and send the school-age child to a public or regularly established private school.
- (3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may only issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is:
  - (a) in grade 1 through 6; and
  - (b) truant at least five times during the school year.
- (4) A notice of compulsory education violation issued to a parent:
  - (a) shall direct the parent to:
    - (i) meet with school authorities to discuss the school-age child's school attendance problems; and
    - (ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age child;
  - (b) shall designate the school authorities with whom the parent is required to meet;

- (c) shall state that it is a class B misdemeanor for the parent to intentionally or without good cause:
  - (i) fail to meet with the designated school authorities to discuss the school-age child's school attendance problems; or
  - (ii) fail to prevent the school-age child from being truant five or more times during the remainder of the school year;
- (d) shall be served on the parent by personal service or certified mail; and
- (e) may not be issued unless the school-age child has been truant at least five times during the school year.
- (5) It is a class B misdemeanor for a parent of a school-age child to intentionally or without good cause fail to enroll the school-age child in school, unless the school-age child is exempt from enrollment under Section 53G-6-204 or 53G-6-702.
- (6) It is a class B misdemeanor for a parent of a school-age child who is in grade 1 through 6 to, after being served with a notice of compulsory education violation, intentionally or without good cause:
  - (a) fail to meet with the school authorities designated in the notice of compulsory education violation to discuss the school-age child's school attendance problems; or
  - (b) fail to prevent the school-age child from being truant five or more times during the remainder of the school year.
- (7) A local school board, charter school governing board, or school district shall report violations of this section to the appropriate county or district attorney.
- (8) If school personnel have reason to believe that, after a notice of compulsory education violation is issued, the parent has failed to make a good faith effort to ensure that the school-age child receives an appropriate education, the issuer of the compulsory education violation shall report to the Division of Child and Family Services:
  - (a) identifying information of the school-age child and the parent who received the notice of compulsory education violation;
  - (b) information regarding the longest number of consecutive school days the school-age child has been absent or truant from school and the percentage of school days the school-age child has been absent or truant during each relevant school term;
  - (c) whether the school-age child has made adequate educational progress;
  - (d) whether the requirements of Section 53G-6-206 have been met;
  - (e) whether the school-age child is two or more years behind the local public school's age group expectations in one or more basic skills; and
  - (f) whether the school-age child is receiving special education services or systematic remediation efforts.

Amended by Chapter 20, 2020 General Session

**53G-6-203 Truancy -- Notice of truancy -- Failure to cooperate with school authorities.**

- (1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age child who is enrolled in a public school shall attend the public school in which the school-age child is enrolled.
- (2) In accordance with Section 53G-8-211, a local school board, charter school governing board, or school district may impose administrative penalties on a school-age child who is:
  - (a) in grade 7 or above, unless the school-age child is less than 12 years old; and
  - (b) truant.
- (3) A local school board or charter school governing board:

- (a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue a notice of truancy in accordance with Subsection (4); and
  - (b) shall establish a procedure for a school-age child, or the school-age child's parents, to contest a notice of truancy.
- (4) A notice of truancy described in Subsection (3):
- (a) may not be issued until a school-age child has been truant at least five times during the school year;
  - (b) may not be issued to a school-age child who is less than 12 years old or in a grade below grade 7;
  - (c) may not be issued to a school-age child exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;
  - (d) shall direct the school-age child who receives the notice of truancy and the parent of the school-age child to:
    - (i) meet with school authorities to discuss the school-age child's trancies; and
    - (ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age child; and
  - (e) shall be mailed to, or served on, the school-age child's parent.
- (5) Nothing in this part prohibits a local school board, charter school governing board, or school district from taking action to resolve a truancy problem with a school-age child who has been truant fewer than five times, provided that the action does not conflict with the requirements of this part.

Amended by Chapter 20, 2020 General Session

**53G-6-204 School-age children exempt from school attendance.**

- (1)
- (a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:
    - (i) a school-age child over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age child has completed grade 8; or
    - (ii) on an annual basis, a school-age child may receive a full release from attending a public, regularly established private, or part-time school or class if:
      - (A) the school-age child has already completed the work required for graduation from high school;
      - (B) the school-age child is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;
      - (C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or
      - (D) the district superintendent or charter school governing board has determined that a school-age child over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.
  - (b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:
    - (i) school part time as prescribed by the local school board or charter school governing board; or
    - (ii) a home school part time.

- (c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.
  - (d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.
- (2)
- (a) A local school board shall excuse a school-age child from attendance, if the school-age child's parent files a signed and notarized affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:
    - (i) the school-age child will attend a home school; and
    - (ii) the parent assumes sole responsibility for the education of the school-age child, except to the extent the school-age child is dual enrolled in a public school as provided in Section 53G-6-702.
  - (b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:
    - (i) the school-age child attends a home school; and
    - (ii) the school district where the affidavit was filed remains the school-age child's district of residence.
  - (c) A parent of a school-age child who attends a home school is solely responsible for:
    - (i) the selection of instructional materials and textbooks;
    - (ii) the time, place, and method of instruction; and
    - (iii) the evaluation of the home school instruction.
  - (d) A local school board may not:
    - (i) require a parent of a school-age child who attends a home school to maintain records of instruction or attendance;
    - (ii) require credentials for individuals providing home school instruction;
    - (iii) inspect home school facilities; or
    - (iv) require standardized or other testing of home school students.
  - (e) Upon the request of a parent, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent in achieving college and career readiness through home schooling.
  - (f) A local school board that excuses a school-age child from attendance as provided by this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.
  - (g) A local school board shall issue a certificate excusing a school-age child from attendance:
    - (i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age child's parent pursuant to this Subsection (2); and
    - (ii) on or before August 1 each year thereafter unless:
      - (A) the school-age child enrolls in a school within the school district;
      - (B) the school-age child's parent notifies the school district that the school-age child no longer attends a home school; or
      - (C) the school-age child's parent notifies the school district that the school-age child's school district of residence has changed.
- (3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).
- (4) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent of a child attending a home school.

Amended by Chapter 14, 2020 Special Session 5

**53G-6-205 Preapproval of extended absence.**

In determining whether to preapprove an extended absence of a school-age child as a valid excuse, a local school board, charter school governing board, or school district shall approve the absence if the local school board, charter school governing board, or school district determines that the extended absence will not adversely impact the school-age child's education.

Amended by Chapter 20, 2020 General Session

**53G-6-206 Duties of a local school board, charter school governing board, or school district in resolving attendance problems -- Parental involvement -- Liability not imposed -- Report to state board.**

- (1)
  - (a) Subject to Subsection (1)(b), a local school board, charter school governing board, or school district shall make efforts to resolve the school attendance problems of each school-age child who is, or should be, enrolled in the school district.
  - (b) A school-age child exempt from school attendance under Section 53G-6-204 or 53G-6-702 is not considered to be a school-age child who is or should be enrolled in a school district or charter school under Subsection (1)(a).
- (2) The efforts described in Subsection (1) shall include, as reasonably feasible:
  - (a) counseling of the school-age child by school authorities;
  - (b)
    - (i) issuing a notice of truancy to the school-age child in accordance with Section 53G-6-203; or
    - (ii) issuing a notice of compulsory education violation to the school-age child's parent in accordance with Section 53G-6-202;
  - (c) making any necessary adjustment to the curriculum and schedule to meet special needs of the school-age child;
  - (d) considering alternatives proposed by the school-age child's parent;
  - (e) monitoring school attendance of the school-age child;
  - (f) voluntary participation in truancy mediation, if available; and
  - (g) providing the school-age child's parent, upon request, with a list of resources available to assist the parent in resolving the school-age child's attendance problems.
- (3) In addition to the efforts described in Subsection (2), the local school board, charter school governing board, or school district may enlist the assistance of community and law enforcement agencies as appropriate and reasonably feasible in accordance with Section 53G-8-211.
- (4) This section does not impose civil liability on boards of education, local school boards, charter school governing boards, school districts, or their employees.
- (5) Proceedings initiated under this part do not obligate or preclude action by the Division of Child and Family Services under Section 78A-6-319.
- (6) Each LEA shall annually report the following data separately to the state board:
  - (a) absences with a valid excuse; and
  - (b) absences without a valid excuse.

Amended by Chapter 20, 2020 General Session

**53G-6-207 Truancy specialists.**



A local school board or charter school governing board may appoint and fix the compensation of a truancy specialist to assist in enforcing laws related to school attendance and to perform other duties prescribed by law or the state board.

Amended by Chapter 293, 2019 General Session

**53G-6-208 Taking custody of a person believed to be a truant minor -- Disposition -- Reports -- Immunity from liability.**

- (1) A peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.
- (2) An individual taking a presumed truant minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:
  - (a) the principal of the minor's school;
  - (b) a person who has been designated by the local school board or charter school governing board to receive and return the minor to school; or
  - (c) a truancy center established under Subsection (5).
- (3) If the minor refuses to return to school or go to the truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.
- (4) If the parents cannot be reached or are unable or unwilling to accept custody and none of the options in Subsection (2) are available, the minor shall be referred to the Division of Child and Family Services.
- (5)
  - (a)
    - (i) A local school board or charter school governing board, singly or jointly with another school board, may establish or designate truancy centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors.
    - (ii) Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.
  - (b)
    - (i) If the parents cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to insure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services.
    - (ii) A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.
- (6)
  - (a) Action taken under this section shall be reported to the appropriate school district.
  - (b) The district shall promptly notify the minor's parents of the action taken.
- (7) The Utah Governmental Immunity Act applies to all actions taken under this section.
- (8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with Title 62A, Chapter 4a, Part 2, Child Welfare Services, and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

Amended by Chapter 20, 2020 General Session

**53G-6-209 Truancy support centers.**

- (1) A school district may establish one or more truancy support centers for:
  - (a) truant minors taken into custody under Section 53G-6-208; or
  - (b) students suspended or expelled from school.
- (2) A truancy support center shall provide services to the truant minor and the truant minor's family, including:
  - (a) assessments of the truant minor's needs and abilities;
  - (b) support for the parents and truant minor through counseling and community programs; and
  - (c) tutoring for the truant minor during the time spent at the center.
- (3) For the suspended or expelled student, the truancy support center shall provide an educational setting, staffed with certified teachers and aides, to provide the student with ongoing educational programming appropriate to the student's grade level.
- (4) In a district with a truancy support center, all students suspended or expelled from school shall be referred to the center. A parent shall appear with the student at the center within 48 hours of the suspension or expulsion, not including weekends or holidays. The student shall register and attend classes at the truancy support center for the duration of the suspension or expulsion unless the parent demonstrates that alternative arrangements have been made for the education or supervision of the student during the time of suspension or expulsion.
- (5) The truancy support center may provide counseling and other support programming for students suspended or expelled from school and their parents.

Amended by Chapter 293, 2019 General Session

**Part 3**  
**School District Residency**

**53G-6-301 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

**53G-6-302 Child's school district of residence -- Determination -- Responsibility for providing educational services.**

- (1) As used in this section:
  - (a) "Health care facility" means the same as that term is defined in Section 26-21-2.
  - (b) "Human services program" means the same as that term is defined in Section 62A-2-101.
  - (c) "Supervision" means a minor child is:
    - (i) receiving services from a state agency, local mental health authority, or substance abuse authority with active involvement or oversight; and
    - (ii) engaged in a human services program that is properly licensed or certified and has provided the school district receiving the minor child with an education plan that complies with the requirements of Section 62A-2-108.1.
- (2) The school district of residence of a minor child whose custodial parent resides within Utah is:
  - (a) the school district in which the custodial parent resides; or
  - (b) the school district in which the child resides:

- (i) while in the custody or under the supervision of a Utah state agency, local mental health authority, or substance abuse authority;
  - (ii) while under the supervision of a private or public agency which is in compliance with Section 62A-4a-606 and is authorized to provide child placement services by the state;
  - (iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
    - (A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;
    - (B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and
    - (C) considering the child to be a resident of the district under this Subsection (2)(b)(iii) does not violate any other law or rule of the state board;
  - (iv) while the child is receiving services from a health care facility or human services program, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
    - (A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;
    - (B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and
    - (C) considering the child to be a resident of the district under this Subsection (2)(b)(iv) does not violate any other law or rule of the state board; or
  - (v) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.
- (3) A minor child whose custodial parent does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the state board, if:
- (a) the child is married or an emancipated minor under Subsection (2)(b)(v);
  - (b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53G-6-303;
  - (c) if permissible under policies adopted by a local school board, it is established to the satisfaction of the local school board that:
    - (i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;
    - (ii) the child's presence in the district is not for the primary purpose of attending the public schools;
    - (iii) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes; and
    - (iv) the child is prepared to abide by the policies of the school and school district in which attendance is sought; or
  - (d) it is established to the satisfaction of the local school board that:
    - (i) the child's parent moves from the state;
    - (ii) the child's parent executes a power of attorney under Section 75-5-103 that:
      - (A) meets the requirements of Subsection (4); and
      - (B) delegates powers regarding care, custody, or property, including schooling, to a responsible adult with whom the child resides;
    - (iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the district;

- (iv) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;
  - (v) the child is prepared to abide by the policies of the school and school district in which attendance is sought; and
  - (vi) the child's attendance in the school will not be detrimental to the school or school district.
- (4)
- (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.
  - (b) Both the party granting and the party empowered by the power of attorney shall agree to:
    - (i) assume responsibility for any fees or other charges relating to the child's education in the district; and
    - (ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.
  - (c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:
    - (i) the child reaches the age of 18, marries, or becomes emancipated;
    - (ii) the expiration date stated in the document; or
    - (iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.
- (5) A power of attorney does not confer legal guardianship.
- (6) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

Amended by Chapter 408, 2020 General Session

**53G-6-303 Guardianship for residency purposes by responsible adult -- Procedure to obtain -- Termination.**

- (1) For purposes of this part, "responsible adult" means a person 21 years of age or older who is a resident of this state and is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for a minor child.
- (2) A local school board may adopt a policy permitting it to designate a responsible adult residing in the school district as legal guardian of a child whose custodial parent does not reside within the state upon compliance with the following requirements:
  - (a) submission to the school district of a signed and notarized affidavit by the child's custodial parent stating that:
    - (i) the child's presence in the district is not for the primary purpose of attending the public schools;
    - (ii) the child's physical, mental, moral, or emotional health would best be served by a transfer of guardianship to the Utah resident;
    - (iii) the affiant is aware that designation of a guardian under this section is equivalent to a court-ordered guardianship under Section 75-5-206 and will suspend or terminate any existing parental or guardianship rights in the same manner as would occur under a court-ordered guardianship;

- (iv) the affiant consents and submits to any such suspension or termination of parental or guardianship rights;
  - (v) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;
  - (vi) the affiant designates a named responsible adult as agent, authorized to accept service on behalf of the affiant of any process, notice, or demand required or permitted to be served in connection with any action under Subsection (2)(a)(v); and
  - (vii) it is the affiant's intent that the child become a permanent resident of the state and reside with and be under the supervision of the named responsible adult;
  - (b) submission to the school district of a signed and notarized affidavit by the responsible adult stating that:
    - (i) the affiant is a resident of the school district and desires to become the guardian of the child;
    - (ii) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;
    - (iii) the affiant will accept the responsibilities of guardianship for the duration, including the responsibility to provide adequate supervision, discipline, food, shelter, educational and emotional support, and medical care for the child if designated as the child's guardian; and
    - (iv) the affiant accepts the designation as agent under Subsection (2)(a)(vi);
  - (c) submission to the school district of a signed and notarized affidavit by the child stating that:
    - (i) the child desires to become a permanent resident of Utah and reside with and be responsible to the named responsible adult; and
    - (ii) the child will abide by all applicable policies of any public school which the child may attend after guardianship is awarded; and
  - (d) if the child's custodial parent cannot be found in order to execute the statement required under Subsection (2)(a), the responsible adult must submit an affidavit to that effect to the district. The district shall also submit a copy of the statement to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.
- (3) The district may require the responsible adult, in addition to the documents set forth in Subsection (2), to also submit any other documents which are relevant to the appointment of a guardian of a minor or which the district reasonably believes to be necessary in connection with a given application to substantiate any claim or assertion made in connection with the application for guardianship.
- (4) Upon receipt of the information and documentation required under Subsections (2) and (3), and a determination by the local school board that the information is accurate, that the requirements of this section have been met, and that the interests of the child would best be served by granting the requested guardianship, the local school board or its authorized representative may designate the applicant as guardian of the child by issuing a designation of guardianship letter to the applicant.
- (5)
- (a) If a local school board has adopted a policy permitting the local school board to designate a guardian under this section, a denial of an application for appointment of a guardian may be appealed to the district court in which the school district is located.
  - (b) The court shall uphold the decision of the local school board unless it finds, by clear and convincing evidence, that the local school board's decision was arbitrary and capricious.

- (c) An applicant may, rather than appealing the local school board's decision under Subsection (5)(b), file an original Petition for Appointment of Guardian with the district court, which action shall proceed as if no decision had been made by the local school board.
- (6) A responsible adult obtaining guardianship under this section has the same rights, authority, and responsibilities as a guardian appointed under Section 75-5-201.
- (7)
  - (a) The school district shall deliver the original documents filed with the school district, together with a copy of the designation of guardianship issued by the district, in person or by any form of mail requiring a signed receipt, to the clerk of the state district court in which the school district is located.
  - (b) The court may not charge the school district a fee for filing guardianship papers under this section.
- (8)
  - (a) The authority and responsibility of a custodial parent submitting an affidavit under this section may be restored by the district, and the guardianship obtained under this section terminated by the district:
    - (i) upon submission to the school district in which the guardianship was obtained of a signed and notarized statement by the person who consented to guardianship under Subsection (2) (a) requesting termination of the guardianship; or
    - (ii) by the person accepting guardianship under Subsection (2)(b) requesting the termination of the guardianship.
  - (b) If the school district determines that it would not be in the best interests of the child to terminate the guardianship, the district may refer the request for termination to the state district court in which the documents were filed under Subsection (5) for further action consistent with the interests of the child.
- (9) The school district shall retain copies of all documents required by this section until the child in question has reached the age of 18 unless directed to surrender the documents by a court of competent jurisdiction.
- (10)
  - (a) Intentional submission to a school district of fraudulent or misleading information under this part is punishable under Section 76-8-504.
  - (b) A school district which has reason to believe that a party has intentionally submitted false or misleading information under this part may, after notice and opportunity for the party to respond to the allegation:
    - (i) void any guardianship, authorization, or action which was based upon the false or misleading information; and
    - (ii) recover, from the party submitting the information, the full cost of any benefits received by the child on the basis of the false or misleading information, including tuition, fees, and other unpaid school charges, together with any related costs of recovery.
  - (c) A student whose guardianship or enrollment has been terminated under this section may, upon payment of all applicable tuition and fees, continue in enrollment until the end of the school year unless excluded from attendance for cause.

Amended by Chapter 293, 2019 General Session

**53G-6-304 Recognition of guardianship.**

- (1) A document issued by other than a court of law which purports to award guardianship to a person who is not a legal resident of the jurisdiction in which the guardianship is awarded is not valid in the state of Utah until reviewed and approved by a Utah court.
- (2) The procedure for obtaining approval under Subsection (1) is the procedure required under Title 75, Chapter 5, Part 2, Guardians of Minors, for obtaining a court appointment of a guardian.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-6-305 District paying tuition -- Effect on state aid.**

- (1) A local school board may by written agreement pay the tuition of a child attending school in a district outside the state. Both districts shall approve the agreement and file it with the state board.
- (2) The average daily membership of the child may be added to that of other eligible children attending schools within the district of residence for the purpose of apportionment of state funds.
- (3)
  - (a) The district of residence shall bear any excess tuition costs over the state's contribution for attendance in the district of residence unless otherwise approved in advance by the state board.
  - (b)
    - (i) If a child who resides in a Utah school district's boundaries attends school in a neighboring state under this section, the state board may make an out-of-state tuition payment to the Utah school district of residence.
    - (ii) If the state board approves the use of state funds for an out-of-state tuition payment described in Subsection (3)(b)(i), the state board shall use funds appropriated by the Legislature for necessarily existent small schools as described in Section 53F-2-304.

Amended by Chapter 293, 2019 General Session

**53G-6-306 Permitting attendance by nonresident of the state -- Tuition.**

- (1) A local school board may permit a child residing outside the state to attend school within the district. With the exception of a child enrolled under Section 53G-6-707, the child is not included for the purpose of apportionment of state funds.
- (2) The local school board shall charge the nonresident child tuition at least equal to the per capita cost of the school program in which the child enrolls unless the local school board, in open meeting, determines to waive the charge for that child in whole or in part. The official minutes of the meeting shall reflect the determination.

Amended by Chapter 293, 2019 General Session

**Part 4  
School District Enrollment**

**53G-6-401 Definitions.**

As used in Sections 53G-6-402 through 53G-6-407:

- (1) "Early enrollment" means:
  - (a) except as provided in Subsection (1)(b), application prior to the third Friday in February for admission for the next school year to a school that is not a student's school of residence; and
  - (b) application prior to November 1 for admission for the next school year to a school that is not a student's school of residence if:
    - (i) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and
    - (ii) the grade reconfiguration described in Subsection (1)(b)(i) will be implemented in the next school year.
- (2)
  - (a) "Early enrollment school capacity" or "maximum capacity" means the total number of students who could be served in a school building if each of the building's instructional stations were to have the enrollment specified in Subsection (2)(b).
  - (b)
    - (i) Except as provided in Subsection (2)(b)(ii):
      - (A) for an elementary school, an instructional station shall have an enrollment at least equal to the school district's average class size for the corresponding grade; and
      - (B) for a middle, junior, or senior high school, an instructional station shall have an enrollment at least equal to the district's average class size for similar classes.
    - (ii)
      - (A) A local school board shall determine the instructional station capacity for laboratories, physical education facilities, shops, study halls, self-contained special education classrooms, facilities jointly financed by the school district and another community agency for joint use, and similar rooms.
      - (B) Capacity for self-contained special education classrooms shall be based upon students per class as defined by state board and federal special education standards.
- (3)
  - (a) "Instructional station" means a classroom, laboratory, shop, study hall, or physical education facility to which a local school board could reasonably assign a class, teacher, or program during a given class period.
  - (b) More than one instructional station may be assigned to a classroom, laboratory, shop, study hall, or physical education facility during a class period.
- (4) "Late enrollment" means application:
  - (a) after the third Friday in February for admission for the next school year to a school that is not the student's school of residence; or
  - (b) for admission for the current year to a school that is not the student's school of residence.
- (5)
  - (a) "Late enrollment school capacity" or "adjusted capacity" means the total number of students who could be served in a school if each teacher were to have the class size specified in Subsection (5)(b).
  - (b)
    - (i) An elementary school teacher shall have a class size at least equal to the district's average class size for the corresponding grade.
    - (ii) A middle, junior, or senior high school teacher shall have a class size at least equal to the district's average class size for similar classes.
- (6) "Nonresident student" means a student who lives outside the boundaries of the school attendance area.
- (7) "Open enrollment threshold" means:



- (a) for early enrollment, a projected school enrollment level that is the greater of:
  - (i) 90% of the maximum capacity; or
  - (ii) maximum capacity minus 40 students; and
- (b) for late enrollment, actual school enrollment that is the greater of:
  - (i) 90% of adjusted capacity; or
  - (ii) adjusted capacity minus 40 students.
- (8) "Projected school enrollment" means the current year enrollment of a school as of October 1, adjusted for projected growth for the next school year.
- (9) "School attendance area" means an area established by a local school board from which students are assigned to attend a certain school.
- (10) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.

Amended by Chapter 293, 2019 General Session

**53G-6-402 Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.**

- (1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the state board for each student who resides in the district and, as provided in this section through Section 53G-6-407 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district.
- (2)
  - (a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.
  - (b) If a school's enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.
- (3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.
- (4)
  - (a) A local school board shall adopt policies describing procedures for nonresident students to follow in applying for entry into the district's schools.
  - (b) Those procedures shall provide, as a minimum, for:
    - (i) distribution to interested parties of information about the school or school district and how to apply for admission;
    - (ii) use of standard application forms prescribed by the state board;
    - (iii)
      - (A) submission of applications from December 1 through the third Friday in February by those seeking admission during the early enrollment period for the following year; or
      - (B) submission of applications from August 1 through November 1 by those seeking admission during the early enrollment period for the following year in a school district described in Subsection 53G-6-401(1)(b);
    - (iv) submission of applications by those seeking admission during the late enrollment period;
    - (v) written notification to the student's parent of acceptance or rejection of an application:
      - (A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during the early enrollment period;

- (B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year; and
- (C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year;
- (vi) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and
- (vii) written notification to the parents of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection 53G-6-401(1)(b) if:
  - (A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and
  - (B) the grade reconfiguration described in Subsection (4)(b)(vii)(A) will be implemented in the next school year.
- (c)
  - (i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:
    - (A) school construction or remodeling;
    - (B) drawing or revision of school boundaries; or
    - (C) other circumstances beyond the control of the local school board.
  - (ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.
- (5) A school district may charge a one-time \$5 processing fee, to be paid at the time of application.
- (6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:
  - (a) the student graduates;
  - (b) the student is no longer a Utah resident;
  - (c) the student is suspended or expelled from school; or
  - (d) the district determines that enrollment within the school will exceed the school's open enrollment threshold.
- (7)
  - (a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school.
  - (b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.
- (8) The parent of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for enrollment in another public school by submitting notice of intent to enroll the student in:
  - (a) the district of residence; or
  - (b) another nonresident district.
- (9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence,

which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.

(10)

- (a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.
- (b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.
- (c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.

(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:

- (a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and
- (b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.

(12) Notwithstanding any other provision of this part or Part 3, School District Residency, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the provisions of 42 U.S.C. Section 675.

Amended by Chapter 293, 2019 General Session

### **53G-6-403 Policies for acceptance and rejection of applications.**

(1)

- (a) A local school board shall adopt policies governing acceptance and rejection of applications required under Section 53G-6-402.
- (b) The policies adopted under Subsection (1)(a) shall include policies and procedures to assure that decisions regarding enrollment requests are administered fairly without prejudice to any student or class of student, except as provided in Subsection (2).

(2) Standards for accepting or rejecting an application for enrollment may include:

- (a) for an elementary school, the capacity of the grade level;
- (b) for a secondary school, the capacity of a comprehensive program;
- (c) maintenance of heterogeneous student populations if necessary to avoid violation of constitutional or statutory rights of students;
- (d) not offering, or having capacity in, an elementary or secondary special education or other special program the student requires;
- (e) maintenance of reduced class sizes:
  - (i) in a Title I school that uses federal, state, and local money to reduce class sizes for the purpose of improving student achievement; or
  - (ii) in a school that uses school trust money to reduce class size;
- (f) willingness of prospective students to comply with district policies; and
- (g) giving priority to intradistrict transfers over interdistrict transfers.

(3)

- (a) Standards for accepting or rejecting applications for enrollment may not include:
  - (i) previous academic achievement;

- (ii) athletic or other extracurricular ability;
  - (iii) the fact that the student requires special education services for which space is available;
  - (iv) proficiency in the English language; or
  - (v) previous disciplinary proceedings, except as provided in Subsection (3)(b).
- (b) A local school board may provide for the denial of applications from students who:
- (i) have committed serious infractions of the law or school policies, including policies of the district in which enrollment is sought; or
  - (ii) have been guilty of chronic misbehavior which would, if it were to continue after the student was admitted:
    - (A) endanger persons or property;
    - (B) cause serious disruptions in the school; or
    - (C) place unreasonable burdens on school staff.
- (c) A local school board may also provide for provisional enrollment of students with prior behavior problems, establishing conditions under which enrollment of a nonresident student would be permitted or continued.
- (4)
- (a) The state board, in consultation with the Utah High School Activities Association, shall establish policies regarding nonresident student participation in interscholastic competition.
  - (b) Nonresident students shall be eligible for extracurricular activities at a public school consistent with eligibility standards as applied to students that reside within the school attendance area, except as provided by policies established under Subsection (4)(a).
- (5) For each school in the district, the local school board shall post on the school district's website:
- (a) the school's maximum capacity;
  - (b) the school's adjusted capacity;
  - (c) the school's projected enrollment used in the calculation of the open enrollment threshold;
  - (d) actual enrollment on October 1, January 2, and April 1;
  - (e) the number of nonresident student enrollment requests;
  - (f) the number of nonresident student enrollment requests accepted; and
  - (g) the number of resident students transferring to another school.

Amended by Chapter 293, 2019 General Session

**53G-6-404 Denial of enrollment -- Appeal.**

- (1) Denial of initial or continuing enrollment in a nonresident school may be appealed to the local school board of the nonresident district.
- (2) The decision of the local school board shall be upheld in any subsequent proceedings unless the local school board's decision is found, by clear and convincing evidence, to be in violation of applicable law or regulation, or to be arbitrary and capricious.

Amended by Chapter 293, 2019 General Session

**53G-6-405 Funding.**

- (1) A student who enrolls in a nonresident district is considered a resident of that district for purposes of state funding.
- (2) The state board shall adopt rules providing that:
  - (a) the resident district pay the nonresident district, for each of the resident district's students who enroll in the nonresident district, 1/2 of the amount by which the resident district's per student expenditure exceeds the value of the state's contribution; and

- (b) if a student is enrolled in a nonresident district for less than a full year, the resident district shall pay a portion of the amount specified in Subsection (2)(a) based on the percentage of school days the student is enrolled in the nonresident district.
- (3)
  - (a) Except as provided in this Subsection (3), the parent of a nonresident student shall arrange for the student's own transportation to and from school.
  - (b) The state board may adopt rules under which nonresident students may be transported to their schools of attendance if:
    - (i) the transportation of students to schools in other districts would relieve overcrowding or other serious problems in the district of residence and the costs of transportation are not excessive; or
    - (ii) the Legislature has granted an adequate specific appropriation for that purpose.
  - (c) A receiving district shall provide transportation for a nonresident student on the basis of available space on an approved route within the district to the school of attendance if district students would be eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.
  - (d) Nothing in this section shall be construed as prohibiting the resident district or the receiving district from providing bus transportation on any approved route.
  - (e) Except as provided in Subsection (3)(b), the district of residence may not claim any state transportation costs for students enrolled in other school districts.

Amended by Chapter 293, 2019 General Session

**53G-6-406 Graduation credits.**

- (1) A nonresident district shall accept credits toward graduation that were awarded by a school accredited or approved by the state board or a regional accrediting body recognized by the U.S. Department of Education.
- (2) A nonresident district shall award a diploma to a nonresident student attending school within the district during the semester immediately preceding graduation if the student meets graduation requirements generally applicable to students in the school.
- (3) A district may not require that a student attend school within the district for more than one semester prior to graduation in order to receive a diploma.

Amended by Chapter 293, 2019 General Session

**53G-6-407 Intradistrict transfers for students impacted by boundary changes --  
Transportation of students who transfer within a district.**

- (1)
  - (a) In adjusting school boundaries, a local school board shall strive to avoid requiring current students to change schools and shall, to the extent reasonably feasible, accommodate parents who wish to avoid having their children attend different schools of the same level because of boundary changes which occur after one or more children in the family begin attending one of the affected schools.
  - (b) In granting interdistrict and intradistrict transfers to a particular school, the local school board shall take into consideration the fact that an applicant's brother or sister is attending the school or another school within the district.
- (2)

- (a) A district shall receive transportation money under Sections 53F-2-402 and 53F-2-403 for resident students who enroll in schools other than the regularly assigned school on the basis of the distance from the student's residence to the school the student would have attended had the intradistrict attendance option not been used.
- (b) The parent of the student shall arrange for the student's transportation to and from school, except that the district shall provide transportation on the basis of available space on an approved route within the district to the school of the student's attendance if the student would be otherwise eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.

Amended by Chapter 293, 2019 General Session

## **Part 5 Charter School Enrollment**

### **53G-6-501 Definitions.**

As used in this part:

- (1) "Asset" means the same as that term is defined in Section 53G-5-102.
- (2) "Board of trustees of a higher education institution" or "board of trustees" means the same as that term is defined in Section 53G-5-102.
- (3) "Charter school authorizer" or "authorizer" means the same as that term is defined in Section 53G-5-102.

Amended by Chapter 293, 2019 General Session

### **53G-6-502 Eligible students.**

- (1) As used in this section:
  - (a) "At capacity" means operating above the school's open enrollment threshold.
  - (b) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.
  - (c) "Open enrollment threshold" means the same as that term is defined in Section 53G-6-401.
  - (d) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.
  - (e) "School of residence" means the same as that term is defined in Section 53G-6-401.
- (2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53G-6-503.
- (3)
  - (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.
  - (b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, the charter school shall select students on a random basis, except as provided in Subsections (4) through (8).
- (4) A charter school may give an enrollment preference to:
  - (a) a child or grandchild of an individual who has actively participated in the development of the charter school;

- (b) a child or grandchild of a member of the charter school governing board;
  - (c) a sibling of an individual who was previously or is presently enrolled in the charter school;
  - (d) a child of an employee of the charter school;
  - (e) a student articulating between charter schools offering similar programs that are governed by the same charter school governing board;
  - (f) a student articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board;
  - (g) a student who resides within up to a two-mile radius of the charter school and whose school of residence is at capacity;
  - (h) a child of a military servicemember as defined in Section 53B-8-102; or
  - (i) for the 2021-2022 school year, a student who withdraws from the charter school to attend an online school or home school for the 2020-2021 school year due to the COVID-19 emergency.
- (5)
- (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)(g), a charter school that is approved by the state board after May 13, 2014, and is located in a high growth area as defined in Section 53G-6-504 shall give an enrollment preference to a student who resides within a two-mile radius of the charter school.
  - (b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53G-6-504(7)(b).
- (6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.
- (7)
- (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.
  - (b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.
- (8) A charter school may weight the charter school's lottery to give a slightly better chance of admission to educationally disadvantaged students, including:
- (a) low-income students;
  - (b) students with disabilities;
  - (c) English language learners;
  - (d) migrant students;
  - (e) neglected or delinquent students; and
  - (f) homeless students.
- (9) A charter school may not discriminate in the charter school's admission policies or practices on the same basis as other public schools may not discriminate in admission policies and practices.

Amended by Chapter 9, 2020 Special Session 6

**53G-6-503 Charter school students -- Admissions procedures -- Transfers.**

- (1) As used in this section:
- (a) "Nonresident school district" means a school district other than a student's school district of residence.

- (b) "School district of residence" means a student's school district of residence as determined under Section 53G-6-302.
  - (c) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.
- (2)
- (a) The state board, in consultation with the State Charter School Board, shall make rules describing procedures for students to follow in applying for entry into, or exiting, a charter school.
  - (b) The rules under Subsection (2)(a) shall, at a minimum, provide for:
    - (i) posting on a charter school's Internet website, beginning no later than 60 days before the school's initial period of applications:
      - (A) procedures for applying for admission to the charter school;
      - (B) the school's opening date, if the school has not yet opened, or the school calendar; and
      - (C) information on how a student may transfer from a charter school to another charter school or a district school;
    - (ii) written notification to a student's parent of an offer of admission;
    - (iii) written acceptance of an offer of admission by a student's parent;
    - (iv) written notification to a student's current charter school or school district of residence upon acceptance of the student for enrollment in a charter school; and
    - (v) the admission of students at:
      - (A) any time to protect the health or safety of a student; or
      - (B) times other than those permitted under standard policies if there are other conditions of special need that warrant consideration.
  - (c) The rules under Subsection (2)(a) shall prevent the parent of a student who is enrolled in a charter school or who has accepted an offer of admission to a charter school from duplicating enrollment for the student in another charter school or a school district without following the withdrawal procedures described in Subsection (3).
- (3) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in another charter school or a school district by submitting to the charter school:
- (a) on or before June 30, a notice of intent to enroll the student in the student's school of residence for the following school year;
  - (b) after June 30, a letter of acceptance for enrollment in the student's school district of residence for the following year;
  - (c) a letter of acceptance for enrollment in the student's school district of residence in the current school year;
  - (d) a letter of acceptance for enrollment in a nonresident school district; or
  - (e) a letter of acceptance for enrollment in a charter school.
- (4)
- (a) A charter school shall report to a school district, by the last business day of each month the aggregate number of new students, sorted by their school of residence and grade level, who have accepted enrollment in the charter school for the following school year.
  - (b) A school district shall report to a charter school, by the last business day of each month, the aggregate number of students enrolled in the charter school who have accepted enrollment in the school district in the following school year, sorted by grade level.
- (5) When a vacancy occurs because a student has withdrawn from a charter school, the charter school may immediately enroll a new student from its list of applicants.



- (6) Unless provisions have previously been made for enrollment in another school, a charter school releasing a student from enrollment during a school year shall immediately notify the school district of residence, which shall enroll the student in the school district of residence and take additional steps as may be necessary to ensure compliance with laws governing school attendance.
- (7)
  - (a) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in the student's school of residence in the following school year if an application of admission is submitted to the school district of residence by June 30.
  - (b) If the parent of a student enrolled in a charter school submits an application of admission to the student's school district of residence after June 30 for the student's enrollment in the school district of residence in the following school year, or an application of admission is submitted for enrollment during the current school year, the student may enroll in a school of the school district of residence that has adequate capacity in:
    - (i) the student's grade level, if the student is an elementary school student; or
    - (ii) the core classes that the student needs to take, if the student is a secondary school student.
  - (c) State board rules made under Subsection (2)(a) shall specify how adequate capacity in a grade level or core classes is determined for the purposes of Subsection (7)(b).
- (8) Notwithstanding Subsection (7), a school district may enroll a student at any time to protect the health and safety of the student.
- (9) A school district or charter school may charge secondary students a one-time \$5 processing fee, to be paid at the time of application.

Amended by Chapter 293, 2019 General Session

**53G-6-504 Approval of increase in charter school enrollment capacity -- Expansion.**

- (1) For the purposes of this section:
  - (a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.
  - (b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.
- (2) The state board may approve an increase in charter school enrollment capacity subject to the Legislature:
  - (a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or
  - (b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.
- (3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53G-5-301.
- (4)
  - (a) A charter school may annually submit a request to the state board for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.

- (b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.
  - (c) The state board shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under Title 53F, Chapter 2, Part 7, Charter School Funding, to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.
  - (d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.
  - (e) For the 2021-2022 school year, the previous school year described in Subsection (4)(a) is the 2019-2020 school year.
- (5)
- (a) On or before January 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from charter school authorizers, make rules establishing requirements, procedures, and deadlines for an expansion of a charter school.
  - (b) The rules described in Subsection (5)(a) shall include rules related to:
    - (i) an expansion of a charter school when another charter school issues a notice of closure; and
    - (ii) the establishment of a satellite campus.
- (6)
- (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the state board, the state board shall prioritize the tentatively approved schools and expansions based on approved funds.
  - (b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.
- (7)
- (a) Except as provided in Subsection (6)(b) or (7)(b), in approving an increase in charter school enrollment capacity for new charter schools and expanding charter schools, the state board shall give:
    - (i) high priority to approving a new charter school or a charter school expansion in a high growth area; and
    - (ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.
  - (b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection (7)(a)(i).
- (8) For fiscal year 2021, in addition to an appropriation described in Subsection 53F-2-704(2)(a), for the guarantee described in Section 53F-2-704, the state board may use up to \$8,000,000 from the following sources in priority order:
- (a) funds from the federal Elementary and Secondary School Emergency Relief Fund described in the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136; and
  - (b) notwithstanding anything to the contrary in Subsection 53F-2-205(3)(b), nonlapsing Minimum School Program funds.

Amended by Chapter 9, 2020 Special Session 6

## **Part 6**

### **Preventing Enrollment or Transfer of Missing Children**

#### **53G-6-601 Definitions.**

As used in this part:

- (1) "Division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.
- (2) "Missing child" has the same meaning as provided in Section 26-2-27.
- (3) "State registrar" means the State Registrar of Vital Statistics within the Department of Health.

Renumbered and Amended by Chapter 3, 2018 General Session

#### **53G-6-602 Identifying records -- Reporting requirements.**

- (1) Upon notification by the division of a missing child in accordance with Section 53-10-203, a school in which that child is currently or was previously enrolled shall flag the record of that child in a manner that whenever a copy of or information regarding the record is requested, the school is alerted to the fact that the record is that of a missing child.
- (2) The school shall immediately report any request concerning flagged records or knowledge as to the whereabouts of any missing child to the division.
- (3) Upon notification by the division that a missing child has been recovered, the school shall remove the flag from that child's record.

Renumbered and Amended by Chapter 3, 2018 General Session

#### **53G-6-603 Requirement of birth certificate for enrollment of students -- Procedures.**

- (1) Upon enrollment of a student for the first time in a particular school, that school shall notify in writing the person enrolling the student that within 30 days he must provide either a certified copy of the student's birth certificate, or other reliable proof of the student's identity and age, together with an affidavit explaining the inability to produce a copy of the birth certificate.
- (2)
  - (a) Upon the failure of a person enrolling a student to comply with Subsection (1), the school shall notify that person in writing that unless he complies within 10 days the case shall be referred to the local law enforcement authority for investigation.
  - (b) If compliance is not obtained within that 10 day period, the school shall refer the case to the division.
- (3) The school shall immediately report to the division any affidavit received pursuant to this subsection which appears inaccurate or suspicious.

