

EDUCATION ENTITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill defines "home-based education entity" and "micro-education entity" and provides these entities and students of these entities with similar duties, requirements, waivers, and rights as private and charter schools.

Highlighted Provisions:

This bill:

- ▶ requires a county to consider micro-education and home-based education entities as a permitted use in all zoning districts within a county;
- ▶ subjects a micro-education entity to the same occupancy requirements for Class B Occupancy and prevents a home-based education entity from being subject to any occupancy requirements beyond a primary dwelling requirements;
- ▶ defines:
 - education cooperative;
 - extracurricular lessons;
 - home-based education entity; and
 - micro-education entity;
- ▶ exempts a micro-education entity and a home-based education entity from immunization requirements and compulsory education requirements
- ▶ prevents government entities from regulating micro-education entity and home-based education entity instructors, student assessments, and food preparation



28 and distribution;

29 ▶ allows students in a micro-education entity or home-based education entity to be
30 dual enrolled or participate in extracurricular activities in a public school; and

31 ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **17-27a-305**, as last amended by Laws of Utah 2021, Chapter 35

39 **53G-6-201**, as last amended by Laws of Utah 2021, Chapters 113, 261 and 427

40 **53G-6-202**, as last amended by Laws of Utah 2021, Chapter 359 and further amended
41 by Revisor Instructions, Laws of Utah 2021, Chapter 359

42 **53G-6-203**, as last amended by Laws of Utah 2021, Chapter 359

43 **53G-6-206**, as last amended by Laws of Utah 2021, Chapter 262

44 **53G-6-702**, as last amended by Laws of Utah 2020, Chapter 408

45 **53G-6-703**, as last amended by Laws of Utah 2019, Chapter 293

46 **53G-6-706**, as last amended by Laws of Utah 2019, Chapter 293

47 **53G-9-302**, as renumbered and amended by Laws of Utah 2018, Chapter 3

48 ENACTS:

49 **53G-6-212**, Utah Code Annotated 1953



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

52 Section 1. Section **17-27a-305** is amended to read:

53 **17-27a-305. Other entities required to conform to county's land use ordinances --**
54 **Exceptions -- School districts and charter schools -- Submission of development plan and**
55 **schedule.**

56 (1) (a) Each county, municipality, school district, charter school, local district, special
57 service district, and political subdivision of the state shall conform to any applicable land use
58 ordinance of any county when installing, constructing, operating, or otherwise using any area,

59 land, or building situated within a mountainous planning district or the unincorporated portion
60 of the county, as applicable.

61 (b) In addition to any other remedies provided by law, when a county's land use
62 ordinance is violated or about to be violated by another political subdivision, that county may
63 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
64 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

65 (2) (a) Except as provided in Subsection (3), a school district or charter school is
66 subject to a county's land use ordinances.

67 (b) (i) Notwithstanding Subsection (3), a county may:

68 (A) subject a charter school to standards within each zone pertaining to setback, height,
69 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
70 staging; and

71 (B) impose regulations upon the location of a project that are necessary to avoid
72 unreasonable risks to health or safety, as provided in Subsection (3)(f).

73 (ii) The standards to which a county may subject a charter school under Subsection
74 (2)(b)(i) shall be objective standards only and may not be subjective.

75 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may
76 deny or withhold approval of a charter school's land use application is the charter school's
77 failure to comply with a standard imposed under Subsection (2)(b)(i).

78 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
79 obligation to comply with a requirement of an applicable building or safety code to which it is
80 otherwise obligated to comply.

