

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 amending 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 a birth certificate or other identifying documents during the registration process;
- ▶ allows athletes without access to a birth certificate to provide alternative documentation to an athletic association in certain circumstances; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 This bill provides a coordination clause.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **53G-6-703**, as last amended by Laws of Utah 2019, Chapter 293

30 **53G-6-704**, as last amended by Laws of Utah 2019, Chapter 293

31 **53G-6-705**, as last amended by Laws of Utah 2019, Chapter 293

32 **53G-6-1001**, as enacted by Laws of Utah 2022, Chapter 478

33 **53G-7-1102**, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

35 **53G-6-703**, as last amended by Laws of Utah 2019, Chapter 293



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

38 Section 1. Section **53G-6-703** is amended to read:

39 **53G-6-703. Private school and home school students' participation in**
40 **extracurricular activities in a public school.**

41 (1) As used in this section:

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

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

46 (c) "Extracurricular activity" means the same as that term is defined in Section
47 [53G-7-501](#).

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

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

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

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

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

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

60 (2) (a) A minor who is enrolled in a private school or a home school ~~[shall be]~~ is
61 eligible to participate in an extracurricular activity at a public school as provided in this
62 section.

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

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

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

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

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

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

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

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

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

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

87 (3) (a) Except as provided in Subsections (4) through (13), a private school student or a

88 home school student [~~shall be~~] is eligible to participate in an extracurricular activity at a public
89 school consistent with eligibility standards:

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

91 (ii) of the public school where the private school student or the home school student
92 participates in an extracurricular activity; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 150 (b) Of the members appointed to a panel under Subsection (10)(a):
- 151 (i) one member shall have experience teaching in a public school as a licensed teacher
- 152 and in home schooling high school-age students;
- 153 (ii) one member shall have experience teaching in a higher education institution and in
- 154 home schooling; and
- 155 (iii) one member shall have experience in home schooling high school-age students.
- 156 (11) A panel appointed under Subsection (10):
- 157 (a) shall review the affidavit submitted under Subsection (8);
- 158 (b) may confer with the person who submitted the affidavit under Subsection (8);
- 159 (c) shall request the home school student to submit test scores or a portfolio of work
- 160 documenting the student's academic achievement to the panel;
- 161 (d) shall review the test scores or portfolio of work; and
- 162 (e) shall determine whether the home school student meets academic eligibility
- 163 requirements.
- 164 (12) A home school student who meets academic eligibility requirements pursuant to
- 165 Subsection (11), retains academic eligibility for all extracurricular activities during the activity
- 166 season for which an affidavit is submitted pursuant to Subsection (6).
- 167 (13) (a) A panel's determination that a home school student does not comply with
- 168 academic eligibility requirements is effective for an activity season and all extracurricular
- 169 activities that have academic eligibility requirements.
- 170 (b) A home school student who is not in compliance with academic eligibility
- 171 requirements as determined by a panel appointed under Subsection (11) may seek to establish
- 172 academic eligibility under this section for the next activity season.
- 173 (14) (a) A public school student who has been declared to be academically ineligible to
- 174 participate in an extracurricular activity and who subsequently enrolls in a home school shall
- 175 lose eligibility for participation in the extracurricular activity until the student:
- 176 (i) demonstrates academic eligibility by providing test results or a portfolio of the
- 177 student's work to the school principal, provided that a student may not reestablish academic
- 178 eligibility under this Subsection (14)(a) during the same activity season in which the student
- 179 was declared to be academically ineligible;
- 180 (ii) returns to public school and reestablishes academic eligibility; or

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

182 (b) A public school student who has been declared to be behaviorally ineligible to
183 participate in an extracurricular activity and who subsequently enrolls in a home school shall
184 lose eligibility for participation in the extracurricular activity until the student meets eligibility
185 standards as provided in Subsection (3).

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

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

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

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

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

200 **53G-6-704. Charter school students' participation in extracurricular activities at**
201 **other public schools.**

202 (1) As used in this section:

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

204 (b) "Extracurricular activity" means the same as that term is defined in Section
205 [53G-7-501](#).

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

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

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

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

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

215 (c) a public school that is not a charter school if the student's charter school is located
216 on the campus of the public school or has local school board approval to locate on the campus
217 of the public school.

218 ~~[(2)]~~ (3) In addition to the public schools listed in Subsection ~~[(1)];~~ (2), the state board
219 may establish rules to allow a charter school student to participate in an extracurricular activity
220 at a public school other than a public school listed in Subsection ~~[(1)];~~ (2).

221 ~~[(3)]~~ (4) A school other than a school described in Subsection ~~[(1)(a), (b), or (c)]~~ (2)
222 may allow a charter school student to participate in ~~[extracurricular activities other than:]~~ an
223 extracurricular activity a public school sponsors and supports if:

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

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

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

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

233 ~~[(4)]~~ (5) A charter school student is eligible for an extracurricular ~~[activities]~~ activity at
234 a public school consistent with eligibility standards as applied to full-time students of the
235 public school.

236 ~~[(5)]~~ (6) A school district or a public school may not impose additional requirements
237 on a charter school student to participate in an extracurricular ~~[activities]~~ activity that are not
238 imposed on full-time students of the public school.