Renumbered and Amended by Chapter 3, 2018 General Session

#### **53G-6-604 Requirement of school record for transfer of student -- Procedures.**

- (1) Except as provided in Section 53E-3-905, a school shall request a certified copy of a transfer student's record, directly from the transfer student's previous school, within 14 days after enrolling the transfer student.
- (2)

- (a) Except as provided in Subsection (2)(b) and Section 53E-3-905, a school requested to forward a certified copy of a transferring student's record to the new school shall comply within 30 school days of the request.
- (b) If the record has been flagged pursuant to Section 53G-6-602, a school may not forward the record to the new school and the requested school shall notify the division of the request.

Renumbered and Amended by Chapter 3, 2018 General Session

## **Part 7**

### **Other Public School Participation**

#### **53G-6-701 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

#### **53G-6-702 Dual enrollment.**

- (1) As used in this section, "minor" means the same as that term is defined in Section 53G-6-201.
- (2) A person having control of a minor who is enrolled in a regularly established private school or a home school may also enroll the minor in a public school for dual enrollment purposes.
- (3) The minor may participate in any academic activity in the public school available to students in the minor's grade or age group, subject to compliance with the same rules and requirements that apply to a full-time student's participation in the activity.
- (4)
  - (a) A student enrolled in a dual enrollment program in a district school is considered a student of the district in which the district school of attendance is located for purposes of state funding to the extent of the student's participation in the district school programs.
  - (b) A student enrolled in a dual enrollment program in a charter school is considered a student of the charter school for purposes of state funding to the extent of the student's participation in the charter school programs.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for purposes of dual enrollment to govern and regulate the transferability of credits toward graduation that are earned in a private or home school.

Amended by Chapter 408, 2020 General Session

#### **53G-6-703 Private school and home school students' participation in extracurricular activities in a public school.**

- (1) As used in this section:
  - (a) "Academic eligibility requirements" means the academic eligibility requirements that a home school student is required to meet to participate in an extracurricular activity in a public school.
  - (b) "Minor" means the same as that term is defined in Section 53G-6-201.
  - (c) "Parent" means the same as that term is defined in Section 53G-6-201.
  - (d) "Principal" means the principal of the school in which a home school student participates or intends to participate in an extracurricular activity.

- (2)
  - (a) A minor who is enrolled in a private school or a home school shall be eligible to participate in an extracurricular activity at a public school as provided in this section.
  - (b) A private school student may only participate in an extracurricular activity at a public school that is not offered by the student's private school.
  - (c) Except as provided in Subsection (2)(d), a private school student or a home school student may only participate in an extracurricular activity at:
    - (i) the school within whose attendance boundaries the student's custodial parent resides; or
    - (ii) the school from which the student withdrew for the purpose of attending a private or home school.
  - (d) A school other than a school described in Subsection (2)(c)(i) or (ii) may allow a private school student or a home school student to participate in an extracurricular activity other than:
    - (i) an interscholastic competition of athletic teams sponsored and supported by a public school; or
    - (ii) an interscholastic contest or competition for music, drama, or forensic groups or teams sponsored and supported by a public school.
- (3)
  - (a) Except as provided in Subsections (4) through (13), a private school or home school student shall be eligible to participate in an extracurricular activity at a public school consistent with eligibility standards:
    - (i) applied to a fully enrolled public school student;
    - (ii) of the public school where the private school or home school student participates in an extracurricular activity; and
    - (iii) for the extracurricular activity in which the private school or home school student participates.
  - (b) A school district or public school may not impose additional requirements on a private school or home school student to participate in an extracurricular activity that are not imposed on a fully enrolled public school student.
  - (c)
    - (i) A private school or home school student who participates in an extracurricular activity at a public school shall pay the same fees as required of a fully enrolled public school student to participate in an extracurricular activity.
    - (ii) If a local school board or charter school governing board imposes a mandatory student activity fee for a student enrolled in a public school, the fee may be imposed on a private school or home school student who participates in an extracurricular activity at the public school if the same benefits of paying the mandatory student activity fee that are available to a fully enrolled public school student are available to a private school or home school student who participates in an extracurricular activity at the public school.
- (4) Eligibility requirements based on school attendance are not applicable to a home school student.
- (5) A home school student meets academic eligibility requirements to participate in an extracurricular activity if:
  - (a) the student is mastering the material in each course or subject being taught; and
  - (b) the student is maintaining satisfactory progress towards achievement or promotion.
- (6)
  - (a) To establish a home school student's academic eligibility, a parent, teacher, or organization providing instruction to the student shall submit an affidavit to the principal indicating the student meets academic eligibility requirements.

- (b) Upon submission of an affidavit pursuant to Subsection (6)(a), a home school student shall:
  - (i) be considered to meet academic eligibility requirements; and
  - (ii) retain academic eligibility for all extracurricular activities during the activity season for which the affidavit is submitted, until:
    - (A) a panel established under Subsection (10) determines the home school student does not meet academic eligibility requirements; or
    - (B) the person who submitted the affidavit under Subsection (6)(a) provides written notice to the school principal that the student no longer meets academic eligibility requirements.
- (7)
  - (a) A home school student who loses academic eligibility pursuant to Subsection (6)(b)(ii)(B) may not participate in an extracurricular activity until the person who submitted the affidavit under Subsection (6)(a) provides written notice to the school principal that the home school student has reestablished academic eligibility.
  - (b) If a home school student reestablishes academic eligibility pursuant to Subsection (7)(a), the home school student may participate in extracurricular activities for the remainder of the activity season for which an affidavit was submitted under Subsection (6)(a).
- (8) A person who has probable cause to believe a home school student does not meet academic eligibility requirements may submit an affidavit to the principal:
  - (a) asserting the home school student does not meet academic eligibility requirements; and
  - (b) providing information indicating that the home school student does not meet the academic eligibility requirements.
- (9) A principal shall review the affidavit submitted under Subsection (8), and if the principal determines it contains information which constitutes probable cause to believe a home school student may not meet academic eligibility requirements, the principal shall request a panel established pursuant to Subsection (10) to verify the student's compliance with academic eligibility requirements.
- (10)
  - (a) A school district superintendent shall:
    - (i) appoint a panel of three individuals to verify a home school student's compliance with academic eligibility requirements when requested by a principal pursuant to Subsection (9); and
    - (ii) select the panel members from nominees submitted by national, state, or regional organizations whose members are home school students and parents.
  - (b) Of the members appointed to a panel under Subsection (10)(a):
    - (i) one member shall have experience teaching in a public school as a licensed teacher and in home schooling high school-age students;
    - (ii) one member shall have experience teaching in a higher education institution and in home schooling; and
    - (iii) one member shall have experience in home schooling high school-age students.
- (11) A panel appointed under Subsection (10):
  - (a) shall review the affidavit submitted under Subsection (8);
  - (b) may confer with the person who submitted the affidavit under Subsection (8);
  - (c) shall request the home school student to submit test scores or a portfolio of work documenting the student's academic achievement to the panel;
  - (d) shall review the test scores or portfolio of work; and
  - (e) shall determine whether the home school student meets academic eligibility requirements.

- (12) A home school student who meets academic eligibility requirements pursuant to Subsection (11), retains academic eligibility for all extracurricular activities during the activity season for which an affidavit is submitted pursuant to Subsection (6).
- (13)
- (a) A panel's determination that a home school student does not comply with academic eligibility requirements is effective for an activity season and all extracurricular activities that have academic eligibility requirements.
  - (b) A home school student who is not in compliance with academic eligibility requirements as determined by a panel appointed under Subsection (11) may seek to establish academic eligibility under this section for the next activity season.
- (14)
- (a) A public school student who has been declared to be academically ineligible to participate in an extracurricular activity and who subsequently enrolls in a home school shall lose eligibility for participation in the extracurricular activity until the student:
    - (i) demonstrates academic eligibility by providing test results or a portfolio of the student's work to the school principal, provided that a student may not reestablish academic eligibility under this Subsection (14)(a) during the same activity season in which the student was declared to be academically ineligible;
    - (ii) returns to public school and reestablishes academic eligibility; or
    - (iii) enrolls in a private school and establishes academic eligibility.
  - (b) A public school student who has been declared to be behaviorally ineligible to participate in an extracurricular activity and who subsequently enrolls in a home school shall lose eligibility for participation in the extracurricular activity until the student meets eligibility standards as provided in Subsection (3).
- (15) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a private school student and a home school student shall be eligible to try out for and participate in the activity as provided in this section.
- (16)
- (a) If a student exits a public school to enroll in a private or home school mid-semester or during an activity season, and the student desires to participate in an extracurricular activity at the public school, the public school shall issue an interim academic assessment based on the student's work in each class.
  - (b) A student's academic eligibility to participate in an extracurricular activity under the circumstances described in Subsection (16)(a) shall be based on the student meeting public school academic eligibility standards at the time of exiting public school.
  - (c) A student may appeal an academic eligibility determination made under Subsection (16)(b) in accordance with procedures for appealing a public school student's academic eligibility.

Amended by Chapter 293, 2019 General Session

**53G-6-704 Charter school students' participation in extracurricular activities at other public schools.**

- (1) A charter school student is eligible to participate in an extracurricular activity not offered by the student's charter school at:
- (a) the school within whose attendance boundaries the student's custodial parent resides;
  - (b) the public school from which the student withdrew for the purpose of attending a charter school; or

- (c) a public school that is not a charter school if the student's charter school is located on the campus of the public school or has local school board approval to locate on the campus of the public school.
- (2) In addition to the public schools listed in Subsection (1), the state board may establish rules to allow a charter school student to participate in an extracurricular activity at a public school other than a public school listed in Subsection (1).
- (3) A school other than a school described in Subsection (1)(a), (b), or (c) may allow a charter school student to participate in extracurricular activities other than:
  - (a) interschool competitions of athletic teams sponsored and supported by a public school; or
  - (b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.
- (4) A charter school student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.
- (5) A school district or public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full-time students of the public school.
- (6)
  - (a) The state board shall make rules establishing fees for charter school students' participation in extracurricular activities at school district schools.
  - (b) The rules shall provide that:
    - (i) charter school students pay the same fees as other students to participate in extracurricular activities;
    - (ii) charter school students are eligible for fee waivers pursuant to Section 53G-7-504;
    - (iii) for each charter school student who participates in an extracurricular activity at a school district school, the charter school shall pay a share of the school district's costs for the extracurricular activity; and
    - (iv) a charter school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.
  - (c) In determining a charter school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the state board may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.
- (7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a charter school student is eligible to try out for and participate in the activity as provided in this section.

Amended by Chapter 293, 2019 General Session

**53G-6-705 Online students' participation in extracurricular activities.**

- (1) As used in this section:
  - (a) "Online education" means the use of information and communication technologies to deliver educational opportunities to a student in a location other than a school.
  - (b) "Online student" means a student who:
    - (i) participates in an online education program sponsored or supported by the state board, a school district, or charter school; and
    - (ii) generates funding for the school district or school pursuant to Subsection 53F-2-102(4) and rules of the state board.



- (2) An online student is eligible to participate in extracurricular activities at:
  - (a) the school within whose attendance boundaries the student's custodial parent resides; or
  - (b) the public school from which the student withdrew for the purpose of participating in an online education program.
- (3) A school other than a school described in Subsection (2)(a) or (b) may allow an online student to participate in extracurricular activities other than:
  - (a) interschool competitions of athletic teams sponsored and supported by a public school; or
  - (b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.
- (4) An online student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.
- (5) A school district or public school may not impose additional requirements on an online school student to participate in extracurricular activities that are not imposed on full-time students of the public school.
- (6)
  - (a) The state board shall make rules establishing fees for an online school student's participation in extracurricular activities at school district schools.
  - (b) The rules shall provide that:
    - (i) online school students pay the same fees as other students to participate in extracurricular activities;
    - (ii) online school students are eligible for fee waivers pursuant to Section 53G-7-504;
    - (iii) for each online school student who participates in an extracurricular activity at a school district school, the online school shall pay a share of the school district's costs for the extracurricular activity; and
    - (iv) an online school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.
  - (c) In determining an online school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the state board may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.
- (7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, an online student is eligible to try out for and participate in the activity as provided in this section.

Amended by Chapter 293, 2019 General Session

**53G-6-706 Placement of a home school student who transfers to a public school.**

- (1) For the purposes of this section:
  - (a) "Home school student" means a student who attends a home school pursuant to Section 53G-6-204.
  - (b) "Parent" means the same as that term is defined in Section 53G-6-201.
- (2) When a home school student transfers from a home school to a public school, the public school shall place the student in the grade levels, classes, or courses that the student's parent and in consultation with the school administrator determine are appropriate based on the parent's assessment of the student's academic performance.
- (3)

- (a) Within 30 days of a home school student's placement in a public school grade level, class, or course, either the student's teacher or the student's parent may request a conference to consider changing the student's placement.
  - (b) If the student's teacher and the student's parent agree on a placement change, the public school shall place the student in the agreed upon grade level, class, or course.
  - (c) If the student's teacher and the student's parent do not agree on a placement change, the public school shall evaluate the student's subject matter mastery in accordance with Subsection (3)(d).
  - (d) The student's parent has the option of:
    - (i) allowing the public school to administer, to the student, assessments that are:
      - (A) regularly administered to public school students; and
      - (B) used to measure public school students' subject matter mastery and determine placement; or
    - (ii) having a private entity or individual administer assessments of subject matter mastery to the student at the parent's expense.
  - (e) After an evaluation of a student's subject matter mastery, a public school may change a student's placement in a grade level, class, or course.
- (4) This section does not apply to a student who is dual enrolled in a public school and a home school pursuant to Section 53G-6-702.

Amended by Chapter 293, 2019 General Session

**53G-6-707 Interstate compact students -- Inclusion in attendance count -- Foreign exchange students -- Annual report -- Requirements for exchange student agencies.**

- (1) A school district or charter school may include the following students in the district's or school's membership and attendance count for the purpose of apportionment of state money:
  - (a) a student enrolled under an interstate compact, established between the state board and the state education authority of another state, under which a student from one compact state would be permitted to enroll in a public school in the other compact state on the same basis as a resident student of the receiving state; or
  - (b) a student receiving services under Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children.
- (2) A school district or charter school may:
  - (a) enroll foreign exchange students that do not qualify for state money; and
  - (b) pay for the costs of those students with other funds available to the school district or charter school.
- (3) Due to the benefits to all students of having the opportunity to become familiar with individuals from diverse backgrounds and cultures, school districts are encouraged to enroll foreign exchange students, as provided in Subsection (2), particularly in schools with declining or stable enrollments where the incremental cost of enrolling the foreign exchange student may be minimal.
- (4)
  - (a) A local school board or charter school governing board shall require each approved exchange student agency to provide it with a sworn affidavit of compliance prior to the beginning of each school year.
  - (b) The affidavit shall include the following assurances:
    - (i) that the agency has complied with all applicable policies of the state board;

- (ii) that a household study, including a background check of all adult residents, has been made of each household where an exchange student is to reside, and that the study was of sufficient scope to provide reasonable assurance that the exchange student will receive proper care and supervision in a safe environment;
  - (iii) that host parents have received training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(2)(j) for persons who are in a position of special trust;
  - (iv) that a representative of the exchange student agency shall visit each student's place of residence at least once each month during the student's stay in Utah;
  - (v) that the agency will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;
  - (vi) that each exchange student will be given in the exchange student's native language names and telephone numbers of agency representatives and others who could be called at any time if a serious problem occurs; and
  - (vii) that alternate placements are readily available so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.
- (5)
- (a) A local school board or charter school governing board shall provide each approved exchange student agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.
  - (b) The agency shall make a copy of the list available to each of its exchange students in the exchange student's native language.
- (6) Notwithstanding Subsection 53F-2-303(3)(a), a school district or charter school shall enroll a foreign exchange student if the foreign exchange student:
- (a) is sponsored by an agency approved by the state board;
  - (b) attends the same school during the same time period that another student from the school is:
    - (i) sponsored by the same agency; and
    - (ii) enrolled in a school in a foreign country; and
  - (c) is enrolled in the school for one year or less.

Amended by Chapter 189, 2019 General Session

Amended by Chapter 293, 2019 General Session

Amended by Chapter 324, 2019 General Session

**53G-6-708 Career and technical education program alternatives.**

- (1) A secondary student may attend a technical college described in Section 53B-2a-105 if the secondary student's career and technical education goals are better achieved by attending a technical college as determined by:
  - (a) the secondary student; and
  - (b) if the secondary student is a minor, the secondary student's parent.
- (2) A secondary student served under this section by a technical college described in Section 53B-2a-105 shall be counted in the average daily membership of the sending school district or charter school.

Amended by Chapter 293, 2019 General Session

**53G-6-709 Participation of students with a disability in extracurricular activities.**

- (1) A student with a disability may not be denied the opportunity of participating in a public school program or extracurricular activity solely because of the student's age or disability, unless the participation threatens the health or safety of the student.
- (2) The school district or charter school, in cooperation with the Utah Department of Health shall establish criteria used to determine the health and safety factor.
- (3) Subsection (1) applies to a student who:
  - (a) has not graduated from high school with a regular diploma; and
  - (b) is under the age of 22, if participation is recommended by the student's individualized education program team.

Renumbered and Amended by Chapter 187, 2019 General Session

**Part 8  
Parental Rights**

**53G-6-801 Definitions.**

As used in this part:

- (1) "Federal law" means:
  - (a) a statute passed by the Congress of the United States; or
  - (b) a final regulation:
    - (i) adopted by an administrative agency of the United States government; and
    - (ii) published in the code of federal regulations or the federal register.
- (2) "Reasonably accommodate" means an LEA shall make its best effort to enable a parent to exercise a parental right specified in Section 53G-6-803:
  - (a) without substantial impact to staff and resources, including employee working conditions, safety and supervision on school premises and for school activities, and the efficient allocation of expenditures; and
  - (b) while balancing:
    - (i) the parental rights of parents;
    - (ii) the educational needs of other students;
    - (iii) the academic and behavioral impacts to a classroom;
    - (iv) a teacher's workload; and
    - (v) the assurance of the safe and efficient operation of a school.

Amended by Chapter 293, 2019 General Session

**53G-6-802 Annual notice of parental rights.**

- (1) An LEA shall annually notify a parent of a student enrolled in the LEA of the parent's rights as specified in this part.
- (2) An LEA satisfies the notification requirement described in Subsection (1) by posting the information on the LEA's website or through other means of electronic communication.

Amended by Chapter 293, 2019 General Session

**53G-6-803 Parental right to academic accommodations.**

- (1)
  - (a) A student's parent is the primary person responsible for the education of the student, and the state is in a secondary and supportive role to the parent. As such, a student's parent has the right to reasonable academic accommodations from the student's LEA as specified in this section.
  - (b) Each accommodation shall be considered on an individual basis and no student shall be considered to a greater or lesser degree than any other student.
  - (c) The parental rights specified in this section do not include all the rights or accommodations that may be available to a student's parent as a user of the public education system.
  - (d) An accommodation under this section may only be provided if the accommodation is:
    - (i) consistent with federal law; and
    - (ii) consistent with a student's IEP if the student already has an IEP.
- (2) An LEA shall reasonably accommodate a parent's written request to retain a student in kindergarten through grade 8 on grade level based on the student's academic ability or the student's social, emotional, or physical maturity.
- (3) An LEA shall reasonably accommodate a parent's initial selection of a teacher or request for a change of teacher.
- (4) An LEA shall reasonably accommodate the request of a student's parent to visit and observe any class the student attends.
- (5) Notwithstanding Part 2, Compulsory Education, an LEA shall record an excused absence for a scheduled family event or a scheduled proactive visit to a health care provider if:
  - (a) the parent submits a written statement at least one school day before the scheduled absence; and
  - (b) the student agrees to make up course work for school days missed for the scheduled absence in accordance with LEA policy.
- (6)
  - (a) An LEA shall reasonably accommodate a parent's written request to place a student in a specialized class, a specialized program, or an advanced course.
  - (b) An LEA shall consider multiple academic data points when determining an accommodation under Subsection (6)(a).
- (7) Consistent with Section 53E-4-204, which requires the state board to establish graduation requirements that use competency-based standards and assessments, an LEA shall allow a student to earn course credit toward high school graduation without completing a course in school by:
  - (a) testing out of the course; or
  - (b) demonstrating competency in course standards.
- (8) An LEA shall reasonably accommodate a parent's request to meet with a teacher at a mutually agreeable time if the parent is unable to attend a regularly scheduled parent teacher conference.
- (9)
  - (a) At the request of a student's parent, an LEA shall excuse a student from taking an assessment that:
    - (i) is federally mandated;
    - (ii) is mandated by the state under this public education code; or
    - (iii) requires the use of:
      - (A) a state assessment system; or
      - (B) software that is provided or paid for by the state.

- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:
    - (i) to establish a statewide procedure for excusing a student under Subsection (9)(a) that:
      - (A) does not place an undue burden on a parent; and
      - (B) may be completed online; and
    - (ii) to prevent negative impact, to the extent authorized by state statute, to an LEA or an LEA's employees through school accountability or employee evaluations due to a student not taking an assessment under Subsection (9)(a).
  - (c) An LEA:
    - (i) shall follow the procedures outlined in rules made by the state board under Subsection (9)(b) to excuse a student under Subsection (9)(a);
    - (ii) may not require procedures to excuse a student under Subsection (9)(a) in addition to the procedures outlined in rules made by the state board under Subsection (9)(b); and
    - (iii) may not provide a nonacademic reward to a student for taking an assessment described in Subsection (9)(a).
  - (d) The state board shall:
    - (i) maintain and publish a list of state assessments, state assessment systems, and software that qualify under Subsection (9)(a); and
    - (ii) audit and verify an LEA's compliance with the requirements of this Subsection (9).
- (10)
- (a) An LEA shall provide for:
    - (i) the distribution of a copy of a school's discipline and conduct policy to each student in accordance with Section 53G-8-204; and
    - (ii) a parent's signature acknowledging receipt of the school's discipline and conduct policy.
  - (b) An LEA shall notify a parent of a student's violation of a school's discipline and conduct policy and allow a parent to respond to the notice in accordance with Chapter 8, Part 2, School Discipline and Conduct Plans.

Amended by Chapter 408, 2020 General Session

## **Chapter 7 Public School General Requirements**

### **Part 1 General Provisions**

#### **53G-7-101 Title.**

This chapter is known as "Public School General Requirements."

Enacted by Chapter 3, 2018 General Session

#### **53G-7-102 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

## **Part 2 Powers and Miscellaneous Duties**

### **53G-7-201 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

### **53G-7-202 Waivers from state board rules.**

- (1) A charter school or any other public school or school district may apply to the state board for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter agreement.
- (2) The state board may grant the waiver, unless:
  - (a) the waiver would cause the school district or the school to be in violation of state or federal law; or
  - (b) the waiver would threaten the health, safety, or welfare of students in the district or at the school.
- (3) If the state board denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.

Amended by Chapter 293, 2019 General Session

### **53G-7-203 Kindergartens -- Establishment -- Funding.**

- (1) Kindergartens are an integral part of the state's public education system.
- (2) Each local school board shall provide kindergarten classes free of charge for kindergarten children residing within the district.
- (3) Kindergartens established under Subsection (2) shall receive state money under Title 53F, Public Education System -- Funding.

Amended by Chapter 293, 2019 General Session

### **53G-7-204 Access to student records by custodial and noncustodial parents.**

- (1) Except as provided in Subsection (2), a public school shall allow a custodial parent and a noncustodial parent of a child the same access to their child's education records.
- (2) A school may not allow a noncustodial parent access to the child's education records if:
  - (a) a court has issued an order that limits the noncustodial parent's access to the child's education records; and
  - (b) the school has received a copy of the court order or has actual knowledge of the court order.

Renumbered and Amended by Chapter 3, 2018 General Session

### **53G-7-205 Assessment of emerging and early reading skills -- Resources provided by school districts.**

- (1) The Legislature recognizes that well-developed reading skills help:

- (a) children to succeed in school, develop self esteem, and build positive relationships with others;
  - (b) young adults to become independent learners; and
  - (c) adults to become and remain productive members of a rapidly changing technology-based society.
- (2)
- (a) Each potential kindergarten student, the student's parent, and kindergarten personnel at the student's school may participate in an assessment of the student's reading and numeric skills.
  - (b) The state board, in cooperation with the state's school districts, may develop the assessment instrument and any additional materials needed to implement and supplement the assessment program.
- (3) The potential kindergarten student's teacher may use the assessment in planning and developing an instructional program to meet the student's identified needs.
- (4)
- (a) Each school is encouraged to schedule the assessment early enough before the kindergarten starting date so that a potential kindergarten student's parent has time to develop the child's needed skills as identified by the assessment.
  - (b) Based on the assessment under Subsection (2), the school shall provide the potential student's parent with appropriate resource materials to assist the parent at home in the student's literacy development.

Amended by Chapter 293, 2019 General Session

**53G-7-206 Acceptance of credits and grades awarded by accredited schools.**

- (1)
- (a) A public school shall accept credits and grades awarded to a student by a school accredited or approved by the state board or accredited or recognized by the Northwest Association of Accredited Schools as issued by the school, without alterations.
  - (b) Credits awarded for a core standards for Utah public schools course shall be applied to fulfilling core standards for Utah public schools requirements.
- (2) Subsection (1) applies to credits awarded to a student who:
- (a) transfers to a public school; or
  - (b) while enrolled in the public school, takes courses offered by another public or private school.
- (3) Subsection (1) applies to:
- (a) traditional classes in which an instructor is present in the classroom and the student is required to attend the class for a particular length of time;
  - (b) open entry/open exit classes in which the student has the flexibility to begin or end study at any time, progress through course material at his own pace, and demonstrate competency when knowledge and skills have been mastered;
  - (c) courses offered over the Internet; or
  - (d) distance learning courses.

Amended by Chapter 293, 2019 General Session

**53G-7-207 Period of silence.**

A teacher may provide for the observance of a period of silence each school day in a public school.



Renumbered and Amended by Chapter 3, 2018 General Session

**53G-7-208 Local governmental entities and school districts -- Contracts and cooperation -- Disbursement of funds -- Municipal and county representative participation in local school board meetings -- Notice required.**

- (1) Local governmental entities and school districts may contract and cooperate with one another in matters affecting the health, welfare, education, and convenience of the inhabitants within their respective territorial limits.
- (2) A local governmental entity may disburse public funds in aid of a school district located wholly or partially within the limits of its jurisdiction.
- (3)
  - (a) As used in this Subsection (3):
    - (i) "Interested county executive" means the county executive or county manager of a county with unincorporated area within the boundary of a school district, or the designee of the county executive or county manager.
    - (ii) "Interested mayor" means the mayor of a municipality that is partly or entirely within the boundary of a school district, or the mayor's designee.
  - (b) A local school board shall allow an interested mayor and interested county executive to attend and participate in the local school board discussions at a local school board meeting that is open to the public under Title 52, Chapter 4, Open and Public Meetings Act.
  - (c) An interested county executive and interested mayor may attend and participate in local school board discussions at a local school board meeting that is closed to the public under Title 52, Chapter 4, Open and Public Meetings Act, if:
    - (i) the local school board invites the interested county executive or interested mayor to attend and participate; and
    - (ii) for a closed meeting held for the purpose of discussing the local school board's disposition or acquisition of real property, the interested county executive or interested mayor does not have a conflict of interest with respect to the real estate disposition or acquisition.
  - (d)
    - (i) A county or municipality may enter into an agreement with a school district under Title 11, Chapter 13, Interlocal Cooperation Act, to govern the attendance of an interested county executive or interested mayor at a local school board meeting.
    - (ii) An agreement under Subsection (3)(d)(i) may not be inconsistent with the provisions of this Subsection (3).
  - (e) Each local school board shall give notice of local school board meetings to each interested mayor and interested county executive.
  - (f) The notice required under Subsection (3)(c) shall be provided by:
    - (i) mail;
    - (ii) e-mail; or
    - (iii) other effective means agreed to by the person to whom notice is given.

Amended by Chapter 293, 2019 General Session

**53G-7-209 Use of public school buildings and grounds as civic centers.**

- (1) As used in this section, "civic center" means a public school building or ground, including a charter school building or ground, that is established and maintained as a limited public forum for supervised recreational activities and meetings.

- (2) Except as provided in Subsection (3), all public school buildings and grounds shall be civic centers.
- (3) The use of school property as a civic center:
  - (a) may not interfere with a school function or purpose; and
  - (b) is considered a permit for governmental immunity purposes for a governmental entity under Subsection 63G-7-201(4)(c).
- (4) The organizer of an event may not use a civic center unless the organizer resides within the geographic boundaries of the school district in which the civic center is located.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-7-210 Local school boards' and charter school governing boards' responsibility for school buildings and grounds when used as civic centers.**

- (1) As used in this section, "civic center" means the same as that term is defined in Section 53G-7-209.
- (2) A local school board or charter school governing board:
  - (a) shall manage, direct, and control civic centers;
  - (b) shall adopt policies for the use of civic centers;
  - (c) may charge a reasonable fee for the use of a civic center so that the school district or charter school incurs no expense for that use;
  - (d) may appoint a special functions officer under Section 53-13-105 to have charge of the grounds and protect school property when used for civic center purposes;
  - (e) shall allow the use of a civic center, for other than school purposes, unless it determines that the use interferes with a school function or purpose; and
  - (f) shall ensure that school administrators are trained about and properly implement the provisions of this section and Section 53G-7-209.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-7-211 Display of American flag.**

- (1) Each local school board shall provide each school within the district with a suitable flagpole.
- (2) The American flag shall be displayed on every school day and on every state and national holiday.
- (3) The flag shall be maintained in a respectable condition.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-7-212 Voter registration forms for high school students.**

Each public school district and each accredited nonpublic school shall provide voter registration forms to students as required by Section 20A-2-302.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-7-213 Child care centers in public schools -- Requirements -- Availability -- Compliance with state and local laws.**

- (1)

- (a) Upon receiving a request from a community group such as a community council, local PTA, or parent/student organization, a local school board may authorize the use of a part of any school building in the district to provide child care services for school aged children.
- (b)
  - (i) The local school board shall provide written public notice of its intent to authorize a child care center.
  - (ii) The local school board shall file a copy of the notice with the Office of Child Care within the Department of Workforce Services and the Department of Health.
- (2)
  - (a) Establishment of a child care center in a public school building is contingent upon the local school board determining that the center will not interfere with the building's use for regular school purposes.
  - (b) The decision shall be made at the sole discretion of the local school board.
  - (c) A local school board may withdraw its approval to operate a child care center at any time if it determines that such use interferes with the operation or interest of the school.
  - (d) The school district and its employees and agents are immune from any liability that might otherwise result from a withdrawal of approval if the withdrawal was made in good faith.
- (3)
  - (a) The local school board shall charge a commercially reasonable fee for the use of a school building as a child care center so that the district does not incur an expense.
  - (b) The fee shall include but not be limited to costs for utility, building maintenance, and administrative services supplied by the school that are related to the operation of the child care center.
- (4)
  - (a) Child care service may be provided by governmental agencies other than school districts, nonprofit community service groups, or private providers.
  - (b) If competitive proposals to provide child care services are submitted by the entities listed in Subsection (4)(a), the local school board shall give preference to the private provider and nonprofit community service groups so long as their proposals are judged to be at least equal to the proposal of the governmental agency.
  - (c) It is intended that these programs function at the local community level with minimal state and district involvement.
- (5) It is the intent of the Legislature that providers not be required to go through a complex procedure in order to obtain approval for providing the service.
- (6)
  - (a) Child care centers within a public school building shall make their services available to all children regardless of where the children reside.
  - (b) If space and resources are limited, first priority shall be given to those who reside within the school boundaries where the center is located, and to the children of teachers and other employees of the school where the child care center is located.
  - (c) Second priority shall be given to those who reside within the school district boundaries where the center is located.
- (7)
  - (a) The local school board shall require proof of liability insurance which is adequate in the opinion of the local school board for use of school property as a child care center.
  - (b) A school district participating in the state Risk Management Fund shall require the provider of child care services to comply with the applicable provisions of Title 63A, Chapter 4, Risk Management.

- (8) Child care centers established under this section shall operate in compliance with state and local laws and regulations, including zoning and licensing requirements, and applicable school policies.
- (9) Except for Subsection (8), this section does not apply to child care centers established by a school district within a public school building if the center offers child care services primarily to children of employees or children of students of the school district.

Amended by Chapter 293, 2019 General Session

**53G-7-214 Honorary high school diploma for certain veterans.**

- (1) A local school board may award an honorary high school diploma to a veteran, if the veteran:
  - (a) left high school before graduating in order to serve in the armed forces of the United States;
  - (b) served in the armed forces of the United States during the period of World War II, the Korean War, or the Vietnam War;
  - (c)
    - (i) was honorably discharged; or
    - (ii) was released from active duty because of a service-related disability; and
  - (d)
    - (i) resides within the school district; or
    - (ii) resided within the school district at the time of leaving high school to serve in the armed forces of the United States.
- (2) To receive an honorary high school diploma, a veteran or immediate family member or guardian of a veteran shall submit to a local school board:
  - (a) a request for an honorary high school diploma; and
  - (b) information required by the local school board to verify the veteran's eligibility for an honorary high school diploma under Subsection (1).
- (3) At the request of a veteran, a veteran's immediate family member or guardian, or a local school board, the Department of Veterans and Military Affairs shall certify whether the veteran meets the requirements of Subsections (1)(b) and (c).

Amended by Chapter 293, 2019 General Session

**53G-7-215 Competency-based education -- Recommendations -- Coordination.**

- (1) As used in this section, "competency-based education" means the same as that term is defined in Section 53F-5-501.
- (2) A local school board or a charter school governing board may establish a competency-based education program.
- (3) A local school board or charter school governing board that establishes a competency-based education program shall:
  - (a) establish assessments to accurately measure competency;
  - (b) provide the assessments to an enrolled student at no cost to the student;
  - (c) award credit to a student who demonstrates competency and subject mastery;
  - (d) submit the competency-based standards to the state board for review; and
  - (e) publish the competency-based standards on its website or by other electronic means readily accessible to the public.
- (4) A local school board or charter school governing board may:
  - (a) on a random lottery-based basis, limit enrollment to courses that have been designated as competency-based courses;

- (b) waive or adapt traditional attendance requirements;
- (c) adjust class sizes to maximize the value of course instructors or course mentors;
- (d) enroll students from any geographic location within the state; and
- (e) provide proctored online competency-based assessments.

Amended by Chapter 293, 2019 General Session

**53G-7-216 Purchases of educational technology.**

- (1)
  - (a) A school district or charter school shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in purchasing technology, except as otherwise provided in Subsection (1)(b).
  - (b) A school district or charter school may purchase computers from, and contract for the repair or refurbishing of computers with, the Utah Correctional Industries without going through the bidding or competition procedures outlined in Title 63G, Chapter 6a, Utah Procurement Code.
- (2) A school district or charter school may purchase technology through cooperative purchasing contracts administered by the state Division of Purchasing or through its own established purchasing program.
- (3) Consistent with policies adopted by a local school board or charter school governing board, a school district or charter school that purchases technology under this section shall ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-7-217 Prohibition on billing for certain health care services.**

A local education agency, or an employee or contractor of a local education agency, may not bill:

- (1) a health benefit plan as defined in Section 31A-1-301, for any service that is:
  - (a) provided under an individualized education program as defined in Section 53E-4-301; or
  - (b) administrative in nature to the local education agency; or
- (2) a student or a student's family for a service that is:
  - (a) performed by the local education agency or an employee or contractor of a local education agency; and
  - (b) not covered by the student's health benefit plan.

Enacted by Chapter 172, 2019 General Session

**53G-7-218 Establishment of early learning plan -- Digital reporting platform.**

- (1) A local school board of a school district or a charter school governing board of a charter school that serves students in any of kindergarten or grades 1 through 3 shall annually submit to the state board an early learning plan that includes:
  - (a) the early literacy plan described in Section 53F-2-503, including:
    - (i) the growth goal described in Subsection 53F-2-503(4)(e); and
    - (ii) one goal that is specific to the school district or charter school as described in Subsection 53F-2-503(4)(f);
  - (b) the early mathematics plan described in Section 53E-3-521, including:
    - (i) a growth goal for the school district or charter school that:

- (A) is based upon student learning gains as measured by the mathematics benchmark assessment described in Section 53E-4-307.5; and
- (B) includes the target that the state board establishes under Section 53E-3-521; and
- (ii) one goal that:
  - (A) is specific to the school district or charter school;
  - (B) is measurable;
  - (C) addresses current performance gaps in student mathematics proficiency based on data; and
  - (D) includes specific strategies for improving outcomes; and
- (c) one additional goal related to literacy or mathematics that:
  - (i) is specific to the school district or charter school;
  - (ii) is measurable;
  - (iii) addresses current performance gaps in student literacy or mathematics proficiency based on data; and
  - (iv) includes specific strategies for improving outcomes.
- (2) A local school board or charter school governing board shall approve a plan described in Subsection (1) in a public meeting before submitting the plan to the state board.
- (3)
  - (a) The state board shall:
    - (i) provide model plans that a local school board or a charter school governing board may use;
    - (ii) develop uniform standards for acceptable growth goals that a local school board or a charter school governing board adopts for a school district or charter school under this section; and
    - (iii) review and approve or disapprove a plan submitted under this section.
  - (b) Notwithstanding Subsection (3)(a), a local school board or a charter school governing board may develop the board's own plan.
- (4) The state board shall:
  - (a) develop strategies to provide support for a school district or charter school that fails to meet:
    - (i)
      - (A) the growth goal related to the state literacy target described in Subsection (1)(a)(i); or
      - (B) the growth goal related to the state mathematics target described in Subsection (1)(b)(i); and
    - (ii) one of the goals specific to the school district or charter school described in Subsections (1)(a)(ii), (1)(b)(ii), or (1)(c); and
  - (b) provide increasing levels of support to a school district or charter school that fails to meet the combination of goals described in Subsection (4)(a) for two consecutive years.
- (5)
  - (a) The state board shall use a digital reporting platform to provide information to school districts and charter schools about interventions that increase proficiency in literacy and mathematics.
  - (b) The digital reporting platform described in Subsection (5)(a) shall include performance information for a school district or charter school on the goals described in Subsection (1).

Enacted by Chapter 174, 2020 General Session

**53G-7-219 Medical specialists in public schools.**

- (1) As used in this section:
  - (a) "Qualified individual" means an individual who:
    - (i) is employed by an LEA; and
    - (ii) provides related services in a school-based setting.

- (b) "Qualified individual" includes:
  - (i) an audiologist;
  - (ii) a speech-language pathologist;
  - (iii) a mental health practitioner;
  - (iv) a nurse;
  - (v) an occupational therapist; and
  - (vi) a physical therapist.
- (c) "Related services" means the same as that term is defined in 34 C.F.R. 300.34.
- (2) An LEA may adopt a salary schedule, or salary schedules, for qualified individuals, that:
  - (a) is separate from salary schedules adopted for other LEA employees; and
  - (b) takes into consideration the market rate for related services provided outside of a school-based setting.

Enacted by Chapter 307, 2020 General Session

### **Part 3 Budgets**

#### **53G-7-301 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

#### **53G-7-302 School district and charter school budgets.**

- (1) As used in this section:
  - (a) "Budget officer" means:
    - (i) for a school district, the school district's superintendent; or
    - (ii) for a charter school, an individual selected by the charter school governing board.
  - (b) "LEA governing board" means:
    - (i) for a school district, the local school board; or
    - (ii) for a charter school, the charter school governing board.
- (2) Before June 1 of each year, the budget officer shall prepare a tentative budget, with supporting documentation, to be submitted to the budget officer's LEA governing board.
- (3) The tentative budget and supporting documents shall include the following items:
  - (a) the revenues and expenditures of the preceding fiscal year;
  - (b) the estimated revenues and expenditures of the current fiscal year;
  - (c) for a school district, an estimate of the revenues for the succeeding fiscal year based upon the lowest tax levy that will raise the required revenue, using the current year's taxable value as the basis for this calculation;
  - (d) a detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year; and
  - (e) the estimated financial condition of the school district or charter school by funds at the close of the current fiscal year.
- (4) The tentative budget shall be filed with the district business administrator or charter school executive director for public inspection at least 15 days before the date of the tentative budget's proposed adoption by the LEA governing board.

Amended by Chapter 293, 2019 General Session

**53G-7-303 LEA governing board budget procedures.**

- (1) As used in this section:
  - (a) "Budget officer" means:
    - (i) for a school district, the school district's superintendent; or
    - (ii) for a charter school, an individual selected by the charter school governing board.
  - (b) "LEA governing board" means:
    - (i) for a school district, the local school board; or
    - (ii) for a charter school, the charter school governing board.
- (2)
  - (a) For a school district, before June 30 of each year, a local school board shall adopt a budget and make appropriations for the next fiscal year.
  - (b) For a school district, if the tax rate in the school district's proposed budget exceeds the certified tax rate defined in Section 59-2-924, the local school board shall comply with Section 59-2-919 in adopting the budget, except as provided by Section 53F-8-301.
- (3)
  - (a) For a school district, before the adoption or amendment of a budget, a local school board shall hold a public hearing, as defined in Section 10-9a-103, on the proposed budget or budget amendment.
  - (b) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in Subsection (3)(a), at least 10 days prior to the public hearing, a local school board shall:
    - (i) publish a notice of the public hearing in a newspaper or combination of newspapers of general circulation in the school district, except as provided in Section 45-1-101;
    - (ii) publish a notice of the public hearing electronically in accordance with Section 45-1-101;
    - (iii) file a copy of the proposed budget with the local school board's business administrator for public inspection; and
    - (iv) post the proposed budget on the school district's Internet website.
  - (c) A notice of a public hearing on a school district's proposed budget shall include information on how the public may access the proposed budget as provided in Subsections (3)(b)(iii) and (iv).
- (4) For a charter school, before June 30 of each year, a charter school governing board shall adopt a budget for the next fiscal year.
- (5) Within 30 days of adopting a budget, an LEA governing board shall file a copy of the adopted budget with the state auditor and the state board.

