

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 to stay programs within public schools.

Highlighted Provisions:

This bill:

- ▶ amends provisions regarding the computation of the case threshold that triggers a test to stay program;
- ▶ clarifies when a student may return to school during a test to stay event;
- ▶ amends an exception to an in-person learning requirement based on a local elected official and school determination; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-9-210, as last amended by Laws of Utah 2021, First Special Session, Chapter 7



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

Section 1. Section **53G-9-210** is amended to read:

53G-9-210. Requirement for in-person instruction -- Test to stay programs --

Face coverings.

(1) As used in this section:

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

(b) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

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

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

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

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

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

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

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

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

~~(g)~~ (g) "Local Education Agency" or LEA means:

(i) a school district;

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

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

~~(h)~~ (h) "School" means a school other than an online-only charter school or an online-only public school.

~~(i)~~ (i) "Test to stay program" means a program through which an LEA provides testing for COVID-19 for students during an outbreak of COVID-19 at a school in order to:

- 57 (i) identify cases of COVID-19; and
- 58 (ii) allow individuals to attend school in person who:
- 59 (A) test negative for COVID-19 [to attend school in person.] during the test to stay
- 60 program; or
- 61 (B) are cleared to return to school after the estimated incubation period; and
- 62 (iii) require students who test positive or who are not tested to attend school remotely
- 63 during the estimated incubation period.
- 64 (2) (a) An LEA [~~shall~~]:
- 65 (i) shall except as provided in Subsection (2)(b), beginning on March 22, 2021, ensure
- 66 that a school offers in-person instruction; and
- 67 (ii) may require a school that reaches the case threshold to:
- 68 (A) fulfill the requirement described in Subsection (2)(a)(i) by initiating a test to stay
- 69 program for the school; and
- 70 (B) provide a remote learning option for students who do not wish to attend in person.
- 71 (b) [~~The~~] Beginning January 31, 2022, the requirement to provide in-person instruction
- 72 described in Subsection (2)(a) does not apply for a temporary period [~~if the governor, the~~
- 73 ~~president of the Senate, the speaker of the House of Representatives, and the state~~
- 74 ~~superintendent of public instruction jointly concur with an LEA's assessment]~~ of remote
- 75 learning within an LEA or a given school within an LEA if:
- 76 (i) (A) less than 10% of all staff, including bus drivers, food handlers, and custodians,
- 77 are available to safely work; and
- 78 (B) less than 40% of open needs for substitutes are being filled by substitutes; or
- 79 (ii) (A) the COVID-19 case rates within one or more schools within the LEA have
- 80 surpassed the case threshold; and
- 81 (B) the local governing board, the district superintendent for an LEA that is a school
- 82 district, and the relevant local county health department jointly determine that due to public
- 83 health emergency circumstances within the LEA or given school, the risks related to in-person
- 84 instruction temporarily outweigh the value of in-person instruction.
- 85 (3) (a) For purposes of determining whether a school has reached the school's case
- 86 threshold, a student is included in positive cases for the school if the student:
- 87 (i) within the preceding [~~14 days~~] number of days equal to the estimated incubation

88 period:

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

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

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

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

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

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

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

102 (5) An LEA, an LEA governing board, the state board, the state superintendent, or a
103 school may not require an individual to wear a face covering to attend or participate in
104 in-person instruction, LEA-sponsored athletics, or another LEA-sponsored extracurricular
105 activity, or in any other place on the campus of a school or school facility after the end of the
106 2020-2021 school year.

107 Section 2. **Effective date.**

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