

STATE BOARD OF EDUCATION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keith Grover

House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends and enacts provisions related to the general control and supervision of the State Board of Education over the public education system.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends State Board of Education (state board) establishment of minimum standards for public schools;
- ▶ requires the state board to require local education agencies (LEAs) to issue high school diplomas to students who:
 - receive an associate's degree with certain minimum credit hours earned; and
 - receive an industry certificate with certain minimum classroom hours;
- ▶ exempts schools with an assessment opt out rate exceeding 50% from the school accountability system;
- ▶ requires the state board to publish on the state board's website the recorded vote of a school district voting body showing support for or against a school's annual plan;
- ▶ amends a provision regarding background checks for private school employees; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53E-3-401**, as last amended by Laws of Utah 2020, Chapters 253, 408

33 **53E-3-501**, as last amended by Laws of Utah 2021, Chapter 308

34 **53E-4-204**, as last amended by Laws of Utah 2019, Chapters 186, 226

35 **53E-5-203**, as last amended by Laws of Utah 2019, Chapter 186

36 **53E-5-211**, as last amended by Laws of Utah 2021, Chapter 346

37 **53G-5-401**, as renumbered and amended by Laws of Utah 2018, Chapter 3

38 **53G-7-901**, as last amended by Laws of Utah 2020, Chapter 374

39 **53G-9-801**, as last amended by Laws of Utah 2020, Chapter 408

40 **53G-11-402**, as last amended by Laws of Utah 2020, Chapters 285, 374



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

43 Section 1. Section **53E-3-401** is amended to read:

44 **53E-3-401. Powers of the state board -- Adoption of rules -- Enforcement --**

45 **Attorney.**

46 (1) As used in this section:

47 (a) "Education entity" means:

48 (i) an entity that receives a distribution of state funds through a grant program managed
49 by the state board under this public education code;

50 (ii) an entity that enters into a contract with the state board to provide an educational
51 good or service;

52 (iii) a school district;

53 (iv) a charter school; or

54 (v) a regional education service agency, as that term is defined in Section **53G-4-410**.

55 (b) "Educational good or service" means a good or service that is required or regulated
56 under:

57 (i) this public education code; or

58 (ii) a rule, made in accordance with Title 63G, Chapter 3, Utah Administrative

59 Rulemaking Act, and authorized under this public education code.

60 (2) (a) The state board has general control and supervision of the state's public
61 education system.

62 (b) "General control and supervision" as used in Utah Constitution, Article X, Section
63 3, means directed to the whole system.

64 (c) "General control and supervision" does not mean specific policies and procedures
65 that LEA governing boards adopt and that align with state and federal law.

66 (3) The state board may not govern, manage, or operate school districts, institutions,
67 and programs, unless granted that authority by statute.

68 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
69 the state board may make rules to execute the state board's duties and responsibilities under the
70 Utah Constitution and state law.

71 (b) The state board may delegate the state board's statutory duties and responsibilities
72 to state board employees.

73 (5) (a) The state board may sell ~~[any]~~ an interest it holds in real property upon a finding
74 by the state board that the property interest is surplus.

75 (b) The state board may use the money it receives from a sale under Subsection (5)(a)
76 for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

77 (c) If the property interest under Subsection (5)(a) was held for the benefit of an agency
78 or institution administered by the state board, the money may only be used for purposes related
79 to the agency or institution.

80 (d) The state board shall advise the Legislature of ~~[any]~~ a sale under Subsection (5)(a)
81 and related matters during the next following session of the Legislature.

82 (6) The state board shall develop policies and procedures related to federal educational
83 programs in accordance with Part 8, Implementing Federal or National Education Programs.

