

LOCAL SCHOOL OPTIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: _____

LONG TITLE

General Description:

This bill allows an eligible education entity that meets certain conditions to replace certain requirements with a local policy and be exempt from requirements that apply to district schools but not charter schools.

Highlighted Provisions:

This bill:

- ▶ creates the Neighborhood School Empowerment Act;
- ▶ defines terms;
- ▶ allows an eligible education entity that meets certain conditions to replace certain statewide requirements related to employee evaluations and other human resource policies with local policies or programs;
- ▶ allows an eligible education entity that meets certain conditions to be exempt from requirements that apply to school districts but not charter schools;
- ▶ provides rulemaking authority; and
- ▶ requires the board to report to the Education Interim Committee.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 **53A-1a-511**, as last amended by Laws of Utah 2016, Chapters 355 and 363

30 ENACTS:

31 **53A-1a-1101**, Utah Code Annotated 1953

32 **53A-1a-1102**, Utah Code Annotated 1953

33 **53A-1a-1103**, Utah Code Annotated 1953

34 **53A-1a-1104**, Utah Code Annotated 1953

35 **53A-1a-1105**, Utah Code Annotated 1953

36 **53A-8a-103**, Utah Code Annotated 1953



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

39 Section 1. Section **53A-1a-511** is amended to read:

40 **53A-1a-511. Waivers from state board rules -- Application of statutes and rules**
41 **to charter schools.**

42 (1) A charter school shall operate in accordance with its charter and is subject to Title
43 53A, State System of Public Education, and other state laws applicable to public schools,
44 except as otherwise provided in this part.

45 (2) (a) A charter school or any other public school or school district may apply to the
46 State Board of Education for a waiver of any state board rule that inhibits or hinders the school
47 or the school district from accomplishing its mission or educational goals set out in its strategic
48 plan or charter.

49 (b) The state board may grant the waiver, unless:

50 (i) the waiver would cause the school district or the school to be in violation of state or
51 federal law; or

52 (ii) the waiver would threaten the health, safety, or welfare of students in the district or
53 at the school.

54 (c) If the State Board of Education denies the waiver, the reason for the denial shall be
55 provided in writing to the waiver applicant.

56 (3) (a) Except as provided in Subsection (3)(b), State Board of Education rules
57 governing the following do not apply to a charter school:

58 (i) school libraries;

59 (ii) required school administrative and supervisory services; and

60 (iii) required expenditures for instructional supplies.

61 (b) A charter school shall comply with rules implementing statutes that prescribe how
62 state appropriations may be spent.

63 (4) The following provisions of Title 53A, State System of Public Education, and rules
64 adopted under those provisions, do not apply to a charter school:

65 (a) Sections [53A-1a-108](#) and [53A-1a-108.5](#), requiring the establishment of a school
66 community council and school improvement plan;

67 (b) Section [53A-3-420](#), requiring the use of activity disclosure statements;

68 (c) Section [53A-12-207](#), requiring notification of intent to dispose of textbooks;

69 (d) Section [53A-13-107](#), requiring annual presentations on adoption;

70 (e) Sections [53A-19-103](#) and [53A-19-105](#) pertaining to fiscal procedures of school
71 districts and local school boards; and

72 (f) Section [53A-14-107](#), requiring an independent evaluation of instructional materials.

73 (5) (a) Except as provided in Subsection (5)(b), a school district is subject to:

74 (i) the State Board of Education rules described in Subsection (3)(a); and

75 (ii) the statutory provisions described in Subsections (4)(a) through (f).

76 (b) A school district may be exempted from a provision described in Subsection (5)(a)
77 as described in Section [53A-1a-1103](#).

78 ~~[(5)]~~ (6) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter
79 school is considered an educational procurement unit as defined in Section [63G-6a-103](#).

80 ~~[(6)]~~ (7) Each charter school shall be subject to:

81 (a) Title 52, Chapter 4, Open and Public Meetings Act; and

82 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

83 ~~[(7)]~~ (8) A charter school is exempt from Section [51-2a-201.5](#), requiring accounting
84 reports of certain nonprofit corporations. A charter school is subject to the requirements of
85 Section [53A-1a-507](#).

