

Senator Kathleen A. Riebe proposes the following substitute bill:

IN-PERSON LEARNING AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions regarding in-person learning requirements and test negative to stay programs within public schools.

Highlighted Provisions:

This bill:

- ▶ suspends a test negative to stay program requirement;
- ▶ amends provisions regarding the computation of the case threshold that triggers the test negative to stay program requirement;
- ▶ clarifies when a student may return to school during a test negative to stay event;
- ▶ provides additional procedural requirements for the application of an exception to an in-person learning requirement; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:



26 AMENDS:

27 [26-6-42](#), as enacted by Laws of Utah 2021, Chapter 435

28 [53G-9-210](#), as last amended by Laws of Utah 2021, First Special Session, Chapter 7

29 **Utah Code Sections Affected by Revisor Instructions:**

30 [26-6-42](#), as enacted by Laws of Utah 2021, Chapter 435

31

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

33 Section 1. Section **26-6-42** is amended to read:

34 **26-6-42. Department support for local education agency test negative to stay**
35 **programs -- Department guidance for local education agencies.**

36 (1) As used in this section:

37 (a) "Case threshold" means the same as that term is defined in Section [53G-9-210](#).

38 (b) "COVID-19" means the same as that term is defined in Section [53G-9-210](#).

39 (c) "Local education agency" or "LEA" means the same as that term is defined in
40 Section [53G-9-210](#).

41 (d) "Test negative to stay program" means the same as that term is defined in Section
42 [53G-9-210](#).

43 (2) At the request of an LEA, the department shall provide support for the LEA's test to
44 stay program if a school in the LEA reaches the case threshold, including by providing:

45 (a) COVID-19 testing supplies;

46 (b) a mobile testing unit; and

47 (c) other support requested by the LEA related to the LEA's test negative to stay
48 program.

49 (3) The department shall ensure that guidance the department provides to LEAs related
50 to test negative to stay programs complies with Section [53G-9-210](#), including the determination
51 of whether a school meets a case threshold described in Subsection [53G-9-210\(3\)](#).

52 (4) Subsection (2) regarding the requirement to support an LEA's test negative to stay
53 program does not apply after the effective date of this bill unless the test negative to stay
54 requirement is triggered under Subsection [53G-9-210\(2\)\(c\)](#).

55 Section 2. Section **53G-9-210** is amended to read:

56 **53G-9-210. Requirement for in-person instruction -- Test negative to stay**

57 **programs -- Face coverings.**

58 (1) As used in this section:

59 (a) "Case threshold" means as applicable, the number of students in a school, or
60 percentage of students in a school who meet the conditions described in Subsection (3).

61 (b) "COVID-19" means:

62 (i) severe acute respiratory syndrome coronavirus 2; or

63 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

64 (c) "Estimated incubation period" means a period of time that the Department of
65 Health identifies as the number of days between exposure and symptom onset for a given
66 variant of COVID-19.

67 [~~(e)~~] (d) "Extracurricular activity" means the same as that term is defined in Section
68 [53G-7-501](#).

69 [~~(d)~~] (e) "Face covering" means a mask, shield, or other device that is intended to be
70 worn in a manner to cover the mouth, nose, or face to prevent the spread of COVID-19.

71 [~~(e)~~] (f) "In-person instruction" means instruction offered by a school that allows a
72 student to choose to attend school in-person at least four days per week if the student:

73 (i) is enrolled in a school that is not implementing a test negative to stay program; or

74 (ii) (A) is enrolled in a school that is implementing a test negative to stay program; and

75 (B) meets the test negative to stay program's criteria for attending school in person.

76 [~~(f)~~] (g) "Local Education Agency" or LEA means:

77 (i) a school district;

78 (ii) a charter school, other than an online-only charter school; or

79 (iii) the Utah Schools for the Deaf and the Blind.

80 [~~(g)~~] (h) "School" means a school other than an online-only charter school or an
81 online-only public school.

82 (i) "Remote learning" means primarily synchronous learning through which an
83 educator and students connect in the same virtual method concurrently instead of solely
84 individualized online work.