84 ~~[(7) On or before December 31, 2010, the state board shall review mandates or~~
85 ~~requirements provided for in state board rule to determine whether certain mandates or~~
86 ~~requirements could be waived to remove funding pressures on public schools on a temporary~~
87 ~~basis.]~~

88 ~~[(8)]~~ (7) (a) If an education entity violates this public education code or rules
89 authorized under this public education code, the state board may, in accordance with the rules

90 described in Subsection ~~[(8)(c)]~~ (7)(c):

91 (i) require the education entity to enter into a corrective action agreement with the state
92 board;

93 (ii) temporarily or permanently withhold state funds from the education entity;

94 (iii) require the education entity to pay a penalty; or

95 (iv) require the education entity to reimburse specified state funds to the state board.

96 (b) Except for temporarily withheld funds, if the state board collects state funds under
97 Subsection ~~[(8)(a)]~~ (7)(a), the state board shall pay the funds into the Uniform School Fund.

98 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
99 state board shall make rules:

100 (i) that require notice and an opportunity to be heard for an education entity affected by
101 a state board action described in Subsection ~~[(8)(a)]~~ (7)(a); and

102 (ii) to administer this Subsection ~~[(8)]~~ (7).

103 (d) (i) An individual may bring a violation of statute or state board rule to the attention
104 of the state board in accordance with a process described in rule adopted by the state board.

105 (ii) If the state board identifies a violation of statute or state board rule as a result of the
106 process described in Subsection ~~[(8)(d)(i)]~~ (7)(d)(i), the state board may take action in
107 accordance with this section.

108 (e) The state board shall report criminal conduct of an education entity to the district
109 attorney of the county where the education entity is located.

110 ~~[(9)]~~ (8) The state board may audit the use of state funds by an education entity that
111 receives those state funds as a distribution from the state board.

112 ~~[(10)]~~ (9) The state board may require, by rule made in accordance with Title 63G,
113 Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party
114 contractor for an educational good or service, the LEA shall require in the contract that the
115 third party contractor shall provide, upon request of the LEA, information necessary for the
116 LEA to verify that the educational good or service complies with:

117 (a) this public education code; and

118 (b) state board rule authorized under this public education code.

119 ~~[(11)]~~ (10) (a) The state board may appoint an attorney to provide legal advice to the
120 state board and coordinate legal affairs for the state board and the state board's employees.

121 (b) An attorney described in Subsection [~~(11)(a)~~] (10)(a) shall cooperate with the
122 Office of the Attorney General.

123 (c) An attorney described in Subsection [~~(11)(a)~~] (10)(a) may not:

124 (i) conduct litigation;

125 (ii) settle claims covered by the Risk Management Fund created in Section [63A-4-201](#);

126 or

127 (iii) issue formal legal opinions.

128 [~~(12)~~] (11) The state board shall ensure that ~~any~~ training or certification ~~that~~ an
129 employee of the public education system is required to complete under this title or by rule
130 complies with Title 63G, Chapter 22, State Training and Certification Requirements.

131 Section 2. Section **53E-3-501** is amended to read:

132 **53E-3-501. State board to establish miscellaneous minimum standards for public**
133 **schools.**

134 (1) The state board shall establish rules and minimum standards for the public schools
135 that are consistent with this public education code, including rules and minimum standards
136 governing the following:

137 (a) (i) the qualification and certification of educators and ancillary personnel who
138 provide direct student services;

139 (ii) required school administrative and supervisory services; and

140 (iii) the evaluation of instructional personnel;

141 (b) (i) access to programs;

142 (ii) attendance;

143 (iii) competency levels;

144 (iv) graduation requirements; and

145 (v) discipline and control;

146 (c) (i) school accreditation;

147 (ii) the academic year;

148 (iii) alternative and pilot programs;

149 (iv) curriculum and instruction requirements; and

150 (v) school libraries; [~~and~~]

151 [~~(vi)~~] (d) services to:

152 ~~[(A)]~~ (i) persons with a disability as defined by and covered under:
 153 ~~[(F)]~~ (A) the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102;
 154 ~~[(H)]~~ (B) the Rehabilitation Act of 1973, 29 U.S.C. Sec. 705(20)(A); and
 155 ~~[(HH)]~~ (C) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401(3); and
 156 ~~[(B)]~~ (ii) other special groups;
 157 ~~[(d)]~~ (e) (i) state reimbursed bus routes;
 158 (ii) bus safety and operational requirements; and
 159 (iii) other transportation needs;
 160 ~~[(e)]~~ (f) (i) school productivity and cost effectiveness measures;
 161 (ii) federal programs;
 162 (iii) school budget formats; and
 163 (iv) financial, statistical, and student accounting requirements; and
 164 ~~[(f)]~~ (g) data collection and reporting by LEAs.
 165 (2) ~~[The]~~ Except as provided in Subsection (3), the state board shall determine if:
 166 (a) the minimum standards have been met; and
 167 (b) required reports are properly submitted.

168 ~~Ŝ → [(3) (a) An LEA governing board member or an LEA employee may decline a request~~
 169 ~~for data under Subsection (1)(f) or (g) unless:~~

170 ~~—— (i) the state board or a state board employee provides evidence, in an LEA governing~~
 171 ~~board public meeting, that there is a significant likelihood the denial is due to non-compliance~~
 172 ~~with state or federal law; and~~

173 ~~—— (ii) the LEA governing board finds by majority vote that the LEA may be in~~
 174 ~~non-compliance with state or federal law.~~

175 ~~—— (b) If an LEA governing board makes a finding of non-compliance under Subsection~~
 176 ~~(3)(a), the LEA shall respond to the request for data under Subsection (1)(f) or (g) no later than~~
 177 ~~90 days after the date of the finding of non-compliance.]~~

177a **(3) When the state board makes a request of an LEA under Subsection (1)(f) or (g), the state**
 177b **board shall include a letter to the LEA governing board and superintendent or charter school**
 177c **director that includes:**

177d **(a) the justification for the requested data;**

177e **(b) a statement confirming that the data is not available elsewhere;**

177f **(c) the scope and objective of the data request;**

177g **(d) how the state board intends to use the data;**

177h **(e) the deadline for the LEA to provide the data as authorized by state board rule;**

177i **(f) penalties, including withholding of funds, for non-compliance as authorized under state** ☒

177j ~~or~~ or federal law; and
177k (g) information regarding a process that an LEA may use to dispute a state board request or
177l conclusion. ←

178 ~~(3)~~ (4) The state board may apply for, receive, administer, and distribute to eligible
179 applicants funds made available through programs of the federal government.

180 ~~(4)~~ (5) (a) A technical college listed in Section [53B-2a-105](#) shall provide
181 competency-based career and technical education courses that fulfill high school graduation
182 requirements, as requested and authorized by the state board.

183 (b) A school district may grant a high school diploma to a student participating in a
 184 course described in Subsection ~~[(4)(a)]~~ (5)(a) that is provided by a technical college listed in
 185 Section 53B-2a-105.

186 ~~[(5)]~~ (6) (a) As used in this Subsection ~~[(5)]~~ (6), "generally accepted accounting
 187 principles" means a common framework of accounting rules and standards for financial
 188 reporting promulgated by the Governmental Accounting Standards Board.

189 (b) Subject to Subsections ~~[(5)(e)]~~ (6)(c) and (d), the state board shall ensure ~~[that]~~ the
 190 rules and standards described in Subsections ~~[(1)(e) and (f)]~~ (1)(f) and (g) allow for an LEA to
 191 make adjustments to the LEA's general entry ledger, in accordance with generally accepted
 192 accounting principles, to accurately reflect the LEA's use of funds for allowable costs and
 193 activities:

- 194 (i) during a fiscal year; and
- 195 (ii) at the close of a fiscal year.

196 (c) If the state board determines under Subsection (2) that an LEA has not met the
 197 minimum standards described in Subsection ~~[(1)(e) or (f)]~~ (1)(f) or (g) or has not properly
 198 submitted a required report, the state board shall allow the LEA an opportunity to cure the
 199 relevant defect through an adjustment described in Subsection ~~[(5)(b);]~~ (6)(b).