86 ~~[(8)]~~ (9) (a) The State Charter School Board shall, in concert with the charter schools,
87 study existing state law and administrative rules for the purpose of determining from which
88 laws and rules charter schools should be exempt.

89 (b) (i) The State Charter School Board shall present recommendations for exemption to

90 the State Board of Education for consideration.

91 (ii) The State Board of Education shall consider the recommendations of the State
92 Charter School Board and respond within 60 days.

93 Section 2. Section **53A-1a-1101** is enacted to read:

94 **Part 11. Neighborhood School Empowerment Act**

95 **53A-1a-1101. Title.**

96 This part is known as "Neighborhood School Empowerment Act."

97 Section 3. Section **53A-1a-1102** is enacted to read:

98 **53A-1a-1102. Definitions.**

99 As used in this part:

100 (1) "Board" means the State Board of Education.

101 (2) "Eligible education entity" means:

102 (a) a school district;

103 (b) a school within a school district; or

104 (c) a charter school.

105 (3) "Request for certification" means a request submitted by an eligible education
106 entity to the board to certify that the eligible education meets the conditions to be exempted
107 from the requirements described in Subsection [53A-1a-1103](#)(1).

108 (4) "School community council" means the same as that term is defined in Section
109 [53A-1a-108](#).

110 Section 4. Section **53A-1a-1103** is enacted to read:

111 **53A-1a-1103. Statewide requirements authorized for replacement policy or**
112 **exemption -- Conditions for granting a request for certification -- State Board of**
113 **Education duties -- Duration.**

114 (1) (a) Notwithstanding the statutes described in Subsection (1)(a)(i), in accordance
115 with this section, an eligible education entity may submit to the board a request for
116 certification, and the board may certify that the eligible education entity may implement a
117 locally developed program or policy to replace:

118 (i) a program or requirement described in:

119 (A) Chapter 8a, Part 3, Employee Evaluations;

120 (B) Chapter 8a, Part 4, Educator Evaluations;

121 (C) Chapter 8a, Part 5, Orderly School Termination Procedures;
122 (D) Chapter 8a, Part 6, Performance Compensation; or
123 (E) Chapter 8a, Part 7, Evaluation and Compensation of Administrators; or
124 (ii) a board rule implementing a statute described in Subsection (1)(a)(i).
125 (b) Notwithstanding the provisions described in Section 53A-1a-511, in accordance
126 with this section, an eligible education entity may submit to the board a request for
127 certification, and the board may certify that the eligible education entity may be exempt from:
128 (i) a board rule described in Subsection 53A-1a-511(3); or
129 (ii) a statute described in Subsection 53A-1a-511(4).
130 (2) An eligible education entity shall submit a request for certification to the board
131 describing how the eligible education entity meets the conditions described in Subsection
132 (3)(b) if the eligible education entity seeks to:
133 (a) replace a requirement described in Subsection (1)(a) with a locally developed
134 program or policy; or
135 (b) be exempt from complying with a requirement described in Subsection (1)(b).
136 (3) (a) The board shall evaluate a request for certification received under Subsection
137 (2) to determine if the request for certification meets the conditions described in Subsection
138 (3)(b).
139 (b) Except as provided in Subsection (3)(d), the board shall grant a request for
140 certification if, in the request for certification, the eligible education entity submitting the
141 request for certification demonstrates to the board that:
142 (i) the eligible education entity has identified the specific requirements described in
143 Subsection (1)(a) that the eligible education entity seeks to replace or the specific requirements
144 described in Subsection (1)(b) from which the eligible education entity seeks to be exempt and
145 the reason that the eligible education entity seeks to replace or be exempt from the
146 requirements;
147 (ii) the eligible education entity's request for certification has been approved by:
148 (A) for an eligible education entity that is a school district, the local school board;
149 (B) for an eligible education entity that is a school within a school district, the school
150 community council and the local school board; or
151 (C) for an eligible education entity that is a charter school, the charter school governing

152 board;

