

Representative Cheryl K. Acton proposes the following substitute bill:

PARTICIPATION WAIVER AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill clarifies how a school responds when a student refrains from participation in school due to a student's or a student's parent's religious belief or right of conscience.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies how a school responds when a student refrains from participation in school due to a student's or a student's parent's religious belief or right of conscience, consistent with Utah Constitution, Article I, Section 4;
- ▶ grants the State Board of Education rulemaking authority; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-10-203, as renumbered and amended by Laws of Utah 2018, Chapter 3



26 **53G-10-205**, as last amended by Laws of Utah 2019, Chapter 293



27
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **53G-10-203** is amended to read:

30 **53G-10-203. Expressions of belief -- Discretionary time.**

31 (1) Expression of personal beliefs by a student participating in school-directed
32 curricula or activities may not be prohibited or penalized unless the expression unreasonably
33 interferes with order or discipline, threatens the well-being of persons or property, or violates
34 concepts of civility or propriety appropriate to a school setting.

35 (2) (a) As used in this section, "discretionary time" means noninstructional time during
36 which a student is free to pursue personal interests.

37 (b) Free exercise of voluntary religious practice or freedom of speech by students
38 during discretionary time shall not be denied unless the conduct unreasonably interferes with
39 the ability of school officials to maintain order and discipline, unreasonably endangers persons
40 or property, or violates concepts of civility or propriety appropriate to a school setting.

41 (3) Any limitation under [~~Sections 53G-10-203 and 53G-10-205~~] this section on
42 student expression, practice, or conduct shall be by the least restrictive means necessary to
43 satisfy the school's interests [~~as stated in those sections~~], or to satisfy another specifically
44 identified compelling governmental interest.

45 Section 2. Section **53G-10-205** is amended to read:

46 **53G-10-205. Waivers of participation.**

47 (1) As used in this section[~~,"school"~~]:

48 (a) "School" means a public school.

49 (b) "Student" means a public school student in kindergarten through grade 12.

50 [~~(2) If a parent of a student, or a secondary student, determines that the student's~~
51 ~~participation in a portion of the curriculum or in an activity would require the student to affirm~~
52 ~~or deny a religious belief or right of conscience, or engage or refrain from engaging in a~~
53 ~~practice forbidden or required in the exercise of a religious right or right of conscience, the~~
54 ~~parent or the secondary student may request:]~~

55 [~~(a) a waiver of the requirement to participate; or]~~

56 [~~(b) a reasonable alternative that requires reasonably equivalent performance by the~~

57 ~~student of the secular objectives of the curriculum or activity in question.]~~

58 ~~[(3)]~~ (2) (a) In accordance with Utah Constitution, Article I, Section 4, a student may
 59 refrain from participation in any aspect of school that violates a religious belief or right of
 60 conscience of the student.

61 (b) A school may not, in any aspect of school:

62 (i) require or incentivize a student to affirm or deny ~~the~~ ~~student's~~
 62a ~~student's~~ or ~~the~~ ~~student's~~ parent's
 63 religious belief or right of conscience;

64 (ii) engage a student in a practice that violates or is contrary to ~~the~~ ~~student's~~ or
 64a ~~the~~ ~~student's~~
 65 parent's religious belief or right of conscience; ~~and~~ or ~~the~~

66 (iii) penalize or discriminate against a student for refraining from participation due to
 67 the student's or the student's parent's religious belief or right of conscience.

68 (3) ~~The school shall~~ When a student refrains from participating in any aspect of
 69 school that violates the student's or the student's parent's religious belief or right of conscience,
 70 the school:

71 (a) shall promptly notify ~~the~~ ~~student's~~ parent ~~[if the secondary student makes a~~
 71a request
 72 under Subsection (2)].;

73 (b) may offer an alternative that does not violate the student's or the student's parent's
 74 religious belief or right of conscience; and

75 (c) may not require the student or the student's parent to explain, defend, or justify the
 76 student's or the student's parent's religious belief or right of conscience.

77 (4) A student's parent may waive the student's participation in any aspect of school that
 78 violates the student's or the student's parent's religious belief or right of conscience.

79 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 80 state board shall make rules consistent with this section.

81 ~~[(4) If a request is made under Subsection (2), the school shall:]~~

82 ~~[(a) waive the participation requirement;]~~

83 ~~[(b) provide a reasonable alternative to the requirement; or]~~

84 ~~[(c) notify the requesting party that participation is required.]~~

85 ~~[(5) The school shall ensure that the provisions of Subsection ~~53G-10-203(3)~~ are met~~
 86 ~~in connection with any required participation under Subsection (4)(c).]~~

87 ~~[(6) A student's academic or citizenship performance may not be penalized if the~~

88 ~~secondary student or the student's parent chooses to exercise a religious right or right of~~
89 ~~conscience in accordance with the provisions of this section.]~~