

**KINDERGARTEN AGE EXCEPTION AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

House Sponsor: V. Lowry Snow

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**LONG TITLE**

**General Description:**

This bill amends and enacts provisions related to the kindergarten entry age.

**Highlighted Provisions:**

This bill:

- ▶ allows a student to enter kindergarten before the student is five years old, under certain conditions;
- ▶ gives rulemaking authority; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

AMENDS:

**53A-3-402**, as last amended by Laws of Utah 2015, Chapters 399 and 415

**53A-3-402.7**, as enacted by Laws of Utah 1993, Chapter 122

**Utah Code Sections Affected by Coordination Clause:**

**53A-3-402.7**, as enacted by Laws of Utah 1993, Chapter 122

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



28 Section 1. Section 53A-3-402 is amended to read:

29 **53A-3-402. Powers and duties generally.**

30 (1) Each local school board shall:

31 (a) implement the core standards for Utah public schools utilizing instructional  
32 materials that best correlate to the core standards for Utah public schools and graduation  
33 requirements;

34 (b) administer tests, required by the State Board of Education, which measure the  
35 progress of each student, and coordinate with the state superintendent and State Board of  
36 Education to assess results and create plans to improve the student's progress which shall be  
37 submitted to the State Office of Education for approval;

38 (c) use progress-based assessments as part of a plan to identify schools, teachers, and  
39 students that need remediation and determine the type and amount of federal, state, and local  
40 resources to implement remediation;

41 (d) develop early warning systems for students or classes failing to make progress;

42 (e) work with the State Office of Education to establish a library of documented best  
43 practices, consistent with state and federal regulations, for use by the local districts; and

44 (f) implement training programs for school administrators, including basic  
45 management training, best practices in instructional methods, budget training, staff  
46 management, managing for learning results and continuous improvement, and how to help  
47 every child achieve optimal learning in basic academic subjects.

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

51 (3) (a) A board may purchase, sell, and make improvements on school sites, buildings,  
52 and equipment and construct, erect, and furnish school buildings.

53 (b) School sites or buildings may only be conveyed or sold on board resolution  
54 affirmed by at least two-thirds of the members.

55 (4) (a) A board may participate in the joint construction or operation of a school  
56 attended by children residing within the district and children residing in other districts either  
57 within or outside the state.

58 (b) Any agreement for the joint operation or construction of a school shall:

- 59 (i) be signed by the president of the board of each participating district;
- 60 (ii) include a mutually agreed upon pro rata cost; and
- 61 (iii) be filed with the State Board of Education.
- 62 (5) A board may establish, locate, and maintain elementary, secondary, and applied
- 63 technology schools.
- 64 (6) Except as provided in Section [53A-1-1001](#) or Section [53A-3-402.7](#), a board may
- 65 enroll children in school who are at least five years of age before September 2 of the year in
- 66 which admission is sought.
- 67 (7) A board may establish and support school libraries.
- 68 (8) A board may collect damages for the loss, injury, or destruction of school property.
- 69 (9) A board may authorize guidance and counseling services for children and their
- 70 parents or guardians prior to, during, or following enrollment of the children in schools.
- 71 (10) (a) A board shall administer and implement federal educational programs in
- 72 accordance with Title 53A, Chapter 1, Part 9, Implementing Federal or National Education
- 73 Programs Act.
- 74 (b) Federal funds are not considered funds within the school district budget under Title
- 75 53A, Chapter 19, Public School Budgets.
- 76 (11) (a) A board may organize school safety patrols and adopt rules under which the
- 77 patrols promote student safety.
- 78 (b) A student appointed to a safety patrol shall be at least 10 years old and have written
- 79 parental consent for the appointment.
- 80 (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion
- 81 of a highway intended for vehicular traffic use.
- 82 (d) Liability may not attach to a school district, its employees, officers, or agents or to a
- 83 safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting
- 84 the program by virtue of the organization, maintenance, or operation of a school safety patrol.
- 85 (12) (a) A board may on its own behalf, or on behalf of an educational institution for
- 86 which the board is the direct governing body, accept private grants, loans, gifts, endowments,
- 87 devises, or bequests that are made for educational purposes.
- 88 (b) These contributions are not subject to appropriation by the Legislature.
- 89 (13) (a) A board may appoint and fix the compensation of a compliance officer to issue

90 citations for violations of Subsection 76-10-105(2).

91 (b) A person may not be appointed to serve as a compliance officer without the  
92 person's consent.

93 (c) A teacher or student may not be appointed as a compliance officer.

94 (14) A board shall adopt bylaws and rules for its own procedures.

95 (15) (a) A board shall make and enforce rules necessary for the control and  
96 management of the district schools.

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

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

100 (17) (a) Each board shall establish for each school year a school traffic safety  
101 committee to implement this Subsection (17).

102 (b) The committee shall be composed of one representative of:

103 (i) the schools within the district;

104 (ii) the Parent Teachers' Association of the schools within the district;

105 (iii) the municipality or county;

106 (iv) state or local law enforcement; and

107 (v) state or local traffic safety engineering.

108 (c) The committee shall:

109 (i) receive suggestions from school community councils, parents, teachers, and others  
110 and recommend school traffic safety improvements, boundary changes to enhance safety, and  
111 school traffic safety program measures;

112 (ii) review and submit annually to the Department of Transportation and affected  
113 municipalities and counties a child access routing plan for each elementary, middle, and junior  
114 high school within the district;

115 (iii) consult the Utah Safety Council and the Division of Family Health Services and  
116 provide training to all school children in kindergarten through grade six, within the district, on  
117 school crossing safety and use; and

118 (iv) help ensure the district's compliance with rules made by the Department of  
119 Transportation under Section 41-6a-303.