200 (d) An LEA may not, in an adjustment described in Subsection ~~[(5)(b);]~~ (6)(b), reflect
 201 the use of restricted federal or state funds for a cost or activity that is not an allowable cost or
 202 activity for the restricted funds.

203 Section 3. Section **53E-4-204** is amended to read:

204 **53E-4-204. Standards and graduation requirements.**

205 (1) The state board shall establish rigorous core standards for Utah public schools and
 206 graduation requirements under Section 53E-3-501 for grades 9 through 12 that:

- 207 (a) are consistent with state law and federal regulations;
- 208 (b) use competency-based standards and assessments;
- 209 (c) include instruction that stresses general financial literacy from basic budgeting to
 210 financial investments, including bankruptcy education and a general financial literacy test-out
 211 option; and
- 212 (d) include graduation requirements in language arts, mathematics, and science that
 213 exceed 3.0 units in language arts, 2.0 units in mathematics, and 2.0 units in science.

214 (2) The state board shall establish competency-based standards and assessments for
215 elective courses.

216 (3) The state board shall require all LEAs to issue a high school diploma to students
217 who receive:

218 (a) an associate degree with at least 60 credit hours from an accredited post-secondary
219 institution; or

220 (b) an industry certification with at least 500 classroom hours of instruction from a
221 business, trade association, or other industry group.

222 Section 4. Section **53E-5-203** is amended to read:

223 **53E-5-203. Schools included in school accountability system -- Other indicators**
224 **and point distribution for a school that serves a special student population.**

225 (1) Except as provided in Subsection (2), the state board shall include all public
226 schools in the state in the school accountability system established under this part.

227 (2) The state board shall exempt from the school accountability system:

228 (a) a school in which the number of students tested on a statewide assessment is lower
229 than the minimum sample size necessary, based on acceptable professional practice for
230 statistical reliability, a school's opt out rate exceeds 50%, or when release of the information
231 would violate 20 U.S.C. Sec. 1232h, the prevention of the unlawful release of personally
232 identifiable student data;

233 (b) a school in the school's first year of operations if the school's local school board or
234 charter school governing board requests the exemption; or

235 (c) a high school in the school's second year of operations if the school's local school
236 board or charter school governing board requests the exemption.

237 (3) Notwithstanding the provisions of this part, the state board may use[;] to
238 appropriately assess the educational impact of a school that serves a special student population:

239 (a) other indicators in addition to the indicators described in Section **53E-5-205** or
240 **53E-5-206**; or

241 (b) different point distribution than the point distribution described in Section
242 **53E-5-207**.

243 Section 5. Section **53E-5-211** is amended to read:

244 **53E-5-211. Reporting.**

245 (1) [~~Except as provided in Subsection (2), the~~] The state board shall annually publish
246 on the state board's website a report card [~~that includes~~] for each school that includes:

247 (a) the school's overall rating described in Subsection 53E-5-204(1);

248 (b) the school's performance on each indicator described in:

249 (i) Section 53E-5-205, for an elementary school or a middle school; or

250 (ii) Section 53E-5-206, for a high school;

251 (c) information comparing the school's performance on each indicator described in
252 Subsection (1)(b) with:

253 (i) the average school performance; and

254 (ii) the school's performance in all previous years for which data is available;

255 (d) the percentage of students who participated in statewide assessments;

256 (e) for an elementary school, the percentage of students who read on grade level in
257 grades 1 through 3; [~~and~~]

258 (f) for a high school, performance on Advanced Placement exams[-]; and

259 (g) a school district's county, city, or town voting body's recorded vote indicating
260 support for or against the school's annual plan aligned with the characteristics described in
261 Section 53E-2-302.

262 [~~(2) The state board shall collect, but is not required to publish the information~~
263 ~~described in Subsection (1) related to the 2020-2021 school year.]~~

264 [~~(3)~~] (2) A school may include in the school's report card described in Subsection (1)
265 up to two self-reported school quality indicators that:

266 (a) are approved by the state board for inclusion; and

267 (b) may include process or input indicators.

