

Senator Lincoln Fillmore proposes the following substitute bill:

PARTICIPATION IN EXTRACURRICULAR ACTIVITIES

AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions regarding student participation in extracurricular activities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a private school student, a home school student, a charter school student, or an online school student to participate in extracurricular activities outside of the student's public school of residence under certain circumstances;
- ▶ prohibits a public school from participation in an athletics association that does not collect and review an athlete's birth certificate during the registration process; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:



- 26 [53G-6-703](#), as last amended by Laws of Utah 2019, Chapter 293
- 27 [53G-6-704](#), as last amended by Laws of Utah 2019, Chapter 293
- 28 [53G-6-705](#), as last amended by Laws of Utah 2019, Chapter 293
- 29 [53G-7-1102](#), as renumbered and amended by Laws of Utah 2018, Chapter 3

30 **Utah Code Sections Affected by Coordination Clause:**

- 31 [53G-6-703](#), as last amended by Laws of Utah 2019, Chapter 293



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

34 Section 1. Section [53G-6-703](#) is amended to read:

35 **[53G-6-703. Private school and home school students' participation in](#)**
 36 **[extracurricular activities in a public school.](#)**

37 (1) As used in this section:

38 (a) "Academic eligibility requirements" means the academic eligibility requirements
 39 that a home school student is required to meet to participate in an extracurricular activity in a
 40 public school.

41 (b) "Association" means the same as that term is defined in Section [53G-7-1101](#).

42 (c) "Extracurricular activity" means the same as that term is defined in Section
 43 [53G-7-501](#).

44 (d) "Initial establishment of eligibility requirements" means an association's eligibility
 45 requirements, policies, procedures, and transfer rules that a school student in grade 9 or 10
 46 must meet, and to which the student is bound, to participate on a high school sports team when
 47 the student:

48 (i) attends the high school in which the student is selected for membership on a high
 49 school sports team; or

50 (ii) does not attend the high school in which the student tries out for and is selected for
 51 membership on a high school sports team.

52 ~~(b)~~ (e) "Minor" means the same as that term is defined in Section [53G-6-201](#).

53 ~~(c)~~ (f) "Parent" means the same as that term is defined in Section [53G-6-201](#).

54 ~~(d)~~ (g) "Principal" means the principal of the school in which a home school student
 55 participates or intends to participate in an extracurricular activity.

56 (2) (a) A minor who is enrolled in a private school or a home school ~~[shall be]~~ is

57 eligible to participate in an extracurricular activity at a public school as provided in this
58 section.

59 (b) A private school student may only participate in an extracurricular activity at a
60 public school that is not offered by the student's private school.

61 (c) (i) Except as provided in Subsection (2)(d), a private school student or a home
62 school student may only participate in an extracurricular activity at:

63 [(i)] (A) the school [~~within whose~~] with attendance boundaries within which the
64 student's custodial parent resides; or

65 [(ii)] (B) the school from which the student withdrew for the purpose of attending a
66 private or home school.

67 (ii) A private school student or a home school student retains the ability to participate
68 in an extracurricular activity at a school described in Subsection (2)(c)(i) if the student did not
69 initially establish the student's eligibility at another school in grade 9 or 10.

70 (d) A school other than a school described in Subsection (2)(c)(i) [~~or (ii)~~] may allow a
71 private school student or a home school student to participate in an extracurricular activity
72 [~~other than:~~] that the public school sponsors and supports if:

73 (i) for an interscholastic competition of athletic teams [sponsored and supported by a
74 public school, or], the private school student or the home school student meets the initial
75 establishment of eligibility requirements;

76 (ii) for an interscholastic contest or competition for music, drama, or forensic groups or
77 teams [sponsored and supported by a public school.], the private school student, subject to
78 Subsection (2)(b), or the home school student meets the entry requirements for participation;

79 (iii) the private school student or the home school student meets the eligibility
80 requirements under this section; and

81 (iv) the private school student or the home school student meets the enrollment
82 requirements for public school in accordance with Part 4, School District Enrollment.

83 (3) (a) Except as provided in Subsections (4) through (13), a private school student or a
84 home school student [shall be] is eligible to participate in an extracurricular activity at a public
85 school consistent with eligibility standards:

86 (i) applied to a fully enrolled public school student;

87 (ii) of the public school where the private school student or the home school student

88 participates in an extracurricular activity; and

89 (iii) for the extracurricular activity in which the private school or the home school
90 student participates.