153 (iii) the eligible education entity is current on all required reports to the board;

154 (iv) the eligible education entity has a plan to monitor and regularly evaluate the
155 effectiveness of each locally adopted policy or program or exemption authorized under this

156 section that:

157 (A) provides goals for the locally developed program or policy or exemption described
158 in a request for certification; and

159 (B) describes how the eligible education entity will measure progress toward the goals
160 described in a request for certification;

161 (v) granting the request for certification would not cause the eligible education entity to
162 be in violation of federal law; and

163 (vi) for an eligible education entity that intends to replace a requirement described in
164 Subsection (1)(a), the eligible education entity has submitted a local employee evaluation or
165 orderly termination program or policy to the board.

166 (c) The board may not grant a request for certification unless the eligible education
167 entity that submits the request for certification meets the conditions described in Subsection
168 (3)(b).

169 (d) The board may not grant a request for certification if granting the request for
170 certification would cause more than 15% of all students enrolled in a public school in the state
171 to be enrolled in a school or school district for which a request for certification has been
172 granted under this section.

173 (e) If the board denies a request for certification submitted under Subsection (2), the
174 board shall provide in writing the reason for the denial to the eligible education entity that
175 submitted the request for certification.

176 (4) (a) A request for certification granted under Subsection (3)(b) is valid for up to five
177 years.

178 (b) The board may extend a request for certification beyond five years if the eligible
179 education entity that is granted the request for certification:

180 (i) requests an extension; and

181 (ii) based on an evaluation described in Subsection (3)(b)(iv), demonstrates that the
182 locally developed program or policy or exemption from requirements described in Subsection

183 (1)(b) is effective.

184 (c) The board may revoke the authorization for an eligible education entity to replace a
185 requirement described in Subsection (1)(a) with a locally developed program or policy or the
186 authorization for an eligible education entity to be exempt from a requirement described in
187 Subsection (1)(b) at any time if the eligible education entity fails to meet the conditions
188 described in Subsection (3)(b).

189 (d) At the request of an eligible education entity, the board shall revoke an eligible
190 education entity's authorization to:

191 (i) replace a requirement described in Subsection (1)(a) with a locally developed
192 program or policy; or

193 (ii) be exempt from a requirement described in Subsection (1)(b).

194 Section 5. Section **53A-1a-1104** is enacted to read:

195 **53A-1a-1104. Rulemaking.**

196 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
197 board shall make rules to:

198 (1) establish a deadline for submitting a request for certification described in this part;
199 and

200 (2) establish a process for determining if a request for certification meets the conditions
201 described in Section [53A-1a-1103](#).

202 Section 6. Section **53A-1a-1105** is enacted to read:

203 **53A-1a-1105. Reporting.**

204 The board shall report annually to the Education Interim Committee, on or before
205 November 15, on each request for certification granted under this part, including at least the
206 following information:

207 (1) each eligible education entity that has a request for certification granted under this
208 part;

209 (2) the specific statutory or regulatory provisions included in each request for
210 certification granted;

211 (3) information about how an eligible education entity that was granted a request for
212 certification performs against the goals described in Section [53A-1a-1103](#); and

213 (4) how the eligible education entity that was granted a request for certification meets

214 the conditions described in Section [53A-1a-1103](#).

215 Section 7. Section **53A-8a-103** is enacted to read:

216 **53A-8a-103. Applicability of part.**

217 (1) Except as provided in Subsection (2), a school district shall comply with the
218 provisions of this part.

219 (2) A school district that is authorized to adopt a locally developed program or policy
220 under Section [53A-1a-1103](#) may replace, with the locally developed program or policy, a
221 program or requirement described in:

222 (a) Chapter 8a, Part 3, Employee Evaluations;

223 (b) Chapter 8a, Part 4, Educator Evaluations;

224 (c) Chapter 8a, Part 5, Orderly School Termination Procedures;

225 (d) Chapter 8a, Part 6, Performance Compensation; or

226 (e) Chapter 8a, Part 7, Evaluation and Compensation of Administrators.

Legislative Review Note
Office of Legislative Research and General Counsel