

**IMPLEMENTING FEDERAL EDUCATIONAL
PROGRAMS**

2005 FIRST SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

Senate Sponsor: Thomas V. Hatch

LONG TITLE

General Description:

This bill directs public education officials regarding the administration and implementation of federal educational programs.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ directs the State Board of Education, the state superintendent, and other state and local school officials regarding the administration and implementation of federal educational programs;
- ▶ provides specific directions for the state implementation of the federal No Child Left Behind Act; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:

AMENDS:

53A-1-301 (Effective 07/01/05), as last amended by Chapter 9, Laws of Utah 2005

53A-1-401, as last amended by Chapter 244, Laws of Utah 2002

53A-3-402, as last amended by Chapter 2, Laws of Utah 2005

ENACTS:

53A-1-901, Utah Code Annotated 1953

53A-1-902, Utah Code Annotated 1953

53A-1-903, Utah Code Annotated 1953

53A-1-904, Utah Code Annotated 1953

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

Section 1. Section **53A-1-301 (Effective 07/01/05)** is amended to read:

53A-1-301 (Effective 07/01/05). Appointment -- Qualifications -- Duties.

(1) (a) The State Board of Education shall appoint a superintendent of public instruction, hereinafter called the state superintendent, who is the executive officer of the board and serves at the pleasure of the board.

(b) The board shall appoint the state superintendent on the basis of outstanding professional qualifications.

(c) The state superintendent shall administer all programs assigned to the State Board of Education in accordance with the policies and the standards established by the board.

(2) The superintendent shall develop a statewide education strategy focusing on core academics, including the development of:

(a) core curriculum and graduation requirements;

(b) a process to select instructional materials that best correlate to the core curriculum and graduation requirements that are supported by generally accepted scientific standards of evidence;

(c) professional development programs for teachers, superintendents, and principals;

(d) remediation programs;

(e) a method for creating individual student learning targets, and a method of measuring an individual student's performance toward those targets;

(f) progress-based assessments for ongoing performance evaluations of districts and schools;

(g) incentives to achieve the desired outcome of individual student progress in core academics, and which do not create disincentives for setting high goals for the students;

(h) an annual report card for school and district performance, measuring learning and reporting progress-based assessments;

(i) a systematic method to encourage innovation in schools and school districts as they strive to achieve improvement in their performance; and

(j) a method for identifying and sharing best demonstrated practices across districts and schools.

(3) The superintendent shall perform duties assigned by the board, including the following:

(a) investigating all matters pertaining to the public schools;

(b) adopting and keeping an official seal to authenticate the superintendent's official acts;

(c) holding and conducting meetings, seminars, and conferences on educational topics;

(d) presenting to the governor and the Legislature each December a report of the public school system for the preceding year to include:

(i) data on the general condition of the schools with recommendations considered desirable for specific programs;

(ii) a complete statement of fund balances;

(iii) a complete statement of revenues by fund and source;

(iv) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(v) a complete statement of state funds allocated to each of the state's 40 school districts by source, including supplemental appropriations, and a complete statement of expenditures by each district, including supplemental appropriations, by function and object as outlined in the U.S. Department of Education publication "Financial Accounting for Local and State School Systems";

(vi) a complete statement, by school district and charter school, of the amount of and percentage increase or decrease in expenditures from the previous year attributed to:

(A) wage increases, with expenditure data for base salary adjustments identified

separately from step and lane expenditures;

- (B) medical and dental premium cost adjustments; and

- (C) adjustments in the number of teachers and other staff;

- (vii) a statement that includes such items as fall enrollments, average membership, high school graduates, licensed and classified employees, pupil-teacher ratios, class sizes, average salaries, applicable private school data, and data from standardized norm-referenced tests in grades 5, 8, and 11 on each school and district;

- (viii) statistical information regarding incidents of delinquent activity in the schools or at school-related activities with separate categories for:

- (A) alcohol and drug abuse;

- (B) weapon possession;

- (C) assaults; and

- (D) arson;

- (ix) information about:

- (A) the development and implementation of the strategy of focusing on core academics;

- (B) the development and implementation of competency-based education and progress-based assessments; and

- (C) the results being achieved under Subsections (3)(d)(ix)(A) and (B), as measured by individual progress-based assessments and the comparison of Utah Students' progress with the progress of students in other states using standardized norm-referenced tests as benchmarks; and

- (x) other statistical and financial information about the school system which the superintendent considers pertinent;