85 [~~(h)~~] (j) "Test negative to stay program" means a program through which an LEA
86 provides testing for COVID-19 for students during an outbreak of COVID-19 at a school in
87 order to:

- 88 (i) identify cases of COVID-19; and
- 89 (ii) allow individuals to attend school in person who:
- 90 (A) test negative for COVID-19 [to attend school in person.] during the test negative to
- 91 stay program; or
- 92 (B) are cleared to return to school after the estimated incubation period.
- 93 (2) (a) An LEA shall:
- 94 (i) except as provided in Subsection (2)(b), beginning on March 22, 2021, ensure that a
- 95 school offers in-person instruction; and
- 96 (ii) if the determination described in Subsection (2)(c) has been made, require a school
- 97 that reaches the case threshold to:
- 98 (A) fulfill the requirement described in Subsection (2)(a)(i) by initiating a test negative
- 99 to stay program for the school; and
- 100 (B) provide a remote learning option for students who do not wish to attend in person.
- 101 (b) [The] Beginning January 31, 2022, the requirement to provide in-person instruction
- 102 described in Subsection (2)(a) does not apply for a temporary period of remote learning within
- 103 an LEA or a given school within an LEA if:
- 104 (i) the COVID-19 case rates within one or more schools within the LEA have
- 105 surpassed the case threshold;
- 106 (ii) the local governing board requests application of the exception by delivering to the
- 107 governor, the president of the Senate, the speaker of the House of Representatives, and the state
- 108 superintendent of public instruction [~~jointly concur with an LEA's~~] a letter that details:
- 109 (A) information regarding the case threshold requirement described in Subsection
- 110 (2)(b)(i);
- 111 (B) the local governing board's assessment that due to public health emergency
- 112 circumstances within the LEA or given school, the risks related to in-person instruction
- 113 temporarily outweigh the value of in-person instruction[-];
- 114 (C) a public meeting of the local governing board in which the board voted to request
- 115 the exception described in this Subsection (2)(b);
- 116 (D) a specific and temporary period of time for which the local governing board seeks
- 117 a pivot to remote learning within the LEA or given school; and
- 118 (E) the measures the local governing board will implement for the LEA or given school

119 to return to in-person learning following the identified temporary remote learning period; and
120 (iii) the governor, the president of the Senate, the speaker of the House of
121 Representatives, and the state superintendent of public instruction jointly confer and approve,
122 or approve with modifications, the request described in Subsection (2)(b)(i).

123 (c) The requirement to initiate a test negative to stay program described in Subsection
124 (2)(a)(ii) only applies if, in consultation with the Department of Health, the governor, the
125 president of the Senate, the speaker of the House of Representatives, and the state
126 superintendent of public instruction jointly determine that a variant of COVID-19 currently
127 affecting the public education system is of a type that testing and isolation under a test negative
128 to stay program would be effective in mitigating the harmful public health effects of the
129 variant.

130 (3) (a) For purposes of determining whether a school has reached the school's case
131 threshold, a student is included in positive cases for the school if the student:

132 (i) within the preceding [~~14 days~~] number of days equal to the estimated incubation
133 period:

134 (A) attended at least some in-person instruction at the school; and

135 (B) tested positive for COVID-19; and

136 (ii) did not receive the student's positive COVID-19 test results through regular
137 periodic testing required to participate in LEA-sponsored athletics or another LEA-sponsored
138 extracurricular activity.

139 (b) (i) A school with 1,500 or more students meets the case threshold if at least 2% of
140 the school's students meet the conditions described in Subsection (3)(a).

141 (ii) A school with fewer than 1,500 students meets the case threshold if 30 or more of
142 the school's students meet the conditions described in Subsection (3)(a).

143 (4) (a) An LEA may not test a student for COVID-19 who is younger than 18 years old
144 without the consent of the student's parent.

145 (b) An LEA may seek advance consent from a student's parent for future testing for
146 COVID-19.

147 (5) An LEA, an LEA governing board, the state board, the state superintendent, or a
148 school may not require an individual to wear a face covering to attend or participate in
149 in-person instruction, LEA-sponsored athletics, or another LEA-sponsored extracurricular

150 activity, or in any other place on the campus of a school or school facility after the end of the
151 2020-2021 school year.

152 Section 3. **Effective date.**

153 If approved by two-thirds of all the members elected to each house, this bill takes effect
154 upon approval by the governor, or the day following the constitutional time limit of Utah
155 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
156 the date of veto override.

157 Section 4. **Revisor instructions.**

158 The Legislature intends that the Office of Legislative Research and General Counsel, in
159 preparing the Utah Code database for publication, replace the reference in Section
160 [26-6-42](#) from "the effective date of this bill" to the bill's actual effective date.