Amended by Chapter 293, 2019 General Session

**53G-7-304 Undistributed reserve in local school board budget.**

- (1) A local school board may adopt a budget with an undistributed reserve. The reserve may not exceed 5% of the maintenance and operation budget adopted by the local school board in accordance with a scale developed by the state board. The scale is based on the size of the school district's budget.
- (2) The local school board may appropriate all or a part of the undistributed reserve made to any expenditure classification in the maintenance and operation budget by written resolution adopted by a majority vote of the local school board setting forth the reasons for the



appropriation. The local school board shall file a copy of the resolution with the state board and the state auditor.

- (3) The local school board may not use undistributed reserves in the negotiation or settlement of contract salaries for school district employees.

Amended by Chapter 293, 2019 General Session

**53G-7-305 Limits on appropriations -- Estimated expendable revenue.**

- (1) As used in this section:
  - (a) "Budget officer" means:
    - (i) for a school district, the school district's superintendent; or
    - (ii) for a charter school, an individual selected by the charter school governing board.
  - (b) "LEA governing board" means:
    - (i) for a school district, the local school board; or
    - (ii) for a charter school, the charter school governing board.
- (2) An LEA governing board may not make an appropriation in excess of its estimated expendable revenue, including undistributed reserves, for the following fiscal year.
- (3) An LEA governing board may reduce a budget appropriation at the LEA governing board's regular meeting if notice of the proposed action is given to all LEA governing board members and to the district superintendent or charter school executive director, as applicable, at least one week before the meeting.
- (4) For a school district, in determining the estimated expendable revenue, any existing deficits arising through excessive expenditures from former years are deducted from the estimated revenue for the ensuing year to the extent of at least 10% of the entire tax revenue of the district for the previous year.
- (5) For a school district, in the event of financial hardships, the local school board may deduct from the estimated expendable revenue for the ensuing year, by fund, at least 25% of the deficit amount.
- (6) For a school district, all estimated balances available for appropriations at the end of the fiscal year shall revert to the funds from which they were appropriated and shall be fund balances available for appropriation in the budget of the following year.
- (7) For a school district, an increase in an appropriation may not be made by the local school board unless the following steps are taken:
  - (a) the local school board receives a written request from the district superintendent that sets forth the reasons for the proposed increase;
  - (b) notice of the request is published:
    - (i) in a newspaper of general circulation within the school district at least one week before the local school board meeting at which the request will be considered; and
    - (ii) in accordance with Section 45-1-101, at least one week before the local school board meeting at which the request will be considered; and
  - (c) the local school board holds a public hearing on the request before the local school board's acting on the request.

Amended by Chapter 293, 2019 General Session

**53G-7-306 School district interfund transfers.**

- (1) A school district shall spend revenues only within the fund for which they were originally authorized, levied, collected, or appropriated.

- (2) Except as otherwise provided in this section, school district interfund transfers of residual equity are prohibited.
- (3) The state board may authorize school district interfund transfers of residual equity when a district states its intent to create a new fund or expand, contract, or liquidate an existing fund.
- (4) The state board may also authorize school district interfund transfers of residual equity for a financially distressed district if the state board determines the following:
  - (a) the district has a significant deficit in its maintenance and operations fund caused by circumstances not subject to the administrative decisions of the district;
  - (b) the deficit cannot be reasonably reduced under Section 53G-7-305; and
  - (c) without the transfer, the school district will not be capable of meeting statewide educational standards adopted by the state board.
- (5) The state board shall develop by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, standards for defining and aiding financially distressed school districts under this section.
- (6)
  - (a) All debt service levies not subject to certified tax rate hearings shall be recorded and reported in the debt service fund.
  - (b) Debt service levies under Subsection 59-2-924(5)(c) that are not subject to the public hearing provisions of Section 59-2-919 may not be used for any purpose other than retiring general obligation debt.
  - (c) Amounts from these levies remaining in the debt service fund at the end of a fiscal year shall be used in subsequent years for general obligation debt retirement.
  - (d) Any amounts left in the debt service fund after all general obligation debt has been retired may be transferred to the capital projects fund upon completion of the budgetary hearing process required under Section 53G-7-303.

Amended by Chapter 354, 2020 General Session

Amended by Chapter 408, 2020 General Session

### **53G-7-307 Warrants drawn by budget officer.**

- (1) As used in this section:
  - (a) "Budget officer" means:
    - (i) for a school district, the school district's superintendent; or
    - (ii) for a charter school, an individual selected by the charter school governing board.
  - (b) "LEA governing board" means:
    - (i) for a school district, the local school board; or
    - (ii) for a charter school, the charter school governing board.
- (2) The budget officer of an LEA governing board may not draw warrants on school district or charter school funds except in accordance with and within the limits of the budget passed by the LEA governing board.

Amended by Chapter 293, 2019 General Session

### **53G-7-308 Emergency expenditures.**

This part does not apply to appropriations required because of emergencies involving loss of life or great loss of property.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-7-309 Monthly budget reports.**

- (1) As used in this section:
  - (a) "Budget officer" means:
    - (i) for a school district, the school district's superintendent; or
    - (ii) for a charter school, an individual selected by the charter school governing board.
  - (b) "LEA governing board" means:
    - (i) for a school district, the local school board; or
    - (ii) for a charter school, the charter school governing board.
- (2) The business administrator or budget officer of an LEA governing board shall provide each LEA governing board member with a report, on a monthly basis, that includes the following information:
  - (a) the amounts of all budget appropriations;
  - (b) the disbursements from the appropriations as of the date of the report; and
  - (c) the percentage of the disbursements as of the date of the report.
- (3) Within five days of providing the monthly report described in Subsection (2) to an LEA governing board, the business administrator or budget officer shall make a copy of the report available for public review.

Amended by Chapter 293, 2019 General Session

**Part 4  
Internal Audits**

**53G-7-401 Definitions.**

As used in this part:

- (1) "Audit committee" means a standing committee:
  - (a) appointed by the local school board or charter school governing board with the following number of members as applicable to the local school board or charter school governing board:
    - (i) for a board of a local education agency that consists of seven or more members, three members of that board; or
    - (ii) for a board of a local education agency that consists of six or fewer members, two members of that board; and
  - (b) composed of people who are not administrators or employees of the local education agency.
- (2) "Audit director" means the person who directs the internal audit program.
- (3) "Audit plan" means a prioritized list of audits to be performed by an internal audit program within a specified period of time.
- (4) "Internal audit" means an independent appraisal activity established within a local education agency as a control system to examine and evaluate the adequacy and effectiveness of other internal control systems within the local education agency.
- (5) "Internal audit program" means an audit function that:
  - (a) is conducted by a local school board or charter school governing board independent of the local education agency offices or other operations;
  - (b) objectively evaluates the effectiveness of the local education agency governance, risk management, internal controls, and the efficiency of operations; and

- (c) is conducted in accordance with the current:
  - (i) International Standards for the Professional Practice of Internal Auditing; or
  - (ii) The Government Auditing Standards, issued by the Comptroller General of the United States.
- (6) "Local education agency" means a school district or charter school.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-7-402 Internal auditing program -- Audit committee -- Powers and duties.**

- (1) A local school board or charter school governing board shall establish an audit committee.
- (2)
  - (a) The audit committee shall establish an internal audit program that provides internal audit services for the programs administered by the local education agency.
  - (b) A local education agency that has fewer than 10,000 students is not subject to Subsection (2) (a).
- (3)
  - (a) A local school board or charter school governing board shall appoint the audit director, with the advisement of the audit committee, if the local school board or charter school governing board hires an audit director.
  - (b) If the local school board or charter school governing board has not appointed an audit director and the local school board or charter school governing board contracts directly for internal audit services, the local school board or charter school governing board shall approve a contract for internal audit services, with the advisement of the audit committee.
- (4) The audit committee shall ensure that copies of all reports of audit findings issued by the internal auditors are available, upon request, to the audit director of the state board, the Office of the State Auditor, and the Office of Legislative Auditor General.
- (5) The audit committee shall ensure that significant audit matters that cannot be appropriately addressed by the local education agency internal auditors are referred to either the audit director of the state board, the Office of the State Auditor, or the Office of Legislative Auditor General.
- (6) The audit director may contract with a consultant to assist with an audit.
- (7) The audit director of the state board and the Office of the State Auditor may contract to provide internal audit services.

Amended by Chapter 293, 2019 General Session

**Part 5  
Student Fees**

**53G-7-501 Definitions.**

As used in this part:

- (1) "Co-curricular activity" means an activity, a course, or a program that:
  - (a) is an extension of a curricular activity;
  - (b) is included in an instructional plan and supervised or conducted by a teacher or education professional;
  - (c) is conducted outside of regular school hours;

- (d) is provided, sponsored, or supported by an LEA; and
- (e) includes a required regular school day activity, course, or program.
- (2) "Curricular activity" means an activity, a course, or a program that is:
  - (a) intended to deliver instruction;
  - (b) provided, sponsored, or supported by an LEA; and
  - (c) conducted only during school hours.
- (3) "Elementary school" means a school that provides instruction to students in grades kindergarten, 1, 2, 3, 4, 5, or 6.
- (4)
  - (a) "Elementary school student" means a student enrolled in an elementary school.
  - (b) "Elementary school student" does not include a secondary school student.
- (5)
  - (a) "Extracurricular activity" means an activity, a course, or a program that is:
    - (i) not directly related to delivering instruction;
    - (ii) not a curricular activity or co-curricular activity; and
    - (iii) provided, sponsored, or supported by an LEA.
  - (b) "Extracurricular activity" does not include a noncurricular club as defined in Section 53G-7-701.
- (6)
  - (a) "Fee" means a charge, expense, deposit, rental, or payment:
    - (i) regardless of how the charge, expense, deposit, rental, or payment is termed, described, requested, or required directly or indirectly;
    - (ii) in the form of money, goods, or services; and
    - (iii) that is a condition to a student's full participation in an activity, course, or program that is provided, sponsored, or supported by an LEA.
  - (b) "Fee" includes:
    - (i) money or something of monetary value raised by a student or the student's family through fundraising;
    - (ii) charges or expenditures for a school field trip or activity trip, including related transportation, food, lodging, and admission charges;
    - (iii) payments made to a third party that provides a part of a school activity, class, or program;
    - (iv) charges or expenditures for classroom:
      - (A) textbooks;
      - (B) supplies; or
      - (C) materials;
    - (v) charges or expenditures for school activity clothing; and
    - (vi) a fine other than a fine described in Subsection (6)(c)(i).
  - (c) "Fee" does not include:
    - (i) a student fine specifically approved by an LEA for:
      - (A) failing to return school property;
      - (B) losing, wasting, or damaging private or school property through intentional, careless, or irresponsible behavior, or as described in Section 53G-8-212; or
      - (C) improper use of school property, including a parking violation;
    - (ii) a payment for school breakfast or lunch;
    - (iii) a deposit that is:
      - (A) a pledge securing the return of school property; and
      - (B) refunded upon the return of the school property; or

- (iv) a charge for insurance, unless the insurance is required for a student to participate in an activity, course, or program.
- (7)
  - (a) "Fundraising" means an activity or event provided, sponsored, or supported by an LEA that uses students to generate funds or raise money to:
    - (i) provide financial support to a school or a school's class, group, team, or program; or
    - (ii) benefit a particular charity or for other charitable purposes.
  - (b) "Fundraising" does not include an alternative method of raising revenue without students.
- (8)
  - (a) "School activity clothing" means special shoes or items of clothing:
    - (i)
      - (A) that meet specific requirements, including requesting a specific brand, fabric, or imprint; and
      - (B) that a school requires a student to provide; and
    - (ii) that is worn by a student for a co-curricular or extracurricular activity.
  - (b) "School activity clothing" does not include:
    - (i) a school uniform; or
    - (ii) clothing that is commonly found in students' homes.
- (9)
  - (a) "School uniform" means special shoes or an item of clothing:
    - (i)
      - (A) that meet specific requirements, including a requested specific color, style, fabric, or imprint; and
      - (B) that a school requires a student to provide; and
    - (ii) that is worn by a student for a curricular activity.
  - (b) "School uniform" does not include school activity clothing.
- (10) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.
- (11) "Secondary school student":
  - (a) means a student enrolled in a secondary school; and
  - (b) includes a student in grade 6 if the student attends a secondary school.
- (12) "Textbook" means the same as that term is defined in Section 53G-7-601.
- (13) "Waiver" means a full or partial release from a requirement to pay a fee and from any provision in lieu of fee payment.

Amended by Chapter 51, 2020 General Session

**53G-7-502 Schools to be free.**

Except as otherwise provided in this public education code, the public education system shall be free to an individual:

- (1) between five and 18 years of age who is a resident; and
- (2) over 18 who is domiciled in the state of Utah and has not completed requirements for a high school diploma.

Amended by Chapter 223, 2019 General Session

**53G-7-503 Fees -- Prohibitions -- Voluntary supplies -- Enforcement -- Reporting.**

- (1) An LEA may only charge a fee if the fee is authorized and noticed by the LEA governing board in accordance with Section 53G-7-505.
- (2)
  - (a) An LEA may not require a fee for elementary school activities that are part of the regular school day or for supplies used during the regular school day.
  - (b) An elementary school or elementary school teacher may compile and provide to a student's parent a suggested list of supplies for use during the regular school day so that a parent may furnish on a voluntary basis those supplies for student use.
  - (c) A list provided to an elementary student's parent in accordance with Subsection (2)(b) shall include and be preceded by the following language:

"NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."
- (3)
  - (a) Beginning with or after the 2021-2022 school year, if an LEA imposes a fee, the fee shall be equal to or less than the expense incurred by the LEA in providing for a student the activity, course, or program for which the LEA imposes the fee.
  - (b) An LEA may not impose an additional fee or increase a fee to supplant or subsidize another fee.
- (4)
  - (a) Beginning with or after the 2021-2022 school year, and notwithstanding Section 53E-3-401, if the state board finds that an LEA has violated a provision of this part or Part 6, Textbook Fees, the state board shall impose corrective action against the LEA, which may include:
    - (i) requiring an LEA to repay improperly charged fees;
    - (ii) withholding state funds; and
    - (iii) suspending the LEA's authority to charge fees for an amount of time specified by the state board.
  - (b) 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 LEA affected by a state board action described in Subsection (4)(a); and
    - (ii) to administer this Subsection (4).
- (5)
  - (a) For each fee on an LEA's fee schedule described in Section 53G-7-505, the LEA shall:
    - (i) by July 1, 2020, determine whether the fee is curricular, co-curricular, or extracurricular;
    - (ii) for the 2020-2021 school year, measure the total number of:
      - (A) students who pay each fee; and
      - (B) money received for each fee;
    - (iii) for the 2020-2021 school year, measure the total:
      - (A) number of students who receive a fee waiver; and
      - (B) value of each waiver for each waived fee; and
    - (iv) by July 1, 2021, report the separate categories of data gathered under Subsections (5)(a)(ii) and (iii) to the state board.
  - (b) The state board shall report on the data the board receives under Subsection (5)(a) to the Education Interim Committee on or before the date of the November interim meeting in 2021.

Amended by Chapter 51, 2020 General Session  
Amended by Chapter 408, 2020 General Session

**53G-7-504 Waiver of fees -- Appeal of decision.**

- (1)
  - (a) If an LEA or a school within an LEA charges one or more fees, the LEA shall grant a waiver to a student if charging the fee would deny the student the opportunity to fully participate or complete a requirement because of an inability to pay the fee.
  - (b) An LEA governing board shall:
    - (i) adopt policies for granting a waiver; and
    - (ii) in accordance with Section 53G-7-505, give notice of waiver eligibility and policies.
- (2)
  - (a) An LEA that charges a fee under this part and Part 6, Textbook Fees, may provide a variety of alternatives for a student or family to satisfy a fee requirement, including allowing a student to provide:
    - (i) tutorial assistance to other students;
    - (ii) assistance before or after school to teachers and other school personnel on school related matters; and
    - (iii) general community or home service.
  - (b) Each LEA governing board may add to the list of alternatives provided by the state board, subject to approval by the state board.
- (3) With regard to a student who is in the custody of the Division of Child and Family Services who is also eligible under Title IV-E of the federal Social Security Act, an LEA governing board shall require fee waivers or alternatives in accordance with this section.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:
  - (a) requiring a parent of a student applying for a fee waiver to provide documentation and certification to the school verifying:
    - (i) the student's eligibility to receive the waiver; and
    - (ii) if applicable, that the student has complied with alternatives for satisfying the fee requirements under Subsection (2) to the fullest extent reasonably possible according to the individual circumstances of the student and the LEA; and
  - (b) specifying the acceptable forms of documentation for the requirement under Subsection (4) (a), which shall include verification based on income tax returns or current pay stubs.
- (5) Notwithstanding the requirements under Subsection (4), an LEA is not required to keep documentation on file after the verification is completed.
- (6) If a school denies a student or parent request for a fee waiver, the school shall provide the student or parent:
  - (a) the school's written decision to deny a waiver; and
  - (b) the procedure to appeal in accordance with LEA policy.

Amended by Chapter 408, 2020 General Session

**53G-7-505 Approval and notice of student fees and waivers.**

- (1) An LEA governing board shall annually:
  - (a) adopt fee policies and a fee schedule; and
  - (b) provide the fee schedule to each student and parent.
- (2) For the fee schedule, the LEA governing board shall:
  - (a) before approving the fee schedule, provide at least two opportunities for the public to comment on the proposed fee schedule;



- (b) encourage public participation in the development of the fee schedule; and
  - (c) approve the fee schedule in a regularly scheduled public meeting.
- (3)
- (a) The fee schedule shall include the following:
    - (i) a specific amount for each fee on the fee schedule;
    - (ii) if a student is responsible for multiple fees related to one activity, class, or program, a clear and easy to understand delineation of each fee and the fee total for each activity, class, or program;
    - (iii) the LEA's fee waiver policy, including an easily understandable statement informing a parent that a student:
      - (A) may be eligible to have one or more fees waived; and
      - (B) may appeal the LEA's decision if the LEA denies a request for a fee waiver; and
    - (iv) a corresponding spending plan for each fee.
  - (b) The LEA shall:
    - (i) publish the fee schedule on each of the LEA's school's websites; and
    - (ii) include a copy of the LEA's fee schedule with the LEA's registration materials.

Amended by Chapter 223, 2019 General Session

Amended by Chapter 293, 2019 General Session

## **Part 6**

### **Textbook Fees**

#### **53G-7-601 Definitions.**

As used in this part:

- (1) "Fee" means the same as that term is defined in Section 53G-7-501.
- (2)
  - (a) "Instructional equipment" means an activity-related, course-related, or program-related tool or instrument that:
    - (i) is required for a student to use as part of an activity, course, or program in a secondary school;
    - (ii) typically becomes the property of the student upon exiting the activity, course, or program; and
    - (iii) is subject to a fee waiver.
  - (b) "Instructional equipment" includes:
    - (i) shears or styling tools;
    - (ii) a band instrument;
    - (iii) a camera;
    - (iv) a stethoscope; or
    - (v) sports equipment, including a bat, mitt, or tennis racquet.
  - (c) "Instructional equipment" does not include school equipment.
- (3)
  - (a) "Instructional supply" means a consumable or non-reusable supply that is necessary for a student to use as part of an activity, course, or program in a secondary school.
  - (b) "Instructional supply" includes:
    - (i) prescriptive footwear;

- (ii) brushes or other art supplies, including clay, paint, or art canvas;
  - (iii) wood for wood shop;
  - (iv) Legos for Lego robotics;
  - (v) film; or
  - (vi) filament used for 3D printing.
- (4)
- (a) "School equipment" means a durable school-owned machine, equipment, or tool used by a student as part of an activity, course, or program in a secondary school.
  - (b) "School equipment" includes a saw or 3D printer.
- (5)
- (a) "Textbook" means instructional material necessary for participation in an activity, course, or program, regardless of the format of the material.
  - (b) "Textbook" includes:
    - (i) a hardcopy book or printed pages of instructional material, including a consumable workbook; or
    - (ii) computer hardware, software, or digital content.
  - (c) "Textbook" does not include instructional equipment or instructional supplies.

Amended by Chapter 138, 2020 General Session

**53G-7-602 State policy on providing free textbooks.**

- (1) It is the public policy of this state that public education shall be free.
  - (2) A student may not be denied an education because of economic inability to purchase textbooks necessary for advancement in or graduation from the public school system.
- (3)
- (a) Beginning with the 2022-23 school year, an LEA:
    - (i) except as provided in Subsection (3)(a)(ii), may not sell textbooks or otherwise charge a fee for textbooks or the maintenance costs of school equipment; and
    - (ii) may only charge a fee for a textbook required for an Advanced Placement or, as described in Section 53E-10-302, a concurrent enrollment course.
  - (b) The LEA shall waive a fee described in Subsection (3)(a)(ii) in full or in part if a student qualifies for a waiver in accordance with Section 53G-7-504.

Amended by Chapter 138, 2020 General Session

**53G-7-603 Purchase of textbooks -- Textbooks provided to teachers.**

- (1) An LEA governing board may purchase textbooks directly from the textbook publisher at prices and terms approved by the state board.
- (2) An LEA governing board shall purchase each textbook necessary for a teacher to conduct his or her class.
- (3) An LEA may pay the LEA's cost of furnishing textbooks from school operating funds, the textbook fund, or from other available funds.
- (4) A textbook remains the property of the LEA.

Repealed and Re-enacted by Chapter 223, 2019 General Session

**53G-7-606 Disposal of textbooks.**

- (1) An LEA may not dispose of textbooks without first notifying all other LEAs in the state of the LEA's intent to dispose of the textbooks.
- (2) Subsection (1) does not apply to textbooks that have been damaged, mutilated, or worn out.
- (3) The state board shall develop rules and procedures directing the disposal of textbooks.

Amended by Chapter 223, 2019 General Session

Amended by Chapter 293, 2019 General Session

## **Part 7 Student Clubs**

### **53G-7-701 Definitions.**

As used in this part:

- (1) "Bigotry" means action or advocacy of imminent action involving:
  - (a) the harassment or denigration of a person or entity; or
  - (b) any intent to cause a person not to freely enjoy or exercise any right secured by the constitution or laws of the United States or the state, except that an evaluation or prohibition may not be made of the truth or falsity of any religious belief or expression of conscience unless the means of expression or conduct arising therefrom violates the standards of conduct outlined in this section, Section 53G-10-203, or 20 U.S.C. Sec. 4071(f).
- (2) "Club" means any student organization that meets during noninstructional time.
- (3) "Conscience" means a standard based upon learned experiences, a personal philosophy or system of belief, religious teachings or doctrine, an absolute or external sense of right and wrong which is felt on an individual basis, a belief in an external absolute, or any combination of the foregoing.
- (4) "Curricular club" means a club that is school sponsored and that may receive leadership, direction, and support from the school or school district beyond providing a meeting place during noninstructional time. An elementary school curricular club means a club that is organized and directed by school sponsors at the elementary school. A secondary school curricular club means a club:
  - (a) whose subject matter is taught or will soon be taught in a regular course;
  - (b) whose subject matter concerns the body of courses as a whole;
  - (c) in which participation is required for a particular course; or
  - (d) in which participation results in academic credit.
- (5)
  - (a) "Discretionary time" means school-related time for students that is not instructional time.
  - (b) "Discretionary time" includes free time before and after school, during lunch and between classes or on buses, and private time before athletic and other events or activities.
- (6)
  - (a) "Encourage criminal or delinquent conduct" means action or advocacy of imminent action that violates any law or administrative rule.
  - (b) "Encourage criminal or delinquent conduct" does not include discussions concerning changing of laws or rules, or actions taken through lawfully established channels to effectuate such change.
- (7)

- (a) "Instructional time" means time during which a school is responsible for a student and the student is required or expected to be actively engaged in a learning activity.
- (b) "Instructional time" includes instructional activities in the classroom or study hall during regularly scheduled hours, required activities outside the classroom, and counseling, private conferences, or tutoring provided by school employees or volunteers acting in their official capacities during or outside of regular school hours.
- (8) "Involve human sexuality" means:
  - (a) presenting information in violation of laws governing sex education, including Sections 53G-10-402 and 53E-9-203;
  - (b) advocating or engaging in sexual activity outside of legally recognized marriage or forbidden by state law; or
  - (c) presenting or discussing information relating to the use of contraceptive devices or substances, regardless of whether the use is for purposes of contraception or personal health.
- (9) "LEA governing board" means a local school board or charter school governing board.
- (10) "Limited open forum" means a forum created by a school district or charter school for student expression within the constraints of Subsection 53G-10-203(2)(b).
- (11) "Noncurricular club" is a student initiated group that may be authorized and allowed school facilities use during noninstructional time in secondary schools by a school and LEA governing board in accordance with the provisions of this part. A noncurricular club's meetings, ideas, and activities are not sponsored or endorsed in any way by an LEA governing board, the school, or by school or school district employees.
- (12) "Noninstructional time" means time set aside by a school before instructional time begins or after instructional time ends, including discretionary time.
- (13) "Religious club" means a noncurricular club designated in its application as either being religiously based or based on expression or conduct mandated by conscience.
- (14) "School" means a public school, including a charter school.
- (15)
  - (a) "School facilities use" means access to a school facility, premises, or playing field.
  - (b) "School facilities use" includes access to a limited open forum.

Amended by Chapter 293, 2019 General Session

**53G-7-702 Student clubs -- Limited open forum -- Authorization.**

- (1)
  - (a) A school may establish and maintain a limited open forum for student clubs pursuant to the provisions of this part, state board rules, and LEA governing board policies.
  - (b) Notwithstanding the provisions under Subsection (1)(a), a school retains the right to create a closed forum at any time by allowing curricular clubs only.
- (2)
  - (a) A school shall review applications for authorization of clubs on a case-by-case basis.
  - (b) Before granting an authorization, the school shall find:
    - (i) that the proposed club meets this part's respective requirements of a curricular club or a noncurricular club; and
    - (ii) that the proposed club's purpose and activities comply with this part.
  - (c) Before granting an authorization, a school may request additional information from the faculty sponsor, from students proposing the club, or from its LEA governing board, if desired.

- (3) A school shall grant authorization and school facilities use to curricular and noncurricular clubs whose applications are found to meet the requirements of this part, rules of the state board, and policies of the LEA governing board and shall limit or deny authorization or school facilities use to proposed clubs that do not meet the requirements of this part, rules of the state board, and policies of the LEA governing board.

Amended by Chapter 293, 2019 General Session

**53G-7-703 Curricular clubs -- Authorization.**

- (1) Faculty members or students proposing a curricular club shall submit written application for authorization on a form approved by the LEA governing board.
- (2) An LEA governing board may exempt a club whose membership is determined by student body election or a club that is governed by an association that regulates interscholastic activities from the authorization requirements under this section.
- (3) An application for authorization of a curricular club shall include:
  - (a) the recommended club name;
  - (b) a statement of the club's purpose, goals, and activities;
  - (c) a statement of the club's categorization, which shall be included in the parental consent required under Section 53G-7-709, indicating all of the following that may apply:
    - (i) athletic;
    - (ii) business/economic;
    - (iii) agriculture;
    - (iv) art/music/performance;
    - (v) science;
    - (vi) gaming;
    - (vii) religious;
    - (viii) community service/social justice; and
    - (ix) other;
  - (d) the recommended meeting times, dates, and places;
  - (e) a statement that the club will comply with the provisions of this part and all other applicable laws, rules, or policies; and
  - (f) a budget showing the amount and source of any funding provided or to be provided to the club and its proposed use.
- (4) The application may be as brief as a single page so long as it contains the items required under this section.
- (5) A school shall approve the name of a curricular club consistent with the club's purposes and its school sponsorship.
- (6)
  - (a) A school shall determine curriculum relatedness by strictly applying this part's definition of curricular club to the club application.
  - (b) If the school finds that the proposed club is a curricular club, the school shall continue to review the application as an application for authorization of a curricular club.
  - (c) If the school finds that the proposed club is a noncurricular club, the school may:
    - (i) return the application to the faculty member or students proposing the club for amendment;  
or
    - (ii) review the application as an application for authorization of a noncurricular club.
- (7)
  - (a) Only curricular clubs may be authorized for elementary schools.

- (b) A school governing body may limit, or permit a secondary school to limit, the authorization of clubs at the secondary school to only curricular clubs.

Amended by Chapter 293, 2019 General Session

**53G-7-704 Noncurricular clubs -- Annual authorization.**

- (1) A noncurricular club shall have a minimum of three members.
- (2) Students proposing a noncurricular club shall submit a written application for authorization on a form approved by the LEA governing board.
- (3) An application for authorization of a noncurricular club shall include:
  - (a) the recommended club name;
  - (b) a statement of the club's purpose, goals, and activities;
  - (c) a statement of the club's categorization, which shall be included in the parental consent required under Section 53G-7-709, indicating all of the following that may apply:
    - (i) athletic;
    - (ii) business/economic;
    - (iii) agriculture;
    - (iv) art/music/performance;
    - (v) science;
    - (vi) gaming;
    - (vii) religious;
    - (viii) community service/social justice; and
    - (ix) other;
  - (d) the recommended meeting times, dates, and places;
  - (e) a statement that the club will comply with the provisions of this part and all other applicable laws, rules, or policies; and
  - (f) a budget showing the amount and source of any funding provided or to be provided to the club and its proposed use.
- (4) The application may be as brief as a single page so long as it contains the items required under this section.
- (5)
  - (a) An LEA governing board may provide for approval of a noncurricular club name in an action separate from that relating to authorization of the club itself.
  - (b) An LEA governing board shall require:
    - (i) that a noncurricular club name shall reasonably reflect the club's purpose, goals, and activities; and
    - (ii) that the noncurricular club name shall be a name that would not result in or imply a violation of this part.

Amended by Chapter 293, 2019 General Session

**53G-7-705 Clubs -- Limitations and denials.**

- (1) A school shall limit or deny authorization or school facilities use to a club, or require changes prior to granting authorization or school facilities use:
  - (a) as the school determines it to be necessary to:
    - (i) protect the physical, emotional, psychological, or moral well-being of students and faculty;
    - (ii) maintain order and discipline on school premises;

- (iii) prevent a material and substantial interference with the orderly conduct of a school's educational activities;
- (iv) protect the rights of parents and students;
- (v) maintain the boundaries of socially appropriate behavior; or
- (vi) ensure compliance with all applicable laws, rules, regulations, and policies; or
- (b) if a club's proposed charter and proposed activities indicate students or advisors in club related activities would as a substantial, material, or significant part of their conduct or means of expression:
  - (i) encourage criminal or delinquent conduct;
  - (ii) promote bigotry;
  - (iii) involve human sexuality; or
  - (iv) involve any effort to engage in or conduct mental health therapy, counseling, or psychological services for which a license would be required under state law.
- (2) An LEA governing board has the authority to determine whether any club meets the criteria of Subsection (1).
- (3) If a school or LEA governing board limits or denies authorization to a club, the school or LEA governing board shall provide, in writing, to the applicant the factual and legal basis for the limitation or denial.
- (4) A student's spontaneous expression of sentiments or opinions otherwise identified in Subsection 53E-9-203(1) is not prohibited.

Amended by Chapter 293, 2019 General Session

**53G-7-706 Faculty oversight of authorized clubs.**

- (1) A school shall approve the faculty sponsor, supervisor, or monitor for each authorized curricular, noncurricular, and religious club to provide oversight consistent with this part and the needs of the school to ensure that the methods of expression, religious practices, or other conduct of the students or advisors involved do not:
  - (a) unreasonably interfere with the ability of school officials to maintain order and discipline;
  - (b) unreasonably endanger or threaten the well-being of persons or property;
  - (c) violate concepts of civility or propriety appropriate to a school setting; or
  - (d) violate applicable laws, rules, regulations, and policies.
- (2)
  - (a) A school shall annually approve faculty members as sponsors of curricular clubs.
  - (b) Faculty sponsors shall organize and direct the purpose and activities of a curricular club.
- (3)
  - (a) A school shall approve faculty members to serve as supervisors for authorized noncurricular clubs.
  - (b) A faculty supervisor shall provide oversight to ensure compliance with the approved club purposes, goals, and activities and with the provisions of this part and other applicable laws, rules, and policies.
  - (c) The approval of a faculty supervisor or monitor does not constitute school sponsorship of the club.
  - (d) A faculty monitor approved for a religious club may not participate in the activities of the religious club, except to perform the supervisory role required by this section.
- (4) Without the prior approval by the school, a person who is not a school faculty member or a club member may not:
  - (a) make a presentation to a noncurricular club; or

- (b) direct, conduct, control, or regularly attend the meetings of a noncurricular club.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-7-707 Use of school facilities by clubs.**

- (1) A school shall determine and assign school facilities use for curricular and noncurricular clubs consistent with the needs of the school.
- (2) The following provisions apply to curricular clubs:
  - (a) in assigning school facilities use, the administrator may give priority to curricular clubs over noncurricular clubs; and
  - (b) the school may provide financial or other support to curricular clubs.
- (3) The following provisions apply to noncurricular clubs:
  - (a) a preference or priority may not be given among noncurricular clubs;
  - (b)
    - (i) a school shall only provide the space for noncurricular club meetings; and
    - (ii) a school may not spend public funds for noncurricular clubs, except as required to implement the provisions of this part, including providing space and faculty oversight for noncurricular clubs;
  - (c) a school shall establish the noninstructional times during which noncurricular clubs may meet;
  - (d) a school may establish the places that noncurricular clubs may meet;
  - (e) a school may set the number of hours noncurricular clubs may use the school's facilities per month, provided that all noncurricular clubs shall be treated equally; and
  - (f) a school shall determine what access noncurricular clubs shall be given to the school newspaper, yearbook, bulletin boards, or public address system, provided that all noncurricular clubs shall be treated equally.

Amended by Chapter 293, 2019 General Session

**53G-7-708 Club membership.**

- (1) A school shall require written parental consent for student participation in all curricular and noncurricular clubs at the school.
- (2) Membership in curricular clubs is governed by the following:
  - (a)
    - (i) membership may be limited to students who are currently attending the sponsoring school or school district; and
    - (ii) members who attend a school other than the sponsoring school shall have, in addition to the consent required under Section 53G-7-709, specific parental permission for membership in a curricular club at another school;
  - (b)
    - (i) curricular clubs may require that prospective members try out based on objective criteria outlined in the application materials; and
    - (ii) try-outs may not require activities that violate the provisions of this part and other applicable laws, rules, and policies; and
  - (c) other rules or policies as determined by the state board, school district, or school.
- (3) Membership in noncurricular clubs is governed by the following:
  - (a) student membership in a noncurricular club is voluntary;
  - (b) membership shall be limited to students who are currently attending the school;
  - (c)



- (i) noncurricular clubs may require that prospective members try out based on objective criteria outlined in the application materials; and
- (ii) try-outs may not require activities that violate the provisions of this part and other applicable laws, rules, and policies;
- (d) a copy of any written or other media materials that were presented at a noncurricular club meeting by a nonschool person shall be delivered to a school administrator no later than 24 hours after the noncurricular club meeting and, if requested, a student's parent shall have an opportunity to review those materials; and
- (e) other rules or policies as determined by the state board, school district, or school.

Amended by Chapter 293, 2019 General Session

**53G-7-709 Parental consent.**

- (1) A school shall require written parental consent for student participation in all curricular and noncurricular clubs at the school.
- (2) The consent described in Subsection (1) shall include an activity disclosure statement containing the following information:
  - (a) the specific name of the club;
  - (b) a statement of the club's purpose, goals, and activities;
  - (c) a statement of the club's categorization, which shall be obtained from the application for authorization of a club in accordance with the provisions of Section 53G-7-703 or 53G-7-704, indicating all of the following that may apply:
    - (i) athletic;
    - (ii) business/economic;
    - (iii) agriculture;
    - (iv) art/music/performance;
    - (v) science;
    - (vi) gaming;
    - (vii) religious;
    - (viii) community service/social justice; and
    - (ix) other;
  - (d) beginning and ending dates;
  - (e) a tentative schedule of the club activities with dates, times, and places specified;
  - (f) personal costs associated with the club, if any;
  - (g) the name of the sponsor, supervisor, or monitor who is responsible for the club; and
  - (h) any additional information considered important for the students and parents to know.
- (3) All completed parental consent forms shall be filed by the parent or the club's sponsor, supervisor, or monitor with the school's principal, the chief administrative officer of a charter school, or their designee.

Amended by Chapter 293, 2019 General Session

**53G-7-710 Violations -- Investigations -- School responses.**

- (1) A school shall investigate any report or allegation that an authorized curricular or noncurricular club is:
  - (a) participating in activities beyond the scope of its purpose; or
  - (b) in violation of a provision of this part or another applicable law, rule, regulation, or policy.

- (2) After meeting with the faculty sponsor, faculty supervisor, or faculty monitor, the students involved, and the person making the report or allegation, if a violation is substantiated, the school may do any of the following:
  - (a) allow the club's original statement of its purpose, goals, and activities to be modified to include the activities if they are in compliance with the provisions of this part and other applicable laws, rules, regulations, or policies;
  - (b) instruct the faculty sponsor, supervisor, or monitor not to allow similar violations in the future;
  - (c) limit or suspend the club's authorization or school facilities use pending further corrective action as determined by the school; or
  - (d) terminate the club's authorization and dissolve the club.
- (3) Any limitation on expression, practice, or conduct of any student, advisor, or guest in a meeting of a curricular or noncurricular club, or limitation on school facilities use, shall be by the least restrictive means necessary to satisfy the school's interests as identified in this part.
- (4) A club that has been terminated in accordance with Subsection (2)(d) may not reapply for authorization until the following school year.
- (5) A student who makes a false allegation or report under this section shall be subject to school discipline.

Renumbered and Amended by Chapter 3, 2018 General Session

#### **53G-7-711 Appeals -- Procedures.**

- (1)
  - (a) A completed application or complaint shall be approved, denied, or investigated by the school within a reasonable amount of time.
  - (b) If an application or complaint is denied, written reasons for the denial or results of the investigation shall be stated and, if appropriate, suggested corrections shall be made to remedy the deficiency.
  - (c) A club that is denied school facilities use shall be informed at the time of the denial of the factual and legal basis for the denial, and, if appropriate, how the basis for the denial could be corrected.
- (2)
  - (a) If denied, suspended, or terminated, a club, student desirous of participating or speaking, or a complaining parent, has 10 school days from the date of the denial, suspension, or termination to file a written appeal from the denial, suspension, or termination to a designee authorized by the LEA governing board.
  - (b) The designee shall issue a determination within a reasonable amount of time from receipt of the appeal, which decision is final and constitutes satisfaction of all administrative remedies unless the time for evaluation is extended by agreement of all parties.
- (3) A person directly affected by a decision made in accordance with the provisions of this part may appeal the decision by writing to a person designated by the LEA governing board.

Amended by Chapter 293, 2019 General Session

#### **53G-7-712 Rulemaking -- State board -- LEA governing boards.**

The state board may adopt additional rules and LEA governing boards may adopt additional policies governing clubs that do not conflict with the provisions of this part.

Amended by Chapter 293, 2019 General Session

**53G-7-713 Severability.**

If any provision of this part or the application of any provision to any person or circumstance, is held invalid, the remainder of this part shall be given effect without the invalid provision or application.

Renumbered and Amended by Chapter 3, 2018 General Session

**Part 8  
School Uniforms**

**53G-7-801 Definitions.**

As used in this part:

- (1) "Principal" includes the chief administrator of a school that does not have a principal.
- (2) "School" means a public school, including a charter school.
- (3) "School official" means the principal of a school or the local school board for a school district.
- (4) "School uniform" means the same as that term is defined in Section 53G-7-501.

Amended by Chapter 223, 2019 General Session

**53G-7-802 Uniforms in schools -- Legislative finding -- Policies.**

- (1) The Legislature finds that:
  - (a) each student should be allowed to learn in a safe environment which fosters the learning process and is free from unnecessary disruptions;
  - (b) the wearing of certain types of clothing may identify students as members of youth gangs and contribute to disruptive behavior and violence in the schools;
  - (c) school uniform policies may be part of an overall program to:
    - (i) improve school safety and discipline; and
    - (ii) help avoid the disruption of the classroom atmosphere and decorum and prevent disturbances among students; and
  - (d) school uniforms may:
    - (i) decrease violence and theft among students; and
    - (ii) foster and promote desirable school operating conditions and a positive educational environment in accordance with this part.
- (2)
  - (a) In accordance with Section 53G-7-803, a school may adopt a school uniform policy that requires students enrolled at that school to wear a designated school uniform during the school day.
  - (b) Except as provided in Subsection (4)(b), a school uniform policy may not require clothing that is prescriptive or expensive.
- (3) A school uniform policy shall:
  - (a) protect students' free exercise of religious beliefs;
  - (b) specify whether the uniform policy is voluntary or mandatory for students;
  - (c) specify whether or not the uniform policy has an opt-out provision in addition to the provisions under Subsection (5); and

- (d) include a provision for financial assistance to families who cannot afford to purchase a required uniform, which may include:
  - (i) the school providing school uniforms to students;
  - (ii) the school making used school uniforms available to students; or
  - (iii) other programs to make school uniforms available to economically disadvantaged students.
- (4)
  - (a) Except as provided in Subsection (4)(b), a school uniform policy under this part is not considered a fee for either an elementary or a secondary school.
  - (b)
    - (i) Subject to Subsection (4)(b)(ii), a secondary school may adopt a school uniform policy that requires clothing that is expensive or prescriptive.
    - (ii) A school uniform policy described in Subsection (4)(b)(i) is considered a fee, as defined in Section 53G-7-501, and is subject to Part 5, Student Fees.
- (5) A school uniform policy shall include a provision allowing a principal at any time during the school year to grant an exemption from wearing a school uniform to a student because of extenuating circumstances.
- (6)
  - (a) If a school adopts a school uniform policy under this part, that school's governing body or local school board shall adopt local appellate procedures for school actions under this part, including a denial of an exemption requested under Subsection (5).
  - (b) A person may seek judicial review of an action under this part only after exhausting the remedies provided under this Subsection (6).