- (e) collecting and organizing education data into an automated decision support system to facilitate school district and school improvement planning, accountability reporting and performance recognition, and the evaluation of educational policy and program effectiveness to include:

- (i) data that are:

- (A) comparable across schools and school districts;

- (B) appropriate for use in longitudinal studies; and
- (C) comprehensive with regard to the data elements required under applicable state or federal law or state board rule;
- (ii) features that enable users, most particularly school administrators, teachers, and parents, to:
 - (A) retrieve school and school district level data electronically;
 - (B) interpret the data visually; and
 - (C) draw conclusions that are statistically valid; and
- (iii) procedures for the collection and management of education data that:
 - (A) require the state superintendent of public instruction to:
 - (I) collaborate with school districts in designing and implementing uniform data standards and definitions;
 - (II) undertake or sponsor research to implement improved methods for analyzing education data;
 - (III) provide for data security to prevent unauthorized access to or contamination of the data; and
 - (IV) protect the confidentiality of data under state and federal privacy laws; and
 - (B) require all school districts to comply with the data collection and management procedures established under Subsection (3)(e); ~~[and]~~
- (f) administering and implementing federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act; and
- ~~[(f)]~~ (g) with the approval of the board, preparing and submitting to the governor a budget for the board to be included in the budget that the governor submits to the Legislature.
- (4) Upon leaving office, the state superintendent shall deliver to his successor all books, records, documents, maps, reports, papers, and other articles pertaining to his office.

Section 2. Section **53A-1-401** is amended to read:

53A-1-401. Powers of State Board of Education -- Adoption of rules -- Enforcement.

(1) (a) The State Board of Education has general control and supervision of the state's public education system.

(b) "General control and supervision" as used in Article X, Sec. 3, of the Utah Constitution means directed to the whole system.

(2) The board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.

(3) The board may adopt rules and policies in accordance with its responsibilities under the constitution and state laws, and may interrupt disbursements of state aid to any district which fails to comply with rules adopted in accordance with this Subsection (3).

(4) (a) The board may sell any interest it holds in real property upon a finding by the board that the property interest is surplus.

(b) The board may use the money it receives from a sale under Subsection (4)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

(c) If the property interest under Subsection (4)(a) was held for the benefit of an agency or institution administered by the board, the money may only be used for purposes related to the agency or institution.

(d) The board shall advise the Legislature of any sale under Subsection (4)(a) and related matters during the next following session of the Legislature.

(5) The board shall develop policies and procedures related to federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act.

Section 3. Section **53A-1-901** is enacted to read:

Part 9. Implementing Federal Programs Act

53A-1-901. Title.

This part is known as the "Implementing Federal Programs Act."

Section 4. Section **53A-1-902** is enacted to read:

53A-1-902. Definitions.

As used in this part:

(1) "Federal programs" include:

(a) the No Child Left Behind Act;
(b) the Individuals with Disabilities Education Act Amendments of 1997, Public Law 105-17, and subsequent amendments; and
(c) other federal educational programs.
(2) "No Child Left Behind Act" means the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.

(3) "School official" includes:
(a) the State Board of Education;
(b) the state superintendent;
(c) employees of the State Board of Education and the state superintendent;
(d) local school boards;
(e) school district superintendents and employees; and
(f) charter school board members, administrators, and employees.

Section 5. Section **53A-1-903** is enacted to read:

53A-1-903. Federal programs -- School official duties.

(1) School officials may:
(a) apply for, receive, and administer funds made available through programs of the federal government;
(b) only expend federal funds for the purposes for which they are received and are accounted for by the state, school district, or charter school; and
(c) reduce or eliminate a program created with or expanded by federal funds to the extent allowed by law when federal funds for that program are subsequently reduced or eliminated.
(2) School officials shall:
(a) prioritize resources, especially to resolve conflicts between federal provisions or between federal and state programs, including:
(i) providing first priority to meeting state goals, objectives, program needs, and accountability systems as they relate to federal programs; and
(ii) providing second priority to implementing federal goals, objectives, program needs,

and accountability systems that do not directly and simultaneously advance state goals, objectives, program needs, and accountability systems;

(b) interpret the provisions of federal programs in the best interest of students in this state;

(c) maximize local control and flexibility;

(d) minimize additional state resources that are diverted to implement federal programs beyond the federal monies that are provided to fund the programs;

(e) request changes to federal educational programs, especially programs that are underfunded or provide conflicts with other state or federal programs, including:

(i) federal statutes;

(ii) federal regulations; and

(iii) other federal policies and interpretations of program provisions; and

(f) seek waivers from all possible federal statutes, requirements, regulations, and program provisions from federal education officials to:

(i) maximize state flexibility in implementing program provisions; and

(ii) receive reasonable time to comply with federal program provisions.