268 [~~(4)~~] (3) (a) The state board shall develop an individualized student achievement report
269 that includes:

270 (i) information on the student's level of proficiency as measured by a statewide
271 assessment; and

272 (ii) a comparison of the student's academic growth target and actual academic growth
273 as measured by a statewide assessment.

274 (b) The state board shall, subject to the Family Educational Rights and Privacy Act, 20
275 U.S.C. Sec. 1232g, make the individualized student achievement report described in

276 Subsection ~~[(4)(a)]~~ (3)(a) available for a school district or charter school to access
277 electronically.

278 (c) A school district or charter school shall distribute an individualized student
279 achievement report to the parent of the student to whom the report applies.

280 Section 6. Section **53G-5-401** is amended to read:

281 **53G-5-401. Status of charter schools.**

282 (1) Charter schools are:

283 (a) considered to be public schools within the state's public education system;

284 (b) subject to Subsection ~~[53E-3-401(8)]~~ 53E-3-401(7); and

285 (c) governed by independent boards and held accountable to a legally binding written
286 contractual agreement.

287 (2) A charter school may be established by:

288 (a) creating a new school; or

289 (b) converting an existing public school to charter status.

290 (3) A parochial school or home school is not eligible for charter school status.

291 Section 7. Section **53G-7-901** is amended to read:

292 **53G-7-901. Definitions.**

293 As used in this part:

294 (1) "Cooperating employer" means a public or private entity which, as part of a work
295 experience ~~[and]~~ or career exploration program offered through a school, provides interns with
296 educational resources, training, and work experience in activities related to the entity's ongoing
297 business activities.

298 (2) "Intern" means a student enrolled in a school-sponsored work experience and career
299 exploration program under Section 53G-7-902 involving both classroom instruction and work
300 experience with a cooperating employer, for which the student receives no compensation.

301 (3) "Internship" means the work experience segment of an intern's school-sponsored
302 work experience and career exploration program, performed under the direct supervision of a
303 cooperating employer.

304 (4) "Internship safety agreement" means the agreement between a public or private
305 school and a cooperating employer in accordance with Section 53G-7-904.

306 (5) "Private school" means a school serving any of grades 7 through 12 which is not

307 part of the public education system.

308 (6) "Public school" means:

309 (a) a public school district;

310 (b) an applied technology center or applied technology service region;

311 (c) the Schools for the Deaf and the Blind; or

312 (d) other components of the public education system authorized by the state board to
313 offer internships.

314 Section 8. Section **53G-9-801** is amended to read:

315 **53G-9-801. Definitions.**

316 As used in Section **53G-9-802**:

317 (1) "Attainment goal" means earning:

318 (a) a high school diploma;

319 (b) a Utah High School Completion Diploma, as defined in state board rule made in
320 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

321 (c) an Adult Education Secondary Diploma, as defined in state board rule made in
322 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

323 (d) an employer-recognized, industry-based certificate that is:

324 (i) likely to result in job placement; and

325 (ii) included in the state board's approved career and technical education industry
326 certification list.

327 (2) "Cohort" means a group of students, defined by the year in which the group enters
328 grade 9.

329 (3) "Designated student" means a student:

330 (a) (i) who has withdrawn from an LEA before earning a diploma;

331 (ii) who has been dropped from average daily membership; and

332 (iii) whose cohort has not yet graduated; or

333 (b) who is at risk of meeting the criteria described in Subsection (3)(a), as determined
334 by the student's LEA, using risk factors defined in rules made by the state board in accordance
335 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

336 (4) "Graduation rate" means:

337 (a) for a school district or a charter school that includes grade 12, the graduation rate

338 calculated by the state board for federal accountability and reporting purposes; or

339 (b) for a charter school that does not include grade 12, a proxy graduation rate defined
340 in rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative
341 Rulemaking Act.