Amended by Chapter 223, 2019 General Session

**53G-7-803 Uniforms in schools -- Policy approval.**

- (1) The school uniform policy authorized in Section 53G-7-802 may be adopted:
  - (a) for a charter school:
    - (i) by the charter school governing board or administrator of the charter school in accordance with Subsection (2); or
    - (ii) by including the school uniform policy in the school's charter agreement approved in accordance with Chapter 5, Charter Schools;
  - (b) for more than one school at the district level by a local school board in accordance with Subsection (2); or
  - (c) for a single school at the school level by the principal of the school in accordance with Subsection (2).
- (2) A school uniform policy adopted by an election is subject to the following requirements:
  - (a) the adopting authority shall hold a public hearing on the matter prior to formal adoption of the school uniform policy;
  - (b)
    - (i) the adopting authority shall hold an election for approval of a school uniform policy prior to its adoption and shall receive an affirmative vote from a majority of those voting at the election; and
    - (ii) only parents of students subject to the proposed school uniform policy may vote at the election, limited to one vote per family.
- (3)

- (a) A local school board or principal is required to hold an election to consider adoption of a school uniform policy for an entire school district or an individual school if initiative petitions are presented as follows:
    - (i) for a school district, a petition signed by a parent of 20% of the district's students presented to the local school board; and
    - (ii) for an individual school, a petition signed by a parent of 20% of the school's students presented to the principal.
  - (b) The public hearing and election procedures required in Subsection (2) apply to this Subsection (3).
- (4)
- (a) The procedures set forth in Subsections (3) and (4) shall apply to the discontinuance or modification of a school uniform policy adopted under this section.
  - (b) A vote to discontinue an adopted school uniform policy may not take place during the first year of its operation.
- (5) The adopting authority shall establish the manner and time of an election required under this section.

Amended by Chapter 293, 2019 General Session

## **Part 9 Internships**

### **53G-7-901 Definitions.**

As used in this part:

- (1) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through a school, provides interns with training and work experience in activities related to the entity's ongoing business activities.
- (2) "Intern" means a student enrolled in a school-sponsored work experience and career exploration program under Section 53G-7-902 involving both classroom instruction and work experience with a cooperating employer, for which the student receives no compensation.
- (3) "Internship" means the work experience segment of an intern's school-sponsored work experience and career exploration program, performed under the direct supervision of a cooperating employer.
- (4) "Internship safety agreement" means the agreement between a public or private school and a cooperating employer in accordance with Section 53G-7-904.
- (5) "Private school" means a school serving any of grades 7 through 12 which is not part of the public education system.
- (6) "Public school" means:
  - (a) a public school district;
  - (b) an applied technology center or applied technology service region;
  - (c) the Schools for the Deaf and the Blind; or
  - (d) other components of the public education system authorized by the state board to offer internships.

Amended by Chapter 374, 2020 General Session

**53G-7-902 Public or private school internships.**

A public or private school may offer internships in connection with work experience and career exploration programs operated in accordance with the rules of the state board.

Amended by Chapter 293, 2019 General Session

**53G-7-903 Interns -- Workers' compensation medical benefits.**

- (1) An intern participating in an internship under Section 53G-7-902 is considered to be a volunteer government worker of the sponsoring public school, or an employee of the sponsoring private school, solely for purposes of receiving workers' compensation medical benefits.
- (2) Receipt of medical benefits under Subsection (1) shall be the exclusive remedy against the school and the cooperating employer for all injuries and occupational diseases as provided under Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

Amended by Chapter 354, 2020 General Session

**53G-7-904 Internship programs -- Criminal background checks.**

- (1)
  - (a) A public or private school may enter into an internship safety agreement with a cooperating employer.
  - (b) The public or private school described in Subsection (1)(a) shall ensure that the internship safety agreement requires a cooperating employer to:
    - (i) ensure that an adult officer or employee of the cooperating employer is not intentionally alone with an intern for any significant amount of time during the intern's activities;
    - (ii) maintain compliance with all applicable state and federal laws relating to workplace and student safety, privacy, and welfare; and
    - (iii) provide a safe, educational, courteous, and welcoming professional environment that is free of harassment or discriminatory conduct that may result in a hostile, intimidating, abusive, offensive, or oppressive learning environment.
- (2)
  - (a) If a public or private school has not entered into an internship safety agreement with a cooperating employer, officers and employees of the cooperating employer who will be given significant unsupervised access to a student in connection with the student's activities as an intern shall submit to criminal background checks under Section 53G-11-402.
  - (b) If a public or private school has entered into an internship safety agreement with a cooperating employer, officers and employees of the cooperating employer are exempt from the criminal background check requirement described in Section 53G-11-402.

Amended by Chapter 374, 2020 General Session

**53G-7-905 Recognition of participation in internship program.**

A cooperating employer may be given appropriate recognition by a school, including the posting of the employer's name and a short description of the employer's business in an appropriate location on school property, or publication of that information in official publications of the school or school district.

Renumbered and Amended by Chapter 3, 2018 General Session

## **Part 10 Internet Policy**

### **53G-7-1001 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

### **53G-7-1002 Internet and online access policy required.**

State funds may not be provided to any local school board that provides access to the Internet or an online service unless the local school board adopts and enforces a policy to restrict access to Internet or online sites that contain obscene material.

Renumbered and Amended by Chapter 3, 2018 General Session

### **53G-7-1003 Process and content standards for policy.**

- (1) "Policy" as used in this section means the elementary and secondary school online access policy adopted by a local school board to meet the requirements of Section 53G-7-1002.
- (2)
  - (a) Each policy shall be developed under the direction of the local school board, adopted in an open meeting, and have an effective date. The local school board shall review the policy at least every three years, and a footnote shall be added to the policy indicating the effective date of the last review.
  - (b) Notice of the availability of the policy shall be posted in a conspicuous place within each school. The local school board may issue any other public notice it considers appropriate.
- (3) The policy shall:
  - (a) state that it restricts access to Internet or online sites that contain obscene material and shall state how the local school board intends to meet the requirements of Section 53G-7-1002;
  - (b) inform the public that administrative procedures and guidelines for the staff to follow in enforcing the policy have been adopted and are available for review at the school; and
  - (c) inform the public that procedures to handle complaints about the policy, its enforcement, or about observed behavior have been adopted and are available for review at the school.

Renumbered and Amended by Chapter 3, 2018 General Session

### **53G-7-1004 Rulemaking -- Reporting.**

The state board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding compliance standards and reporting requirements for local school boards with respect to the policy required by Section 53G-7-1002.

Amended by Chapter 408, 2020 General Session

## **Part 11 Public School Membership in Associations**

**53G-7-1101 Definitions.**

As used in this part:

- (1) "Alignment" or "realignment" means the initial or subsequent act, respectively, of assigning a public school a classification or region.
- (2) "Appeals panel" means the appeals panel created in Section 53G-7-1106.
- (3)
  - (a) "Association" means an organization that governs or regulates a student's participation in an athletic interscholastic activity.
  - (b) "Association" does not include an institution of higher education described in Section 53B-1-102.
- (4) "Classification" means the designation of a school based on the size of the school's student enrollment population for purposes of interscholastic activities.
- (5) "Eligibility" means eligibility to participate in an interscholastic activity regulated or governed by an association.
- (6) "Governing body" means a body within an association that:
  - (a) is responsible for:
    - (i) adopting standards or policies that govern interscholastic activities or the administration of the association;
    - (ii) adopting or amending the association's governing document or bylaws;
    - (iii) enforcing the standards and policies of the association; and
    - (iv) adopting the association's budget; and
  - (b) has oversight of other boards, committees, councils, or bodies within the association.
- (7) "Interscholastic activity" means an activity within the state in which:
  - (a) a student that participates represents the student's school in the activity; and
  - (b) the participating student is enrolled in grade 9, 10, 11, or 12.
- (8) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.
- (9) "Region" means a grouping of schools of the same classification for purposes of interscholastic activities.

Amended by Chapter 293, 2019 General Session

**53G-7-1102 Public schools prohibited from membership.**

- (1) A public school may not be a member of or pay dues to an association that is not in compliance on or after July 1, 2017, with:
  - (a) this part;
  - (b) Title 52, Chapter 4, Open and Public Meetings Act;
  - (c) Title 63G, Chapter 2, Government Records Access and Management Act; and
  - (d) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
- (2) Unless otherwise specified, an association's compliance with or an association employee or officer's compliance with the provisions described in Subsection (1) does not alter:
  - (a) the association's public or private status; or
  - (b) the public or private employment status of the employee or officer.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-7-1103 Governing body membership.**



- (1)
  - (a) A governing body shall have 15 members as follows:
    - (i) six members who:
      - (A) are each an elected member of a local school board; and
      - (B) each represent a different classification;
    - (ii)
      - (A) one school superintendent representing the two largest classifications;
      - (B) one school superintendent representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(ii)(A); and
      - (C) one school superintendent representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(ii)(B);
    - (iii)
      - (A) one school principal representing the two largest classifications;
      - (B) one school principal representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(iii)(A); and
      - (C) one school principal representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(iii)(B);
    - (iv) one representative of charter schools;
    - (v) one representative of private schools, if private schools are members of or regulated by the association; and
    - (vi) one member representing the state board.
  - (b) Only a member respectively described in Subsection (1)(a)(iv) or (v) may be elected or appointed by or represent charter or private schools on the governing body.
- (2)
  - (a) A member described in Subsection (1)(a)(i), (ii), (iii), or (v) may be elected, appointed, or otherwise selected in accordance with association rule or policy to the extent the selection reflects the membership requirements in Subsection (1)(a)(i), (ii), (iii), or (v).
  - (b) A governing body member described in Subsection (1)(a)(vi) shall be the chair of the state board or the chair's designee if the designee is an elected member of the state board.

Amended by Chapter 293, 2019 General Session

**53G-7-1104 Reporting requirements.**

An association shall provide a verbal report, accompanied by a written report, annually to the state board, including:

- (1) the association's annual budget in accordance with Section 53G-7-1105;
- (2) a schedule of events scheduled or facilitated by the association;
- (3) procedures for alignment or realignment;
- (4) any amendments or changes to the association's governing document or bylaws; and
- (5) any other information requested by the state board.

Amended by Chapter 293, 2019 General Session

**53G-7-1105 Association budgets.**

- (1) An association shall:
  - (a) adopt a budget in accordance with this section; and
  - (b) use uniform budgeting, accounting, and auditing procedures and forms, which shall be in accordance with generally accepted accounting principles or auditing standards.

- (2) An association budget officer or executive director shall annually prepare a tentative budget, with supporting documentation, to be submitted to the governing body.
- (3) The tentative budget and supporting documents shall include the following items:
  - (a) the revenues and expenditures of the preceding fiscal year;
  - (b) the estimated revenues and expenditures of the current fiscal year;
  - (c) a detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year; and
  - (d) the estimated financial condition of the association by funds at the close of the current fiscal year.
- (4) The tentative budget shall be filed with the governing body 15 days, or earlier, before the date of the tentative budget's proposed adoption by the governing body.
- (5) The governing body shall adopt a budget.
- (6) Before the adoption or amendment of a budget, the governing body shall hold a public hearing on the proposed budget or budget amendment.
- (7)
  - (a) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in Subsection (6), at least 10 days before the public hearing, a governing body shall:
    - (i) publish a notice of the public hearing electronically in accordance with Section 63F-1-701; and
    - (ii) post the proposed budget on the association's Internet website.
  - (b) A notice of a public hearing on an association's proposed budget shall include information on how the public may access the proposed budget as provided in Subsection (7)(a).
- (8) No later than September 30 of each year, the governing body shall file a copy of the adopted budget with the state auditor and the state board.

Amended by Chapter 293, 2019 General Session

**53G-7-1106 Procedures for disputes -- Appeals -- Appeals panel -- Compensation.**

- (1)
  - (a) An association shall establish a uniform procedure for hearing and deciding:
    - (i) disputes;
    - (ii) allegations of violations of the association's rules or policies;
    - (iii) requests to establish eligibility after a student transfers schools; and
    - (iv) disputes related to alignment or realignment.
  - (b) An individual may appeal to an appeals panel established in this section an association decision regarding a request to establish eligibility after a student transfers schools.
- (2)
  - (a) There is established an appeals panel for an association decision described in Subsection (1)(b).
  - (b) The appeals panel shall consist of the following three members:
    - (i) a judge or attorney who is not employed by, or contracts with, a school;
    - (ii) a retired educator, principal, or superintendent; and
    - (iii) a retired athletic director or coach.
  - (c) A review and decision by the appeals panel is limited to whether the association properly followed the association's rules and procedures in regard to a decision described in Subsection (1)(b).
  - (d)

- (i) An association shall adopt policies for filing an appeal with the appeals panel.
- (ii) The appeals panel shall review an appeal and issue a written decision explaining the appeals panel's decision no later than 10 business days after an appeal is filed.
- (e) The appeals panel's decision is final.
- (3)
  - (a) The state board shall appoint the members of the appeals panel described in Subsection (2):
    - (i) from the association's nominations described in Subsection (3)(b); and
    - (ii) in accordance with the state board's appointment process.
  - (b)
    - (i) The association shall nominate up to three individuals for each position described in Subsection (2) for the state board's consideration.
    - (ii) If the state board refuses to appoint members to the panel who were nominated by the association as described in Subsection (3)(b)(i), the state board shall request additional nominations from the association.
    - (iii) No later than 45 days after the association provides the nominations, the state board shall appoint to the appeals panel an individual from the names provided by the association.
  - (c) For the initial membership, the state board shall appoint two of the positions having an initial term of three years and one position having an initial term of two years.
  - (d) Except as required by Subsection (3)(e), as terms of appeals panel members expire, the state board shall appoint each new member or reappointed member to a two-year term.
  - (e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (4) The state board shall reimburse an association for per diem and travel expenses of members of the appeals panel.

Amended by Chapter 293, 2019 General Session

## **Part 12**

### **School Community Councils and Charter Trust Land Councils**

#### **53G-7-1201 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

#### **53G-7-1202 School community councils -- Duties -- Composition -- Election procedures and selection of members.**

- (1) As used in this section:
  - (a) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.
  - (b) "Educator" means the same as that term is defined in Section 53E-6-102.
  - (c)
    - (i) "Parent member" means a member of a school community council who is a parent of a student who:
      - (A) is attending the school; or
      - (B) will be enrolled at the school during the parent's term of office.

- (ii) "Parent member" may not include an educator who is employed at the school.
  - (d) "Safety principles" means safety principles that, when incorporated into programs and resources, impact academic achievement by strengthening a safe and wholesome learning environment, including continual efforts for safe technology utilization and digital citizenship.
  - (e) "School community council" means a council established at a district school in accordance with this section.
  - (f) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.
  - (g) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53F-2-404.
- (2) A district school, in consultation with the district school's local school board, shall establish a school community council at the school building level for the purpose of:
- (a) involving parents of students in decision making at the school level;
  - (b) improving the education of students;
  - (c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents, school employees, and the local school board; and
  - (d) increasing public awareness of:
    - (i) school trust lands and related land policies;
    - (ii) management of the State School Fund established in Utah Constitution Article X, Section V; and
    - (iii) educational excellence.
- (3)
- (a) Except as provided in Subsection (3)(b), a school community council shall:
    - (i) create the School LAND Trust Program and LAND Trust plan in accordance with Section 53G-7-1206;
    - (ii) advise and make recommendations to school and school district administrators and the local school board regarding:
      - (A) the school and its programs;
      - (B) school district programs;
      - (C) a child access routing plan in accordance with Section 53G-4-402;
      - (D) safe technology utilization and digital citizenship; and
      - (E) other issues relating to the community environment for students;
    - (iii) provide for education and awareness on safe technology utilization and digital citizenship that empowers:
      - (A) a student to make smart media and online choices; and
      - (B) a parent to know how to discuss safe technology use with the parent's child;
    - (iv) partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with local school board policy and Subsection 53G-7-216(3);
    - (v) in accordance with state board rule regarding school community council expenditures and funding limits:
      - (A) work with students, families, and educators to develop and incorporate safety principles at the school; and
      - (B) hold at least an annual discussion with the school's principal and district administrators regarding safety principles at the school and district level in order to coordinate the school community council's effort to develop and incorporate safety principles at the school; and

- (vi) provide input to the school's principal on a positive behaviors plan in accordance with Section 53G-10-407.
  - (b) To fulfill the school community council's duties described in Subsections (3)(a)(iii) and (iv), a school community council may:
    - (i) partner with one or more non-profit organizations; or
    - (ii) create a subcommittee.
  - (c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.
- (4)
- (a) Each school community council shall consist of school employee members and parent members in accordance with this section.
  - (b) Except as provided in Subsection (4)(c) or (d):
    - (i) each school community council for a high school shall have six parent members and four school employee members, including the principal; and
    - (ii) each school community council for a school other than a high school shall have four parent members and two school employee members, including the principal.
  - (c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:
    - (i) the membership includes two or more parent members than the number of school employee members; and
    - (ii) there are at least two school employee members on the school community council.
  - (d)
    - (i) The number of parent members of a school community council who are not educators employed by the school district shall exceed the number of parent members who are educators employed by the school district.
    - (ii) If, after an election, the number of parent members who are not educators employed by the school district does not exceed the number of parent members who are educators employed by the school district, the parent members of the school community council shall appoint one or more parent members to the school community council so that the number of parent members who are not educators employed by the school district exceeds the number of parent members who are educators employed by the school district.
- (5)
- (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.
  - (b)
    - (i) Except as provided in Subsection (5)(f), a parent member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.
    - (ii)
      - (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent of a student attending the school may vote in, or run as a candidate in, the election under Subsection (5)(b)(i).
      - (B) If an election is held in the spring, a parent of a student who will be attending the school the following school year may vote in, and run as a candidate in, the election under Subsection (5)(b)(i).

- (iii) Any parent of a student who meets the qualifications of this section may file or declare the parent's candidacy for election to a school community council.
- (iv)
  - (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent members of a school community council shall be established by a local school board for the schools within the school district.
  - (B) An election for the parent members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.
  - (C) Each school shall establish a time period for the election of parent members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.
- (c)
  - (i) At least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee, shall provide notice to each school employee or parent of the opportunity to vote in, and run as a candidate in, an election under this Subsection (5).
  - (ii) The notice shall include:
    - (A) the dates and times of the elections;
    - (B) a list of council positions that are up for election; and
    - (C) instructions for becoming a candidate for a community council position.
  - (iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).
  - (iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.
- (d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.
- (e)
  - (i) If a parent position on a school community council remains unfilled after an election is held, the other parent members of the council shall appoint a parent who meets the qualifications of this section to fill the position.
  - (ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.
  - (iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.
- (f)
  - (i) If the number of candidates who file for a parent position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.
  - (ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent position remains unfilled, the other parent members of the council shall appoint a parent who meets the qualifications of this section to fill the position.
  - (iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.
- (g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53G-7-1203.

- (h) Terms shall be staggered so that approximately half of the council members stand for election each year.
  - (i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent member or school employee member as specified in Subsection (1).
  - (j) Each school community council shall elect:
    - (i) a chair from its parent members; and
    - (ii) a vice chair from either its parent members or school employee members, excluding the principal.
- (6)
- (a) A school community council may create subcommittees or task forces to:
    - (i) advise or make recommendations to the council; or
    - (ii) develop all or part of a plan listed in Subsection (3).
  - (b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.
  - (c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents, school employees, or other community members.
- (7)
- (a) A majority of the members of a school community council is a quorum for the transaction of business.
  - (b) The action of a majority of the members of a quorum is the action of the school community council.
- (8) A local school board shall provide training for a school community council each year, including training:
- (a) for the chair and vice chair about their responsibilities;
  - (b) on resources available on the School LAND Trust website; and
  - (c) on this part.

Amended by Chapter 161, 2020 General Session

**53G-7-1203 School community councils -- Open and public meeting requirements.**

- (1) As used in this section:
- (a)
    - (i) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.
    - (ii) "Charter trust land council" does not include a charter school governing board acting as a charter trust land council.
  - (b) "Council" means a school community council or a charter trust land council.
  - (c) "School community council" means a council established at a school within a school district under Section 53G-7-1202.
  - (d) "Teacher and student success plan" means the same as that term is defined in Section 53G-7-1301.
- (2) A school community council or a charter trust land council:
- (a) shall conduct deliberations and take action openly as provided in this section; and
  - (b) is exempt from Title 52, Chapter 4, Open and Public Meetings Act.
- (3)

- (a) As required by Section 53G-7-1202, a local school board shall provide training for the members of a school community council on this section.
  - (b) A charter school governing board shall provide training for the members of a charter trust land council on this section.
- (4)
- (a) A meeting of a council is open to the public.
  - (b) A council may not close any portion of a meeting.
- (5) A council shall, at least one week prior to a meeting, post the following information on the school's website:
- (a) a notice of the meeting, time, and place;
  - (b) an agenda for the meeting; and
  - (c) the minutes of the previous meeting.
- (6)
- (a) On or before October 20, a principal shall post the following information on the school website and in the school office:
    - (i) the proposed council meeting schedule for the year;
    - (ii) a telephone number or email address, or both, where each council member can be reached directly; and
    - (iii) a summary of the annual report required under Section 53G-7-1206 on how the school's School LAND Trust Program money was used to enhance or improve academic excellence at the school and implement a component of the school's teacher and student success plan.
  - (b)
    - (i) A council shall identify and use methods of providing the information listed in Subsection (6) (a) to a parent who does not have Internet access.
    - (ii) Money allocated to a school under the School LAND Trust Program under Section 53F-2-404 may not be used to provide information as required by Subsection (6)(b)(i).
- (7)
- (a) The notice requirement of Subsection (5) may be disregarded if:
    - (i) because of unforeseen circumstances it is necessary for a council to hold an emergency meeting to consider matters of an emergency or urgent nature; and
    - (ii) the council gives the best notice practicable of:
      - (A) the time and place of the emergency meeting; and
      - (B) the topics to be considered at the emergency meeting.
  - (b) An emergency meeting of a council may not be held unless:
    - (i) an attempt has been made to notify all the members of the council; and
    - (ii) a majority of the members of the council approve the meeting.
- (8)
- (a) An agenda required under Subsection (5)(b) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting.
  - (b) Each topic described in Subsection (8)(a) shall be listed under an agenda item on the meeting agenda.
  - (c) A council may not take final action on a topic in a meeting unless the topic is:
    - (i) listed under an agenda item as required by Subsection (8)(b); and
    - (ii) included with the advance public notice required by Subsection (5).
- (9)
- (a) Written minutes shall be kept of a council meeting.
  - (b) Written minutes of a council meeting shall include:
    - (i) the date, time, and place of the meeting;



- (ii) the names of members present and absent;
  - (iii) a brief statement of the matters proposed, discussed, or decided;
  - (iv) a record, by individual member, of each vote taken;
  - (v) the name of each person who:
    - (A) is not a member of the council; and
    - (B) after being recognized by the chair, provided testimony or comments to the council;
  - (vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (9)(b)(v); and
  - (vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.
- (c) The written minutes of a council meeting:
- (i) are a public record under Title 63G, Chapter 2, Government Records Access and Management Act; and
  - (ii) shall be retained for three years.
- (10)
- (a) As used in this Subsection (10), "rules of order and procedure" means a set of policies that govern and prescribe in a public meeting:
- (i) parliamentary order and procedure;
  - (ii) ethical behavior; and
  - (iii) civil discourse.
- (b) A council shall:
- (i) adopt rules of order and procedure to govern a public meeting of the council;
  - (ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (10)(b)(i); and
  - (iii) make the rules of order and procedure described in Subsection (10)(b)(i) available to the public:
    - (A) at each public meeting of the council; and
    - (B) on the school's website.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 505, 2019 General Session

**53G-7-1205 Charter trust land councils.**

- (1) As used in this section, "council" means a charter trust land council described in this section.
  - (2) To receive School LAND Trust Program funding as described in Sections 53F-2-404 and 53G-7-1206, a charter school governing board shall establish a charter trust land council, which shall prepare a plan for the use of School LAND Trust Program money that includes the elements described in Subsection 53G-7-1206(4).
- (3)
- (a) The membership of the council shall include parents or grandparents of students enrolled at the charter school and may include other members.
  - (b) The number of council members who are parents or grandparents of students enrolled at the charter school shall exceed all other members combined by at least two.
- (4) A charter school governing board may serve as the charter school's council if the membership of the charter school governing board meets the requirements of Subsection (3)(b).
- (5)

- (a) Except as provided in Subsection (5)(b), council members who are parents or grandparents of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.
- (b) Subsection (5)(a) does not apply to a charter school governing board that serves as a council.
- (6) A parent or grandparents of a student enrolled at a charter school shall serve as chair or co-chair of the charter school's council.
- (7) In accordance with state board rule regarding charter trust land council expenditures and funding limits, a charter trust land council shall:
  - (a) work with students, families, and educators to develop and incorporate safety principles, as defined in Section 53G-7-1202, at the school; and
  - (b) hold at least an annual discussion with charter school administrators to coordinate efforts to develop and incorporate safety principles, as defined in Section 53G-7-1202, at the school level.
- (8) A charter trust land council shall provide input to the school's principal on a positive behaviors plan in accordance with Section 53G-10-407.

Amended by Chapter 161, 2020 General Session

**53G-7-1206 School LAND Trust Program.**

- (1) As used in this section:
  - (a) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.
  - (b) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.
  - (c) "Council" means a school community council or a charter trust land council.
  - (d) "LAND trust plan" means a school's plan to use School LAND Trust Program money to implement a component of the school's success plan.
  - (e) "School community council" means a council established at a district school in accordance with Section 53G-7-1202.
  - (f) "Teacher and student success plan" or "success plan" means the same as that term is defined in Section 53G-7-1301.
- (2) There is established the School LAND (Learning And Nurturing Development) Trust Program under the state board to:
  - (a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school or charter school's teacher and student success plan; and
  - (b) involve parents of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.
- (3) To receive an allocation under Section 53F-2-404:
  - (a) a district school shall have established a school community council in accordance with Section 53G-7-1202;
  - (b) a charter school shall have established a charter trust land council in accordance with Section 53G-7-1205; and
  - (c) the school's principal shall provide a signed, written assurance that the school is in compliance with Subsection (3)(a) or (b).
- (4)
  - (a) A council shall create a program to use the school's allocation distributed under Section 53F-2-404 to implement a component of the school's success plan, including:
    - (i) the school's identified most critical academic needs;

- (ii) a recommended course of action to meet the identified academic needs;
  - (iii) a specific listing of any programs, practices, materials, or equipment that the school will need to implement a component of the school's success plan to have a direct impact on the instruction of students and result in measurable increased student performance; and
  - (iv) how the school intends to spend the school's allocation of funds under this section to enhance or improve academic excellence at the school.
- (b)
- (i) A council shall create and vote to adopt a LAND trust plan in a meeting of the council at which a quorum is present.
  - (ii) If a majority of the quorum votes to adopt a LAND trust plan, the LAND trust plan is adopted.
- (c) A council shall:
- (i) post a LAND trust plan that is adopted in accordance with Subsection (4)(b) on the School LAND Trust Program website; and
  - (ii) include with the LAND trust plan a report noting the number of council members who voted for or against the approval of the LAND trust plan and the number of council members who were absent for the vote.
- (d)
- (i) The local school board of a district school shall approve or disapprove a LAND trust plan.
  - (ii) If a local school board disapproves a LAND trust plan:
    - (A) the local school board shall provide a written explanation of why the LAND trust plan was disapproved and request the school community council who submitted the LAND trust plan to revise the LAND trust plan; and
    - (B) the school community council shall submit a revised LAND trust plan in response to a local school board's request under Subsection (4)(d)(ii)(A).
  - (iii) Once a LAND trust plan has been approved by a local school board, a school community council may amend the LAND trust plan, subject to a majority vote of the school community council and local school board approval.
- (e) A charter trust land council's LAND trust plan is subject to approval by the:
- (i) charter school governing board; and
  - (ii) charter school's charter school authorizer.
- (5)
- (a) A district school or charter school shall:
- (i) implement the program as approved;
  - (ii) provide ongoing support for the council's program; and
  - (iii) meet state board reporting requirements regarding financial and performance accountability of the program.
- (b)
- (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website each fall.
  - (ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.
  - (iii) A summary of the report shall be provided to parents of students attending the school.
- (6) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Section 53F-2-404 on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (5)(b).
- (7) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

- (8)
  - (a) The School LAND Trust Program shall provide training to the entities described in Subsection (8)(b) on:
    - (i) the School LAND Trust Program; and
    - (ii)
      - (A) a school community council; or
      - (B) a charter trust land council.
  - (b) The School LAND Trust Program shall provide the training to:
    - (i) a local school board or a charter school governing board;
    - (ii) a school district or a charter school; and
    - (iii) a school community council.
- (9) The School LAND Trust Program shall annually review each school's compliance with applicable law, including rules adopted by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by:
  - (a) reading each LAND trust plan submitted; and
  - (b) reviewing expenditures made from School LAND Trust Program money.
- (10) The state board shall designate a staff member who administers the School LAND Trust Program:
  - (a) to serve as a member of the Land Trusts Protection and Advocacy Committee created under Section 53D-2-202; and
  - (b) who may coordinate with the Land Trusts Protection and Advocacy Office director, appointed under Section 53D-2-203, to attend meetings or events within the School and Institutional Trust System, as defined in Section 53D-2-102, that relate to the School LAND Trust Program.

Amended by Chapter 408, 2020 General Session

## **Part 13**

### **Teacher and Student Success Program**

#### **53G-7-1301 Definitions.**

As used in this part:

- (1) "LEA distribution" means the money distributed by the state board to an LEA as described in Section 53G-7-1303.
- (2) "LEA governing board student success framework" means an LEA governing board student success framework described in Section 53G-7-1304.
- (3) "Principal" means the chief administrator at a school, including:
  - (a) a school principal;
  - (b) a charter school director; or
  - (c) the superintendent of the Utah Schools for the Deaf and the Blind.
- (4) "School allocation" means the amount of money allocated to a school or the Utah Schools for the Deaf and the Blind by an LEA governing board, as described in Section 53G-7-1304.
- (5) "School personnel" means an individual who:
  - (a) is employed by an LEA; and
  - (b) in an academic role, works directly with and supports students in a school.

- (6) "Statewide accountability system" means the statewide school accountability system described in Title 53E, Chapter 5, Part 2, School Accountability System.
- (7) "Teacher and student success plan" or "success plan" means a school performance and student academic achievement improvement plan described in Section 53G-7-1305.
- (8) "Teacher and Student Success Program" or "program" means the Teacher and Student Success Program described in this part.

Enacted by Chapter 505, 2019 General Session

**53G-7-1302 Teacher and Student Success Program created.**

There is created the Teacher and Student Success Program to improve school performance and student academic achievement, as described in this part.

Enacted by Chapter 505, 2019 General Session

**53G-7-1303 State funding distribution.**

The state board shall distribute program funding to an LEA as described in Section 53F-2-416.

Enacted by Chapter 505, 2019 General Session

**53G-7-1304 Program requirements -- LEA governing board student success framework -- LEA distribution -- School allocation -- Reporting.**

- (1)
  - (a) To receive an LEA distribution, an LEA governing board shall:
    - (i) adopt an LEA governing board student success framework to provide guidelines and processes for a school within the LEA governing board's LEA to follow in developing a teacher and student success plan; and
    - (ii) submit the adopted LEA governing board student success framework to the state board.
  - (b) An LEA governing board may include in the LEA governing board's student success framework any means reasonably designed to improve school performance or student academic achievement, including:
    - (i) school personnel stipends for taking on additional responsibility outside of a typical work assignment;
    - (ii) professional learning;
    - (iii) additional school employees, including counselors, social workers, mental health workers, tutors, media specialists, information technology specialists, or other specialists;
    - (iv) technology;
    - (v) before- or after-school programs;
    - (vi) summer school programs;
    - (vii) community support programs or partnerships;
    - (viii) early childhood education;
    - (ix) class size reduction strategies;
    - (x) augmentation of existing programs; or
    - (xi) other means.
  - (c) An LEA governing board student success framework may not support the use of program money:
    - (i) to supplant funding for existing public education programs;
    - (ii) for district administration costs; or

- (iii) for capital expenditures.
- (2)
  - (a) An LEA governing board shall use an LEA distribution as follows:
    - (i) for increases to base salary and salary driven benefits for school personnel that, except as provided in Subsection (2)(c)(i), total 25% or less of the LEA distribution; and
    - (ii) except as provided in Subsection (2)(b)(ii) and in accordance with Subsection (3), for each school within the LEA governing board's LEA, an allocation that is equal to the product of:
      - (A) the percentage of the school's prior year average daily membership compared to the total prior year average daily membership for all schools in the LEA; and
      - (B) the remaining amount of the LEA governing board's LEA distribution after subtracting the amounts described in Subsections (2)(a)(i) and (2)(b)(ii).
  - (b)
    - (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for an LEA governing board to calculate and distribute a school allocation for a school in the school's first year of operation.
    - (ii) In accordance with Subsection (3) and the rules described in Subsection (2)(b)(i), an LEA governing board shall distribute a school allocation for a school in the school's first year of operation.
  - (c) Except as provided in Subsection (2)(d), the LEA governing board of a school district may use up to 40% of an LEA distribution for the purposes described in Subsection (2)(a)(i), if:
    - (i) the LEA governing board has:
      - (A) approved a board local levy for the maximum amount allowed under Section 53F-8-302; or
      - (B) after the LEA governing board has submitted an LEA governing board student success framework to the state board, increased the board local levy described in Section 53F-8-302 by at least .0001 per dollar of taxable value; and
    - (ii) the school district's average teacher salary is below the state average teacher salary described in Subsection (2)(f).
  - (d) The LEA governing board of a school district in a county of the fourth, fifth, or sixth class or the LEA governing board of a charter school may use up to 40% of an LEA distribution for the purposes described in Subsection (2)(a)(i), if the LEA's average teacher salary is below the state average teacher salary described in Subsection (2)(f).
  - (e) An LEA governing board shall annually report information as requested by the state board for the state board to calculate a state average teacher salary.
  - (f) The state board shall use the information described in Subsection (2)(c)(ii) to calculate a state average teacher salary amount and a state average teacher benefit amount.
- (3) An LEA governing board shall allocate a school allocation to a school with a teacher and student success plan that is approved as described in Section 53G-7-1305.
- (4)
  - (a) Except as provided in Subsection (4)(b), a school shall use a school allocation to implement the school's success plan.
  - (b) A school may use up to 5% of the school's school allocation to fund school personnel retention at the principal's discretion, not including uniform salary increases.
  - (c) A school may not use a school allocation for:
    - (i) capital expenditures; or
    - (ii) a purpose that is not supported by the LEA governing board student success framework for the school's LEA.
- (5) A school that receives a school allocation shall annually:

- (a) submit to the school's LEA governing board a description of:
  - (i) the budgeted and actual expenditures of the school's school allocation;
  - (ii) how the expenditures relate to the school's success plan; and
  - (iii) how the school measures the success of the school's participation in the program; and
- (b) post on the school's website:
  - (i) the school's approved success plan;
  - (ii) a description of the school's school allocation budgeted and actual expenditures and how the expenditures help the school accomplish the school's success plan; and
  - (iii) the school's current level of performance, as described in Section 53G-7-1306, according to the indicators described in Section 53E-5-205 or 53E-5-206.

Amended by Chapter 408, 2020 General Session

**53G-7-1305 Teacher and student success plans -- Plan review and approval.**

- (1)
  - (a) The principal of a school shall develop the school's teacher and student success plan:
    - (i) in accordance with the LEA governing board student success framework for the school's LEA;
    - (ii) by integrating school-specific goals and criteria for improving the school's performance within the state accountability system; and
    - (iii) if the school has a school turnaround plan as defined in Section 53E-5-301, in accordance with the school's school turnaround plan.
  - (b) A principal shall solicit input on developing a success plan from:
    - (i) for a district school or charter school:
      - (A) the school community council, as defined in Section 53G-7-1202; or
      - (B) the charter trust land council, as described in Section 53G-7-1205;
    - (ii) school-level educators;
    - (iii) parents of students at the school; and
    - (iv) school-level administrators.
  - (c) A principal may solicit input on developing a success plan from:
    - (i) students;
    - (ii) support professionals; or
    - (iii) other community stakeholders.
- (2)
  - (a) The principal of a school shall submit a proposed success plan to the school's LEA governing board.
  - (b) An LEA governing board shall:
    - (i) annually review each success plan submitted for a school within the LEA governing board's LEA;
    - (ii) in a regularly scheduled LEA governing board meeting, approve or disapprove each submitted success plan; and
    - (iii) upon disapproval of a success plan:
      - (A) explain in writing the reason for disapproval;
      - (B) make recommendations for revision; and
      - (C) allow the principal who submitted the success plan to resubmit a revised plan for review and approval.
- (3) An LEA governing board shall make the LEA governing board's best efforts to help a school complete the approval process described in Subsection (2) on or before June 30 of each year.

- (4) A council, as defined in Section 53G-7-1206, shall select a component of the approved success plan for the council's school to address within the council's School LAND Trust Program, in accordance with Section 53G-7-1206.

Enacted by Chapter 505, 2019 General Session

**53G-7-1306 School improvement oversight -- Performance standards.**

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

- (a) using a criteria-setting process, determine a threshold of points under the statewide school accountability system that designates a school as succeeding in school performance and student academic achievement; and
- (b) determine performance standards for a school described in Section 53E-5-203.

- (2)
- (a) For each year following the year in which a school received approval for a success plan, an LEA governing board shall determine if the school:
    - (i) meets or exceeds the threshold of points described in Subsection (1);
    - (ii) has demonstrated at least a 1% increase in the school's total points received under the statewide school accountability system compared to the previous school year; or
    - (iii) qualifies for and satisfies the performance standards described in Subsection (1)(b).
  - (b) If the LEA governing board determines that a school does not satisfy Subsection (2)(a)(i), (ii), or (iii), the LEA governing board shall:
    - (i) work with the school's principal to modify the school's success plan to address the school's performance; and
    - (ii) oversee and adjust the school's allocation expenditures until the LEA governing board determines the school satisfies Subsection (2)(a)(i), (ii), or (iii).

Amended by Chapter 408, 2020 General Session

**Chapter 8  
Discipline and Safety**

**Part 1  
General Provisions**

**53G-8-101 Title.**

This chapter is known as "Discipline and Safety."

Enacted by Chapter 3, 2018 General Session

**53G-8-102 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session



## Part 2 School Discipline and Conduct Plans

### **53G-8-201 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

### **53G-8-202 Public school discipline policies -- Basis of the policies -- Enforcement.**

- (1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.
- (2)
  - (a) To foster such an environment, each local school board or charter school governing board, with input from school employees, parents of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools in accordance with Section 53G-8-211.
  - (b) A district or charter school shall base its policies on the principle that every student is expected:
    - (i) to follow accepted standards of conduct; and
    - (ii) to show respect for other people and to obey persons in authority at the school.
  - (c)
    - (i) On or before September 1, 2015, the state board shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the SafeUT Crisis Line under Subsection 53B-17-1202(3).
    - (ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.
  - (d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.
- (3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 446, 2019 General Session

### **53G-8-203 Conduct and discipline policies and procedures.**

- (1) The conduct and discipline policies required under Section 53G-8-202 shall include:
  - (a) provisions governing student conduct, safety, and welfare;
  - (b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;
  - (c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);

- (d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-302;
  - (e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:
    - (i) the school;
    - (ii) school property;
    - (iii) a person associated with the school; or
    - (iv) property associated with a person described in Subsection (1)(e)(iii);
  - (f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;
  - (g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;
  - (h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and
  - (i) procedures for responding to reports received through the SafeUT Crisis Line under Subsection 53B-17-1202(3).
- (2)
- (a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.
  - (b)
    - (i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through 6.
    - (ii) The local school board shall receive input from teachers, school administrators, and parents of the affected students before adopting the policy.
  - (c) The policy described in Subsection (2)(a) shall provide for:
    - (i) notice to the parent of a student prior to holding the student after school on a particular day; and
    - (ii) exceptions to the notice provision if detention is necessary for the student's health or safety.
- (3)
- (a) Each LEA shall adopt a policy for responding to possession or use of electronic cigarette products by a student on school property.
  - (b) The policy described in Subsection (3)(a) shall:
    - (i) prohibit students from possessing or using electronic cigarette products on school property;
    - (ii) include policies or procedures for the confiscation or surrender of electronic cigarette products; and
    - (iii) require a school administrator or school administrator's designee to dispose of or destroy a confiscated electronic cigarette product.
  - (c) Notwithstanding Subsection (3)(b)(iii), an LEA may release a confiscated electronic cigarette product to local law enforcement if:
    - (i) a school official has a reasonable suspicion that a confiscated electronic cigarette product contains an illegal substance; and
    - (ii) local law enforcement requests that the LEA release the confiscated electronic cigarette product to local law enforcement as part of an investigation or action.