120 (d) The committee may establish subcommittees as needed to assist in accomplishing

121 its duties under Subsection (17)(c).

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

125 (b) The plan shall:

126 (i) include prevention, intervention, and response components;

127 (ii) be consistent with the student conduct and discipline policies required for school  
128 districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

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

131 (iv) provide for coordination with local law enforcement and other public safety  
132 representatives in preventing, intervening, and responding to violence in the areas and activities  
133 referred to in Subsection (18)(a); and

134 (v) include procedures to notify a student, to the extent practicable, who is off campus  
135 at the time of a school violence emergency because the student is:

136 (A) participating in a school-related activity; or

137 (B) excused from school for a period of time during the regular school day to  
138 participate in religious instruction at the request of the student's parent or guardian.

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

142 (d) Each local school board shall, by July 1 of each year, certify to the State Board of  
143 Education that its plan has been practiced at the school level and presented to and reviewed by  
144 its teachers, administrators, students, and their parents and local law enforcement and public  
145 safety representatives.

146 (19) (a) Each local school board may adopt an emergency response plan for the  
147 treatment of sports-related injuries that occur during school sports practices and events.

148 (b) The plan may be implemented by each secondary school in the district that has a  
149 sports program for students.

150 (c) The plan may:

151 (i) include emergency personnel, emergency communication, and emergency

152 equipment components;

153 (ii) require inservice training on the emergency response plan for school personnel who  
154 are involved in sports programs in the district's secondary schools; and

155 (iii) provide for coordination with individuals and agency representatives who:

156 (A) are not employees of the school district; and

157 (B) would be involved in providing emergency services to students injured while  
158 participating in sports events.

159 (d) The board, in collaboration with the schools referred to in Subsection (19)(b), may  
160 review the plan each year and make revisions when required to improve or enhance the plan.

161 (e) The State Board of Education, through the state superintendent of public  
162 instruction, shall provide local school boards with an emergency plan response model that local  
163 boards may use to comply with the requirements of this Subsection (19).

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

166 (21) (a) Before closing a school or changing the boundaries of a school, a board shall:

167 (i) hold a public hearing, as defined in Section 10-9a-103; and

168 (ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

169 (b) The notice of a public hearing required under Subsection (21)(a) shall:

170 (i) indicate the:

171 (A) school or schools under consideration for closure or boundary change; and

172 (B) date, time, and location of the public hearing; and

173 (ii) at least 10 days prior to the public hearing, be:

174 (A) published:

175 (I) in a newspaper of general circulation in the area; and

176 (II) on the Utah Public Notice Website created in Section 63F-1-701; and

177 (B) posted in at least three public locations within the municipality or on the district's  
178 official website.

179 (22) A board may implement a facility energy efficiency program established under  
180 Title 11, Chapter 44, Performance Efficiency Act.

181 Section 2. Section 53A-3-402.7 is amended to read:

182 **53A-3-402.7. Kindergartens -- Establishment -- Funding.**

183 (1) Kindergartens are an integral part of the state's public education system.

184 (2) ~~[By July 1, 1994, each]~~ (a) A local school board [of education] shall provide  
185 kindergarten classes free of charge for kindergarten children residing within the district.

186 ~~[(3) Kindergartens]~~ (b) A kindergarten established under Subsection (2)(a) shall  
187 receive state money under ~~[Title 53A,]~~ Chapter 17a, Minimum School Program Act.

188 (3) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
189 and this Subsection (3), the State Board of Education shall make rules that provide for a school  
190 district or charter school to enroll in kindergarten a student who is younger than five years old.

191 (b) A local school board or charter school governing board shall enroll in kindergarten  
192 a child who is younger than five years old on September 2 of the year the child seeks to enroll  
193 if:

194 (i) the child turns five on or before December 31 of the year in which the child seeks to  
195 enroll in kindergarten;

196 (ii) the child's parent or legal guardian requests to enroll the child; and

197 (iii) the local school board or charter school governing board determines that the child  
198 is ready for kindergarten, based on:

199 (A) the child's score on a kindergarten entry assessment; and

200 (B) other factors related to kindergarten readiness, as determined by the local school  
201 board or charter school governing board, in accordance with State Board of Education rules  
202 described in Subsection (3)(a).

203 (c) A local school board or charter school governing board may charge a parent or legal  
204 guardian a fee to administer the assessment described in Subsection (3)(b)(iii)(A).

205 Section 3. **Coordinating S.B. 163 with H.B. 42 -- Substantive and technical**  
206 **amendments.**

207 If this S.B. 163 and H.B. 42, Optional Enhanced Kindergarten Amendments, both pass  
208 and become law, it is the intent of the Legislature that the Office of Legislative Research and  
209 General Counsel shall prepare the Utah Code database for publication by amending Subsection  
210 53A-3-402.7(3) to add a new Subsection (3)(d) as follows:

211 "(d) A school district or charter school shall use the kindergarten entry assessment  
212 developed by the State Board of Education under Subsection 53A-17a-167(2)(c) for the  
213 assessment described in Subsection (3)(b)(iii)(A)."

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**Legislative Review Note  
Office of Legislative Research and General Counsel**