

Representative Rich Cunningham proposes the following substitute bill:

PARENTAL RIGHTS IN PUBLIC EDUCATION

AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: Rich Cunningham

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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



26 student may advance to the next grade level.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **53A-1-603**, as last amended by Laws of Utah 2013, Chapter 161

34 **53A-15-1401**, as enacted by Laws of Utah 2014, Chapter 392

35 **53A-15-1402**, as enacted by Laws of Utah 2014, Chapter 392

36 **53A-15-1403**, as enacted by Laws of Utah 2014, Chapter 392



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

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

40 **53A-1-603. Duties of State Board of Education.**

41 (1) The State Board of Education shall:

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

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

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

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

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

57 (a) as determined by the State Board of Education, statewide criterion-referenced tests
58 or online computer adaptive tests in grades 3 through 12 and courses in basic skill areas of the
59 core curriculum;

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

61 (c) college readiness assessments as detailed in Section 53A-1-611; and

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

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

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

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

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

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

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

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

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

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

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

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

87 (e) allowing a school district or charter school to have its tests administered and scored

88 electronically to accelerate the review of test scores and their usefulness to parents and
89 educators under Subsection (4)(d), without violating the integrity of U-PASS; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

119 Representatives, and the president of the Senate shall adjust the length of terms to stagger the
120 terms of committee members so that approximately 1/2 of the committee members are
121 appointed every two years.

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

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

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

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

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

133 **53A-15-1401. Definitions.**

134 As used in this part:

135 (1) "Federal law" means:

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

137 (b) a final regulation:

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

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

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

143 ~~(+)~~ (3) "LEA" means a school district, charter school, or the Utah Schools for the
144 Deaf and the Blind.

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

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

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

156 Section 3. Section **53A-15-1402** is amended to read:

157 **53A-15-1402. Annual notice of parental rights.**

158 (1) An LEA shall annually notify a parent or guardian of a student enrolled in the LEA
159 of the parent's or guardian's rights as specified in this part.

160 (2) An LEA satisfies the notification requirement described in Subsection (1) by
161 posting the information on the LEA's website or through other means of electronic
162 communication.

163 Section 4. Section **53A-15-1403** is amended to read:

164 **53A-15-1403. Parental right to academic accommodations.**

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

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

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

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

176 (i) consistent with federal law; and

177 (ii) consistent with a student's IEP if the student already has an IEP.

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

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

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

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

188 ~~[(b) An excused absence provided under Subsection (5)(a) does not diminish
189 expectations for the student's academic performance.]~~

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

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

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

197 (6) (a) An LEA shall reasonably accommodate a parent's or guardian's written request
198 to place a student in a specialized class, a specialized program, or an advanced course.

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

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

205 (a) testing out of the course; or

206 (b) demonstrating competency in course standards.

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

210 ~~[(9)(a) Upon the written request of a student's parent or guardian, an LEA shall excuse
211 the student from taking a test that is administered statewide or the National Assessment of~~

212 Educational Progress:]

213 ~~[(b) The State Board of Education shall ensure through board rule that neither an LEA~~
214 ~~nor its employees are negatively impacted through school grading or employee evaluation due~~
215 ~~to a student not taking a test pursuant to Subsection (9)(a).]~~

216 (9) (a) At the request of a student's parent or guardian, an LEA shall excuse a student
217 from taking an assessment that:

218 (i) is federally mandated;

219 (ii) is mandated by the state under this title; or

220 (iii) requires the use of:

221 (A) a state assessment system; or

222 (B) software that is provided or paid for by the state.

223 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
224 State Board of Education shall make rules:

225 (i) to establish a statewide procedure for excusing a student under Subsection (9)(a)
226 that:

227 (A) does not place an undue burden on a parent or guardian; and

228 (B) may be completed online; and

229 (ii) to prevent negative impact, to the extent authorized by state statute, to an LEA or
230 an LEA's employees through school grading or employee evaluations due to a student not
231 taking a test under Subsection (9)(a).

232 (c) An LEA:

233 (i) shall follow the procedures outlined in rules made by the State Board of Education
234 under Subsection (9)(b) to excuse a student under Subsection (9)(a);

235 (ii) may not require procedures to excuse a student under Subsection (9)(a) in addition
236 to the procedures outlined in rules made by the State Board of Education under Subsection
237 (9)(b); and

238 (iii) may not reward a student for taking an assessment described in Subsection (9)(a).

239 (d) The State Board of Education shall:

240 (i) maintain and publish a list of state assessments, state assessment systems, and
241 software that qualify under Subsection (9)(a); and

242 (ii) audit and verify an LEA's compliance with the requirements of this Subsection (9).

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

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

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

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