239 ~~[(6)]~~ (7) (a) The state board shall make rules establishing fees for charter school
240 students' participation in an extracurricular ~~[activities]~~ activity at school district schools.

241 (b) The rules shall provide that:

242 (i) charter school students pay the same fees as other students to participate in an

243 extracurricular ~~[activities]~~ activity;

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

245 (iii) for each charter school student who participates in an extracurricular activity at a
246 school district school, the charter school shall pay a share of the school district's costs for the
247 extracurricular activity; and

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

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

256 ~~[(7)]~~ (8) When selection to participate in an extracurricular activity at a public school is
257 made on a competitive basis, a charter school student is eligible to try out for and participate in
258 the activity as provided in this section.

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

260 **53G-6-705. Online students' participation in extracurricular activities.**

261 (1) As used in this section:

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

263 (b) "Extracurricular activity" means the same as that term is defined in Section
264 [53G-7-501](#).

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

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

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

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

272 (ii) generates funding for the school district or the school pursuant to Subsection
273 [53F-2-102](#)(4) and rules of the state board.

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

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

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

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

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

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

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

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

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

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

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

301 (b) The rules shall provide that:

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

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

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

308 (iv) an online school's share of the costs of an extracurricular activity shall reflect state
309 and local tax revenues expended, except capital facilities expenditures, for an extracurricular
310 activity in a school district or school divided by total student enrollment of the school district
311 or school.

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

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

318 Section 4. Section **53G-6-1001** is amended to read:

319 **53G-6-1001. Definitions.**

320 As used in this part:

321 (1) "Athletic association" means an association, as that term is defined in Section
322 [53G-7-1101](#).

323 (2) "Birth certificate" means an official record of an individual's date of birth, place of
324 birth, sex, and parentage, including a supplementary certificate of birth or birth certificate
325 amendment and amendment history as provided in Sections [26-2-10](#) and [26-2-11](#).

326 [~~(2)~~] (3) "Commission" means the School Activity Eligibility Commission created in
327 Section [53G-6-1003](#).

328 (4) "Does not correspond with the sex designation" means that a student's sex
329 designation for an interscholastic activity in which a student seeks participation does not
330 correspond with the sex designation on the student's birth certificate or an amendment,
331 including the amendment history, to the student's birth certificate that the Division of Vital
332 Records and Statistics provides.

333 [~~(3)~~] (5) "Female-designated" means that an interscholastic activity is designated
334 specifically for female students.

335 [~~(4)~~] (6) "Gender-designated" means that an interscholastic activity or facility is

336 designated specifically for female or male students.

337 ~~[(5)]~~ (7) "Gender identity" means the same as that term is defined in Section
338 [34A-5-102](#).

339 ~~[(6)]~~ (8) "Interscholastic activity" means an activity in which a student represents the
340 student's school in the activity in competition against another school.

341 ~~[(7)]~~ (9) "Male-designated" means that an interscholastic activity is designated
342 specifically for male students.

343 ~~[(8)]~~ (10) "Student" means a student who is enrolled in a public school that participates
344 in interscholastic activities.

345 Section 5. Section **53G-7-1102** is amended to read:

346 **53G-7-1102. Public schools prohibited from membership.**

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

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

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

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

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

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

353 (b) does not collect each student's birth certificate, as that term is defined in Section

354 [53G-6-1001](#), or equivalent documentation, as described in Subsection (2), to determine

355 eligibility as a condition of the association's registration process for an athletic team, event, or

356 category; or

357 (c) does not require a student to provide the athlete's date of birth and sex as a

358 condition of the registration process for an athletic team, event, or category.

359 (2) Except as provided in Subsection (3), for a student who is homeless or not a United

360 States citizen and who is unable to provide a birth certificate, the association may collect the

361 student's:

362 (a) state-issued identification document, including a driver's license or passport; or

363 (b) federally recognized identification document, including a document that the

364 Department of Homeland Security issues.

365 (3) Subsection (1)(b) or (2) do not apply to an association for a student who is a

366 homeless child or youth, as defined in the McKinney-Vento Homeless Assistance Act, 42

367 U.S.C. Sec. 11431 et seq.

368 (4) Nothing in this section limits or impairs an LEA's requirement to verify a student's
 369 initial review of eligibility to participate in an athletic team, event, or category under applicable
 370 state or federal law or state board rule, including the student's:

371 (a) residency status;

372 (b) age;

373 (c) sex, verified by the student's birth certificate as that term is defined in Section
 374 53G-6-1001;

375 (d) academic requirements; or

376 (e) school enrollment capacity.

377 ~~[(2)]~~ (5) Unless otherwise specified, an association's compliance with or an association
 378 employee or officer's compliance with the provisions described in Subsection (1) does not alter:

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

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

381 Section 6. **Coordinating H.B. 209 with S.B. 166 -- Substantive and technical**
 382 **amendments.**

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

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

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

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

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

396 (d) A school other than a school described in Subsection (2)(c)(i) ~~[or (ii)]~~ may allow a
 397 private school student or a home school student to participate in an extracurricular activity

398 ~~[other than]~~ that the public school sponsors and supports if:

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

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

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

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

409 (iii) the private school student, the micro-education entity student, the home school
410 student, or the home-based education entity student meets the eligibility requirements under
411 this section; and

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