91 (b) A school district or public school may not impose additional requirements on a
92 private school student or a home school student to participate in an extracurricular activity that
93 are not imposed on a fully enrolled public school student.

94 (c) (i) A private school student or a home school student who participates in an
95 extracurricular activity at a public school shall pay the same fees as required of a fully enrolled
96 public school student to participate in an extracurricular activity.

97 (ii) If a local school board or a charter school governing board imposes a mandatory
98 student activity fee for a student enrolled in a public school, the fee may be imposed on a
99 private school student or a home school student who participates in an extracurricular activity
100 at the public school if the same benefits of paying the mandatory student activity fee that are
101 available to a fully enrolled public school student are available to a private school student or a
102 home school student who participates in an extracurricular activity at the public school.

103 (4) Eligibility requirements based on school attendance are not applicable to a home
104 school student.

105 (5) A home school student meets academic eligibility requirements to participate in an
106 extracurricular activity if:

107 (a) the student is mastering the material in each course or subject being taught; and

108 (b) the student is maintaining satisfactory progress towards achievement or promotion.

109 (6) (a) To establish a home school student's academic eligibility, a parent, teacher, or
110 organization providing instruction to the student shall submit an affidavit to the principal
111 indicating the student meets academic eligibility requirements.

112 (b) Upon submission of an affidavit pursuant to Subsection (6)(a), a home school
113 student shall:

114 (i) be considered to meet academic eligibility requirements; and

115 (ii) retain academic eligibility for all extracurricular activities during the activity season
116 for which the affidavit is submitted, until:

117 (A) a panel established under Subsection (10) determines the home school student does
118 not meet academic eligibility requirements; or

119 (B) the person who submitted the affidavit under Subsection (6)(a) provides written
120 notice to the school principal that the student no longer meets academic eligibility
121 requirements.

122 (7) (a) A home school student who loses academic eligibility pursuant to Subsection
123 (6)(b)(ii)(B) may not participate in an extracurricular activity until the person who submitted
124 the affidavit under Subsection (6)(a) provides written notice to the school principal that the
125 home school student has reestablished academic eligibility.

126 (b) If a home school student reestablishes academic eligibility pursuant to Subsection
127 (7)(a), the home school student may participate in extracurricular activities for the remainder of
128 the activity season for which an affidavit was submitted under Subsection (6)(a).

129 (8) A person who has probable cause to believe a home school student does not meet
130 academic eligibility requirements may submit an affidavit to the principal:

131 (a) asserting the home school student does not meet academic eligibility requirements;
132 and

133 (b) providing information indicating that the home school student does not meet the
134 academic eligibility requirements.

135 (9) A principal shall review the affidavit submitted under Subsection (8), and if the
136 principal determines it contains information which constitutes probable cause to believe a
137 home school student may not meet academic eligibility requirements, the principal shall
138 request a panel established pursuant to Subsection (10) to verify the student's compliance with
139 academic eligibility requirements.

140 (10) (a) A school district superintendent shall:

141 (i) appoint a panel of three individuals to verify a home school student's compliance
142 with academic eligibility requirements when requested by a principal pursuant to Subsection
143 (9); and

144 (ii) select the panel members from nominees submitted by national, state, or regional
145 organizations whose members are home school students and parents.

146 (b) Of the members appointed to a panel under Subsection (10)(a):

147 (i) one member shall have experience teaching in a public school as a licensed teacher
148 and in home schooling high school-age students;

149 (ii) one member shall have experience teaching in a higher education institution and in

150 home schooling; and

151 (iii) one member shall have experience in home schooling high school-age students.

152 (11) A panel appointed under Subsection (10):

153 (a) shall review the affidavit submitted under Subsection (8);

154 (b) may confer with the person who submitted the affidavit under Subsection (8);

155 (c) shall request the home school student to submit test scores or a portfolio of work
156 documenting the student's academic achievement to the panel;

157 (d) shall review the test scores or portfolio of work; and

158 (e) shall determine whether the home school student meets academic eligibility
159 requirements.