Amended by Chapter 161, 2020 General Session

**53G-8-204 Suspension and expulsion procedures -- Notice to parents -- Distribution of policies.**

- (1)
  - (a) Policies required under this part shall include written procedures for the suspension and expulsion of, or denial of admission to, a student, consistent with due process and other provisions of law.
  - (b)
    - (i) The policies required in Subsection (1)(a) shall include a procedure directing public schools to notify the custodial parent and, if requested in writing by a noncustodial parent, the noncustodial parent of the suspension and expulsion of, or denial of admission to, a student.
    - (ii) Subsection (1)(b)(i) does not apply to that portion of school records which would disclose any information protected under a court order.
    - (iii) The custodial parent is responsible for providing to the school a certified copy of the court order under Subsection (1)(b)(ii) through a procedure adopted by the local school board or the charter school governing board.
- (2)
  - (a) Each local school board or charter school governing board shall provide for the distribution of a copy of a school's discipline and conduct policy to each student upon enrollment in the school.
  - (b) A copy of the policy shall be posted in a prominent location in each school.
  - (c) Any significant change in a school's conduct and discipline policy shall be distributed to students in the school and posted in the school in a prominent location.

Amended by Chapter 293, 2019 General Session

**53G-8-205 Grounds for suspension or expulsion from a public school.**

- (1) A student may be suspended or expelled from a public school for any of the following reasons:
  - (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;
  - (b) willful destruction or defacing of school property;
  - (c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;
  - (d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;
  - (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or
  - (f) possession or use of pornographic material on school property.
- (2)
  - (a) A student shall be suspended or expelled from a public school for any of the following reasons:
    - (i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:
      - (A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;
      - (B) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

- (C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or
- (ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.
- (b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:
  - (i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent; and
  - (ii) the superintendent, chief administrator, or designee shall determine:
    - (A) what conditions must be met by the student and the student's parent for the student to return to school;
    - (B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and
    - (C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or charter school governing board and giving highest priority to providing a safe school environment for all students.
- (3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months.
- (4) A suspension or expulsion under this section is not subject to the age limitations under Subsection 53G-6-204(1).
- (5) Each local school board and charter school governing board shall prepare an annual report for the state board on:
  - (a) each violation committed under this section; and
  - (b) each action taken by the school district against a student who committed the violation.

Amended by Chapter 293, 2019 General Session

**53G-8-206 Delegation of authority to suspend or expel a student -- Procedure for suspension -- Readmission.**

- (1)
  - (a) A local school board may delegate to any school principal or assistant principal within the school district the power to suspend a student in the principal's school for up to 10 school days.
  - (b) A charter school governing board may delegate to the chief administrative officer of the charter school the power to suspend a student in the charter school for up to 10 school days.
- (2) The local school board or charter school governing board may suspend a student for up to one school year or delegate that power to the district superintendent, the superintendent's designee, or chief administrative officer of a charter school.
- (3) The local school board may expel a student for a fixed or indefinite period, provided that the expulsion shall be reviewed by the district superintendent or the superintendent's designee and the conclusions reported to the local school board, at least once each year.

- (4) If a student is suspended, a designated school official shall notify the parent of the student of the following without delay:
  - (a) that the student has been suspended;
  - (b) the grounds for the suspension;
  - (c) the period of time for which the student is suspended; and
  - (d) the time and place for the parent to meet with a designated school official to review the suspension.
- (5)
  - (a) A suspended student shall immediately leave the school building and the school grounds following a determination by the school of the best way to transfer custody of the student to the parent or other person authorized by the parent or applicable law to accept custody of the student.
  - (b) Except as otherwise provided in Subsection (5)(c), a suspended student may not be readmitted to a public school until:
    - (i) the student and the parent have met with a designated school official to review the suspension and agreed upon a plan to avoid recurrence of the problem; or
    - (ii) in the discretion of the principal or chief administrative officer of a charter school, the parent of the suspended student and the student have agreed to participate in such a meeting.
  - (c) A suspension may not extend beyond 10 school days unless the student and the student's parent have been given a reasonable opportunity to meet with a designated school official and respond to the allegations and proposed disciplinary action.

Amended by Chapter 293, 2019 General Session

**53G-8-207 Alternatives to suspension or expulsion.**

- (1) Each local school board or charter school governing board shall establish:
  - (a) policies providing that prior to suspending or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is required, good faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school; and
  - (b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.
- (2) If the parent does not agree or fails to attend class with the student, the student shall be suspended in accordance with the conduct and discipline policies of the district or the school.
- (3) The parent of a suspended student and the designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies, if necessary, in dealing with the student's suspension.
- (4) The state superintendent, in cooperation with school districts and charter schools, shall:
  - (a) research methods of motivating and providing incentives to students that:
    - (i) directly and regularly reward or recognize appropriate behavior;
    - (ii) impose immediate and direct consequences on students who fail to comply with district or school standards of conduct; and
    - (iii) keep the students in school, or otherwise continue student learning with appropriate supervision or accountability;
  - (b) explore funding resources to implement methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);

- (c) evaluate the benefits and costs of methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);
- (d) publish a report that incorporates the research findings, provides model plans with suggested resource pools, and makes recommendations for local school boards and school personnel; and
- (e) maintain data for purposes of accountability, later reporting, and future analysis.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 324, 2019 General Session

**53G-8-208 Student suspended or expelled -- Responsibility of parent -- Application for students with disabilities.**

- (1) If a student is suspended or expelled from a public school under this part for more than 10 school days, the parent is responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of suspension or expulsion.
- (2)
  - (a) The parent shall work with designated school officials to determine how that responsibility might best be met through private education, an alternative program offered by or through the district or charter school, or other alternative which will reasonably meet the educational needs of the student.
  - (b) The parent and designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies to meet the student's educational needs.
- (3) Costs for educational services which are not provided by the school district or charter school are the responsibility of the student's parent.
- (4)
  - (a) Each school district or charter school shall maintain a record of all suspended or expelled students and a notation of the recorded suspension or expulsion shall be attached to the individual student's cumulative folder.
  - (b) The district or charter school shall contact the parent of each suspended or expelled student under the age of 16 at least once each month to determine the student's progress.
- (5)
  - (a) This part applies to students with disabilities to the extent permissible under applicable law or regulation.
  - (b) If application of any requirement of this part to a student with a disability is not permissible under applicable law or regulation, the responsible school authority shall implement other actions consistent with the conflicting law or regulation which shall most closely correspond to the requirements of this part.

Amended by Chapter 388, 2020 General Session

**53G-8-209 Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability.**

- (1) The Legislature recognizes that:
  - (a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;

- (b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;
  - (c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;
  - (d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and
  - (e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and standards of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.
- (2)
- (a) The state board may, and local school boards and charter school governing boards shall, adopt rules or policies implementing this section that apply to both students and staff.
  - (b) The rules or policies described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):
    - (i) the use of foul, abusive, or profane language while engaged in school related activities;
    - (ii) the illicit use, possession, or distribution of:
      - (A) a controlled substance or drug paraphernalia;
      - (B) a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section 76-10-101; or
      - (C) an alcoholic beverage; and
    - (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under state law.
- (3)
- (a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.
  - (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.
  - (c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.
- (4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

Amended by Chapter 161, 2020 General Session  
Amended by Chapter 302, 2020 General Session  
Amended by Chapter 347, 2020 General Session

**53G-8-210 Disruptive student behavior.**

- (1) As used in this section:
  - (a) "Disruptive student behavior" includes:

- (i) the grounds for suspension or expulsion described in Section 53G-8-205; and
  - (ii) the conduct described in Subsection 53G-8-209(2)(b).
- (b) "Parent" includes:
- (i) a custodial parent of a school-age child;
  - (ii) a legally appointed guardian of a school-age child; or
  - (iii) any other person purporting to exercise any authority over the child which could be exercised by a person described in Subsection (1)(b)(i) or (ii).
- (c) "Qualifying minor" means a school-age child who:
- (i) is at least nine years old; or
  - (ii) turns nine years old at any time during the school year.
- (d) "School year" means the period of time designated by a local school board or charter school governing board as the school year for the school where the school-age child is enrolled.
- (e) "School-age child" means the same as that term is defined in Section 53G-6-201.
- (2) A local school board, school district, charter school governing board, or charter school may impose administrative penalties in accordance with Section 53G-8-211 on a school-age child who violates this part.
- (3)
- (a) A local school board or charter school governing board shall:
- (i) authorize a school administrator or a designee of a school administrator to issue notices of disruptive student behavior to qualifying minors; and
  - (ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to contest a notice of disruptive student behavior.
- (b) A school representative shall provide to a parent of a school-age child, a list of resources available to assist the parent in resolving the school-age minor's disruptive student behavior problem.
- (c) A local school board or charter school governing board shall establish procedures for a school counselor or other designated school representative to work with a qualifying minor who engages in disruptive student behavior in order to attempt to resolve the minor's disruptive student behavior problems.
- (4) The notice of disruptive student behavior described in Subsection (3)(a):
- (a) shall be issued to a qualifying minor who:
- (i) engages in disruptive student behavior, that does not result in suspension or expulsion, three times during the school year; or
  - (ii) engages in disruptive student behavior, that results in suspension or expulsion, once during the school year;
- (b) shall require that the qualifying minor and a parent of the qualifying minor:
- (i) meet with school authorities to discuss the qualifying minor's disruptive student behavior; and
  - (ii) cooperate with the local school board or charter school governing board in correcting the qualifying minor's disruptive student behavior; and
- (c) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.
- (5) A habitual disruptive student behavior notice:
- (a) may only be issued to a qualifying minor who:
- (i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;
  - (ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and



- (B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or
  - (iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year; and
  - (b) may only be issued by a school administrator, a designee of a school administrator, or a truancy specialist, who is authorized by a local school board or charter school governing board to issue a habitual disruptive student behavior notice.
- (6)
- (a) A qualifying minor to whom a habitual disruptive student behavior notice is issued under Subsection (5) may not be referred to the juvenile court.
  - (b) Within five days after the day on which a habitual disruptive student behavior notice is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the notice, of the efforts made by a school counselor or representative under Subsection (3)(c).

Amended by Chapter 20, 2020 General Session

**53G-8-211 Responses to school-based behavior.**

- (1) As used in this section:
- (a) "Evidence-based" means a program or practice that has:
    - (i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;
    - (ii) been rated as effective by a standardized program evaluation tool; or
    - (iii) been approved by the state board.
  - (b) "Habitual truant" means a school-age child who:
    - (i) is in grade 7 or above, unless the school-age child is less than 12 years old;
    - (ii) is subject to the requirements of Section 53G-6-202; and
    - (iii)
      - (A) is truant at least 10 times during one school year; or
      - (B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.
  - (c) "Minor" means the same as that term is defined in Section 78A-6-105.
  - (d) "Mobile crisis outreach team" means the same as that term is defined in Section 78A-6-105.
  - (e) "Prosecuting attorney" means the same as that term is defined in Subsections 78A-6-105(46)(b) and (c).
  - (f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:
    - (i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and
    - (ii) to help minors take responsibility for and repair harmful behavior that occurs in school.
  - (g) "School administrator" means a principal of a school.
  - (h) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.
  - (i) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.
  - (j) "School-age child" means the same as that term is defined in Section 53G-6-201.
  - (k)

- (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or 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 local education agency or public school, or local education agency or public school employee;
    - (B) the activity uses the local education agency's or public school's 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.
- (l)
- (i) "Status offense" means an offense that would not be an offense but for the age of the offender.
  - (ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.
- (2) This section applies to a minor enrolled in school who is alleged to have committed an offense at the school where the student is enrolled:
- (a) on school property where the student is enrolled:
    - (i) when school is in session; or
    - (ii) during a school-sponsored activity; or
  - (b) that is truancy.
- (3)
- (a) Except as provided in Subsections (3)(e) and (5), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy:
    - (i) a school district or school may not refer the minor to a law enforcement officer or agency or a court; and
    - (ii) a law enforcement officer or agency may not refer the minor to a prosecuting attorney or a court.
  - (b) Except as provided in Subsection (3)(e), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy, a school district, school, or law enforcement officer or agency may refer the minor to evidence-based alternative interventions, including:
    - (i) a mobile crisis outreach team, as defined in Section 78A-6-105;
    - (ii) a youth services center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104;
    - (iii) a youth court or comparable restorative justice program;
    - (iv) evidence-based interventions created and developed by the school or school district; and
    - (v) other evidence-based interventions that may be jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health, or the Department of Human Services.
  - (c) Notwithstanding Subsection (3)(a), a school resource officer may:
    - (i) investigate possible criminal offenses and conduct, including conducting probable cause searches;
    - (ii) consult with school administration about the conduct of a minor enrolled in a school;
    - (iii) transport a minor enrolled in a school to a location if the location is permitted by law;
    - (iv) take temporary custody of a minor in accordance with Subsection 78A-6-112(1); or

- (v) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.
- (d) Notwithstanding other provisions of this section, if a law enforcement officer has cause to believe a minor has committed an offense on school property when school is not in session and not during a school-sponsored activity, the law enforcement officer may refer the minor to:
  - (i) a prosecuting attorney or a court; or
  - (ii) evidence-based alternative interventions at the discretion of the law enforcement officer.
- (e) If a minor is alleged to have committed a traffic offense that is an infraction, a school district, a school, or a law enforcement officer or agency may refer the minor to a prosecuting attorney or a court for the traffic offense.
- (4) A school district or school shall refer a minor for prevention and early intervention youth services, as described in Section 62A-7-104, by the Division of Juvenile Justice Services for a class C misdemeanor committed on school property or for being a habitual truant if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(b).
- (5) A school district or school may refer a minor to a court or a law enforcement officer or agency for an alleged class C misdemeanor committed on school property or for allegedly being a habitual truant, as defined in Section 53G-6-201, if the minor:
  - (a) refuses to participate in an evidence-based alternative intervention under Subsection (3)(b); and
  - (b) fails to participate in prevention and early intervention youth services provided by the Division of Juvenile Justice Services under Subsection (4).
- (6)
  - (a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (5), the school shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.
  - (b) A school representative appointed under Subsection (6)(a) may not be a school resource officer.
  - (c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:
    - (i) attendance records for the minor;
    - (ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;
    - (iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;
    - (iv) a report from the Division of Juvenile Justice Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (4); and
    - (v) any other information that the school district or school considers relevant.
  - (d) A minor referred to a court under Subsection (5) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-1101, when the underlying offense is a class C misdemeanor occurring on school property or habitual truancy.
  - (e) If a minor is referred to a court under Subsection (5), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

- (7) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a juvenile court or to the evidence-based alternative interventions in Subsection (3)(b).

Amended by Chapter 20, 2020 General Session  
Amended by Chapter 214, 2020 General Session

**53G-8-212 Defacing or damaging school property -- Student's liability -- Work program alternative.**

- (1) A student who willfully defaces or otherwise damages any school property may be suspended or otherwise disciplined.
- (2)
- (a) If a school's property has been lost or willfully cut, defaced, or otherwise damaged, the school may withhold the issuance of an official written grade report, diploma, or transcript of the student responsible for the damage or loss until the student or the student's parent has paid for the damages.
- (b) The student's parent is liable for damages as otherwise provided in Section 78A-6-1113.
- (3)
- (a) If the student and the student's parent are unable to pay for the damages or if it is determined by the school in consultation with the student's parent that the student's interests would not be served if the parent were to pay for the damages, the school shall provide for a program of work the student may complete in lieu of the payment.
- (b) The school shall release the official grades, diploma, and transcripts of the student upon completion of the work.
- (4) Before any penalties are assessed under this section, the school shall adopt procedures to ensure that the student's right to due process is protected.
- (5) No penalty may be assessed for damages which may be reasonably attributed to normal wear and tear.
- (6) If the Department of Human Services or a licensed child-placing agency has been granted custody of the student, the student's records, if requested by the department or agency, may not be withheld from the department or agency for nonpayment of damages under this section.

Amended by Chapter 293, 2019 General Session

**Part 3**  
**Physical Restraint of Students**

**53G-8-301 Definitions.**

As used in this part:

- (1) "Corporal punishment" means the intentional infliction of physical pain upon the body of a student as a disciplinary measure.
- (2) "Physical escort" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of guiding a student to another location.
- (3) "Physical restraint" means a personal restriction that immobilizes or significantly reduces the ability of a student to move the student's arms, legs, body, or head freely.

- (4) "School" means a public or private elementary school, secondary school, or preschool.
- (5) "Student" means an individual who is:
  - (a) under the age of 19 and receiving educational services; or
  - (b) under the age of 23 and receiving educational services as an individual with a disability.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-8-302 Prohibition of corporal punishment -- Use of reasonable and necessary physical restraint.**

- (1) A school employee may not inflict or cause the infliction of corporal punishment upon a student.
- (2) A school employee may use reasonable and necessary physical restraint in self defense or when otherwise appropriate to the circumstances to:
  - (a) obtain possession of a weapon or other dangerous object in the possession or under the control of a student;
  - (b) protect a student or another individual from physical injury;
  - (c) remove from a situation a student who is violent; or
  - (d) protect property from being damaged, when physical safety is at risk.
- (3) Nothing in this section prohibits a school employee from using less intrusive means, including a physical escort, to address circumstances described in Subsection (2).
- (4)
  - (a) Any rule, ordinance, policy, practice, or directive which purports to direct or permit the commission of an act prohibited by this part is void and unenforceable.
  - (b) An employee may not be subjected to any sanction for failure or refusal to commit an act prohibited under this part.
- (5) A parochial or private school that does not receive state funds to provide for the education of a student may exempt itself from the provisions of this section by adopting a policy to that effect and notifying the parents of students in the school of the exemption.
- (6) This section does not apply to a law enforcement officer as defined in Section 53-13-103.

Amended by Chapter 293, 2019 General Session

**53G-8-303 Investigation of complaint -- Confidentiality -- Immunity.**

- (1)
  - (a) The reporting and investigation requirements of Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, apply to complaints on corporal punishment.
  - (b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.
- (2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section 62A-4a-412.
- (3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-8-304 Liability.**

- (1)

- (a) Corporal punishment which would, but for this part, be considered to be reasonable discipline of a minor under Section 76-2-401 may not be used as a basis for any civil or criminal action.
- (b) A court of competent jurisdiction may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.
- (2) Civil or criminal action may proceed without hindrance in the case of corporal punishment which would not be reasonable discipline under Sections 53G-8-305 and 76-2-401.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-8-305 Exception.**

Behavior reduction intervention which is in compliance with Section 76-2-401 and with state and local rules adopted under Section 53E-7-204 is excepted from this part.

Amended by Chapter 293, 2019 General Session

**Part 4**  
**Juvenile Court and Law Enforcement Notification to Public Schools**

**53G-8-401 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

**53G-8-402 Notification by juvenile court and law enforcement agencies.**

- (1) Notifications received from the juvenile court or law enforcement agencies by the school district pursuant to Subsections 78A-6-112(3)(b) and 78A-6-117(1)(c) are governed by this part.
- (2) School districts may enter into agreements with law enforcement agencies for notification under Subsection (1).

Amended by Chapter 354, 2020 General Session

**53G-8-403 Superintendent required to notify school.**

- (1) Within three days of receiving the information from the juvenile court or a law enforcement agency, the district superintendent shall notify the principal of the school the juvenile attends or last attended.
- (2) Upon receipt of the information, the principal shall:
  - (a) make a notation in a secure file other than the student's permanent file; and
  - (b) if the student is still enrolled in the school, notify staff members who, in his opinion, should know of the adjudication.
- (3) A person receiving information pursuant to this part may only disclose the information to other persons having both a right and a current need to know.
- (4) Access to secure files shall be limited to persons authorized to receive information under this part.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-8-404 State board to set procedures.**

The state board shall make rules governing the dissemination of the information.

Amended by Chapter 293, 2019 General Session

**53G-8-405 Liability for release of information.**

- (1) The district superintendent, principal, and any staff member notified by the principal may not be held liable for information which may become public knowledge unless it can be shown by clear and convincing evidence that the information became public knowledge through an intentional act of the superintendent, principal, or a staff member.
- (2) A person receiving information under Subsection 78A-6-112(3)(b) or 78A-6-117(1)(c), or Section 53G-8-403 is immune from any liability, civil or criminal, for acting or failing to act in response to the information unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

Amended by Chapter 354, 2020 General Session

**Part 5**  
**Substance Abuse Reporting and Weapons Notification**

**53G-8-501 Definitions.**

For purposes of Sections 53G-8-502 through 53G-8-504:

- (1) "Educator" means a person employed by a public school, but excludes those employed by institutions of higher education.
- (2) "Prohibited act" means an act prohibited by Section 53G-8-602, relating to alcohol; Section 58-37-8, relating to controlled substances; or Section 58-37a-5, relating to drug paraphernalia.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-8-502 Mandatory reporting of prohibited acts.**

If an educator has reasonable cause to believe that a student at the public school where the educator is employed has committed a prohibited act, he shall immediately report that to the school's designated educator.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-8-503 Reporting procedure.**

- (1) The principal of a public school affected by this chapter shall appoint one educator as the "designated educator" to make all reports required under Sections 53G-8-501 through 53G-8-504.
- (2) The designated educator, upon receiving a report of a prohibited act from an educator under Section 53G-8-502, shall immediately report the violation to the student's parent, and may report the violation to an appropriate law enforcement agency or official, in accordance with Section 53G-8-211.

- (3) The designated educator may not disclose to the student or to the student's parent the identity of the educator who made the initial report.

Amended by Chapter 293, 2019 General Session

**53G-8-504 Immunity from civil or criminal liability.**

An educator who in good faith makes a report under Sections 53G-8-502 and 53G-8-503 is immune from any liability, civil or criminal, that might otherwise result from that action.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-8-505 Definitions.**

For purposes of Sections 53G-8-506 through 53G-8-509:

- (1) The definitions in Sections 58-37-2, 58-37a-3, and 58-37b-2 apply to Sections 53G-8-506 through 53G-8-509.
- (2) "Prohibited act" means:
  - (a) an act punishable under Section 53G-8-602, Section 58-37-8, Section 58-37a-5, or Title 58, Chapter 37b, Imitation Controlled Substances Act; or
  - (b) possession of an electronic cigarette product by a student on school property.
- (3) "School" means a public or private elementary or secondary school.

Amended by Chapter 161, 2020 General Session

**53G-8-506 Reporting of prohibited acts affecting a school -- Confidentiality.**

- (1) A person who has reasonable cause to believe that an individual has committed a prohibited act shall, in accordance with Section 53G-8-211, immediately notify:
  - (a) the principal;
  - (b) an administrator of the affected school;
  - (c) the superintendent of the affected school district; or
  - (d) an administrator of the affected school district.
- (2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees.
- (3) A school official may only refer a complaint of an alleged prohibited act reported as occurring on school property or in connection with school-sponsored activities to an appropriate law enforcement agency in accordance with Section 53G-8-211.
- (4) The identity of persons making reports pursuant to this section shall be kept confidential.

Renumbered and Amended by Chapter 3, 2018 General Session

Amended by Chapter 117, 2018 General Session

**53G-8-507 Immunity from civil or criminal liability.**

Any person, official, or institution, other than a law enforcement officer or law enforcement agency, participating in good faith in making a report or conducting an investigation under the direction of school or law enforcement authorities under Section 53G-8-505, 53G-8-506, 53G-8-508, or 53G-8-509, is immune from any liability, civil or criminal, that otherwise might result by reason of that action.

Renumbered and Amended by Chapter 3, 2018 General Session



**53G-8-508 Admissibility of evidence in civil and criminal actions.**

- (1) Evidence relating to a violation of Section 53G-8-505, 53G-8-506, 53G-8-507, or 53G-8-509, which is seized by school authorities acting alone, on their own authority, and not in conjunction with or at the behest of law enforcement authorities is admissible in civil and criminal actions.
- (2) An LEA shall dispose of or destroy seized electronic cigarette products in accordance with the LEA's policies adopted under Subsection 53G-8-203(3).
- (3) A search under this section must be based on at least a reasonable belief that the search will turn up evidence of a violation of this part. The measures adopted for the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the circumstances, including the age and sex of the person involved and the nature of the infraction.

Amended by Chapter 161, 2020 General Session

**53G-8-509 State board rules to ensure protection of individual rights.**

The state board and LEA governing boards shall adopt rules or policies to implement Sections 53G-8-505 through 53G-8-508. The rules or policies shall establish procedures to ensure protection of individual rights against excessive and unreasonable intrusion.

Amended by Chapter 293, 2019 General Session

**53G-8-510 Notification of teachers of weapons on school property -- Immunity from civil and criminal liability.**

- (1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.
- (2) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

Renumbered and Amended by Chapter 3, 2018 General Session

**Part 6  
Criminal Offenses and Traffic Ordinances**

**53G-8-601 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

**53G-8-602 Possession or consumption of alcoholic beverages at school or school-sponsored activities -- Penalty.**

- (1) Except as approved by a local school board as part of the curriculum, a person may not possess or drink an alcoholic beverage:

- (a) inside or on the grounds of any building owned or operated by a part of the public education system; or
  - (b) in those portions of any building, park, or stadium which are being used for an activity sponsored by or through any part of the public education system.
- (2)
- (a) Subsection (1)(a) does not apply to property owned by a school district in contemplation of future use for school purposes while the property is under lease to another party.
  - (b)
    - (i) For purposes of Subsection (2)(a), a lease must be full time for a period of not less than two years.
    - (ii) The property may not be used for school purposes at any time during the lease period.
- (3) Violation of this section is a class B misdemeanor.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-8-603 Criminal trespass upon school property -- Penalty.**

- (1) A person is guilty of criminal trespass upon school property if the person does the following:
- (a) enters or remains unlawfully upon school property, and:
    - (i) intends to cause annoyance or injury to a person or damage to property on the school property;
    - (ii) intends to commit a crime; or
    - (iii) is reckless as to whether the person's presence will cause fear for the safety of another; or
  - (b) enters or remains without authorization upon school property if notice against entry or remaining has been given by:
    - (i) personal communication to the person by a school official or an individual with apparent authority to act for a school official;
    - (ii) the posting of signs reasonably likely to come to the attention of trespassers;
    - (iii) fencing or other enclosure obviously designed to exclude trespassers; or
    - (iv) a current order of suspension or expulsion.
- (2) As used in this section:
- (a) "Enter" means intrusion of the entire body.
  - (b) "School official" means a public or private school administrator or person in charge of a school program or activity.
  - (c) "School property" means real property owned or occupied by a public or private school, including real property temporarily occupied for a school activity or program.
- (3) Violation of this section is a class B misdemeanor.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-8-604 Traffic ordinances on school property -- Enforcement.**

- (1) A local political subdivision in which real property is located that belongs to, or is controlled by, the state board, an LEA governing board, an area vocational center, or the Utah Schools for the Deaf and the Blind may, at the request of the responsible board of education or institutional council, adopt ordinances for the control of vehicular traffic on that property.
- (2) A law enforcement officer whose jurisdiction includes the property in question may enforce an ordinance adopted under Subsection (1).

Amended by Chapter 293, 2019 General Session

## **Part 7**

### **School Resource Officers**

#### **53G-8-701 Definitions.**

As used in this part:

- (1) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.
- (2) "School resource officer" or "SRO" means a law enforcement officer, as defined in Section 53-13-103, who contracts with or whose law enforcement agency contracts with an LEA to provide law enforcement services for the LEA.

Amended by Chapter 293, 2019 General Session

#### **53G-8-702 School resource officer training -- Curriculum.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that prepare and make available a training program for school principals and school resource officers to attend.
- (2) To create the curriculum and materials for the training program described in Subsection (1), the state board shall:
  - (a) work in conjunction with the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201;
  - (b) solicit input from local school boards, charter school governing boards, and the Utah Schools for the Deaf and the Blind;
  - (c) solicit input from local law enforcement and other interested community stakeholders; and
  - (d) consider the current United States Department of Education recommendations on school discipline and the role of a school resource officer.
- (3) The training program described in Subsection (1) may include training on the following:
  - (a) childhood and adolescent development;
  - (b) responding age-appropriately to students;
  - (c) working with disabled students;
  - (d) techniques to de-escalate and resolve conflict;
  - (e) cultural awareness;
  - (f) restorative justice practices;
  - (g) identifying a student exposed to violence or trauma and referring the student to appropriate resources;
  - (h) student privacy rights;
  - (i) negative consequences associated with youth involvement in the juvenile and criminal justice systems;
  - (j) strategies to reduce juvenile justice involvement; and
  - (k) roles of and distinctions between a school resource officer and other school staff who help keep a school secure.
- (4) The state board shall work together with the Department of Public Safety, the State Commission on Criminal and Juvenile Justice, and state and local law enforcement to establish policies and procedures that govern student resource officers.

Amended by Chapter 408, 2020 General Session

**53G-8-703 Contracts between an LEA and law enforcement for school resource officer services -- Requirements.**

- (1) An LEA may contract with a law enforcement agency or an individual to provide school resource officer services at the LEA if the LEA governing board reviews and approves the contract.
- (2) If an LEA contracts with a law enforcement agency or an individual to provide SRO services at the LEA, the LEA governing board shall require in the contract:
  - (a) an acknowledgment by the law enforcement agency or the individual that an SRO hired under the contract shall:
    - (i) provide for and maintain a safe, healthy, and productive learning environment in a school;
    - (ii) act as a positive role model to students;
    - (iii) work to create a cooperative, proactive, and problem-solving partnership between law enforcement and the LEA;
    - (iv) emphasize the use of restorative approaches to address negative behavior; and
    - (v) at the request of the LEA, teach a vocational law enforcement class;
  - (b) a description of the shared understanding of the LEA and the law enforcement agency or individual regarding the roles and responsibilities of law enforcement and the LEA to:
    - (i) maintain safe schools;
    - (ii) improve school climate; and
    - (iii) support educational opportunities for students;
  - (c) a designation of student offenses that the SRO shall confer with the LEA to resolve, including an offense that:
    - (i) is a minor violation of the law; and
    - (ii) would not violate the law if the offense was committed by an adult;
  - (d) a designation of student offenses that are administrative issues that an SRO shall refer to a school administrator for resolution in accordance with Section 53G-8-211;
  - (e) a detailed description of the rights of a student under state and federal law with regard to:
    - (i) searches;
    - (ii) questioning; and
    - (iii) information privacy;
  - (f) a detailed description of:
    - (i) job duties;
    - (ii) training requirements; and
    - (iii) other expectations of the SRO and school administration in relation to law enforcement at the LEA;
  - (g) that an SRO who is hired under the contract and the principal at the school where an SRO will be working, or the principal's designee, will jointly complete the SRO training described in Section 53G-8-702; and
  - (h) if the contract is between an LEA and a law enforcement agency, that:
    - (i) both parties agree to jointly discuss SRO applicants; and
    - (ii) the law enforcement agency will accept feedback from an LEA about an SRO's performance.

Amended by Chapter 293, 2019 General Session

## Part 8 State Safety and Support Program

### 53G-8-801 Definitions.

As used in this section:

- (1) "Bullying" means the same as that term is defined in Section 53G-9-601.
- (2) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
- (3) "Program" means the State Safety and Support Program established in Section 53G-8-802.

Enacted by Chapter 441, 2019 General Session

### 53G-8-802 State Safety and Support Program -- State board duties.

- (1) There is created the State Safety and Support Program.
- (2) The state board shall:
  - (a) develop in conjunction with the Division of Substance Abuse and Mental Health model student safety and support policies for an LEA, including:
    - (i) evidence-based procedures for the assessment of and intervention with an individual whose behavior poses a threat to school safety;
    - (ii) procedures for referrals to law enforcement; and
    - (iii) procedures for referrals to a community services entity, a family support organization, or a health care provider for evaluation or treatment;
  - (b) provide training:
    - (i) in school safety;
    - (ii) in evidence-based approaches to improve school climate and address and correct bullying behavior;
    - (iii) in evidence-based approaches in identifying an individual who may pose a threat to the school community;
    - (iv) in evidence-based approaches in identifying an individual who may be showing signs or symptoms of mental illness;
    - (v) on permitted disclosures of student data to law enforcement and other support services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
    - (vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections 53E-9-203 and 53E-9-305;
  - (c) conduct and disseminate evidence-based research on school safety concerns;
  - (d) disseminate information on effective school safety initiatives;
  - (e) encourage partnerships between public and private sectors to promote school safety;
  - (f) provide technical assistance to an LEA in the development and implementation of school safety initiatives;
  - (g) in conjunction with the Department of Public Safety, develop and make available to an LEA a model critical incident response training program that includes protocols for conducting a threat assessment, and ensuring building security during an incident;
  - (h) provide space for the public safety liaison described in Section 53-1-106 and the school-based mental health specialist described in Section 62A-15-103;
  - (i) create a model school climate survey that may be used by an LEA to assess stakeholder perception of a school environment and, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:
    - (i) requiring an LEA to:

- (A) create or adopt and disseminate a school climate survey; and
  - (B) disseminate the school climate survey;
  - (ii) recommending the distribution method, survey frequency, and sample size of the survey; and
  - (iii) specifying the areas of content for the school climate survey; and
  - (j) collect aggregate data and school climate survey results from each LEA.
- (3) Nothing in this section requires an individual to respond to a school climate survey.

Amended by Chapter 408, 2020 General Session

## **Chapter 9 Health and Welfare**

### **Part 1 General Provisions**

#### **53G-9-101 Title.**

This chapter is known as "Health and Welfare."

Enacted by Chapter 3, 2018 General Session

#### **53G-9-102 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

### **Part 2 Miscellaneous Requirements**

#### **53G-9-201 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

#### **53G-9-202 Notification to the parent of an injured or sick child.**

- (1) A public school shall notify the custodial parent and, if requested in writing by a noncustodial parent, make reasonable efforts to notify the noncustodial parent of a student who is injured or becomes ill at the school during the regular school day if:
- (a) the injury or illness requires treatment at a hospital, doctor's office, or other medical facility not located on the school premises; and
  - (b) the school has received a current telephone number for the party it is required to notify or make reasonable efforts to notify.
- (2)

- (a) Subsection (1) does not apply to a noncustodial parent forbidden to have contact with the student under a court order or similar procedure.
- (b) The custodial parent is responsible for providing the school with the noncustodial parent's status under Subsection (2)(a) through a procedure adopted by the local school board.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-9-203 Definitions -- School personnel -- Medical recommendations -- Exceptions -- Penalties.**

- (1) As used in this section:
  - (a) "Health care professional" means a physician, physician assistant, nurse, dentist, or mental health therapist.
  - (b) "School personnel" means a school district or charter school employee, including a licensed, part-time, contract, or nonlicensed employee.
- (2) School personnel may:
  - (a) provide information and observations to a student's parent about that student, including observations and concerns in the following areas:
    - (i) progress;
    - (ii) health and wellness;
    - (iii) social interactions;
    - (iv) behavior; or
    - (v) topics consistent with Subsection 53E-9-203(6);
  - (b) communicate information and observations between school personnel regarding a child;
  - (c) refer students to other appropriate school personnel and agents, consistent with local school board or charter school policy, including referrals and communication with a school counselor or other mental health professionals working within the school system;
  - (d) consult or use appropriate health care professionals in the event of an emergency while the student is at school, consistent with the student emergency information provided at student enrollment;
  - (e) exercise their authority relating to the placement within the school or readmission of a child who may be or has been suspended or expelled for a violation of Section 53G-8-205; and
  - (f) complete a behavioral health evaluation form if requested by a student's parent to provide information to a licensed physician or physician assistant.
- (3) School personnel shall:
  - (a) report suspected child abuse consistent with Section 62A-4a-403;
  - (b) comply with applicable state and local health department laws, rules, and policies; and
  - (c) conduct evaluations and assessments consistent with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.
- (4) Except as provided in Subsection (2), Subsection (6), and Section 53G-9-604, school personnel may not:
  - (a) recommend to a parent that a child take or continue to take a psychotropic medication;
  - (b) require that a student take or continue to take a psychotropic medication as a condition for attending school;
  - (c) recommend that a parent seek or use a type of psychiatric or psychological treatment for a child;
  - (d) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the

Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments; or

- (e) make a child abuse or neglect report to authorities, including the Division of Child and Family Services, solely or primarily on the basis that a parent refuses to consent to:
  - (i) a psychiatric, psychological, or behavioral treatment for a child, including the administration of a psychotropic medication to a child; or
  - (ii) a psychiatric or behavioral health evaluation of a child.
- (5) Notwithstanding Subsection (4)(e), school personnel may make a report that would otherwise be prohibited under Subsection (4)(e) if failure to take the action described under Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of others.
- (6) Notwithstanding Subsection (4), a school counselor or other mental health professional acting in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or licensed through the state board, working within the school system may:
  - (a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;
  - (b) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child;
  - (c) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child in accordance with Section 53E-9-203; and
  - (d) provide to a parent, upon the specific request of the parent, a list of three or more health care professionals or providers, including licensed physicians, physician assistants, psychologists, or other health specialists.
- (7) Local school boards or charter schools shall adopt a policy:
  - (a) providing for training of appropriate school personnel on the provisions of this section; and
  - (b) indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section 53G-11-513.
- (8) Nothing in this section shall be interpreted as discouraging general communication not prohibited by this section between school personnel and a student's parent.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 349, 2019 General Session

**53G-9-204 Nursing services in the public schools -- Collaborative efforts.**

- (1)
  - (a) Students in the state's public schools may be better protected against risks to health and safety if schools were to have registered nurses readily available to assist in providing educational and nursing services in the public schools.
  - (b) Those services would be further enhanced if they could be offered with the active support and participation of local public health departments and private medical providers, most particularly in those areas of the state without currently functioning collaborative programs.
  - (c)
    - (i) School districts, local health departments, private medical providers, and parents of students are therefore encouraged to work together in determining needs and risks to student health in the state's public schools and in developing and implementing plans to meet those needs and minimize risks to students.
    - (ii) School community councils or school directors of affected schools shall review the plans prior to their implementation.
- (2) School districts are encouraged to provide nursing services equivalent to the services of one registered nurse for every 5,000 students or, in districts with fewer than 5,000 students, the level of services recommended by the Department of Health.



Renumbered and Amended by Chapter 3, 2018 General Session

**53G-9-205 School Breakfast Program -- Review of nonparticipants -- Reporting.**

- (1)
  - (a) Beginning with the 2020-21 academic year, each LEA governing board shall annually review each school in the LEA governing board's authority that does not participate in the School Breakfast Program as to the school's reasons for nonparticipation.
  - (b) Reasons for nonparticipation may include a recommendation from the respective school community council authorized under Section 53G-7-1202 or charter trust land council established under Section 53G-7-1205.
- (2) The requirements of this section shall be nullified by the termination of the entitlement status of the School Breakfast Program by the federal government.

Amended by Chapter 21, 2020 General Session

**53G-9-205.1 Start Smart Utah Program.**

- (1) As used in this section:
  - (a) "Alternative breakfast service model" means a method of serving breakfast to a student after the instructional day begins.
  - (b) "National School Lunch Program" means the same as that term is defined in 7 C.F.R. Sec. 210.2.
  - (c) "Public school" means:
    - (i) a school under the control of a school district;
    - (ii) a charter school; or
    - (iii) the Utah Schools for the Deaf and the Blind.
  - (d) "School Breakfast Program" means the same as that term is defined in 7 C.F.R. Sec. 220.2.
  - (e) "Start Smart Utah Program" or "program" means the Start Smart Utah Program created in Subsection (2).
  - (f) "Traditional breakfast service model" means a method of serving breakfast to a student before the instructional day begins.
- (2)
  - (a) There is created the Start Smart Utah Program.
  - (b) Except as provided in Subsection (3), a public school that participates in the National School Lunch Program shall participate in the School Breakfast Program.
  - (c)
    - (i) Beginning with the 2020-21 school year, a public school in which 70% or more of the students qualify for free or reduced lunch shall use an alternative breakfast service model.
    - (ii) Beginning with the 2021-22 school year, a public school in which 50% or more of the students qualify for free or reduced lunch shall use an alternative breakfast service model.
    - (iii) Beginning with the 2022-23 school year, a public school in which 30% or more of the students qualify for free or reduced lunch shall use an alternative breakfast service model.
  - (d) Notwithstanding Subsection (2)(c):
    - (i) a public school that is subject to the requirements described in Subsection (2)(c) may use a traditional breakfast service model in addition to an alternative breakfast service model; and
    - (ii) a public school in which 70% or more of the students who qualify for free or reduced lunch participate in the School Breakfast Program is exempt from the requirements described in Subsection (2)(c).

- (3)
  - (a) A public school may apply to the state board for a waiver of the requirements described in Subsection (2), if the requirements cause undue hardship.
  - (b) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to create a waiver application, submission, review, and approval process.
- (4) The state board shall:
  - (a) administer the program in accordance with this section and in conjunction with the state board's duties as the administering agency of federal child nutrition programs;
  - (b) track implementation of alternative breakfast service models in public schools; and
  - (c) provide guidance and technical assistance to public schools related to implementing the Start Smart Utah Program in accordance with the requirements of this section, including assistance with soliciting parent feedback on the program.
- (5) The requirements of this section shall be nullified by the termination of the entitlement status of the School Breakfast Program by the federal government.