(3) The requirements of school officials under this part, including the responsibility to lobby federal officials, are not intended to mandate school officials to incur costs or require the hiring of lobbyists, but are intended to be performed in the course of school officials' normal duties.

Section 6. Section **53A-1-904** is enacted to read:

53A-1-904. No Child Left Behind -- State implementation.

(1) (a) In accordance with the No Child Left Behind Act, including Section 9527, school officials shall determine, as applied to their responsibilities, if the No Child Left Behind Act:

(i) requires the state to spend state or local resources in order to comply with the No Child Left Behind Act; or

(ii) causes the state, local education agencies, or schools to change curriculum in order to comply.

(b) School officials shall request a waiver under Section 9401 of the No Child Left Behind Act of any provision of the No Child Left Behind Act that violates Section 9527.

(2) In addition to the duties described under Subsection (1), school officials shall:

(a) request reasonable time to comply with the provisions of the No Child Left Behind Act;

(b) lobby Congress for needed changes to the No Child Left Behind Act; and

(c) lobby federal education officials for relief from the provisions of the No Child Left Behind Act, including waivers from federal requirements, regulations, and administrative burdens.

(3) School officials shall lobby Congress and federal education officials for needed resolution and clarification for conflicts between the No Child Left Behind Act and the Individuals with Disabilities Education Act.

(4) In the case of conflicts between the No Child Left Behind Act and the Individuals with Disabilities Education Act, the parents, in conjunction with school officials, shall determine which program best meets the educational needs of the student.

Section 7. Section **53A-3-402** is amended to read:

53A-3-402. Powers and duties generally.

(1) Each local school board shall:

(a) implement the core curriculum utilizing instructional materials that best correlate to the core curriculum and graduation requirements;

(b) administer tests, required by the State Board of Education, which measure the progress of each student, and coordinate with the state superintendent and State Board of Education to assess results and create plans to improve the student's progress which shall be submitted to the State Office of Education 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 Office of Education to establish a library of documented best

practices, consistent with state and federal regulations, for use by the local districts; and

(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 core academics.

(2) Local school boards shall spend minimum school program funds for programs and activities for which the State Board of Education has established minimum standards or rules under Section 53A-1-402.

(3) (a) A 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 board resolution affirmed by at least two-thirds of the members.

(4) (a) A 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 board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the State Board of Education.

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

(6) A 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 board may establish and support school libraries.

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

(9) A board may authorize guidance and counseling services for children and their parents or guardians prior to, during, or following enrollment of the children in schools.

(10) (a) A board ~~[may apply for, receive, and administer funds made available through~~

~~programs of the federal government.] shall administer and implement federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act.~~

(b) Federal funds are not considered funds within the school district budget under Title 53A, Chapter 19, School District Budgets.

~~[(c) Federal funds may only be expended for the purposes for which they are received and are accounted for by the board.]~~

~~[(d) A program created with or expanded by federal funds may be reduced to the extent allowed by law when federal funds for that program are subsequently reduced or eliminated.]~~

(11) (a) A board may organize school safety patrols and adopt rules under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least ten 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 board may on its own behalf, or on behalf of an educational institution for which the 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 board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2).

(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 board shall adopt bylaws and rules for its own procedures.

(15) (a) A board shall make and enforce rules necessary for the control and management

of the district schools.

(b) All board rules and policies shall be in writing, filed, and referenced for public access.

(16) A board may hold school on legal holidays other than Sundays.

(17) (a) Each 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 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 six, 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).

(e) The board shall require the school community council of each elementary, middle, and junior high school within the district to develop and submit annually to the committee a child access routing plan.

(18) (a) Each school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in its public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The board shall implement its plan by July 1, 2000.

(c) 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 Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

(iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan; and

(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).

(d) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(e) Each local school board shall, by July 1 of each year, certify to the State Board of Education 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) Each 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 inservice training 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 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 of Education, through the state superintendent of public instruction, shall provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).

(20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

Section 8. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override, except that Section 53A-1-301 (Effective 07/01/05) takes effect on July 1, 2005.