160 (12) A home school student who meets academic eligibility requirements pursuant to
161 Subsection (11), retains academic eligibility for all extracurricular activities during the activity
162 season for which an affidavit is submitted pursuant to Subsection (6).

163 (13) (a) A panel's determination that a home school student does not comply with
164 academic eligibility requirements is effective for an activity season and all extracurricular
165 activities that have academic eligibility requirements.

166 (b) A home school student who is not in compliance with academic eligibility
167 requirements as determined by a panel appointed under Subsection (11) may seek to establish
168 academic eligibility under this section for the next activity season.

169 (14) (a) A public school student who has been declared to be academically ineligible to
170 participate in an extracurricular activity and who subsequently enrolls in a home school shall
171 lose eligibility for participation in the extracurricular activity until the student:

172 (i) demonstrates academic eligibility by providing test results or a portfolio of the
173 student's work to the school principal, provided that a student may not reestablish academic
174 eligibility under this Subsection (14)(a) during the same activity season in which the student
175 was declared to be academically ineligible;

176 (ii) returns to public school and reestablishes academic eligibility; or

177 (iii) enrolls in a private school and establishes academic eligibility.

178 (b) A public school student who has been declared to be behaviorally ineligible to
179 participate in an extracurricular activity and who subsequently enrolls in a home school shall
180 lose eligibility for participation in the extracurricular activity until the student meets eligibility

181 standards as provided in Subsection (3).

182 (15) When selection to participate in an extracurricular activity at a public school is
183 made on a competitive basis, a private school student [~~and~~] or a home school student [~~shall be~~]
184 is eligible to try out for and participate in the activity as provided in this section.

185 (16) (a) If a student exits a public school to enroll in a private school or a home school
186 mid-semester or during an activity season, and the student desires to participate in an
187 extracurricular activity at the public school, the public school shall issue an interim academic
188 assessment based on the student's work in each class.

189 (b) A student's academic eligibility to participate in an extracurricular activity under
190 the circumstances described in Subsection (16)(a) [~~shall be based~~] is dependent on the student
191 meeting public school academic eligibility standards at the time of exiting public school.

192 (c) A student may appeal an academic eligibility determination made under Subsection
193 (16)(b) in accordance with procedures for appealing a public school student's academic
194 eligibility.

195 Section 2. Section **53G-6-704** is amended to read:

196 **53G-6-704. Charter school students' participation in extracurricular activities at**
197 **other public schools.**

198 (1) As used in this section:

199 (a) "Association" means the same as that term is defined in Section [53G-7-1101](#).

200 (b) "Extracurricular activity" means the same as that term is defined in Section
201 [53G-7-501](#).

202 (c) "Initial establishment of eligibility requirements" means the same as that term is
203 defined in Section [53G-6-703](#).

204 [(+)] (2) A charter school student is eligible to participate in an extracurricular activity
205 not offered by the student's charter school at:

206 (a) the school [~~within whose~~] with attendance boundaries within which the student's
207 custodial parent resides, if, for an interscholastic competition of athletic teams, the student did
208 not initially establish the student's eligibility at another public school in grade 9 or 10;

209 (b) the public school from which the student withdrew for the purpose of attending a
210 charter school; or

211 (c) a public school that is not a charter school if the student's charter school is located

212 on the campus of the public school or has local school board approval to locate on the campus
213 of the public school.

214 ~~[(2)]~~ (3) In addition to the public schools listed in Subsection ~~[(1);]~~ (2), the state board
215 may establish rules to allow a charter school student to participate in an extracurricular activity
216 at a public school other than a public school listed in Subsection ~~[(1);]~~ (2).

217 ~~[(3)]~~ (4) A school other than a school described in Subsection ~~[(1)(a), (b), or (c)]~~ (2)
218 may allow a charter school student to participate in ~~[extracurricular activities other than:]~~ an
219 extracurricular activity a public school sponsors and supports if:

220 (a) for interschool competitions of athletic teams [sponsored and supported by a public
221 school; or], the charter school student meets the initial establishment of eligibility
222 requirements;

223 (b) for interschool contests or competitions for music, drama, or forensic groups or
224 teams [sponsored and supported by a public school.], the charter school student meets the entry
225 requirements for participation;

226 (c) the charter school student meets the eligibility requirements under this section; and

227 (d) the charter school student meets the enrollment requirements for public school in
228 accordance with Part 4, School District Enrollment.