Enacted by Chapter 96, 2020 General Session

**53G-9-206 Eye protective devices for industrial education, physics laboratory, and chemistry laboratory activities.**

- (1) Any individual who participates in any of the following activities in public or private schools that may endanger his vision shall wear quality eye protective devices:
  - (a) industrial education activities that involve:
    - (i) hot molten metals;
    - (ii) the operation of equipment that could throw particles of foreign matter into the eyes;
    - (iii) heat treating, tempering, or kiln firing of any industrial materials;
    - (iv) gas or electric arc welding; or
    - (v) caustic or explosive material;
  - (b) chemistry or physics laboratories when using caustic or explosive chemicals, and hot liquids and solids.
- (2) "Quality eye protective devices" means devices that meet the standards of the American Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, promulgated by the American Standards Association, Inc.
- (3)
  - (a) The local school board shall furnish these protective devices to individuals involved in these activities.
  - (b) The local school board may sell these protective devices at cost or rent or loan them to individuals involved in these activities.

Amended by Chapter 293, 2019 General Session

**53G-9-207 Child sexual abuse prevention.**

- (1) As used in this section, "school personnel" means the same as that term is defined in Section 53G-9-203.
- (2) The state board shall approve, in partnership with the Department of Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3) (a) and (4).
- (3)

- (a) A school district or charter school shall provide, every other year, training and instruction on child sexual abuse and human trafficking prevention and awareness to:
    - (i) school personnel in elementary and secondary schools on:
      - (A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner;
      - (B) identifying children who are victims or may be at risk of becoming victims of human trafficking or commercial sexual exploitation; and
      - (C) the mandatory reporting requirements described in Sections 53E-6-701 and 62A-4a-403; and
    - (ii) parents of elementary school students on:
      - (A) recognizing warning signs of a child who is being sexually abused or who is a victim or may be at risk of becoming a victim of human trafficking or commercial sexual exploitation; and
      - (B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child.
  - (b) A school district or charter school shall use the instructional materials approved by the state board under Subsection (2) to provide the training and instruction to school personnel and parents under Subsection (3)(a).
- (4)
- (a) In accordance with Subsections (4)(b) and (5), a school district or charter school may provide instruction on child sexual abuse and human trafficking prevention and awareness to elementary school students using age-appropriate curriculum.
  - (b) A school district or charter school that provides the instruction described in Subsection (4) (a) shall use the instructional materials approved by the state board under Subsection (2) to provide the instruction.
- (5)
- (a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent of the student is:
    - (i) notified in advance of the:
      - (A) instruction and the content of the instruction; and
      - (B) parent's right to have the student excused from the instruction;
    - (ii) given an opportunity to review the instructional materials before the instruction occurs; and
    - (iii) allowed to be present when the instruction is delivered.
  - (b) Upon the written request of the parent of an elementary school student, the student shall be excused from the instruction described in Subsection (4).
  - (c) Participation of a student requires compliance with Sections 53E-9-202 and 53E-9-203.
- (6) A school district or charter school may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).
- (7) Upon request of the state board, a school district or charter school shall provide evidence of compliance with this section.

Amended by Chapter 179, 2019 General Session  
Amended by Chapter 293, 2019 General Session

**53G-9-208 Sunscreen -- Possession -- Administration -- Immunity.**

- (1) As used in this section, "sunscreen" means a compound topically applied to prevent sunburn.
- (2) A public school shall permit a student, without a parent's, physician's, or physician assistant's authorization, to possess or self-apply sunscreen that is regulated by the Food and Drug Administration.

- (3) If a student is unable to self-apply sunscreen, a volunteer school employee may apply the sunscreen on the student if the student's parent provides written consent for the assistance.
- (4) A volunteer school employee who applies sunscreen on a student in compliance with Subsection (3) and the volunteer school employee's employer are not liable for:
  - (a) an adverse reaction suffered by the student as a result of having the sunscreen applied; or
  - (b) discontinuing the application of the sunscreen at any time.

Amended by Chapter 354, 2020 General Session

**53G-9-209 Child abuse or neglect reporting requirement.**

- (1) As used in this section:
  - (a) "Educational neglect" means the same as that term is defined in Section 78A-6-105.
  - (b) "School personnel" means the same as that term is defined in Section 53G-9-203.
- (2) School personnel shall comply with the child abuse and neglect reporting requirements described in Section 62A-4a-403.
- (3) When school personnel have reason to believe that a child may be subject to educational neglect, school personnel shall submit the report described in Subsection 53G-6-202(8) to the Division of Child and Family Services.
- (4) When school personnel have reason to believe that a child is subject to both educational neglect and another form of neglect or abuse, school personnel may not wait to report the other form of neglect or abuse pending preparation of a report regarding educational neglect.
- (5) School personnel shall cooperate with the Division of Child and Family Services and share all information with the division that is relevant to the division's investigation of an allegation of abuse or neglect.

Enacted by Chapter 285, 2018 General Session

**Part 3**  
**Immunization Requirements**

**53G-9-301 Definitions.**

As used in this part:

- (1) "Department" means the Department of Health, created in Section 26-1-4.
- (2) "Health official" means an individual designated by a local health department from within the local health department to consult and counsel parents and licensed health care providers, in accordance with Subsection 53G-9-304(2)(a).
- (3) "Health official designee" means a licensed health care provider designated by a local health department, in accordance with Subsection 53G-9-304(2)(b), to consult with parents, licensed health care professionals, and school officials.
- (4) "Immunization" or "immunize" means a process through which an individual develops an immunity to a disease, through vaccination or natural exposure to the disease.
- (5) "Immunization record" means a record relating to a student that includes:
  - (a) information regarding each required vaccination that the student has received, including the date each vaccine was administered, verified by:
    - (i) a licensed health care provider;
    - (ii) an authorized representative of a local health department;

- (iii) an authorized representative of the department;
  - (iv) a registered nurse; or
  - (v) a pharmacist;
  - (b) information regarding each disease against which the student has been immunized by previously contracting the disease; and
  - (c) an exemption form identifying each required vaccination from which the student is exempt, including all required supporting documentation described in Section 53G-9-303.
- (6) "Legally responsible individual" means:
- (a) a student's parent;
  - (b) the student's legal guardian;
  - (c) an adult brother or sister of a student who has no legal guardian; or
  - (d) the student, if the student:
    - (i) is an adult; or
    - (ii) is a minor who may consent to treatment under Section 26-10-9.
- (7) "Licensed health care provider" means a health care provider who is licensed under Title 58, Occupations and Professions, as:
- (a) a medical doctor;
  - (b) an osteopathic doctor;
  - (c) a physician assistant; or
  - (d) an advanced practice registered nurse.
- (8) "Local health department" means the same as that term is defined in Section 26A-1-102.
- (9) "Required vaccines" means vaccines required by department rule described in Section 53G-9-305.
- (10) "School" means any public or private:
- (a) elementary or secondary school through grade 12;
  - (b) preschool;
  - (c) child care program, as that term is defined in Section 26-39-102;
  - (d) nursery school; or
  - (e) kindergarten.
- (11) "Student" means an individual who attends a school.
- (12) "Vaccinating" or "vaccination" means the administration of a vaccine.
- (13) "Vaccination exemption form" means a form, described in Section 53G-9-304, that documents and verifies that a student is exempt from the requirement to receive one or more required vaccines.
- (14) "Vaccine" means the substance licensed for use by the United States Food and Drug Administration that is injected into or otherwise administered to an individual to immunize the individual against a communicable disease.

Amended by Chapter 293, 2019 General Session

**53G-9-302 Immunization required -- Exception -- Weighted pupil unit funding.**

- (1) A student may not attend a school unless:
- (a) the school receives an immunization record from the legally responsible individual of the student, the student's former school, or a statewide registry that shows:
    - (i) that the student has received each vaccination required by the department under Section 53G-9-305; or
    - (ii) for any required vaccination that the student has not received, that the student:

- (A) has immunity against the disease for which the vaccination is required, because the student previously contracted the disease as documented by a health care provider, as that term is defined in Section 78B-3-103; or
- (B) is exempt from receiving the vaccination under Section 53G-9-303;
- (b) the student qualifies for conditional enrollment under Section 53G-9-308; or
- (c) the student:
  - (i) is a student, as defined in Section 53E-3-903; and
  - (ii) complies with the immunization requirements for military children under Section 53E-3-905.
- (2) An LEA may not receive weighted pupil unit money for a student who is not permitted to attend school under Subsection (1).

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-9-303 Grounds for exemption from required vaccines -- Renewal.**

- (1) A student is exempt from the requirement to receive a vaccine required under Section 53G-9-305 if the student qualifies for a medical or personal exemption from the vaccination under Subsection (2) or (3).
- (2) A student qualifies for a medical exemption from a vaccination required under Section 53G-9-305 if the student's legally responsible individual provides to the student's school:
  - (a) a completed vaccination exemption form; and
  - (b) a written notice signed by a licensed health care provider stating that, due to the physical condition of the student, administration of the vaccine would endanger the student's life or health.
- (3) A student qualifies for a personal exemption from a vaccination required under Section 53G-9-305 if the student's legally responsible individual provides to the student's school a completed vaccination exemption form, stating that the student is exempt from the vaccination because of a personal or religious belief.
- (4)
  - (a) A vaccination exemption form submitted under this section is valid for as long as the student remains at the school to which the form first is presented.
  - (b) If the student changes schools before the student is old enough to enroll in kindergarten, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:
    - (i) the student enrolls in kindergarten; or
    - (ii) the student turns six years old.
  - (c) If the student changes schools after the student is old enough to enroll in kindergarten but before the student is eligible to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:
    - (i) the student enrolls in grade 7; or
    - (ii) the student turns 12 years old.
  - (d) If the student changes schools after the student is old enough to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the student completes grade 12.
  - (e) Notwithstanding Subsections (4)(b) and (c), a vaccination exemption form obtained through completion of the online education module created in Section 26-7-9 is valid for at least two years.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-9-304 Vaccination exemption form.**

- (1) The department shall:
  - (a) develop a vaccination exemption form that includes only the following information:
    - (i) identifying information regarding:
      - (A) the student to whom an exemption applies; and
      - (B) the legally responsible individual who claims the exemption for the student and signs the vaccination exemption form;
    - (ii) an indication regarding the vaccines to which the exemption relates;
    - (iii) a statement that the claimed exemption is for:
      - (A) a medical reason; or
      - (B) a personal or religious belief; and
    - (iv) an explanation of the requirements, in the event of an outbreak of a disease for which a required vaccine exists, for a student who:
      - (A) has not received the required vaccine; and
      - (B) is not otherwise immune from the disease; and
  - (b) provide the vaccination exemption form created in this Subsection (1) to local health departments.
- (2)
  - (a) Each local health department shall designate one or more individuals from within the local health department as a health official to consult, regarding the requirements of this part, with:
    - (i) parents, upon the request of parents;
    - (ii) school principals and administrators; and
    - (iii) licensed health care providers.
  - (b) A local health department may designate a licensed health care provider as a health official designee to provide the services described in Subsection (2)(a).
- (3)
  - (a) To receive a vaccination exemption form described in Subsection (1), a legally responsible individual shall complete the online education module described in Section 26-7-9, permitting an individual to:
    - (i) complete any requirements online; and
    - (ii) download and print the vaccine exemption form immediately upon completion of the requirements.
  - (b) A legally responsible individual may decline to take the online education module and obtain a vaccination exemption form from a local health department if the individual:
    - (i) requests and receives an in-person consultation at a local health department from a health official or a health official designee regarding the requirements of this part; and
    - (ii) pays any fees established under Subsection (4)(b).
- (4)
  - (a) Neither the department nor any other person may charge a fee for the exemption form offered through the online education module in Subsection (3)(a).
  - (b) A local health department may establish a fee of up to \$25 to cover the costs of providing an in-person consultation.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-9-305 Regulations of department.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules regarding:
  - (a) which vaccines are required as a condition of attending school;
  - (b) the manner and frequency of the vaccinations; and
  - (c) the vaccination exemption form described in Section 53G-9-304.
- (2) The department shall ensure that the rules described in Subsection (1):
  - (a) conform to recognized standard medical practices; and
  - (b) require schools to report to the department statistical information and names of students who are not in compliance with Section 53G-9-302.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-9-306 Immunization record part of student's record -- School review process at enrollment -- Transfer.**

- (1) Each school:
  - (a) shall request an immunization record for each student at the time the student enrolls in the school;
  - (b) may not charge a fee related to receiving or reviewing an immunization record or a vaccination exemption form; and
  - (c) shall retain an immunization record for each enrolled student as part of the student's permanent school record.
- (2)
  - (a) Within five business days after the day on which a student enrolls in a school, an individual designated by the school principal or administrator shall:
    - (i) determine whether the school has received an immunization record for the student;
    - (ii) review the student's immunization record to determine whether the record complies with Subsection 53G-9-302(1); and
    - (iii) identify any deficiencies in the student's immunization record.
  - (b) If the school has not received a student's immunization record or there are deficiencies in the immunization record, the school shall:
    - (i) place the student on conditional enrollment, in accordance with Section 53G-9-308; and
    - (ii) within five days after the day on which the school places the student on conditional enrollment, provide the written notice described in Subsection 53G-9-308(2).
- (3) A school from which a student transfers shall provide the student's immunization record to the student's new school upon request of the student's legally responsible individual.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-9-308 Conditional enrollment -- Suspension for noncompliance -- Procedure.**

- (1) A student for whom a school has not received a complete immunization record may attend the school on a conditional enrollment:
  - (a) during the period in which the student's immunization record is under review by the school; or
  - (b) for 21 calendar days after the day on which the school provides the notice described in Subsection (2).
- (2)
  - (a) Within five days after the day on which a school places a student on conditional enrollment, the school shall provide written notice to the student's legally responsible individual, in person or by mail, that:



- (i) the school has placed the student on conditional enrollment for failure to comply with the requirements of Subsection 53G-9-302(1);
  - (ii) describes the identified deficiencies in the student's immunization record or states that the school has not received an immunization record for the student;
  - (iii) gives notice that the student will not be allowed to attend school unless the legally responsible individual cures the deficiencies, or provides an immunization record that complies with Subsection 53G-9-302(1), within the conditional enrollment period described in Subsection (1)(b); and
  - (iv) describes the process for obtaining a required vaccination.
- (b) A school shall remove the conditional enrollment status from a student after the school receives an immunization record for the student that complies with Subsection 53G-9-302(1).
  - (c) Except as provided in Subsection (2)(d), at the end of the conditional enrollment period, a school shall prohibit a student who does not comply with Subsection 53G-9-302(1) from attending the school until the student complies with Subsection 53G-9-302(1).
  - (d) A school principal or administrator:
    - (i) shall grant an additional extension of the conditional enrollment period, if the extension is necessary to complete all required vaccination dosages, for a time period medically recommended to complete all required vaccination dosages; and
    - (ii) may grant an additional extension of the conditional enrollment period in cases of extenuating circumstances, if the school principal or administrator and a school nurse, a health official, or a health official designee agree that an additional extension will likely lead to compliance with Subsection 53G-9-302(1) during the additional extension period.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-9-309 School record of students' immunization status -- Confidentiality.**

- (1) Each school shall maintain a current list of all enrolled students, noting each student:
  - (a) for whom the school has received a valid and complete immunization record;
  - (b) who is exempt from receiving a required vaccine; and
  - (c) who is allowed to attend school under Section 53G-9-308.
- (2) Each school shall ensure that the list described in Subsection (1) specifically identifies each disease against which a student is not immunized.
- (3) Upon the request of an official from a local health department in the case of a disease outbreak, a school principal or administrator shall:
  - (a) notify the legally responsible individual of any student who is not immune to the outbreak disease, providing information regarding steps the legally responsible individual may take to protect students;
  - (b) identify each student who is not immune to the outbreak disease; and
  - (c) for a period determined by the local health department not to exceed the duration of the disease outbreak, do one of the following at the discretion of the school principal or administrator after obtaining approval from the local health department:
    - (i) provide a separate educational environment for the students described in Subsection (3) (b) that ensures the protection of the students described in Subsection (3)(b) as well as the protection of the remainder of the student body; or
    - (ii) prevent each student described in Subsection (3)(b) from attending school.
- (4) A name appearing on the list described in Subsection (1) is subject to confidentiality requirements described in Section 26-1-17.5 and Section 53E-9-202.

Renumbered and Amended by Chapter 3, 2018 General Session

## **Part 4 Health Examinations**

### **53G-9-401 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

### **53G-9-402 Rules for examinations prescribed by Department of Health -- Notification of impairment.**

- (1)
  - (a) Each local school board shall implement policies as prescribed by the Department of Health for vision, dental, abnormal spinal curvature, and hearing examinations of students attending the district's schools.
  - (b) Under guidelines of the Department of Health, qualified health professionals shall provide instructions, equipment, and materials for conducting the examinations.
  - (c) The policies shall include exemption provisions for students whose parents contend the examinations violate their personal beliefs.
- (2) The school shall notify, in writing, a student's parent of any impairment disclosed by the examinations.

Amended by Chapter 293, 2019 General Session

### **53G-9-403 Personnel to perform health examination.**

A local school board may use teachers or licensed registered nurses to conduct examinations required under this part and licensed physicians as needed for medical consultation related to those examinations.

Renumbered and Amended by Chapter 3, 2018 General Session

### **53G-9-404 Public education vision screening.**

- (1) As used in this section:
  - (a) "Health care professional" means an individual licensed under:
    - (i) Title 58, Chapter 16a, Utah Optometry Practice Act;
    - (ii) Title 58, Chapter 31b, Nurse Practice Act, if the individual is licensed for the practice of advance practice registered nursing, as defined in Section 58-31b-102;
    - (iii) Title 58, Chapter 42a, Occupational Therapy Practice Act;
    - (iv) Title 58, Chapter 67, Utah Medical Practice Act;
    - (v) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
    - (vi) Title 58, Chapter 70a, Utah Physician Assistant Act.
  - (b) "Qualifying child" means a child who:
    - (i) attends an LEA;
    - (ii) is at least three years old; and
    - (iii) is not yet 16 years old.

- (c) "Tier one vision screening" means a lower-level evaluation of an individual's vision, as determined by Department of Health rule.
- (d) "Tier two vision screening" means an individual, higher-level evaluation of an individual's vision, as determined by Department of Health rule.
- (2) The Department of Health shall oversee public education vision screening, as described in this section.
- (3) A child who is less than nine years old and has not yet attended public school in the state shall, before attending a public school in the state, provide:
  - (a) a completed vision screening form, described in Subsection (5)(a)(i), that is signed by a health care professional; or
  - (b) a written statement signed by a parent that the child will not be screened before attending public school in the state.
- (4) The Department of Health shall prepare and provide:
  - (a) training for a school nurse who supervises an LEA tier one vision screening clinic; and
  - (b) an online training module for a potential volunteer for an LEA tier one vision screening clinic.
- (5)
  - (a) The Department of Health shall provide a template for:
    - (i) a form for use by a health care professional under Subsection (3)(a) to certify that a child has received an adequate vision screening; and
    - (ii) a referral form used for the referral and follow up of a qualifying child after a tier one or tier two vision screening.
  - (b) A template described in Subsection (5)(a) shall include the following statement: "A screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."
- (6) The Department of Health shall make rules to:
  - (a) generally provide for and require the administration of tier one vision screening in accordance with this section, including an opt-out process;
  - (b) describe standards and procedures for tier one vision screening, including referral and follow up protocols and reporting a student's significant vision impairment results to the Utah Schools for the Deaf and the Blind;
  - (c) outline the qualifications of and parameters for the use of an outside entity to supervise an LEA tier one vision screening clinic when an LEA does not have a school nurse to supervise an LEA tier one vision screening clinic;
  - (d) determine when a potential volunteer at an LEA tier one vision screening clinic has a conflict of interest, including if the potential volunteer could profit financially from volunteering;
  - (e) determine the regularity of tier one vision screening in order to ensure that a qualifying child receives tier one vision screening at particular intervals; and
  - (f) provide for tier two vision screening for a qualifying child, including:
    - (i) in coordination with the state board, determining mandatory and optional tier two vision screening for a qualifying child;
    - (ii) identification of and training for an individual who provides tier two vision screening;
    - (iii)
      - (A) the creation of a symptoms questionnaire that includes questions for a nonprofessionally trained individual to identify an eye focusing or tracking problem as well as convergence insufficiency of a qualifying child; and
      - (B) protocol on how to administer the symptoms questionnaire in coordination with tier two vision screening;
    - (iv) general standards, procedures, referral, and follow up protocol; and
    - (v) aggregate reporting requirements.

- (7)
  - (a) In accordance with Department of Health oversight and rule and Subsection (7)(b), an LEA shall conduct free tier one vision screening clinics for all qualifying children who attend the LEA or a school within the LEA.
  - (b) If the parent of a qualifying child requests that the qualifying child not participate in a tier one or tier two vision screening, an LEA may not require the qualifying child to receive the tier one or tier two vision screening.
- (8)
  - (a) Except as provided in Subsection (8)(b), a school nurse shall supervise an LEA tier one vision screening clinic as well as provide referral and followup services.
  - (b) If an LEA does not have a school nurse to supervise an LEA tier one vision screening clinic, an LEA may, in accordance with Department of Health rule, use an outside entity to supervise an LEA tier one vision screening clinic.
- (9)
  - (a) An LEA shall ensure that a volunteer who assists with an LEA tier one vision screening clinic:
    - (i)
      - (A) is trained by a school nurse; or
      - (B) demonstrates successful completion of the training module described in Subsection (4)(b);
    - (ii) complies with the requirements of Subsection (9)(c); and
    - (iii) is supervised by a school nurse or, in accordance with Subsection (8)(b), an outside entity.
  - (b) In accordance with Department of Health rule, an LEA may exclude a person from volunteering at an LEA tier one vision screening clinic if the person has a conflict of interest, including if the person could profit financially from volunteering.
  - (c) A volunteer who assists with an LEA tier one vision screening clinic may not market, advertise, or promote a business in connection with assisting at the LEA tier one vision screening clinic.
  - (d) A volunteer who assists with an LEA tier one vision screening clinic is not liable for damages that result from an act or omission related to the LEA tier one vision screening clinic, if the act or omission is not willful or grossly negligent.

Repealed and Re-enacted by Chapter 87, 2019 General Session

## **Part 5 Administration of Medication**

### **53G-9-501 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

### **53G-9-502 Administration of medication to students -- Prerequisites -- Immunity from liability -- Applicability.**

- (1) A public or private school that holds any classes in grades kindergarten through 12 may provide for the administration of medication to any student during periods when the student is under the control of the school, subject to the following conditions:

- (a) the local school board, charter school governing board, or the private equivalent, after consultation with the Department of Health and school nurses shall adopt policies that provide for:
  - (i) the designation of volunteer employees who may administer medication;
  - (ii) proper identification and safekeeping of medication;
  - (iii) the training of designated volunteer employees by the school nurse;
  - (iv) maintenance of records of administration; and
  - (v) notification to the school nurse of medication that will be administered to students; and
- (b) medication may only be administered to a student if:
  - (i) the student's parent has provided a current written and signed request that medication be administered during regular school hours to the student; and
  - (ii) the student's licensed health care provider has prescribed the medication and provides documentation as to the method, amount, and time schedule for administration, and a statement that administration of medication by school employees during periods when the student is under the control of the school is medically necessary.
- (2) Authorization for administration of medication by school personnel may be withdrawn by the school at any time following actual notice to the student's parent.
- (3) School personnel who provide assistance under Subsection (1) in substantial compliance with the licensed health care provider's written prescription and the employers of these school personnel are not liable, civilly or criminally, for:
  - (a) any adverse reaction suffered by the student as a result of taking the medication; and
  - (b) discontinuing the administration of the medication under Subsection (2).
- (4) Subsections (1) through (3) do not apply to:
  - (a) the administration of glucagon in accordance with Section 53G-9-504;
  - (b) the administration of a seizure rescue medication in accordance with Section 53G-9-505; or
  - (c) the administration of an opiate antagonist in accordance with Title 26, Chapter 55, Opiate Overdose Response Act.

Amended by Chapter 293, 2019 General Session

**53G-9-504 Administration of glucagon -- Training of volunteer school personnel -- Authority to use glucagon -- Immunity from liability.**

- (1) As used in this section, "glucagon authorization" means a signed statement from a parent of a student with diabetes:
  - (a) certifying that glucagon has been prescribed for the student;
  - (b) requesting that the student's public school identify and train school personnel who volunteer to be trained in the administration of glucagon in accordance with this section; and
  - (c) authorizing the administration of glucagon in an emergency to the student in accordance with this section.
- (2)
  - (a) A public school shall, within a reasonable time after receiving a glucagon authorization, train two or more school personnel who volunteer to be trained in the administration of glucagon, with training provided by the school nurse or another qualified, licensed medical professional.
  - (b) A public school shall allow all willing school personnel to receive training in the administration of glucagon, and the school shall assist and may not obstruct the identification or training of volunteers under this Subsection (2).
  - (c) The Utah Department of Health, in cooperation with the state superintendent, shall design a glucagon authorization form to be used by public schools in accordance with this section.

- (3)
  - (a) Training in the administration of glucagon shall include:
    - (i) techniques for recognizing the symptoms that warrant the administration of glucagon;
    - (ii) standards and procedures for the storage and use of glucagon;
    - (iii) other emergency procedures, including calling the emergency 911 number and contacting, if possible, the student's parent; and
    - (iv) written materials covering the information required under this Subsection (3).
  - (b) A school shall retain for reference the written materials prepared in accordance with Subsection (3)(a)(iv).
- (4) A public school shall permit a student or school personnel to possess or store prescribed glucagon so that it will be available for administration in an emergency in accordance with this section.
- (5)
  - (a) A person who has received training in accordance with this section may administer glucagon at a school or school activity to a student with a glucagon authorization if:
    - (i) the student is exhibiting the symptoms that warrant the administration of glucagon; and
    - (ii) a licensed health care professional is not immediately available.
  - (b) A person who administers glucagon in accordance with Subsection (5)(a) shall direct a responsible person to call 911 and take other appropriate actions in accordance with the training materials retained under Subsection (3)(b).
- (6) School personnel who provide or receive training under this section and act in good faith are not liable in any civil or criminal action for any act taken or not taken under the authority of this section with respect to the administration of glucagon.
- (7) Section 53G-9-502 does not apply to the administration of glucagon in accordance with this section.
- (8) Section 53G-8-205 does not apply to the possession and administration of glucagon in accordance with this section.
- (9) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health professional under Title 58, Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist who, in good faith, trains nonlicensed volunteers to administer glucagon in accordance with this section.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 349, 2019 General Session

**53G-9-505 Trained school employee volunteers -- Administration of seizure rescue medication -- Exemptions from liability.**

- (1) As used in this section:
  - (a) "Prescribing health care professional" means:
    - (i) a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act;
    - (ii) an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
    - (iii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act; or
    - (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.
  - (b) "Seizure rescue authorization" means a student's Section 504 accommodation plan that:
    - (i) certifies that:

- (A) a prescribing health care professional has prescribed a seizure rescue medication for the student;
  - (B) the student's parent has previously administered the student's seizure rescue medication in a nonmedically-supervised setting without a complication; and
  - (C) the student has previously ceased having full body prolonged or convulsive seizure activity as a result of receiving the seizure rescue medication;
  - (ii) describes the specific seizure rescue medication authorized for the student, including the indicated dose, and instructions for administration;
  - (iii) requests that the student's public school identify and train school employees who are willing to volunteer to receive training to administer a seizure rescue medication in accordance with this section; and
  - (iv) authorizes a trained school employee volunteer to administer a seizure rescue medication in accordance with this section.
- (c)
- (i) "Seizure rescue medication" means a medication, prescribed by a prescribing health care professional, to be administered as described in a student's seizure rescue authorization, while the student experiences seizure activity.
  - (ii) A seizure rescue medication does not include a medication administered intravenously or intramuscularly.
- (d) "Trained school employee volunteer" means an individual who:
- (i) is an employee of a public school where at least one student has a seizure rescue authorization;
  - (ii) is at least 18 years old; and
  - (iii) as described in this section:
    - (A) volunteers to receive training in the administration of a seizure rescue medication;
    - (B) completes a training program described in this section;
    - (C) demonstrates competency on an assessment; and
    - (D) completes annual refresher training each year that the individual intends to remain a trained school employee volunteer.
- (2)
- (a) The Department of Health shall, with input from the state board and a children's hospital, develop a training program for trained school employee volunteers in the administration of seizure rescue medications that includes:
    - (i) techniques to recognize symptoms that warrant the administration of a seizure rescue medication;
    - (ii) standards and procedures for the storage of a seizure rescue medication;
    - (iii) procedures, in addition to administering a seizure rescue medication, in the event that a student requires administration of the seizure rescue medication, including:
      - (A) calling 911; and
      - (B) contacting the student's parent;
    - (iv) an assessment to determine if an individual is competent to administer a seizure rescue medication;
    - (v) an annual refresher training component; and
    - (vi) written materials describing the information required under this Subsection (2)(a).
  - (b) A public school shall retain for reference the written materials described in Subsection (2)(a) (vi).
  - (c) The following individuals may provide the training described in Subsection (2)(a):
    - (i) a school nurse; or

- (ii) a licensed health care professional.
- (3)
- (a) A public school shall, after receiving a seizure rescue authorization:
    - (i) inform school employees of the opportunity to be a school employee volunteer; and
    - (ii) subject to Subsection (3)(b)(ii), provide training, to each school employee who volunteers, using the training program described in Subsection (2)(a).
  - (b) A public school may not:
    - (i) obstruct the identification or training of a trained school employee volunteer; or
    - (ii) compel a school employee to become a trained school employee volunteer.
- (4) A trained school employee volunteer may possess or store a prescribed rescue seizure medication, in accordance with this section.
- (5) A trained school employee volunteer may administer a seizure rescue medication to a student with a seizure rescue authorization if:
- (a) the student is exhibiting a symptom, described on the student's seizure rescue authorization, that warrants the administration of a seizure rescue medication; and
  - (b) a licensed health care professional is not immediately available to administer the seizure rescue medication.
- (6) A trained school employee volunteer who administers a seizure rescue medication shall direct an individual to call 911 and take other appropriate actions in accordance with the training described in Subsection (2).
- (7) A trained school employee volunteer who administers a seizure rescue medication in accordance with this section in good faith is not liable in a civil or criminal action for an act taken or not taken under this section.
- (8) Section 53G-9-502 does not apply to the administration of a seizure rescue medication.
- (9) Section 53G-8-205 does not apply to the possession of a seizure rescue medication in accordance with this section.
- (10)
- (a) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health care professional under Title 58, Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist for, in good faith, training a nonlicensed school employee who volunteers to administer a seizure rescue medication in accordance with this section.
  - (b) Allowing a trained school employee volunteer to administer a seizure rescue medication in accordance with this section does not constitute unlawful or inappropriate delegation under Title 58, Occupations and Professions.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 349, 2019 General Session

**53G-9-506 Diabetes medication -- Possession -- Self-administration.**

- (1) As used in this section, "diabetes medication" means prescription or nonprescription medication used to treat diabetes, including related medical devices, supplies, and equipment used to treat diabetes.
- (2) A public school shall permit a student to possess or possess and self-administer diabetes medication if:
  - (a) the student's parent signs a statement:
    - (i) authorizing the student to possess or possess and self-administer diabetes medication; and



- (ii) acknowledging that the student is responsible for, and capable of, possessing or possessing and self-administering the diabetes medication; and
- (b) the student's health care provider provides a written statement that states:
  - (i) it is medically appropriate for the student to possess or possess and self-administer diabetes medication and the student should be in possession of diabetes medication at all times; and
  - (ii) the name of the diabetes medication prescribed or authorized for the student's use.
- (3) The Utah Department of Health, in cooperation with the state superintendent, shall design forms to be used by public schools for the parental and health care provider statements described in Subsection (2).
- (4) Section 53G-8-205 does not apply to the possession and self-administration of diabetes medication in accordance with this section.

Amended by Chapter 293, 2019 General Session

## **Part 6**

### **Bullying and Hazing**

#### **53G-9-601 Definitions.**

As used in this part:

- (1)
  - (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress.
  - (b) A single act does not constitute abusive conduct.
- (2) "Bullying" means a school employee or student intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:
  - (a) causing physical or emotional harm to the school employee or student;
  - (b) causing damage to the school employee's or student's property;
  - (c) placing the school employee or student in reasonable fear of:
    - (i) harm to the school employee's or student's physical or emotional well-being; or
    - (ii) damage to the school employee's or student's property;
  - (d) creating a hostile, threatening, humiliating, or abusive educational environment due to:
    - (i) the pervasiveness, persistence, or severity of the actions; or
    - (ii) a power differential between the bully and the target; or
  - (e) substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
- (3) "Communication" means the conveyance of a message, whether verbal, written, or electronic.
- (4) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.
- (5)

- (a) "Hazing" means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:
  - (i)
    - (A) endangers the mental or physical health or safety of a school employee or student;
    - (B) involves any brutality of a physical nature, including whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
    - (C) involves consumption of any food, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a school employee or student; or
    - (D) involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a school employee or student to extreme embarrassment, shame, or humiliation; and
  - (ii)
    - (A) is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a school or school sponsored team, organization, program, club, or event; or
    - (B) is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a school or school sponsored team, organization, program, club, or event in which the individual who commits the act also participates.
- (b) The conduct described in Subsection (5)(a) constitutes hazing, regardless of whether the school employee or student against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.
- (6) "LEA governing board" means a local school board or charter school governing board.
- (7) "Policy" means an LEA governing board policy described in Section 53G-9-605.
- (8) "Retaliate" means an act or communication intended:
  - (a) as retribution against a person for reporting bullying or hazing; or
  - (b) to improperly influence the investigation of, or the response to, a report of bullying or hazing.
- (9) "School" means a public elementary or secondary school, including a charter school.
- (10) "School employee" means an individual working in the individual's official capacity as:
  - (a) a school teacher;
  - (b) a school staff member;
  - (c) a school administrator; or
  - (d) an individual:
    - (i) who is employed, directly or indirectly, by a school, an LEA governing board, or a school district; and
    - (ii) who works on a school campus.

Amended by Chapter 293, 2019 General Session

**53G-9-602 Bullying, hazing, and cyber-bullying prohibited.**

- (1) A school employee or student may not engage in bullying a school employee or student:
  - (a) on school property;
  - (b) at a school related or sponsored event;
  - (c) on a school bus;

- (d) at a school bus stop; or
  - (e) while the school employee or student is traveling to or from a location or event described in Subsections (1)(a) through (d).
- (2) A school employee or student may not engage in hazing or cyber-bullying a school employee or student at any time or in any location.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-9-603 Retaliation and making a false allegation prohibited.**

- (1) A school employee or student may not engage in retaliation against:
- (a) a school employee;
  - (b) a student; or
  - (c) an investigator for, or a witness of, an alleged incident of bullying, cyber-bullying, hazing, or retaliation.
- (2) A school employee or student may not make a false allegation of bullying, cyber-bullying, hazing, or retaliation against a school employee or student.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-9-604 Parental notification of certain incidents and threats required.**

- (1) A school shall:
- (a) notify a parent if the parent's student threatens to commit suicide; or
  - (b) notify the parents of each student involved in an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation of the incident involving each parent's student.
- (2)
- (a) If a school notifies a parent of an incident or threat required to be reported under Subsection (1), the school shall produce and maintain a record that verifies that the parent was notified of the incident or threat.
  - (b) A school shall maintain a record described in Subsection (2)(a) in accordance with the requirements of:
    - (i) Title 53E, Chapter 9, Part 2, Student Privacy;
    - (ii) Title 53E, Chapter 9, Part 3, Student Data Protection;
    - (iii) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
    - (iv) 34 C.F.R. Part 99.
- (3) A local school board or charter school governing board shall adopt a policy regarding the process for:
- (a) notifying a parent as required in Subsection (1); and
  - (b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (2).
- (4) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (1).
- (5) A school shall:
- (a) provide a student a copy of a record maintained in accordance with this section that relates to the student if the student requests a copy of the record; and
  - (b) expunge a record maintained in accordance with this section that relates to a student if the student:
    - (i) has graduated from high school; and
    - (ii) requests the record be expunged.

Amended by Chapter 293, 2019 General Session

**53G-9-605 Bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy.**

- (1) On or before September 1, 2018, an LEA governing board shall update the LEA governing board's bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct.
- (2) A policy shall:
  - (a) be developed only with input from:
    - (i) students;
    - (ii) parents;
    - (iii) teachers;
    - (iv) school administrators;
    - (v) school staff; or
    - (vi) local law enforcement agencies; and
  - (b) provide protection to a student, regardless of the student's legal status.
- (3) A policy shall include the following components:
  - (a) definitions of bullying, cyber-bullying, hazing, and abusive conduct that are consistent with this part;
  - (b) language prohibiting bullying, cyber-bullying, hazing, and abusive conduct;
  - (c) language prohibiting retaliation against an individual who reports conduct that is prohibited under this part;
  - (d) language prohibiting making a false report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation;
  - (e) as required in Section 53G-9-604, parental notification of:
    - (i) a student's threat to commit suicide; and
    - (ii) an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation, involving the parent's student;
  - (f) a grievance process for a school employee who has experienced abusive conduct;
  - (g) an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation; and
  - (h) a requirement for a signed statement annually, indicating that the individual signing the statement has received the LEA governing board's policy, from each:
    - (i) school employee;
    - (ii) student who is at least eight years old; and
    - (iii) parent of a student enrolled in the charter school or school district.
- (4) A copy of a policy shall be:
  - (a) included in student conduct handbooks;
  - (b) included in employee handbooks; and
  - (c) provided to a parent of a student enrolled in the charter school or school district.
- (5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation.
- (6) Nothing in this part is intended to infringe upon the right of a school employee, parent, or student to exercise the right of free speech.

Amended by Chapter 293, 2019 General Session

**53G-9-606 Model policy and state board duties.**

- (1) On or before September 1, 2018, the state board shall:

- (a) update the state board's model policy on bullying, cyber-bullying, hazing, and retaliation to include abusive conduct; and
  - (b) post the model policy described in Subsection (1)(a) on the state board's website.
- (2) The state board shall require a an LEA governing board to report annually to the state board on:
- (a) the LEA governing board's policy, including implementation of the signed statement requirement described in Subsection 53G-9-605(3);
  - (b) the LEA governing board's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607; and
  - (c) other information related to this part, as determined by the state board.

Amended by Chapter 293, 2019 General Session

**53G-9-607 Training, education, and prevention -- Standards.**

- (1)
- (a) An LEA governing board shall include in the training of a school employee training regarding bullying, cyber-bullying, hazing, abusive conduct, and retaliation that meets the standards described in Subsection (4).
  - (b) An LEA governing board may offer voluntary training to parents and students regarding abusive conduct.
- (2) To the extent that state or federal funding is available for this purpose, LEA governing boards are encouraged to implement programs or initiatives, in addition to the training described in Subsection (1), to provide for training and education regarding, and the prevention of, bullying, hazing, abusive conduct, and retaliation.
- (3) The programs or initiatives described in Subsection (2) may involve:
- (a) the establishment of a bullying task force; or
  - (b) the involvement of school employees, students, or law enforcement.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish standards for high quality training related to bullying, cyber-bullying, hazing, abusive conduct, and retaliation.

Amended by Chapter 408, 2020 General Session

**53G-9-608 Other forms of legal redress.**

- (1) Nothing in this part prohibits a victim of bullying, cyber-bullying, hazing, abusive conduct, or retaliation from seeking legal redress under any other provisions of civil or criminal law.
- (2) This section does not create or alter tort liability.

Renumbered and Amended by Chapter 3, 2018 General Session

**Part 7  
Suicide Prevention**

**53G-9-701 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

**53G-9-702 Youth suicide prevention programs required in secondary schools -- State board to develop model programs.**

- (1) As used in the section:
  - (a) "Intervention" means an effort to prevent a student from attempting suicide.
  - (b) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.
  - (c) "Program" means a youth suicide prevention program described in Subsection (2).
  - (d) "Public education suicide prevention coordinator" means an individual designated by the state board as described in Subsection (3).
  - (e) "Secondary grades":
    - (i) means grades 7 through 12; and
    - (ii) if a middle or junior high school includes grade 6, includes grade 6.
  - (f) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.
- (2) In collaboration with the public education suicide prevention coordinator, a school district or charter school, in the secondary grades of the school district or charter school, shall implement a youth suicide prevention program, which, in collaboration with the training, programs, and initiatives described in Section 53G-9-607, shall include programs and training to address:
  - (a) bullying and cyberbullying, as those terms are defined in Section 53G-9-601;
  - (b) prevention of youth suicide;
  - (c) increased risk of suicide among youth who are not accepted by family for any reason, including lesbian, gay, bisexual, transgender, or questioning youth;
  - (d) youth suicide intervention;
  - (e) postvention for family, students, and faculty;
  - (f) underage drinking of alcohol;
  - (g) methods of strengthening the family; and
  - (h) methods of strengthening a youth's relationships in the school and community.
- (3) The state board shall:
  - (a) designate a public education suicide prevention coordinator; and
  - (b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:
    - (i) program training; and
    - (ii) resources regarding the required components described in Subsection (2)(b).
- (4) The public education suicide prevention coordinator shall:
  - (a) oversee the youth suicide prevention programs of school districts and charter schools;
  - (b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator; and
  - (c) award grants in accordance with Section 53F-5-206.
- (5) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.
- (6)
  - (a) Subject to legislative appropriation, the state board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The state board shall distribute money under Subsection (6)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$1,000.

