

**Representative Steve Waldrip** proposes the following substitute bill:

**CHANGES TO EDUCATION GOVERNANCE**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Waldrip**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill creates a process for appealing certain local education agency actions to the State Board of Education.

**Highlighted Provisions:**

This bill:

- ▶ permits parents or local education agency (LEA) employees to appeal certain actions of an LEA governing board;
- ▶ requires an LEA governing board to create a public appeal process for parents or LEA employees to appeal certain actions to the LEA governing board;
- ▶ requires the State Board of Education (state board) to:
  - establish appeal procedures; and
  - appoint an appeal ombudsman to receive petitions and advise the public regarding the appeal process;
- ▶ permits the state board to:
  - establish a committee to assist the state board in carrying out its duties; and
  - issue rulings on certain appeals;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **53E-3-524**, Utah Code Annotated 1953



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

35 Section 1. Section **53E-3-524** is enacted to read:

36 **53E-3-524. Public education appeal.**

37 (1) As used in this section:

38 (a) "Appeal ombudsman" or "ombudsman" means the ombudsman the state board  
39 appoints under Subsection (2).

40 (b) "Appeal procedures" means the rules the state board establishes under Subsection  
41 (2).

42 (c) "Authorized petition" means a petition that meets the requirements of this section.

43 (d) "Core standards for Utah public schools" means the standards established by the  
44 state board as described in Section [53E-4-202](#).

45 (e) "Eligible LEA employee petitioners" means LEA employees equaling at least the  
46 lesser of:

47 (i) 35 LEA employees in the LEA; or

48 (ii) 25% of LEA employees in the LEA.

49 (f) "Eligible petitioners" means parents, or parents and LEA employees, equaling at  
50 least the lesser of:

51 (i) 100 parents, or parents and LEA employees, in the LEA; or

52 (ii) 25% of parents, or parents and employees, in the LEA.

53 (g) "LEA employee" means an individual employed in an LEA that takes a qualifying  
54 action.

55 (h) "Parent" means the parent of a student enrolled in an LEA that takes a qualifying  
56 action.

57 (i) "Petition" means a petition to appeal a qualifying action that eligible petitioners or  
58 eligible LEA employee petitioners allege:

59 (i) violates state board rule, a statutory requirement, or other provision of law; or

60 (ii) is an urgent action.

61 (j) (i) "Qualifying action" means a decision or policy that an LEA governing board  
62 establishes by majority vote at a meeting of the LEA governing board.

63 (ii) "Qualifying action" does not include an individual LEA governing board member's  
64 statement.

65 (iii) "Qualifying action" does not include an LEA governing board's decision or policy  
66 related to:

67 (A) bonding or levying a property tax;

68 (B) borrowing money;

69 (C) LEA budgets or expenditures;

70 (D) LEA governing board elections;

71 (E) school district boundaries;

72 (F) a school's location;

73 (G) a school's permanent closure;

74 (H) curriculum or instructional materials that meet the core standards for Utah public  
75 schools as reasonably determined by the LEA;

76 (I) a school's name or mascot;

77 (J) discipline of an individual student;

78 (K) LEA or school personnel matters, including employee evaluations, a plan of  
79 correction, employee discipline, employee salaries, or teaching assignments;

80 (L) an LEA governing board's statement of an official policy position;

81 (M) an LEA governing board's makeup; or

82 (N) contract negotiations, including negotiations related to employment contracts.

83 (iv) "Qualifying action" does not include an LEA governing board's decision or policy  
84 made in compliance with:

85 (A) statutory requirements; or

86 (B) a court order.

87 (k) "Urgent action" means a qualifying action that:

88 (i) an LEA governing board takes within the three months prior to the date on which  
89 eligible petitioners or LEA employee petitioners file a petition with the state board; and

90 (ii) is reasonably likely to affect a majority of students in an LEA.

91 (2) (a) The state board shall:

92 (i) appoint an appeal ombudsman to carry out the duties described this section; and

93 (ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
94 Rulemaking Act, to establish:

95 (A) procedures for eligible petitioners or eligible LEA employee petitioners to submit a  
96 petition to the state board;

97 (B) procedures for an LEA governing board to file a written response to an authorized  
98 petition; and

99 (C) other procedures the state board determines are necessary to carry out the duties  
100 described in this section.

101 (b) The state board may establish a governance and practices committee to assist the  
102 state board in carrying out the state board's duties described in this section.

103 (3) (a) An LEA governing board shall establish a process for eligible petitioners or  
104 eligible LEA employee petitioners to appeal a qualifying action to the LEA governing board.

105 (b) The process described in Subsection (3)(a) shall include a public hearing on the  
106 appeal.

107 (4) Eligible petitioners or eligible LEA employee petitioners:

108 (a) may appeal a qualifying action to the state board by filing a petition in accordance  
109 with this section and appeal procedures; and

110 (b) shall include with the petition evidence that the eligible petitioners or eligible LEA  
111 employee petitioners have followed the process established by an LEA in accordance with  
112 Subsection (3).

113 (5) (a) Eligible LEA employee petitioners who take an action described in this section  
114 are entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees  
115 Act.

116 (b) Nothing in this section requires an LEA employee to take an action permitted under  
117 this section prior to exercising any other rights the LEA employee has under the law.

118 (6) (a) The ombudsman shall:

- 119           (i) review a petition that eligible petitioners or eligible LEA employee petitioners  
120 submit as described in Subsection (4);
- 121           (ii) advise the public regarding appeal procedures and the requirements of this section;  
122           (iii) if a petition alleges a violation of statute or state board rule, advise eligible  
123 petitioners or eligible LEA employee petitioners regarding the eligible petitioners' or eligible  
124 LEA employee petitioners' rights under applicable provisions of state law and state board rule;  
125           (iv) refer a petition that is not an authorized petition to the LEA governing board;  
126           (v) refer an authorized petition that appeals an urgent action to the state board; and  
127           (vi) fulfill other duties the state board assigns.
- 128           (b) When the ombudsman refers a petition to an LEA governing board as described in  
129 Subsection (5)(a)(iv), the ombudsman may make a recommendation that the LEA governing  
130 board reconsider the qualifying action.
- 131           (7) The state board, in accordance with appeal procedures:  
132           (a) shall issue a ruling on an authorized petition that appeals an urgent action that the  
133 ombudsman refers to the state board; and
- 134           (b) may request a response to an authorized petition from the LEA governing board  
135 before issuing a ruling as described in Subsection (7)(a).
- 136           (8) An LEA governing board may, in accordance with appeal procedures, file a  
137 response to any petition filed under this section.