229 ~~[(4)]~~ (5) A charter school student is eligible for an extracurricular ~~[activities]~~ activity at
230 a public school consistent with eligibility standards as applied to full-time students of the
231 public school.

232 ~~[(5)]~~ (6) A school district or a public school may not impose additional requirements
233 on a charter school student to participate in an extracurricular ~~[activities]~~ activity that are not
234 imposed on full-time students of the public school.

235 ~~[(6)]~~ (7) (a) The state board shall make rules establishing fees for charter school
236 students' participation in an extracurricular ~~[activities]~~ activity at school district schools.

237 (b) The rules shall provide that:

238 (i) charter school students pay the same fees as other students to participate in an
239 extracurricular [activities] activity;

240 (ii) charter school students are eligible for fee waivers pursuant to Section [53G-7-504](#);

241 (iii) for each charter school student who participates in an extracurricular activity at a
242 school district school, the charter school shall pay a share of the school district's costs for the

243 extracurricular activity; and

244 (iv) a charter school's share of the costs of an extracurricular activity shall reflect state
245 and local tax revenues expended, except capital facilities expenditures, for an extracurricular
246 activity in a school district or a school divided by total student enrollment of the school district
247 or the school.

248 (c) In determining a charter school's share of the costs of an extracurricular activity
249 under Subsections [~~(6)(b)(iii) and (iv)~~] (7)(b)(iii) and (iv), the state board may establish
250 uniform fees statewide based on average costs statewide or average costs within a sample of
251 school districts.

252 [~~(7)~~] (8) When selection to participate in an extracurricular activity at a public school is
253 made on a competitive basis, a charter school student is eligible to try out for and participate in
254 the activity as provided in this section.

255 Section 3. Section **53G-6-705** is amended to read:

256 **53G-6-705. Online students' participation in extracurricular activities.**

257 (1) As used in this section:

258 (a) "Association" means the same as that term is defined in Section [53G-7-1101](#).

259 (b) "Extracurricular activity" means the same as that term is defined in Section
260 [53G-7-501](#).

261 (c) "Initial establishment of eligibility requirements" means the same as that term is
262 defined in Section [53G-6-703](#).

263 [~~(a)~~] (d) "Online education" means the use of information and communication
264 technologies to deliver educational opportunities to a student in a location other than a school.

265 [~~(b)~~] (e) "Online student" means a student who:

266 (i) participates in an online education program sponsored or supported by the state
267 board, a school district, or a charter school; and

268 (ii) generates funding for the school district or the school pursuant to Subsection
269 [~~53F-2-102(4)~~] [53F-2-102\(5\)](#) and rules of the state board.

270 (2) An online student is eligible to participate in an extracurricular [~~activities~~] activity
271 at:

272 (a) the school [~~within whose~~] with attendance boundaries within which the student's
273 custodial parent resides, if, for an interscholastic competition of athletic teams, the student did

274 not initially establish the student's eligibility at another public school in grade 9 or 10; or

275 (b) the public school from which the student withdrew for the purpose of participating
276 in an online education program.

277 (3) A public school other than a school described in Subsection [~~(2)(a) or (b)~~] (2) may
278 allow an online student to participate in an extracurricular [~~activities other than~~] activity that
279 the public school sponsors and supports if:

280 (a) for interschool competitions of athletic teams sponsored and supported by a public
281 school[~~;~~], the online school student meets the initial establishment of eligibility
282 requirements;

283 (b) for interschool contests or competitions for music, drama, or forensic groups or
284 teams sponsored and supported by a public school[~~;~~], the online school student meets the entry
285 requirements for participation;

286 (c) the online school student meets the eligibility requirements under this section; and

287 (d) the online school student meets the enrollment requirements for public school in
288 accordance with Part 4, School District Enrollment.

289 (4) An online student is eligible [~~for~~] to participate in an extracurricular [~~activities~~]
290 activity at a public school consistent with eligibility standards as applied to full-time students
291 of the public school.

292 (5) A school district or public school may not impose additional requirements on an
293 online school student to participate in an extracurricular [~~activities~~] activity that are not
294 imposed on full-time students of the public school.