342 (5) "Local education agency" or "LEA" means a school district or charter school that
343 serves students in grade 9, 10, 11, or 12.

344 (6) "Nontraditional program" means a program, as defined in rules made by the state
345 board under Subsection [~~53E-3-501(1)(e)~~] 53E-3-501(1)(c), in which a student receives
346 instruction through:

347 (a) distance learning;

348 (b) online learning;

349 (c) blended learning; or

350 (d) competency-based learning.

351 (7) "Statewide graduation rate" means:

352 (a) for a school district or a charter school that includes grade 12, the statewide
353 graduation rate, as annually calculated by the state board; or

354 (b) for a charter school that does not include grade 12, the average graduation rate for
355 all charter schools that do not include grade 12.

356 (8) "Third party" means:

357 (a) a private provider; or

358 (b) an LEA that does not meet the criteria described in Subsection 53G-9-802(3).

359 Section 9. Section **53G-11-402** is amended to read:

360 **53G-11-402. Background checks for non-licensed employees, contract employees,**
361 **volunteers, and charter school governing board members.**

362 (1) An LEA or qualifying private school shall:

363 (a) require [~~each of~~] the following individuals who [~~is~~] are 18 years old or older to
364 submit to a nationwide criminal background check and ongoing monitoring as a condition [~~for~~]
365 of employment or appointment:

366 (i) a non-licensed employee;

367 (ii) a contract employee;

368 (iii) except for an officer or employee of a cooperating employer under an internship

369 safety agreement under Section 53G-7-904, a volunteer who will be given significant
 370 unsupervised access to a student in connection with the volunteer's assignment; and
 371 (iv) a charter school governing board member;

372 (b) collect the following from an individual required to submit to a background check
 373 under Subsection (1)(a):

374 (i) personal identifying information;
 375 (ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and
 376 (iii) consent, on a form specified by the LEA or qualifying private school, for:

377 (A) an initial fingerprint-based background check by the FBI and the bureau upon
 378 submission of the application; and
 379 (B) retention of personal identifying information for ongoing monitoring through
 380 registration with the systems described in Section 53G-11-404;

381 (c) submit the individual's personal identifying information to the bureau for:

382 (i) an initial fingerprint-based background check by the FBI and the bureau; and
 383 (ii) ongoing monitoring through registration with the systems described in Section
 384 53G-11-404 if the results of the initial background check do not contain disqualifying criminal
 385 history information as determined by the LEA or qualifying private school in accordance with
 386 Section 53G-11-405; and

387 (d) identify the appropriate privacy risk mitigation strategy ~~[that will]~~ to be used to
 388 ensure ~~[that]~~ the LEA or qualifying private school only receives notifications for individuals
 389 with whom the LEA or qualifying private school maintains an authorizing relationship.

390 (2) An LEA or qualifying private school may not require an individual to pay the fee
 391 described in Subsection (1)(b)(ii) unless the individual:

392 (a) has passed an initial review; and
 393 (b) is one of a pool of no more than five candidates for the position.

394 ~~[(3) By September 1, 2018, an LEA or qualifying private school shall:]~~
 395 ~~[(a) collect the information described in Subsection (1)(b) from individuals:]~~
 396 ~~[(i) who were employed or appointed prior to July 1, 2015; and]~~
 397 ~~[(ii) with whom the LEA or qualifying private school currently maintains an~~
 398 ~~authorizing relationship; and]~~
 399 ~~[(b) submit the information to the bureau for ongoing monitoring through registration~~

400 with the systems described in Section ~~53G-11-404~~.]

401 ~~[(4)]~~ (3) An LEA or qualifying private school that receives criminal history
402 information about a licensed educator under Subsection ~~53G-11-403~~(5) shall assess the
403 employment status of the licensed educator as provided in Section ~~53G-11-405~~.

404 ~~[(5)]~~ (4) An LEA or qualifying private school may establish a policy to exempt an
405 individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under
406 Subsection (1) if the individual is being temporarily employed or appointed.