(c)

(i) A school shall use money allocated to the school under Subsection (6)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 324, 2019 General Session

Amended by Chapter 447, 2019 General Session

**53G-9-703 Parent education -- Mental health -- Bullying -- Safety.**

(1)

(a) Except as provided in Subsection (3), a school district shall offer a seminar for parents of students in the school district that:

(i) is offered at no cost to parents;

(ii) begins at or after 6 p.m.;

(iii) is held in at least one school located in the school district; and

(iv) covers the topics described in Subsection (2).

(b)

(i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.

(c) A school district may:

(i) develop its own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the state board under Subsection (2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The state board shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;

(iv) Internet safety, including pornography addiction; and

(v) the SafeUT and Crisis Line established in Section 53B-17-1202; and

(b) provide the curriculum, including resources and training, to school districts upon request.

(3)

(a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

- (b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the state board and provide the reasons why the local school board chose not to offer the parent seminar.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 324, 2019 General Session

Amended by Chapter 446, 2019 General Session

**53G-9-704 Youth suicide prevention training for employees.**

- (1) A school district or charter school shall require a licensed employee to complete a minimum of two hours of professional development training on youth suicide prevention every three years.
- (2) The state board shall:
  - (a) develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention; and
  - (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, incorporate the training described in Subsection (1) into professional development training described in Section 53E-6-201.

Amended by Chapter 408, 2020 General Session

**Part 8**  
**Dropout Prevention and Recovery and Remediation Programs**

**53G-9-801 Definitions.**

As used in Section 53G-9-802:

- (1) "Attainment goal" means earning:
  - (a) a high school diploma;
  - (b) a Utah High School Completion Diploma, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
  - (c) an Adult Education Secondary Diploma, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
  - (d) an employer-recognized, industry-based certificate that is:
    - (i) likely to result in job placement; and
    - (ii) included in the state board's approved career and technical education industry certification list.
- (2) "Cohort" means a group of students, defined by the year in which the group enters grade 9.
- (3) "Designated student" means a student:
  - (a)
    - (i) who has withdrawn from an LEA before earning a diploma;
    - (ii) who has been dropped from average daily membership; and
    - (iii) whose cohort has not yet graduated; or
  - (b) who is at risk of meeting the criteria described in Subsection (3)(a), as determined by the student's LEA, using risk factors defined in rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) "Graduation rate" means:



- (a) for a school district or a charter school that includes grade 12, the graduation rate calculated by the state board for federal accountability and reporting purposes; or
  - (b) for a charter school that does not include grade 12, a proxy graduation rate defined in rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5) "Local education agency" or "LEA" means a school district or charter school that serves students in grade 9, 10, 11, or 12.
- (6) "Nontraditional program" means a program, as defined in rules made by the state board under Subsection 53E-3-501(1)(e), in which a student receives instruction through:
- (a) distance learning;
  - (b) online learning;
  - (c) blended learning; or
  - (d) competency-based learning.
- (7) "Statewide graduation rate" means:
- (a) for a school district or a charter school that includes grade 12, the statewide graduation rate, as annually calculated by the state board; or
  - (b) for a charter school that does not include grade 12, the average graduation rate for all charter schools that do not include grade 12.
- (8) "Third party" means:
- (a) a private provider; or
  - (b) an LEA that does not meet the criteria described in Subsection 53G-9-802(3).

Amended by Chapter 408, 2020 General Session

**53G-9-802 Dropout prevention and recovery -- Flexible enrollment options -- Contracting -- Reporting.**

- (1)
- (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and recovery services to a designated student, including:
    - (i) engaging with or attempting to recover a designated student;
    - (ii) developing a learning plan, in consultation with a designated student, to identify:
      - (A) barriers to regular school attendance and achievement;
      - (B) an attainment goal; and
      - (C) a means for achieving the attainment goal through enrollment in one or more of the programs described in Subsection (2);
    - (iii) monitoring a designated student's progress toward reaching the designated student's attainment goal; and
    - (iv) providing tiered interventions for a designated student who is not making progress toward reaching the student's attainment goal.
  - (b) An LEA shall provide the dropout prevention and recovery services described in Subsection (1)(a):
    - (i) throughout the calendar year; and
    - (ii) except as provided in Subsection (1)(c)(i), for each designated student who becomes a designated student while enrolled in the LEA.
  - (c)
    - (i) A designated student's school district of residence shall provide dropout recovery services if the designated student:
      - (A) was enrolled in a charter school that does not include grade 12; and

- (B) becomes a designated student in the summer after the student completes academic instruction at the charter school through the maximum grade level the charter school is eligible to serve under the charter school's charter agreement as described in Section 53G-5-303.
- (ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include grade 12 shall notify each of the charter school's student's district of residence, as determined under Section 53G-6-302, when the student completes academic instruction at the charter school as described in Subsection (1)(c)(i)(B).
- (iii) The notification described in Subsection (1)(c)(ii) shall include the student's name, contact information, and student identification number.
- (2)
- (a) An LEA shall provide flexible enrollment options for a designated student that:
- (i) are tailored to the designated student's learning plan developed under Subsection (1)(a)(ii); and
- (ii) include two or more of the following:
- (A) enrollment in the LEA in a traditional program;
- (B) enrollment in the LEA in a nontraditional program;
- (C) enrollment in a program offered by a private provider that has entered into a contract with the LEA to provide educational services; or
- (D) enrollment in a program offered by another LEA.
- (b) A designated student may enroll in:
- (i) a program offered by the LEA under Subsection (2)(a), in accordance with this public education code, rules established by the state board, and policies established by the LEA; or
- (ii) the Statewide Online Education Program, in accordance with Title 53F, Chapter 4, Part 5, Statewide Online Education Program.
- (c) An LEA shall make the LEA's best effort to accommodate a designated student's choice of enrollment under Subsection (2)(b).
- (3) Beginning with the 2017-18 school year and except as provided in Subsection (4), an LEA shall enter into a contract with a third party to provide the dropout prevention and recovery services described in Subsection (1)(a) for any school year in which the LEA meets the following criteria:
- (a) the LEA's graduation rate is lower than the statewide graduation rate; and
- (b)
- (i) the LEA's graduation rate has not increased by at least 1% on average over the previous three school years; or
- (ii) during the previous calendar year, at least 10% of the LEA's designated students have not:
- (A) reached the students' attainment goals; or
- (B) made a year's worth of progress toward the students' attainment goals.
- (4) An LEA is not subject to the requirement described in Subsection (3) if:
- (a) the LEA is in the LEA's first three years of operation;
- (b) the LEA's average graduation rate for the previous three years is higher than the average statewide graduation rate for the previous three years;
- (c) the LEA is a special school as that term is used in 34 C.F.R. 300.115; or
- (d) the quotient of the total number of an LEA's graduating students plus 10, divided by the total number of students in an LEA's graduating class, is equal to or greater than the statewide graduation rate.
- (5) An LEA described in Subsection (3) shall ensure that:

- (a) a third party with whom the LEA enters into a contract under Subsection (3) has a demonstrated record of effectiveness engaging with and recovering designated students; and
- (b) a contract with a third party requires the third party to:
  - (i) provide the services described in Subsection (1)(a); and
  - (ii) regularly report progress to the LEA.
- (6) An LEA shall annually submit a report to the state board on dropout prevention and recovery services provided under this section, including:
  - (a) the methods the LEA or third party uses to engage with or attempt to recover designated students under Subsection (1)(a)(i);
  - (b) the number of designated students who enroll in a program described in Subsection (2) as a result of the efforts described in Subsection (6)(a);
  - (c) the number of designated students who reach the designated students' attainment goals identified under Subsection (1)(a)(ii)(B); and
  - (d) funding allocated to provide dropout prevention and recovery services.
- (7) The state board shall:
  - (a) ensure that an LEA described in Subsection (3) contracts with a third party to provide dropout prevention and recovery services in accordance with Subsections (3) and (5); and
  - (b) report on the provisions of this section in accordance with Section 53E-1-203, including a summary of the reports submitted under Subsection (6).

Amended by Chapter 137, 2020 General Session

**53G-9-803 Remediation programs for secondary students.**

- (1) For purposes of this section:
  - (a) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.
  - (b) "Secondary school student":
    - (i) means a student enrolled in a secondary school; and
    - (ii) includes a student in grade 6 if the student attends a secondary school.
- (2) A school district or charter school shall implement programs for secondary school students to attain the competency levels and graduation requirements established by the state board.
- (3)
  - (a) A school district or charter school shall establish remediation programs for secondary school students who do not meet competency levels in English, mathematics, science, or social studies.
  - (b) Participation in the programs is mandatory for secondary school students who fail to meet the competency levels based on classroom performance.
- (4) Secondary school students who require remediation under this section may not be advanced to the following class in subject sequences until they meet the required competency level for the subject or complete the required remediation program, except that a school district or charter school may allow secondary school students requiring remediation who would otherwise be scheduled to enter their first year of high school to complete their remediation program during that first year.
- (5)
  - (a) Remediation programs provided under this section should not be unnecessarily lengthy or repetitive.
  - (b) A secondary school student need not repeat an entire class if remediation can reasonably be achieved through other means.

- (6) A school district or charter school may charge secondary school students a fee to participate in the remediation programs.

Amended by Chapter 293, 2019 General Session

**Chapter 10**  
**Curriculum Participation and Requirements**  
**Part 1**  
**General Provisions**

**53G-10-101 Title.**

This chapter is known as "Curriculum Participation and Requirements."

Enacted by Chapter 3, 2018 General Session

**53G-10-102 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

**Part 2**  
**General Requirements and Participation**

**53G-10-201 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

**53G-10-202 Maintaining constitutional freedom in the public schools.**

- (1) Any instructional activity, performance, or display which includes examination of or presentations about religion, political or religious thought or expression, or the influence thereof on music, art, literature, law, politics, history, or any other element of the curriculum, including the comparative study of religions, which is designed to achieve secular educational objectives included within the context of a course or activity and conducted in accordance with applicable rules or policies of the state and LEA governing boards, may be undertaken in the public schools.
- (2) No aspect of cultural heritage, political theory, moral theory, or societal value shall be included within or excluded from public school curricula for the primary reason that it affirms, ignores, or denies religious belief, religious doctrine, a religious sect, or the existence of a spiritual realm or supreme being.
- (3) Public schools may not sponsor prayer or religious devotionals.
- (4) School officials and employees may not use their positions to endorse, promote, or disparage a particular religious, denominational, sectarian, agnostic, or atheistic belief or viewpoint.

Amended by Chapter 293, 2019 General Session

**53G-10-203 Expressions of belief -- Discretionary time.**

- (1) Expression of personal beliefs by a student participating in school-directed curricula or activities may not be prohibited or penalized unless the expression unreasonably interferes with order or discipline, threatens the well-being of persons or property, or violates concepts of civility or propriety appropriate to a school setting.
- (2)
  - (a) As used in this section, "discretionary time" means noninstructional time during which a student is free to pursue personal interests.
  - (b) Free exercise of voluntary religious practice or freedom of speech by students during discretionary time shall not be denied unless the conduct unreasonably interferes with the ability of school officials to maintain order and discipline, unreasonably endangers persons or property, or violates concepts of civility or propriety appropriate to a school setting.
- (3) Any limitation under Sections 53G-10-203 and 53G-10-205 on student expression, practice, or conduct shall be by the least restrictive means necessary to satisfy the school's interests as stated in those sections, or to satisfy another specifically identified compelling governmental interest.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-10-204 Civic and character education -- Definitions -- Legislative finding -- Elements -- Reporting requirements.**

- (1) As used in this section:
  - (a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.
  - (b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.
  - (c) "Civics engagement pilot program" means the pilot program described in Subsection (7).
  - (d) "Civics engagement project" means the civics engagement project described in Subsection (7), which a student enrolled in a participating LEA may complete.
  - (e) "Participating LEA" means an LEA that meets the eligibility criteria, and is selected by the state board, to participate in the civics engagement pilot program.
  - (f) "Values" means time-established principles or standards of worth.
- (2) The Legislature recognizes that:
  - (a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;
  - (b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;
  - (c) the cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;
  - (d) 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;

- (e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and
  - (f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.
- (3) Through an integrated curriculum, students shall be taught in connection with regular school work:
- (a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;
  - (b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;
  - (c) Utah history, including territorial and preterritorial development to the present;
  - (d) the essentials and benefits of the free enterprise system;
  - (e) respect for parents, home, and family;
  - (f) the dignity and necessity of honest labor; and
  - (g) other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.
- (4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.
- (5) Civic and character education in public schools are:
- (a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and
  - (b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.
- (6) In accordance with Section 53E-1-203, the state board shall report to the Education Interim Committee the methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens through an integrated curriculum taught in connection with regular school work as required in this section.
- (7)
- (a) In accordance with this section, subject to appropriations by the Legislature for this purpose, beginning with the 2020-21 school year, the state board shall administer a three-year civics engagement pilot program to assess the benefits of, and methods for, implementing a requirement to complete a civics engagement project as a condition for receiving a high school diploma.
  - (b) The state board shall:
    - (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
      - (A) to create a civics engagement project that complies with core standards for Utah public education for social studies and prepares students for lifelong civic motivation and participation through applied learning of civics content;
      - (B) to establish eligibility requirements for participating LEAs;
      - (C) to create an application process for LEAs to apply to participate in the pilot program; and
      - (D) for a report that a participating LEA is required to submit to the state board at the end of the pilot program;

- (ii) select participating LEAs:
  - (A) from diverse geographic areas within the state; and
  - (B) with a range of student population sizes; and
- (iii) subject to appropriations by the Legislature for this purpose, in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide training that prepares teachers in a participating LEA to assist students to successfully complete the civics engagement project.
- (c) A participating LEA shall submit a report to the state board in accordance with the rules described in Subsection (7)(b)(i)(D).

Amended by Chapter 320, 2020 General Session

**53G-10-205 Waivers of participation.**

- (1) As used in this section, "school" means a public school.
- (2) If a parent of a student, or a secondary student, determines that the student's participation in a portion of the curriculum or in an activity would require the student to affirm or deny a religious belief or right of conscience, or engage or refrain from engaging in a practice forbidden or required in the exercise of a religious right or right of conscience, the parent or the secondary student may request:
  - (a) a waiver of the requirement to participate; or
  - (b) a reasonable alternative that requires reasonably equivalent performance by the student of the secular objectives of the curriculum or activity in question.
- (3) The school shall promptly notify a student's parent if the secondary student makes a request under Subsection (2).
- (4) If a request is made under Subsection (2), the school shall:
  - (a) waive the participation requirement;
  - (b) provide a reasonable alternative to the requirement; or
  - (c) notify the requesting party that participation is required.
- (5) The school shall ensure that the provisions of Subsection 53G-10-203(3) are met in connection with any required participation under Subsection (4)(c).
- (6) A student's academic or citizenship performance may not be penalized if the secondary student or the student's parent chooses to exercise a religious right or right of conscience in accordance with the provisions of this section.

Amended by Chapter 293, 2019 General Session

**Part 3**  
**Miscellaneous Curriculum Requirements**

**53G-10-301 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

**53G-10-302 Instruction in American history and government -- Study and posting of American heritage documents.**

- (1) The Legislature recognizes that a proper understanding of American history and government is essential to good citizenship, and that the public schools are the primary public institutions charged with responsibility for assisting children and youth in gaining that understanding.
- (2)
  - (a) The state board and local school boards shall periodically review school curricula and activities to ensure that effective instruction in American history and government is taking place in the public schools.
  - (b) The boards shall solicit public input as part of the review process.
  - (c) Instruction in American history and government shall include a study of:
    - (i) forms of government, such as a republic, a pure democracy, a monarchy, and an oligarchy;
    - (ii) political philosophies and economic systems, such as socialism, individualism, and free market capitalism; and
    - (iii) the United States' form of government, a compound constitutional republic.
- (3) School curricula and activities shall include a thorough study of historical documents such as:
  - (a) the Declaration of Independence;
  - (b) the United States Constitution;
  - (c) the national motto;
  - (d) the pledge of allegiance;
  - (e) the national anthem;
  - (f) the Mayflower Compact;
  - (g) the writings, speeches, documents, and proclamations of the Founders and the Presidents of the United States;
  - (h) organic documents from the pre-Colonial, Colonial, Revolutionary, Federalist, and post Federalist eras;
  - (i) United States Supreme Court decisions;
  - (j) Acts of the United States Congress, including the published text of the Congressional Record; and
  - (k) United States treaties.
- (4) To increase student understanding of, and familiarity with, American historical documents, public schools may display historically important excerpts from, or copies of, those documents in school classrooms and common areas as appropriate.
- (5) There shall be no content-based censorship of American history and heritage documents referred to in this section due to their religious or cultural nature.
- (6) Public schools shall display "In God we trust," which is declared in 36 U.S.C. 302 to be the national motto of the United States, in one or more prominent places within each school building.

Amended by Chapter 293, 2019 General Session

**53G-10-303 Teaching of American sign language.**

- (1) The Legislature recognizes that American sign language is a fully developed, autonomous, natural language with distinct grammar, syntax, and art forms.
- (2) American sign language shall be accorded equal status with other linguistic systems in the state's public and higher education systems.
- (3) The state board, in consultation with the state's school districts and members of the deaf and hard of hearing community, shall develop and implement policies and procedures for the teaching of American sign language in the state's public education system at least at the middle school or high school level.



- (4) A student may count credit received for completion of a course in American sign language at the middle school or high school level toward the satisfaction of a foreign language requirement in the public education system under rules made by the state board.
- (5) The Utah Board of Higher Education, in consultation with the state's public institutions of higher education and members of the state's deaf and hard of hearing community, shall develop and implement policies and procedures for offering instruction in American sign language in the state's system of higher education.
- (6) The Joint Liaison Committee, in consultation with members of the state's deaf and hard of hearing community, shall review any policies and procedures developed under this section and make recommendations to either or both boards regarding the policies.

Amended by Chapter 365, 2020 General Session

**53G-10-304 Instruction on the flag of the United States of America.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall provide by rule for a program of instruction within the public schools relating to the flag of the United States.
- (2) The instruction shall include the history of the flag, etiquette, customs pertaining to the display and use of the flag, and other patriotic exercises as provided by 4 U.S.C. Secs. 1 to 10.
- (3)
  - (a) The pledge of allegiance to the flag shall be recited once at the beginning of each day in each public school classroom in the state, led by a student in the classroom, as assigned by the classroom teacher on a rotating basis.
  - (b) Each student shall be informed by posting a notice in a conspicuous place that the student has the right not to participate in reciting the pledge.
  - (c) A student shall be excused from reciting the pledge upon written request from the student's parent.
  - (d)
    - (i) At least once a year students shall be instructed that:
      - (A) participation in the pledge of allegiance is voluntary and not compulsory; and
      - (B) not only is it acceptable for someone to choose not to participate in the pledge of allegiance for religious or other reasons, but students should show respect for any student who chooses not to participate.
    - (ii) A public school teacher shall strive to maintain an atmosphere among students in the classroom that is consistent with the principles described in Subsection (3)(d)(i).

Amended by Chapter 408, 2020 General Session

**53G-10-305 Higher education savings information.**

A public school shall provide, to the parents of a kindergarten student during kindergarten enrollment, information about higher education savings options, including information about opening a Utah Educational Savings Plan account.

Amended by Chapter 226, 2019 General Session

Amended by Chapter 293, 2019 General Session

## Part 4 Health Curriculum Requirements

### **53G-10-401 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

### **53G-10-402 Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.**

(1) As used in this section:

- (a) "LEA governing board" means a local school board or charter school governing board.
- (b) "Refusal skills" means instruction:
  - (i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;
  - (ii) in a student's obligation to stop the student's sexual advances if refused by another individual;
  - (iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;
  - (iv) in sexual harassment; and
  - (v) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or another.

(2)

- (a) The state board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:
  - (i) community and personal health;
  - (ii) physiology;
  - (iii) personal hygiene;
  - (iv) prevention of communicable disease;
  - (v) refusal skills; and
  - (vi) the harmful effects of pornography.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that, and instruction shall:
  - (i) stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases;
  - (ii) stress personal skills that encourage individual choice of abstinence and fidelity;
  - (iii) prohibit instruction in:
    - (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;
    - (B) the advocacy of premarital or extramarital sexual activity; or
    - (C) the advocacy or encouragement of the use of contraceptive methods or devices; and
  - (iv) except as provided in Subsection (2)(d), allow instruction to include information about contraceptive methods or devices that stresses effectiveness, limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for an LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) that:

- (i) require the LEA governing board to report on the materials selected and the LEA governing board's compliance with Subsection (2)(h); and
    - (ii) provide for an appeal and review process of the LEA governing board's adoption of instructional materials.
  - (d) The state board may not require an LEA to teach or adopt instructional materials that include information on contraceptive methods or devices.
  - (e)
    - (i) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.
    - (ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.
  - (f) The state board shall recommend instructional materials for use in the curricula required under Subsection (2)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.
  - (g) An LEA governing board may choose to adopt:
    - (i) the instructional materials recommended under Subsection (2)(f); or
    - (ii) other instructional materials in accordance with Subsection (2)(h).
  - (h) An LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) shall:
    - (i) ensure that the materials comply with state law and board rules;
    - (ii) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee; and
    - (iii) adopt the instructional materials in an open and regular meeting of the LEA governing board for which prior notice is given to parents of students attending the respective schools and an opportunity for parents to express their views and opinions on the materials at the meeting.
- (3)
- (a) A student shall receive instruction in the courses described in Subsection (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.
  - (b) At the request of the state board, the Department of Health shall cooperate with the state board in developing programs to provide instruction in those areas.
- (4)
- (a) The state board shall adopt rules that:
    - (i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and
    - (ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.
  - (b) The state board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.
- (5)
- (a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.
  - (b) To ensure the effective performance of school personnel, the limitations described in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school employee's or volunteer's official capacities if:

- (i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and
  - (ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.
- (c) The state board or an LEA governing board may not allow training of school employees or volunteers that supports or encourages criminal conduct.
- (d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules implementing this section.
- (e) Nothing in this section limits the ability or authority of the state board or an LEA governing board to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.
- (6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.
- (7)
- (a) An LEA governing board and an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.
  - (b) An LEA governing board shall provide appropriate professional development for the LEA governing board's teachers, counselors, and school administrators to enable them to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the professional development.
  - (c) An LEA governing board shall make the written materials described in Subsection (7)(b) available to classified employees, students, and parents of students.
  - (d) In order to assist an LEA governing board in providing the professional development required under Subsection (7)(b), the state board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (7)(b) to develop and disseminate model teacher professional development programs that an LEA governing board may use to train the individuals referred to in Subsection (7)(b) to effectively teach the values and qualities of character referenced in Subsection (7).
  - (e) In accordance with the provisions of Subsection (5)(c), professional development may not support or encourage criminal conduct.
- (8) An LEA governing board shall review every two years:
- (a) LEA governing board policies on instruction described in this section;
  - (b) for a local school board, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:
    - (i) teen pregnancy;
    - (ii) child sexual abuse; and
    - (iii) sexually transmitted diseases and sexually transmitted infections; and
  - (c) the number of pornography complaints or other instances reported within the jurisdiction of the LEA governing board.
- (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Amended by Chapter 354, 2020 General Session

Amended by Chapter 408, 2020 General Session

**53G-10-403 Required parental consent for sex education instruction.**

(1) As used in this section:

(a)

(i) "Sex education instruction" means any course material, unit, class, lesson, activity, or presentation that, as the focus of the discussion, provides instruction or information to a student about:

(A) sexual abstinence;

(B) human sexuality;

(C) human reproduction;

(D) reproductive anatomy;

(E) physiology;

(F) pregnancy;

(G) marriage;

(H) childbirth;

(I) parenthood;

(J) contraception;

(K) HIV/AIDS;

(L) sexually transmitted diseases; or

(M) refusal skills, as defined in Section 53G-10-402.

(ii) "Sex education instruction" does not include child sexual abuse prevention instruction described in Section 53G-9-207.

(b) "School" means the same as that term is defined in Section 53G-10-205.

(2) A school shall obtain prior written consent from a student's parent before the school may provide sex education instruction to the student.

(3) If a student's parent chooses not to have the student participate in sex education instruction, a school shall:

(a) waive the requirement for the student to participate in the sex education instruction; or

(b) provide the student with a reasonable alternative to the sex education instruction requirement.

(4) In cooperation with the student's teacher or school, a parent shall take responsibility for the parent's student's sex education instruction if a school:

(a) waives the student's sex education instruction requirement in Subsection (3)(a); or

(b) provides the student with a reasonable alternative to the sex education instruction requirement described in Subsection (3)(b).

(5) A student's academic or citizenship performance may not be penalized if the student's parent chooses not to have the student participate in sex education instruction as described in Subsection (3).

Amended by Chapter 293, 2019 General Session

**53G-10-404 Adoption information.**

(1) For a school year beginning with or after the 2012-13 school year, a local school board shall ensure that an annual presentation on adoption is given to its secondary school students in grades 7-12, so that each student receives the presentation at least once during grades 7-9 and at least once during grades 10-12.

(2) The presentation shall be made by a licensed teacher as part of the health education core.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-10-405 Instruction on the harmful effects of alcohol, tobacco, electronic cigarette products, and controlled substances -- Rulemaking authority -- Assistance from the Division of Substance Abuse and Mental Health.**

- (1) The state board shall adopt rules providing for instruction at each grade level on the harmful effects of alcohol, tobacco, electronic cigarette products, and controlled substances upon the human body and society. The rules shall require instruction on the following:
  - (a) teaching of skills needed to evaluate advertisements for, and media portrayal of, alcohol, tobacco, electronic cigarette products, and controlled substances;
  - (b) directing students towards healthy and productive alternatives to the use of alcohol, tobacco, electronic cigarette products, and controlled substances; and
  - (c) discouraging the use of alcohol, tobacco, electronic cigarette products, and controlled substances.
- (2) At the request of the state board, the Division of Substance Abuse and Mental Health shall cooperate with the state board in developing programs to provide this instruction.
- (3) The state board shall participate in efforts to enhance communication among community organizations and state agencies, and shall cooperate with those entities in efforts which are compatible with the purposes of this section.
- (4) The state board shall establish a library of documented best practices and resources for alcohol, tobacco, and electronic cigarette product cessation interventions for use by local school districts.

Amended by Chapter 161, 2020 General Session

**53G-10-406 Underage Drinking and Substance Abuse Prevention Program -- State board rules.**

- (1) As used in this section:
  - (a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention Program Advisory Council created in this section.
  - (b) "Program" means the Underage Drinking and Substance Abuse Prevention Program created in this section.
  - (c) "School-based prevention program" means an evidence-based program that:
    - (i) is aimed at preventing underage consumption of alcohol and underage use of electronic cigarette products;
    - (ii) is delivered by methods that engage students in storytelling and visualization;
    - (iii) addresses the behavioral risk factors associated with underage drinking and use of electronic cigarette products; and
    - (iv) provides practical tools to address the dangers of underage drinking and use of electronic cigarette products.
- (2) There is created the Underage Drinking and Substance Abuse Prevention Program that consists of:
  - (a) a school-based prevention program for students in grade 4 or 5;
  - (b) a school-based prevention program for students in grade 7 or 8; and
  - (c) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.
- (3)

- (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.
  - (b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA shall offer the program each school year to each student in grade 4 or 5.
  - (c) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.
- (4) The state board shall administer the program with input from the advisory council.
- (5) There is created the Underage Drinking and Substance Abuse Prevention Program Advisory Council comprised of the following members:
- (a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;
  - (b) the executive director of the Department of Health or the executive director's designee;
  - (c) the director of the Division of Substance Abuse and Mental Health or the director's designee;
  - (d) the director of the Division of Child and Family Services or the director's designee;
  - (e) the director of the Division of Juvenile Justice Services or the director's designee;
  - (f) the state superintendent or the state superintendent's designee; and
  - (g) two members of the state board, appointed by the chair of the state board.
- (6)
- (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.
  - (b) In selecting a provider described in Subsection (6)(a), the state board shall consider:
    - (i) whether the provider's program complies with the requirements described in this section;
    - (ii) the extent to which the provider's prevention program aligns with core standards for Utah public schools; and
    - (iii) the provider's experience in providing a program that is effective.
- (7)
- (a) The state board shall use money from the Underage Drinking and Substance Abuse Prevention Program Restricted Account described in Section 53F-9-304 for the program.
  - (b) The state board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:
- (a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10;
  - (b) beginning with the 2020-21 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 4 or 5; and
  - (c) establish criteria for the state board to use in selecting a provider described in Subsection (6).

Amended by Chapter 161, 2020 General Session

Amended by Chapter 408, 2020 General Session

**53G-10-407 Positive behaviors plan -- Positive behaviors specialist stipend -- Reports.**

- (1) As used in this section:
- (a) "Positive behaviors plan" means a plan to address the causes of student use of tobacco, alcohol, electronic cigarette products, and other controlled substances through promoting positive behaviors.

- (b) "Positive behaviors specialist" means an individual designated to administer a positive behaviors plan.
- (2)
  - (a) A school principal shall:
    - (i) create a positive behaviors plan based on the input of students, parents, and staff; and
    - (ii) submit the positive behaviors plan to the LEA governing board for approval.
  - (b) A positive behaviors plan shall address issues including peer pressure, mental health, and creating meaningful relationships.
  - (c) A positive behaviors plan may include programs, clubs, service opportunities, and pro-social activities.
- (3) Each LEA shall designate one or more employees as a positive behaviors specialist for each school to administer the positive behaviors plan.
- (4)
  - (a) The state board shall distribute annually to each school:
    - (i) \$3,000 as a stipend for the positive behaviors specialists; and
    - (ii) \$1,000 to administer the positive behaviors plan.
  - (b) Notwithstanding Subsection (4)(a), if funding is insufficient to cover the costs associated with stipends, the state board may reduce the amount of the stipend.
- (5)
  - (a) A positive behaviors specialist shall annually submit a written report to the LEA governing board detailing how the positive behaviors plan was implemented in the prior year.
  - (b) An LEA governing board shall submit an annual report to the state board confirming that each school under the governing board's jurisdiction has an approved positive behaviors plan.

Enacted by Chapter 161, 2020 General Session

## **Part 5 Driver Education Classes**

### **53G-10-501 Definitions.**

As used in this part:

- (1) "Driver education" includes classroom instruction and driving and observation in a dual-controlled motor vehicle.
- (2) "Driving" or "behind-the-wheel driving" means operating a dual-controlled motor vehicle under the supervision of a certified instructor.

Amended by Chapter 293, 2019 General Session

### **53G-10-502 Driver education established by school districts.**

- (1)
  - (a) Local school districts may establish and maintain driver education for pupils.
  - (b) A school or local school district that provides driver education shall provide an opportunity for each pupil enrolled in that school or local school district to take the written test when the pupil is 15 years and nine months of age.



- (c) Notwithstanding the provisions of Subsection (1)(b), a school or local school district that provides driver education may provide an opportunity for each pupil enrolled in that school or school district to take the written test when the pupil is 15 years of age.
- (2) The purpose of driver education is to help develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for driver education offered in the public schools.
- (4) The rules under Subsection (3) shall:
  - (a) require at least one hour of classroom training on the subject of railroad crossing safety for each driver education pupil;
  - (b) require instruction, based on data and information provided by the Division of Air Quality, on:
    - (i) ways drivers can improve air quality; and
    - (ii) the harmful effects of vehicle emissions; and
  - (c) establish minimum standards for approved driving ranges under Section 53-3-505.5.
- (5) The requirements of Section 53-3-505.5 apply to any behind-the-wheel driving training provided as part of driver education offered under this part and used to satisfy the driver training requirement under Section 53-3-204.

Amended by Chapter 408, 2020 General Session

**53G-10-503 Driver education funding -- Reimbursement of school districts for driver education class expenses -- Limitations -- Excess funds -- Student fees.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a school district that provides driver education shall fund the program solely through:
    - (i) funds provided from the Automobile Driver Education Tax Account in the Uniform School Fund as created under Section 41-1a-1205; and
    - (ii) student fees collected by each school.
  - (b) In determining the cost of driver education, a school district may exclude:
    - (i) the full-time equivalent cost of a teacher for a driver education class taught during regular school hours; and
    - (ii) classroom space and classroom maintenance.
  - (c) A school district may not use any additional school funds beyond those allowed under Subsection (1)(b) to subsidize driver education.
- (2)
  - (a) The state superintendent shall, prior to September 2nd following the school year during which it was expended, or may at earlier intervals during that school year, reimburse each school district that applied for reimbursement in accordance with this section.
  - (b) A school district that maintains driver education classes that conform to this part and the rules prescribed by the state board may apply for reimbursement for the actual cost of providing the behind-the-wheel and observation training incidental to those classes.
- (3) Under the state board's supervision for driver education, a school district may:
  - (a) employ personnel who are not licensed by the state board under Section 53E-6-201; or
  - (b) contract with private parties or agencies licensed under Section 53-3-504 for the behind-the-wheel phase of the driver education program.
- (4) The reimbursement amount shall be paid out of the Automobile Driver Education Tax Account in the Uniform School Fund and may not exceed:
  - (a) \$100 per student who has completed driver education during the school year;

- (b) \$30 per student who has only completed the classroom portion in the school during the school year; or
  - (c) \$70 per student who has only completed the behind-the-wheel and observation portion in the school during the school year.
- (5) If the amount of money in the account at the end of a school year is less than the total of the reimbursable costs, the state superintendent shall allocate the money to each school district in the same proportion that its reimbursable costs bear to the total reimbursable costs of all school districts.
- (6) If the amount of money in the account at the end of any school year is more than the total of the reimbursement costs provided under Subsection (4), the state superintendent may allocate the excess funds to school districts:
- (a) to reimburse each school district that applies for reimbursement of the cost of a fee waived under Section 53G-7-504 for driver education; and
  - (b) to aid in the procurement of equipment and facilities which reduce the cost of behind-the-wheel instruction.
- (7) A local school board shall establish the student fee for driver education for the school district. Student fees shall be reasonably associated with the costs of driver education that are not otherwise covered by reimbursements and allocations made under this section.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 325, 2019 General Session

**53G-10-504 Enrollment of private school pupils.**

- (1) A school district maintaining driver education classes shall allow pupils enrolled in grades nine to 12 of regularly established private schools located within the school district to enroll in the most accessible public school in the school district to receive driver education.
- (2) Enrollment is on the same terms and conditions as applies to students in public schools within the district, as such terms and conditions relate to the driver education classes only.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-10-505 Reports as to costs of driver training programs.**

A local school board seeking reimbursement shall, at the end of each school year and at other times as designated by the state board, report the following to the state superintendent:

- (1) the costs of providing driver education including a separate accounting for:
- (a) course work; and
  - (b) behind-the-wheel and observation training to students;
- (2) the costs of fees waived under Section 53G-7-504 for driver education including a separate accounting for:
- (a) course work; and
  - (b) behind-the-wheel and observation training to students;
- (3) the number of students who completed driver education including a separate accounting for:
- (a) course work; and
  - (b) behind-the-wheel and observation training to students;
- (4) whether or not a passing grade was received; and
- (5) any other information the state board may require for the purpose of administering this program.

Amended by Chapter 293, 2019 General Session

**53G-10-506 Promoting the establishment and maintenance of classes -- Payment of costs.**

- (1) The state superintendent shall promote the establishment and maintenance of driver education classes in school districts under rules adopted by the state board.
- (2) The state board may employ personnel and sponsor experimental programs considered necessary to give full effect to this program.
- (3) The costs of implementing this section shall be paid from the legislative appropriation to the state board made from the Automobile Driver Education Tax Account in the Uniform School Fund.

Amended by Chapter 293, 2019 General Session

**53G-10-507 Driver education teachers certified as license examiners.**

- (1) The Driver License Division of the Department of Public Safety and the state board shall establish procedures and standards to certify teachers of driver education classes under this part to administer written and driving tests.
- (2) The division is the certifying authority.
- (3)
  - (a) A teacher certified under this section shall give written and driving tests designed for driver education classes authorized under this part.
  - (b) The Driver License Division shall, in conjunction with the state board, establish minimal standards for the driver education class tests that are at least as difficult as those required to receive a class D operator's license under Title 53, Chapter 3, Uniform Driver License Act.
  - (c) A student who passes the written test but fails the driving test given by a teacher certified under this section may apply for a learner permit or class D operator's license under Title 53, Chapter 3, Part 2, Driver Licensing Act, and complete the driving test at a Driver License Division office.
- (4) A student shall have a learner permit issued by the Driver License Division under Section 53-3-210.5 in the student's immediate possession at all times when operating a motor vehicle under this section.
- (5) A student who successfully passes the tests given by a certified driver education teacher under this section satisfies the written and driving parts of the test required for a learner permit or class D operator's license.
- (6) The Driver License Division and the state board shall establish procedures to enable school districts to administer or process any tests for students to receive a learner permit or class D operator's license.
- (7) The division and state board shall establish the standards and procedures required under this section by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 408, 2020 General Session

**53G-10-508 Programs authorized -- Minimum standards.**

- (1) Local school districts may:
  - (a) allow students to complete the classroom training portion of driver education through home study;

- (b) provide each parent with driver education instructional materials to assist in parent involvement with driver education including behind-the-wheel driving materials;
  - (c) offer driver education outside of school hours in order to reduce the cost of providing driver education;
  - (d) offer driver education through community education programs;
  - (e) offer the classroom portion of driver education in the public schools and allow the student to complete the behind-the-wheel portion with a private provider:
    - (i) licensed under Section 53-3-504; and
    - (ii) not associated with the school or under contract with the school under Subsection 53G-10-503(3); or
  - (f) any combination of Subsections (1)(a) through (e).
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall establish in rule minimum standards for the school-related programs under Subsection (1).

Amended by Chapter 408, 2020 General Session

## **Chapter 11 Employees**

### **Part 1 General Provisions**

#### **53G-11-101 Title.**

This chapter is known as "Employees."

Enacted by Chapter 3, 2018 General Session

#### **53G-11-102 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

### **Part 2 Miscellaneous Requirements**

#### **53G-11-201 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

#### **53G-11-202 Employment of school personnel -- Length of contract -- Termination for cause -- Individual contract of employment -- Employee acknowledgment of liability protection.**

- (1) A local school board may enter into a written employment contract for a term not to exceed five years.

- (2) Nothing in the terms of the contract shall restrict the power of a local school board to terminate the contract for cause at any time.
- (3)
  - (a) A local school board may not enter into a collective bargaining agreement that prohibits or limits individual contracts of employment.
  - (b) Subsection (3)(a) does not apply to an agreement that was entered into before May 5, 2003.
- (4) Each local school board shall:
  - (a) ensure that each employment contract complies with the requirements of Section 34-32-1.1;
  - (b) comply with the requirements of Section 34-32-1.1 in employing any personnel, whether by employment contract or otherwise; and
  - (c) ensure that at the time an employee enters into an employment contract, the employee shall sign a separate document acknowledging that the employee:
    - (i) has received:
      - (A) the disclosure required under Subsection 63A-4-204(4)(d) if the school district participates in the Risk Management Fund; or
      - (B) written disclosure similar to the disclosure required under Section 63A-4-204 if the school district does not participate in the Risk Management Fund; and
    - (ii) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-203 Health insurance mandates.**

A local school board and a charter school governing board shall include in a health plan it offers to school district employees, or charter school employees insurance mandates in accordance with Section 31A-22-605.5.