295 (6) (a) The state board shall make rules establishing fees for an online school student's
296 participation in an extracurricular [~~activities~~] activity at school district schools.

297 (b) The rules shall provide that:

298 (i) online school students pay the same fees as other students to participate in an
299 extracurricular [~~activities~~] activity;

300 (ii) online school students are eligible for fee waivers pursuant to Section 53G-7-504;

301 (iii) for each online school student who participates in an extracurricular activity at a
302 school district school, the online school shall pay a share of the school district's costs for the
303 extracurricular activity; and

304 (iv) an online school's share of the costs of an extracurricular activity shall reflect state

305 and local tax revenues expended, except capital facilities expenditures, for an extracurricular
306 activity in a school district or school divided by total student enrollment of the school district
307 or school.

308 (c) In determining an online school's share of the costs of an extracurricular activity
309 under Subsections (6)(b)(iii) and (iv), the state board may establish uniform fees statewide
310 based on average costs statewide or average costs within a sample of school districts.

311 (7) When selection to participate in an extracurricular activity at a public school is
312 made on a competitive basis, an online student is eligible to try out for and participate in the
313 activity as provided in this section.

314 Section 4. Section **53G-7-1102** is amended to read:

315 **53G-7-1102. Public schools prohibited from membership.**

316 (1) A public school may not be a member of or pay dues to an association that:

317 (a) is not in compliance [~~on or after July 1, 2017,~~] with:

318 [~~(a)~~] (i) this part;

319 [~~(b)~~] (ii) Title 52, Chapter 4, Open and Public Meetings Act;

320 [~~(c)~~] (iii) Title 63G, Chapter 2, Government Records Access and Management Act; and

321 [~~(d)~~] (iv) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act[-] or

322 (b) does not collect and review each athlete's birth certificate to determine eligibility as

323 a condition of the association's registration process for an athletic team, event, or category.

324 (2) Unless otherwise specified, an association's compliance with or an association
325 employee or officer's compliance with the provisions described in Subsection (1) does not alter:

326 (a) the association's public or private status; or

327 (b) the public or private employment status of the employee or officer.

328 Section 5. **Coordinating H.B. 209 with S.B. 166 -- Substantive and technical**
329 **amendments.**

330 If this H.B. 209 and S.B. 166, Education Entity Amendments, both pass and become
331 law, the Office of Legislative Research and General Counsel shall prepare the Utah Code
332 database for publication by amending Subsections [53G-6-703\(2\)\(c\)](#) and (d) to read:

333 "(c) (i) Except as provided in Subsection (2)(d), a private school student or a home
334 school student may only participate in an extracurricular activity at:

335 [~~(i)~~] (A) the school [~~within whose~~] with attendance boundaries within which the

336 student's custodial parent resides; or

337 ~~[(ii)]~~ (B) the school from which the student withdrew for the purpose of attending a
338 private or home school.

339 (ii) A private school student, a micro-education entity student, a home school student,
340 or a home-based education entity student retains the ability to participate in an extracurricular
341 activity at a school described in Subsection (2)(c)(i) if the student did not initially establish the
342 student's eligibility at another school in grade 9 or 10.

343 (d) A school other than a school described in Subsection (2)(c)(i) ~~[or (ii)]~~ may allow a
344 private school student or a home school student to participate in an extracurricular activity
345 ~~[other than]~~ that the public school sponsors and supports if:

346 (i) for an interscholastic competition of athletic teams [sponsored and supported by a
347 public school, or], the private school student, the micro-education entity student, the home
348 school student, or the home-based education entity student meets the initial establishment of
349 eligibility requirements;

350 (ii) for an interscholastic contest or competition for music, drama, or forensic groups or
351 teams [sponsored and supported by a public school.];

352 (A) subject to Subsection (2)(b), the private school student or the micro-education
353 entity student meets the entry requirements for participation; or

354 (B) the home school student or the home-based education entity student meets the entry
355 requirements for participation;

356 (iii) the private school student, the micro-education entity student, the home school
357 student, or the home-based education entity student meets the eligibility requirements under
358 this section; and

359 (iv) the private school student, the micro-education entity student, the home school
360 student, or the home-based education entity student meets the enrollment requirements for
361 public school in accordance with Part 4, School District Enrollment."