Amended by Chapter 293, 2019 General Session

**53G-11-204 Postemployment health insurance benefits restrictions -- Definitions -- Restrictions -- Exceptions.**

- (1) As used in this section:
  - (a) "Budgetary accounts" means the same as that term is defined in Section 51-5-3.
  - (b) "GASB" means the same as that term is defined in Section 51-5-3.
  - (c) "Liabilities" means the same as that term is defined in Section 51-5-3.
  - (d) "Postemployment" means the same as that term is defined in Section 51-5-3.
  - (e) "Postemployment health insurance benefits" means health insurance benefits:
    - (i) offered or promised to an employee for the employee's postemployment; or
    - (ii) continued into postemployment.
- (2) Except as provided under Subsection (3), a school district or charter school may not offer or provide a postemployment health insurance benefit to an employee who begins employment with the school district or charter school on or after July 1, 2015.
- (3) A school district or charter school may offer or provide postemployment health care insurance to employees if the school district or charter school:
  - (a) calculates the liabilities associated with postemployment health insurance benefits by applying GASB standards;
  - (b) recognizes current payments and all liabilities associated with the postemployment health insurance benefits in budgetary accounts;

- (c) fully funds the annual required contributions associated with the postemployment health insurance benefits liabilities;
  - (d) establishes and implements a plan approved by the school district's local school board or charter school's governing board to catch up on any unfunded liabilities within no more than 20 years; and
  - (e) provides for ongoing payments against the postemployment health insurance liabilities as employees qualify for receiving the postemployment health insurance benefits.
- (4)
- (a) Except as provided in Subsection (4)(b), if in a fiscal year, a school district or charter school fails to fully fund the annual required contributions described in Subsection (3)(c), the school district or charter school may not offer or provide a postemployment health insurance benefit for new employees beginning on the first day of that fiscal year.
  - (b) The provisions of Subsection (4)(a) do not apply if:
    - (i) for a school district only, the school district is imposing the maximum allowed local school board levy under Section 53F-8-302;
    - (ii) the school district or charter school fully funds the annual required contributions, including any missed contributions, by the end of the fiscal year following the fiscal year of inadequate funding; or
    - (iii) no increase was approved by the Legislature in the weighted pupil unit as defined in Section 53F-2-102 for the fiscal year the annual required contributions were not fully funded.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-205 Education employee associations -- Equal participation -- Prohibition on endorsement or preferential treatment -- Naming of school breaks.**

- (1) As used in this section:
- (a) "Education employee association" includes teacher associations, teacher unions, teacher organizations, and classified education employees' associations.
  - (b) "School" means a school district, a school in a school district, a charter school, or the state board and its employees.
- (2) A school shall allow education employee associations equal access to the following activities:
- (a) distribution of information in or access to teachers' or employees' physical or electronic mailboxes, including email accounts that are provided by the school; and
  - (b) membership solicitation activities at new teacher or employee orientation training or functions.
- (3) If a school permits an education employee association to engage in any of the activities described in Subsection (2), the school shall permit all other education employee associations to engage in the activity on the same terms and conditions afforded to the education employee association.
- (4) It is unlawful for a school to:
- (a) establish or maintain structures, procedures, or policies that favor one education employee association over another or otherwise give preferential treatment to an education employee association; or
  - (b) explicitly or implicitly endorse any education employee association.
- (5) A school's calendars and publications may not include or refer to the name of any education employee association in relation to any day or break in the school calendar.

Amended by Chapter 293, 2019 General Session

**53G-11-206 Association leave -- District policy.**

- (1) As used in this section:
- (a) "Association leave" means leave from a school district employee's regular school responsibilities granted for that employee to spend time for association, employee association, or union duties.
  - (b) "Employee association" means an association that:
    - (i) negotiates employee salaries, benefits, contracts, or other conditions of employment; or
    - (ii) performs union duties.
- (2) Except as provided in Subsection (3), a local school board may not allow paid association leave for a school district employee to perform an employee association or union duty.
- (3)
- (a) A local school board may allow paid association leave for a school district employee to perform an employee association duty if:
    - (i) the duty performed by the employee on paid association leave will directly benefit the school district, including representing the school district's licensed educators:
      - (A) on a board or committee, such as the school district's foundation, a curriculum development board, insurance committee, or catastrophic leave committee;
      - (B) at a school district leadership meeting; or
      - (C) at a workshop or meeting conducted by the school district's local school board;
    - (ii) the duty performed by the employee on paid association leave does not include political activity, including:
      - (A) advocating for or against a candidate for public office in a partisan or nonpartisan election;
      - (B) soliciting a contribution for a political action committee, a political issues committee, a registered political party, or a candidate, as defined in Section 20A-11-101; or
      - (C) initiating, drafting, soliciting signatures for, or advocating for or against a ballot proposition, as defined in Section 20A-1-102; and
    - (iii) the local school board ensures compliance with the requirements of Subsections (4)(a) through (g).
  - (b) Prior to a school district employee's participation in paid or unpaid association leave, a local school board shall adopt a written policy that governs association leave.
  - (c) Except as provided in Subsection (3)(d), a local school board policy that governs association leave shall require reimbursement to the school district of the costs for an employee, including benefits, for the time that the employee is:
    - (i) on unpaid association leave; or
    - (ii) participating in a paid association leave activity that does not provide a direct benefit to the school district.
  - (d) For a school district that allowed association leave described in Subsections (3)(c)(i) and (ii) prior to January 1, 2011, the local school board policy that governs association leave may allow up to 10 days of association leave before requiring a reimbursement described in Subsection (3)(c).
  - (e) A reimbursement required under Subsection (3)(c), (d), or (4)(g) may be provided by an employee, association, or union.
- (4) If a local school board adopts a policy to allow paid association leave, the policy shall include procedures and controls to:
- (a) ensure that the duties performed by employees on paid association leave directly benefit the school district;
  - (b) require the school district to document the use and approval of paid association leave;
  - (c) require school district supervision of employees on paid association leave;

- (d) require the school district to account for the costs and expenses of paid association leave;
  - (e) ensure that during the hours of paid association leave a school district employee may not engage in political activity, including:
    - (i) advocating for or against a candidate for public office in a partisan or nonpartisan election;
    - (ii) soliciting a contribution for a political action committee, a political issues committee, a registered political party, or a candidate, as defined in Section 20A-11-101; and
    - (iii) initiating, drafting, soliciting signatures for, or advocating for or against a ballot proposition, as defined in Section 20A-1-102;
  - (f) ensure that association leave is only paid out of school district funds when the paid association leave directly benefits the district; and
  - (g) require the reimbursement to the school district of the cost of paid association leave activities that do not provide a direct benefit to education within the school district.
- (5) If a local school board adopts a policy to allow paid association leave, that policy shall indicate that a willful violation of this section or of a policy adopted in accordance with Subsection (3) or (4) may be used for disciplinary action under Section 53G-11-513.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-207 Collective bargaining agreement -- Website posting.**

- (1) As used in this section, "collective bargaining agreement" includes:
- (a) a master agreement; and
  - (b) an amendment, addendum, memorandum, or other document modifying the master agreement.
- (2) A local school board:
- (a) shall post on the school district's website a collective bargaining agreement entered into by the local school board within 10 days of the ratification of the agreement; and
  - (b) may remove from the school district's website a collective bargaining agreement that is no longer in effect.
- (3) A charter school governing board:
- (a) shall post on the charter school's website a collective bargaining agreement entered into by the charter school governing board within 10 days of the ratification of the agreement; and
  - (b) may remove from the charter school's website a collective bargaining agreement that is no longer in effect.

Amended by Chapter 293, 2019 General Session

**Part 3**  
**Licensed Employee Requirements**

**53G-11-301 Definitions.**

As used in this part, "educator" means the same as that term is defined in Section 53E-6-102.

Amended by Chapter 293, 2019 General Session

**53G-11-302 Contracts with teachers.**



A school district may not enter into contracts with teachers that would prevent the school district from paying differential salaries or putting limitations on an individual salary paid in order to fill a shortage in specific teaching areas.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-303 Professional learning standards.**

- (1) As used in this section, "professional learning" means a comprehensive, sustained, and evidence-based approach to improving teachers' and principals' effectiveness in raising student achievement.
- (2) A school district or charter school shall implement high quality professional learning that meets the following standards:
  - (a) professional learning occurs within learning communities committed to continuous improvement, individual and collective responsibility, and goal alignment;
  - (b) professional learning requires skillful leaders who develop capacity, advocate, and create support systems, for professional learning;
  - (c) professional learning requires prioritizing, monitoring, and coordinating resources for educator learning;
  - (d) professional learning uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning;
  - (e) professional learning integrates theories, research, and models of human learning to achieve its intended outcomes;
  - (f) professional learning applies research on change and sustains support for implementation of professional learning for long-term change;
  - (g) professional learning aligns its outcomes with:
    - (i) performance standards for teachers and school administrators as described in rules of the state board; and
    - (ii) performance standards for students as described in the core standards for Utah public schools adopted by the state board pursuant to Section 53E-4-202; and
  - (h) professional learning:
    - (i) incorporates the use of technology in the design, implementation, and evaluation of high quality professional learning practices; and
    - (ii) includes targeted professional learning on the use of technology devices to enhance the teaching and learning environment and the integration of technology in content delivery.
- (3) School districts and charter schools shall use money appropriated by the Legislature for professional learning or federal grant money awarded for professional learning to implement professional learning that meets the standards specified in Subsection (2).
- (4)
  - (a) In the fall of 2014, the state board, through the state superintendent, and in collaboration with an independent consultant acquired through a competitive bid process, shall conduct a statewide survey of school districts and charter schools to:
    - (i) determine the current state of professional learning for educators as aligned with the standards specified in Subsection (2);
    - (ii) determine the effectiveness of current professional learning practices; and
    - (iii) identify resources to implement professional learning as described in Subsection (2).
  - (b) The state board shall select a consultant from bidders who have demonstrated successful experience in conducting a statewide analysis of professional learning.
  - (c)

- (i) Annually in the fall, beginning in 2015 through 2020, the state board, through the state superintendent, in conjunction with school districts and charter schools, shall gather and use data to determine the impact of professional learning efforts and resources.
- (ii) Data used to determine the impact of professional learning efforts and resources under Subsection (4)(c)(i) shall include:
  - (A) student achievement data;
  - (B) educator evaluation data; and
  - (C) survey data.

Amended by Chapter 293, 2019 General Session

**53G-11-304 Educator exit survey -- Rulemaking -- Local education agencies to create and administer exit surveys -- Reporting.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:
  - (a) minimum standards for an exit survey described in Subsection (2), including a model exit survey; and
  - (b) LEA exit survey reporting requirements.
- (2) An LEA shall, in accordance with the rules described in Subsection (1):
  - (a) for an educator who is leaving employment at the LEA:
    - (i) create an exit survey; and
    - (ii) make the LEA's best effort to administer the exit survey to the educator before the educator leaves employment at the LEA; and
  - (b) report the results of an administered exit survey to the state board.
- (3) The state board shall:
  - (a) before taking final action on the rules described in Subsection (1), report the proposed rules to the Education Interim Committee and consider recommendations from the committee regarding the proposed rules; and
  - (b) on or before November 30, 2020, and as requested by the Education Interim Committee, report to the committee on the results described in Subsection (2)(b).

Amended by Chapter 408, 2020 General Session

**Part 4  
Background Checks**

**53G-11-401 Definitions.**

As used in this part:

- (1) "Authorized entity" means an LEA, qualifying private school, or the state board that is authorized to request a background check and ongoing monitoring under this part.
- (2) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety created in Section 53-10-201.
- (3) "Contract employee" means an employee of a staffing service or other entity who works at a public or private school under a contract.
- (4) "FBI" means the Federal Bureau of Investigation.
- (5)

- (a) "License applicant" means an applicant for a license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure.
- (b) "License applicant" includes an applicant for reinstatement of an expired, lapsed, suspended, or revoked license.
- (6) "Non-licensed employee" means an employee of an LEA or qualifying private school that does not hold a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure.
- (7) "Personal identifying information" means:
  - (a) current name, former names, nicknames, and aliases;
  - (b) date of birth;
  - (c) address;
  - (d) telephone number;
  - (e) driver license number or other government-issued identification number;
  - (f) social security number; and
  - (g) fingerprints.
- (8) "Qualifying private school" means a private school that:
  - (a) enrolls students under Title 53F, Chapter 4, Part 3, Carson Smith Scholarship Program; and
  - (b) is authorized to conduct fingerprint-based background checks of national crime information databases under the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248.
- (9) "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.
- (10) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

Amended by Chapter 293, 2019 General Session

**53G-11-402 Background checks for non-licensed employees, contract employees, volunteers, and charter school governing board members.**

- (1) An LEA or qualifying private school shall:
  - (a) require each of the following individuals who is 18 years old or older to submit to a nationwide criminal background check and ongoing monitoring as a condition for employment or appointment:
    - (i) a non-licensed employee;
    - (ii) a contract employee;
    - (iii) except for an officer or employee of a cooperating employer under an internship safety agreement under Section 53G-7-904, a volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment; and
    - (iv) a charter school governing board member;
  - (b) collect the following from an individual required to submit to a background check under Subsection (1)(a):
    - (i) personal identifying information;
    - (ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and
    - (iii) consent, on a form specified by the LEA or qualifying private school, for:
      - (A) an initial fingerprint-based background check by the FBI and the bureau upon submission of the application; and

- (B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53G-11-404;
- (c) submit the individual's personal identifying information to the bureau for:
  - (i) an initial fingerprint-based background check by the FBI and the bureau; and
  - (ii) ongoing monitoring through registration with the systems described in Section 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the LEA or qualifying private school in accordance with Section 53G-11-405; and
- (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the LEA or qualifying private school only receives notifications for individuals with whom the LEA or qualifying private school maintains an authorizing relationship.
- (2) An LEA or qualifying private school may not require an individual to pay the fee described in Subsection (1)(b)(ii) unless the individual:
  - (a) has passed an initial review; and
  - (b) is one of a pool of no more than five candidates for the position.
- (3) By September 1, 2018, an LEA or qualifying private school shall:
  - (a) collect the information described in Subsection (1)(b) from individuals:
    - (i) who were employed or appointed prior to July 1, 2015; and
    - (ii) with whom the LEA or qualifying private school currently maintains an authorizing relationship; and
  - (b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53G-11-404.
- (4) An LEA or qualifying private school that receives criminal history information about a licensed educator under Subsection 53G-11-403(5) shall assess the employment status of the licensed educator as provided in Section 53G-11-405.
- (5) An LEA or qualifying private school may establish a policy to exempt an individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if the individual is being temporarily employed or appointed.

Amended by Chapter 285, 2020 General Session

Amended by Chapter 374, 2020 General Session

### **53G-11-403 Background checks for licensed educators.**

The state board shall:

- (1) require a license applicant to submit to a nationwide criminal background check and ongoing monitoring as a condition for licensing;
- (2) collect the following from an applicant:
  - (a) personal identifying information;
  - (b) a fee described in Subsection 53-10-108(15); and
  - (c) consent, on a form specified by the state board, for:
    - (i) an initial fingerprint-based background check by the FBI and bureau upon submission of the application;
    - (ii) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53G-11-404; and
    - (iii) disclosure of any criminal history information to the individual's employing LEA or qualifying private school;
- (3) submit an applicant's personal identifying information to the bureau for:
  - (a) an initial fingerprint-based background check by the FBI and bureau; and

- (b) ongoing monitoring through registration with the systems described in Section 53G-11-404 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 53G-11-405;
- (4) 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;
- (5) notify the employing LEA or qualifying private school upon receipt of any criminal history information reported on a licensed educator employed by the LEA or qualifying private school; and
- (6)
  - (a) collect the information described in Subsection (2) from individuals who were licensed prior to July 1, 2015, by the individual's next license renewal date; and
  - (b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53G-11-404.

Amended by Chapter 293, 2019 General Session

**53G-11-404 Bureau responsibilities.**

The bureau shall:

- (1) upon request from an authorized entity, register the fingerprints submitted by the authorized entity as part of a background check with:
  - (a) the WIN Database rap back system, or any successor system; and
  - (b) the rap back system maintained by the Federal Bureau of Investigation;
- (2) notify an authorized entity when a new entry is made against an individual whose fingerprints are registered with the rap back systems described in Subsection (1) regarding:
  - (a) an alleged offense; or
  - (b) a conviction, including a plea in abeyance;
- (3) assist authorized entities to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the authorized entity only receives notifications for individuals with whom the authorized entity maintains an authorizing relationship; and
- (4) collaborate with the state board to provide training to authorized entities on the notification procedures and privacy risk mitigation strategies described in this part.

Amended by Chapter 293, 2019 General Session

**53G-11-405 Due process for individuals--Review of criminal history information.**

- (1)
  - (a) In accordance with Section 53-10-108, an authorized entity shall provide an individual an opportunity to review and respond to any criminal history information received under this part.
  - (b) If an authorized entity decides to disqualify an individual as a result of criminal history information received under this part, an individual may request a review of:
    - (i) information received; and
    - (ii) the reasons for the disqualification.
  - (c) An authorized entity shall provide an individual described in Subsection (1)(b) with written notice of:
    - (i) the reasons for the disqualification; and
    - (ii) the individual's right to request a review of the disqualification.
- (2)

- (a) An LEA or qualifying private school shall make decisions regarding criminal history information for the individuals subject to the background check requirements under Section 53G-11-402 in accordance with:
  - (i) Subsection (3);
  - (ii) administrative procedures established by the LEA or qualifying private school; and
  - (iii) rules established by the state board.
- (b) The state board shall make decisions regarding criminal history information for licensed educators in accordance with:
  - (i) Subsection (3);
  - (ii) Title 53E, Chapter 6, Education Professional Licensure; and
  - (iii) rules established by the state board.
- (3) When making decisions regarding initial employment, initial licensing, or initial appointment for the individuals subject to background checks under this part, an authorized entity shall consider:
  - (a) any convictions, including pleas in abeyance;
  - (b) any matters involving a felony; and
  - (c) any matters involving an alleged:
    - (i) sexual offense;
    - (ii) class A misdemeanor drug offense;
    - (iii) offense against the person under Title 76, Chapter 5, Offenses Against the Person;
    - (iv) class A misdemeanor property offense that is alleged to have occurred within the previous three years; and
    - (v) any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have occurred within the previous eight years.

Amended by Chapter 293, 2019 General Session

**53G-11-406 Self-reporting requirement.**

- (1) Individuals subject to the background check requirements under this part shall self-report conviction, arrest, or offense information in accordance with rules established by the state board.
- (2) An LEA shall report conviction, arrest, or offense information received from licensed educators under Subsection (1) to the state board in accordance with rules established by the state board.

Amended by Chapter 293, 2019 General Session

**53G-11-407 Update criminal background check rules and policies.**

On or before September 1, 2015:

- (1) the state board shall update the state board's criminal background check rules consistent with this part; and
- (2) an LEA shall update the LEA's criminal background check policies consistent with this part.

Amended by Chapter 293, 2019 General Session

**53G-11-408 Training provided to authorized entities.**

The state board shall collaborate with the bureau to provide training to authorized entities on the provisions of this part.

Amended by Chapter 293, 2019 General Session

**53G-11-409 Legislative audit.**

After the conclusion of the 2018-2019 school year, subject to the prioritization of the Legislative Audit Subcommittee, the legislative auditor general shall conduct a review and issue a report on the extent to which the criminal background check procedures and ongoing monitoring described in this part adequately detect and identify the criminal histories of individuals who are employed by or volunteering in public schools.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-410 Reference check requirements for LEA applicants and volunteers.**

(1) As used in this section:

- (a) "Child" means an individual who is younger than 18 years old.
- (b) "LEA applicant" means an applicant for employment by an LEA.
- (c) "Physical abuse" means the same as that term is defined in Section 78A-6-105.
- (d) "Potential volunteer" means an individual who:
  - (i) has volunteered for but not yet fulfilled an unsupervised volunteer assignment; and
  - (ii) during the last three years, has worked in a qualifying position.
- (e) "Qualifying position" means paid employment that requires the employee to directly care for, supervise, control, or have custody of a child.
- (f) "Sexual abuse" means the same as that term is defined in Section 78A-6-105.
- (g) "Student" means an individual who:
  - (i) is enrolled in an LEA in any grade from preschool through grade 12; or
  - (ii) receives special education services from an LEA under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (h) "Unsupervised volunteer assignment" means a volunteer assignment at an LEA that allows the volunteer significant unsupervised access to a student.

(2)

- (a) Before hiring an LEA applicant or giving an unsupervised volunteer assignment to a potential volunteer, an LEA shall:
  - (i) require the LEA applicant or potential volunteer to sign a release authorizing the LEA applicant or potential volunteer's previous qualifying position employers to disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant or potential volunteer;
  - (ii) for an LEA applicant, request that the LEA applicant's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant;
  - (iii) for a potential volunteer, request that the potential volunteer's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the potential volunteer; and
  - (iv) document the efforts taken to make a request described in Subsection (2)(a)(ii) or (iii).
- (b) An LEA may not hire an LEA applicant who does not sign a release described in Subsection (2)(a)(i).
- (c) An LEA may not give an unsupervised volunteer assignment to a potential volunteer who does not sign a release described in Subsection (2)(a)(i).
- (d) An LEA shall request information under Subsection (2)(a)(ii) or (iii) before:

- (i) hiring an LEA applicant; or
  - (ii) giving an unsupervised volunteer assignment to a potential volunteer.
  - (e) In accordance with state and federal law, an LEA may request from an LEA applicant or potential volunteer other information the LEA determines is relevant.
- (3)
- (a) An LEA that receives a request described in Subsection (2)(a)(ii) or (iii) shall respond to the request within 20 business days after the day on which the LEA received the request.
  - (b) If an LEA or other employer in good faith discloses information that is within the scope of a request described in Subsection (2)(a)(ii) or (iii), the LEA or other employer is immune from civil and criminal liability for the disclosure.

Renumbered and Amended by Chapter 3, 2018 General Session  
Amended by Chapter 70, 2018 General Session

## Part 5

### School District and Utah Schools for the Deaf and the Blind Employee Requirements

#### 53G-11-501 Definitions.

As used in this part:

- (1) "Administrator" means an individual who supervises educators and holds an appropriate license issued by the state board.
- (2) "Career educator" means a licensed employee who has a reasonable expectation of continued employment under the policies of a local school board.
- (3) "Career employee" means an employee of a school district who has obtained a reasonable expectation of continued employment based upon Section 53G-11-503 and an agreement with the employee or the employee's association, district practice, or policy.
- (4) "Contract term" or "term of employment" means the period of time during which an employee is engaged by the school district under a contract of employment, whether oral or written.
- (5) "Dismissal" or "termination" means:
  - (a) termination of the status of employment of an employee;
  - (b) failure to renew or continue the employment contract of a career employee beyond the then-current school year;
  - (c) reduction in salary of an employee not generally applied to all employees of the same category employed by the school district during the employee's contract term; or
  - (d) change of assignment of an employee with an accompanying reduction in pay, unless the assignment change and salary reduction are agreed to in writing.
- (6) "Educator" means an individual employed by a school district who is required to hold a professional license issued by the state board, except:
  - (a) a superintendent; or
  - (b) an individual who works less than three hours per day or is hired for less than half of a school year.
- (7)
  - (a) "Employee" means a career or provisional employee of a school district, except as provided in Subsection (7)(b).
  - (b) Excluding Section 53G-11-518, for purposes of this part, "employee" does not include:
    - (i) a district superintendent or the equivalent at the Utah Schools for the Deaf and the Blind;



- (ii) a district business administrator or the equivalent at the Utah Schools for the Deaf and the Blind; or
  - (iii) a temporary employee.
- (8) "Last-hired, first-fired layoff policy" means a staff reduction policy that mandates the termination of an employee who started to work for a district most recently before terminating a more senior employee.
- (9) "Provisional educator" means an educator employed by a school district who has not achieved status as a career educator within the school district.
- (10) "Provisional employee" means an individual, other than a career employee or a temporary employee, who is employed by a school district.
- (11) "School board" means a local school board or, for the Utah Schools for the Deaf and the Blind, the state board.
- (12) "School district" or "district" means:
- (a) a public school district; or
  - (b) the Utah Schools for the Deaf and the Blind.
- (13) "Summative evaluation" means the annual evaluation that summarizes an educator's performance during a school year and that is used to make decisions related to the educator's employment.
- (14) "Temporary employee" means an individual who is employed on a temporary basis as defined by policies adopted by the school board. If the class of employees in question is represented by an employee organization recognized by the school board, the school board shall adopt the school board's policies based upon an agreement with that organization. Temporary employees serve at will and have no expectation of continued employment.
- (15)
- (a) "Unsatisfactory performance" means a deficiency in performing work tasks that may be:
    - (i) due to insufficient or undeveloped skills or a lack of knowledge or aptitude; and
    - (ii) remediated through training, study, mentoring, or practice.
  - (b) "Unsatisfactory performance" does not include the following conduct that is designated as a cause for termination under Section 53G-11-512 or a reason for license discipline by the state board or Utah Professional Practices Advisory Commission:
    - (i) a violation of work policies;
    - (ii) a violation of school board policies, state board rules, or law;
    - (iii) a violation of standards of ethical, moral, or professional conduct; or
    - (iv) insubordination.

Amended by Chapter 354, 2020 General Session

**53G-11-501.5 Legislative findings.**

- (1) The Legislature finds that the effectiveness of public educators can be improved and enhanced by providing specific feedback and support for improvement through a systematic, fair, and competent annual evaluation and remediation of public educators whose performance is inadequate.
- (2) The state board and each local school board shall implement Sections 53G-11-501, 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511 in accordance with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b), to:
  - (a) allow the educator and the school district to promote the professional growth of the educator; and
  - (b) identify and encourage quality instruction in order to improve student academic growth.

Amended by Chapter 293, 2019 General Session

**53G-11-502 Applicability.**

Reserved

Enacted by Chapter 3, 2018 General Session

**53G-11-503 Career employee status for provisional employees -- Career status in the event of change of position -- Continuation of probationary status when position changes -- Temporary status for extra duty assignments.**

- (1)
  - (a) A provisional employee must work for a school district on at least a half-time basis for three consecutive years to obtain career employee status.
  - (b) A school district may extend the provisional status of an employee up to an additional two consecutive years in accordance with a written policy adopted by the district's school board that specifies the circumstances under which an employee's provisional status may be extended.
- (2) Policies of an employing school district shall determine the status of a career employee in the event of the following:
  - (a) the employee accepts a position which is substantially different from the position in which career status was achieved; or
  - (b) the employee accepts employment in another school district.
- (3) If an employee who is under an order of probation or remediation in one assignment in a school district is transferred or given a new assignment in the district, the order shall stand until its provisions are satisfied.
- (4) An employee who is given extra duty assignments in addition to a primary assignment, such as a teacher who also serves as a coach or activity advisor, is a temporary employee in those extra duty assignments and may not acquire career status beyond the primary assignment.

Renumbered and Amended by Chapter 3, 2018 General Session

Amended by Chapter 22, 2018 General Session

**53G-11-504 Evaluation of employee performance.**

- (1) Except as provided in Subsection (2), a local school board shall require that the performance of each school district employee be evaluated annually in accordance with rules of the state board adopted in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) Rules adopted by the state board under Subsection (1) may include an exemption from annual performance evaluations for a temporary employee or a part-time employee.

Amended by Chapter 408, 2020 General Session

**53G-11-504.1 Waiver of employee evaluation requirement.**

- (1) For the 2019-20 school year, a school district is not required to evaluate or report the performance of each school district employee in accordance with rules of the state board adopted in accordance with this part.
- (2) This section supersedes any conflicting provisions of Utah law.

Enacted by Chapter 10, 2020 Special Session 3

**53G-11-505 State board rules -- Reporting to Legislature.**

- (1) Subject to Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511, rules adopted by the state board under Section 53G-11-504 shall:
  - (a) provide general guidelines, requirements, and procedures for the development and implementation of employee evaluations;
  - (b) establish required components and allow for optional components of employee evaluations;
  - (c) require school districts to choose valid and reliable methods and tools to implement the evaluations; and
  - (d) establish a timeline for school districts to implement employee evaluations.
- (2) The state board shall report to the Education Interim Committee, as requested, on progress in implementing employee evaluations in accordance with this section and Sections 53G-11-504, 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511.

Amended by Chapter 293, 2019 General Session

**53G-11-506 Establishment of educator evaluation program -- Joint committee.**

- (1) A local school board shall develop an educator evaluation program in consultation with its joint committee.
- (2) The joint committee described in Subsection (1) shall consist of an equal number of classroom teachers, parents, and administrators appointed by the local school board.
- (3) A local school board may appoint members of the joint committee from a list of nominees:
  - (a) voted on by classroom teachers in a nomination election;
  - (b) voted on by the administrators in a nomination election; and
  - (c) of parents submitted by school community councils within the district.
- (4) Subject to Subsection (5), the joint committee may:
  - (a) adopt or adapt an evaluation program for educators based on a model developed by the state board; or
  - (b) create the local school board's own evaluation program for educators.
- (5) The evaluation program developed by the joint committee shall comply with the requirements of Sections 53G-11-507 through 53G-11-511 and rules adopted by the state board under Section 53G-11-510.

Amended by Chapter 293, 2019 General Session

**53G-11-507 Components of educator evaluation program.**

- (1) A local school board in consultation with a joint committee established in Section 53G-11-506 shall adopt a reliable and valid educator evaluation program that evaluates educators based on educator professional standards established by the state board and includes:
  - (a) a systematic annual evaluation of all provisional, probationary, and career educators;
  - (b) use of multiple lines of evidence, including:
    - (i) self-evaluation;
    - (ii) student and parent input;
    - (iii) for an administrator, employee input;
    - (iv) a reasonable number of supervisor observations to ensure adequate reliability;

- (v) evidence of professional growth and other indicators of instructional improvement based on educator professional standards established by the state board; and
  - (vi) student academic growth data;
  - (c) a summative evaluation that differentiates among four levels of performance; and
  - (d) for an administrator, the effectiveness of evaluating employee performance in a school or school district for which the administrator has responsibility.
- (2)
- (a) An educator evaluation program described in Subsection (1) may include a reasonable number of peer observations.
  - (b) An educator evaluation program described in Subsection (1) may not use end-of-level assessment scores in educator evaluation.

Amended by Chapter 293, 2019 General Session

**53G-11-508 Summative evaluation timelines -- Review of summative evaluations.**

- (1) The person responsible for administering an educator's summative evaluation shall:
- (a) at least 15 days before an educator's first evaluation:
    - (i) notify the educator of the evaluation process; and
    - (ii) give the educator a copy of the evaluation instrument, if an instrument is used;
  - (b) allow the educator to respond to any part of the evaluation;
  - (c) attach the educator's response to the evaluation if the educator's response is provided in writing;
  - (d) within 15 days after the evaluation process is completed, discuss the written evaluation with the educator; and
  - (e) based upon the educator's performance, assign to the educator one of the four levels of performance described in Section 53G-11-507.
- (2) An educator who is not satisfied with a summative evaluation may request a review of the evaluation within 15 days after receiving the written evaluation.
- (3)
- (a) If a review is requested in accordance with Subsection (2), the school district superintendent or the superintendent's designee shall appoint a person not employed by the school district who has expertise in teacher or personnel evaluation to review the evaluation procedures and make recommendations to the superintendent regarding the educator's summative evaluation.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules prescribing standards for an independent review of an educator's summative evaluation.
  - (c) A review of an educator's summative evaluation under Subsection (3)(a) shall be conducted in accordance with state board rules made under Subsection (3)(b).

Amended by Chapter 408, 2020 General Session

**53G-11-509 Mentor for provisional educator.**

- (1) In accordance with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b), the principal or immediate supervisor of a provisional educator shall assign a person who has received training or will receive training in mentoring educators as a mentor to the provisional educator.
- (2) Where possible, the mentor shall be a career educator who performs substantially the same duties as the provisional educator and has at least three years of educational experience.

- (3) The mentor shall assist the provisional educator to become effective and competent in the teaching profession and school system, but may not serve as an evaluator of the provisional educator.
- (4) An educator who is assigned as a mentor may receive compensation for those services in addition to the educator's regular salary.

Amended by Chapter 293, 2019 General Session

**53G-11-510 State board to describe a framework for the evaluation of educators.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:
  - (a) describing a framework for the evaluation of educators that is consistent with the requirements of Part 3, Licensed Employee Requirements, and Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511; and
  - (b) requiring an educator's summative evaluation to be based on:
    - (i) educator professional standards established by the state board; and
    - (ii) the requirements described in Subsection 53G-11-507(1).
- (2) The rules described in Subsection (1) shall prohibit the use of end-of-level assessment scores in educator evaluation.

Amended by Chapter 408, 2020 General Session

**53G-11-511 Report of performance levels.**

- (1) A school district shall report to the state board the number and percent of educators in each of the four levels of performance assigned under Section 53G-11-508.
- (2) The data reported under Subsection (1) shall be separately reported for the following educator classifications:
  - (a) administrators;
  - (b) teachers, including separately reported data for provisional teachers and career teachers; and
  - (c) other classifications or demographics of educators as determined by the state board.
- (3) The state superintendent shall include the data reported by school districts under this section in the State Superintendent's Annual Report required by Section 53E-3-301.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to ensure the privacy and protection of individual evaluation data.

Amended by Chapter 408, 2020 General Session

**53G-11-512 Local school board to establish dismissal procedures.**

- (1) A local school board shall, by contract with its employees or their associations, or by resolution of the local school board, establish procedures for dismissal of employees in an orderly manner without discrimination.
- (2) The procedures shall include:
  - (a) standards of due process;
  - (b) causes for dismissal; and
  - (c) procedures and standards related to developing and implementing a plan of assistance for a career employee whose performance is unsatisfactory.
- (3) Procedures and standards for a plan of assistance adopted under Subsection (2)(c) shall require a plan of assistance to identify:

- (a) specific, measurable, and actionable deficiencies;
  - (b) the available resources provided for improvement; and
  - (c) a course of action to improve employee performance.
- (4) If a career employee exhibits both unsatisfactory performance as described in Subsection 53G-11-501(15)(a) and conduct described in Subsection 53G-11-501(15)(b), an employer:
- (a) may:
    - (i) attempt to remediate the conduct of the career employee; or
    - (ii) terminate the career employee for cause if the conduct merits dismissal consistent with procedures established by the local school board; and
  - (b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section 53G-11-514.
- (5) If the conduct of a career employee described in Subsection (4) is satisfactorily remediated, and unsatisfactory performance issues remain, an employer shall develop and implement a plan of assistance for the career employee, as provided in Section 53G-11-514.
- (6) If the conduct of a career employee described in Subsection (4) is not satisfactorily remediated, an employer:
- (a) may dismiss the career employee for cause in accordance with procedures established by the local school board that include standards of due process and causes for dismissal; and
  - (b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section 53G-11-514.

Amended by Chapter 293, 2019 General Session

**53G-11-513 Dismissal procedures.**

- (1) A district shall provide employees with a written statement specifying:
- (a) the causes under which a career employee's contract may not be renewed or continued beyond the current school year;
  - (b) the causes under which a career or provisional employee's contract may be terminated during the contract term; and
  - (c) the orderly dismissal procedures that are used by the district in cases of contract termination, discontinuance, or nonrenewal.
- (2) A career employee's contract may be terminated during its term for reasons of unsatisfactory performance or discontinued beyond the current school year for reasons of unsatisfactory performance as provided in Section 53G-11-514.
- (3)
- (a) A district is not required to provide a cause for not offering a contract to a provisional employee.
  - (b) If a district intends to not offer a contract for a subsequent term of employment to a provisional employee, the district shall give notice of that intention to the employee at least 60 days before the end of the provisional employee's contract term.
- (4) In the absence of a notice, an employee is considered employed for the next contract term with a salary based upon the salary schedule applicable to the class of employee into which the individual falls.
- (5) If a district intends to not renew or discontinue the contract of a career employee or to terminate a career or provisional employee's contract during the contract term:
- (a) the district shall give written notice of the intent to the employee;
  - (b) the notice shall be served by personal delivery or by certified mail addressed to the employee's last-known address as shown on the records of the district;

- (c) the district shall give notice at least 30 days prior to the proposed date of termination;
  - (d) the notice shall state the date of termination and the detailed reasons for termination;
  - (e) the notice shall advise the employee that the employee has a right to a fair hearing and that the hearing is waived if it is not requested within 15 days after the notice of termination was either personally delivered or mailed to the employee's most recent address shown on the district's personnel records; and
  - (f) the notice shall state that failure of the employee to request a hearing in accordance with procedures set forth in the notice constitutes a waiver of that right and that the district may then proceed with termination without further notice.
- (6)
- (a) The procedure under which a contract is terminated during its term may include a provision under which the active service of the employee is suspended pending a hearing if it appears that the continued employment of the individual may be harmful to students or to the district.
  - (b) Suspension pending a hearing may be without pay if an authorized representative of the district determines, after providing the employee with an opportunity for an informal conference to discuss the allegations, that it is more likely than not that the allegations against the employee are true.
  - (c) If termination is not subsequently ordered, the employee shall receive back pay for the period of suspension without pay.
- (7) The procedure under which an employee's contract is terminated during its term shall provide for a written notice of suspension or final termination including findings of fact upon which the action is based.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-514 Nonrenewal or termination of a career employee's contract for unsatisfactory performance.**

- (1) If a district intends to not renew a career employee's contract for unsatisfactory performance or terminate a career employee's contract during the contract term for unsatisfactory performance, the district shall:
- (a) provide and discuss with the career employee written documentation clearly identifying the deficiencies in performance;
  - (b) provide written notice that the career employee's contract is subject to nonrenewal or termination if, upon a reevaluation of the career employee's performance, the career employee's performance is determined to be unsatisfactory;
  - (c) develop and implement a plan of assistance, in accordance with procedures and standards established by the local school board under Section 53G-11-512, to allow the career employee an opportunity to improve performance;
  - (d) reevaluate the career employee's performance; and
  - (e) if the career employee's performance remains unsatisfactory, give notice of intent to not renew or terminate the career employee's contract in accordance with Subsection 53G-11-513(5).
- (2)
- (a) The period of time for implementing a plan of assistance:
    - (i) may not exceed 120 school days, except as provided under Subsection (2)(b);
    - (ii) may continue into the next school year;
    - (iii) should be sufficient to successfully complete the plan of assistance; and

- (iv) shall begin when the career employee receives the written notice provided under Subsection (1)(b) and end when the determination is made that the career employee has successfully remediated the deficiency or notice of intent to not renew or terminate the career employee's contract is given in accordance with Subsection 53G-11-513(5).
- (b) In accordance with local school board policy, the period of time for implementing a plan of assistance may extend beyond 120 school days if:
  - (i) a career employee is on leave from work during the time period the plan of assistance is scheduled to be implemented; and
  - (ii)
    - (A) the leave was approved and scheduled before the written notice was provided under Subsection (1)(b); or
    - (B) the leave is specifically approved by the local school board.
- (3)
  - (a) If upon a reevaluation of the career employee's performance, the district determines the career employee's performance is satisfactory, and within a three-year period after the initial documentation of unsatisfactory performance for the same deficiency pursuant to Subsection (1)(a), the career employee's performance is determined to be unsatisfactory, the district may elect to not renew or terminate the career employee's contract.
  - (b) If a district intends to not renew or terminate a career employee's contract as provided in Subsection (3)(a), the district shall:
    - (i) provide written documentation of the career employee's deficiencies in performance; and
    - (ii) give notice of intent to not renew or terminate the career employee's contract in accordance with Subsection 53G-11-513(5).

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-515 Hearings before district board or hearing officers -- Rights of the board and the employee -- Subpoenas -- Appeals.**

- (1)
  - (a) Hearings are held under this part before the board or before hearing officers selected by the board to conduct the hearings and make recommendations concerning findings.
  - (b) The board shall establish procedures to appoint hearing officers.
  - (c) The board may delegate its authority to a hearing officer to make decisions relating to the employment of an employee which are binding upon both the employee and the board.
  - (d) This Subsection (1) does not limit the right of the board or the employee to appeal to an appropriate court of law.
- (2) At the hearings, an employee has the right to counsel, to produce witnesses, to hear testimony against the employee, to cross-examine witnesses, and to examine documentary evidence.
- (3) Subpoenas may be issued and oaths administered as provided under Section 53E-6-606.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-516 Necessary staff reduction not precluded -- Last-hired, first-fired layoffs prohibited.**

- (1) Nothing in this part prevents staff reduction if necessary to reduce the number of employees because of the following:
  - (a) declining student enrollments in the district;
  - (b) the discontinuance or substantial reduction of a particular service or program;



- (c) the shortage of anticipated revenue after the budget has been adopted; or
  - (d) school consolidation.
- (2) A school district may not utilize a last-hired, first-fired layoff policy when terminating school district employees.
- (3) A school district may consider the following factors when terminating a school district employee:
- (a) the results of an employee's performance evaluation; and
  - (b) a school's personnel needs.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-517 Restriction on transfer of employee with unsatisfactory performance.**

An employee whose performance is unsatisfactory may not be transferred to another school unless the local school board specifically approves the transfer of the employee.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-518 State board to make rules on performance compensation.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules requiring a school district's employee compensation system to be aligned with the district's annual evaluation system described in Section 53G-11-507.
- (2) Rules adopted under Subsection (1) shall :
- (a) establish a timeline for developing and implementing an employee compensation system that is aligned with an annual evaluation system; and
  - (b) provide that beginning no later than the 2016-17 school year:
    - (i) any advancement on an adopted wage or salary schedule:
      - (A) shall be based primarily on an evaluation; and
      - (B) may not be based on end-of-level assessment scores; and
    - (ii) an employee may not advance on an adopted wage or salary schedule if the employee's rating on the most recent evaluation is at the lowest level of an evaluation instrument.

Amended by Chapter 408, 2020 General Session

**53G-11-519 Utah Recognizing Inspiring School Employees Award.**

- (1) As used in this section:
- (a) "Association" means the governing board of the association that represents a majority of classified school employees employed in the state.
  - (b) "Classified school employee" means the same as that term is defined in the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6682.
  - (c) "Eligible individual" means a classified school employee who meets the eligibility requirements to be a nominee for the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq.
- (2)
- (a) In accordance with the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq., the governor shall annually nominate a classified school employee for the Recognizing Inspiring School Employees Award Program.
  - (b) The governor shall consider submissions from the association in making the nomination described in Subsection (2)(a).

- (c) The association shall submit a list of eligible individuals to the governor no later than September 1 each year, beginning on September 1, 2020.
- (3)
- (a) There is created the Utah Recognizing Inspiring School Employees Award Program to recognize excellence exhibited by public school system employees providing services to students in pre-kindergarten through grade 12.
  - (b) The Utah Recognizing Inspiring School Employees Award shall be awarded to the governor's nominee for the federal Recognizing Inspiring School Employees Award Program under the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq.

Enacted by Chapter 73, 2020 General Session