81 (3) A county may not:

82 (a) impose requirements for landscaping, fencing, aesthetic considerations,
83 construction methods or materials, additional building inspections, county building codes,
84 building use for educational purposes, or the placement or use of temporary classroom facilities
85 on school property;

86 (b) except as otherwise provided in this section, require a school district or charter
87 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
88 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
89 children and not located on or contiguous to school property, unless the roadway or sidewalk is

90 required to connect an otherwise isolated school site to an existing roadway;

91 (c) require a district or charter school to pay fees not authorized by this section;

92 (d) provide for inspection of school construction or assess a fee or other charges for
93 inspection, unless the school district or charter school is unable to provide for inspection by an
94 inspector, other than the project architect or contractor, who is qualified under criteria
95 established by the state superintendent;

96 (e) require a school district or charter school to pay any impact fee for an improvement
97 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

98 (f) impose regulations upon the location of an educational facility except as necessary
99 to avoid unreasonable risks to health or safety; or

100 (g) for a land use or a structure owned or operated by a school district or charter school
101 that is not an educational facility but is used in support of providing instruction to pupils,
102 impose a regulation that:

103 (i) is not imposed on a similar land use or structure in the zone in which the land use or
104 structure is approved; or

105 (ii) uses the tax exempt status of the school district or charter school as criteria for
106 prohibiting or regulating the land use or location of the structure.

107 (4) Subject to Section [53E-3-710](#), a school district or charter school shall coordinate
108 the siting of a new school with the county in which the school is to be located, to:

109 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
110 the impacts between the new school and future highways; and

111 (b) maximize school, student, and site safety.

112 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

113 (a) provide a walk-through of school construction at no cost and at a time convenient to
114 the district or charter school; and

115 (b) provide recommendations based upon the walk-through.

116 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

117 (i) a county building inspector;

118 (ii) (A) for a school district, a school district building inspector from that school
119 district; or

120 (B) for a charter school, a school district building inspector from the school district in

121 which the charter school is located; or
122 (iii) an independent, certified building inspector who is:
123 (A) not an employee of the contractor;
124 (B) approved by:
125 (I) a county building inspector; or
126 (II) (Aa) for a school district, a school district building inspector from that school
127 district; or
128 (Bb) for a charter school, a school district building inspector from the school district in
129 which the charter school is located; and
130 (C) licensed to perform the inspection that the inspector is requested to perform.
131 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
132 (c) If a school district or charter school uses a school district or independent building
133 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to
134 the state superintendent of public instruction and county building official, on a monthly basis
135 during construction of the school building, a copy of each inspection certificate regarding the
136 school building.
137 (7) (a) A charter school, micro-education entity, or home-based education entity shall
138 be considered a permitted use in all zoning districts within a county.
139 (b) Each land use application for any approval required for a charter school, a micro-education entity, or a home-based education entity, including an application for a
140 building permit, shall be processed on a first priority basis.
141
142 (c) Parking requirements for a charter school or a micro-education entity may not
143 exceed the minimum parking requirements for schools or other institutional public uses
144 throughout the county.
145 (d) If a county has designated zones for a sexually oriented business, or a business
146 which sells alcohol, a charter school or micro-education entity may be prohibited from a
147 location which would otherwise defeat the purpose for the zone unless the charter school or
148 micro-education entity provides a waiver.
149 (e) (i) A school district, micro-education entity, or [a] charter school may seek a
150 certificate authorizing permanent occupancy of a school building from:
151 (A) the state superintendent of public instruction, as provided in Subsection

152 53E-3-706(3), if the school district, micro-education entity, or charter school used an
153 independent building inspector for inspection of the school building; or

154 (B) a county official with authority to issue the certificate, if the school district,
155 micro-education entity, or charter school used a county building inspector for inspection of the
156 school building.

157 (ii) A school district may issue its own certificate authorizing permanent occupancy of
158 a school building if it used its own building inspector for inspection of the school building,
159 subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

160 (iii) A charter school or micro-education entity may seek a certificate authorizing
161 permanent occupancy of a school building from a school district official with authority to issue
162 the certificate, if the charter school or micro-education entity used a school district building
163 inspector for inspection of the school building.

164 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
165 of public instruction under Subsection 53E-3-706(3) or a school district official with authority
166 to issue the certificate shall be considered to satisfy any county requirement for an inspection or
167 a certificate of occupancy.

168 (f) A micro-education entity is subject to the same occupancy requirements as a Class
169 B Occupancy as defined by the International Building Code, as incorporated by Subsection
170 15A-2-103(1)(a).

171 (g) A home-based education entity is not subject to additional occupancy requirements
172 beyond those required of a primary dwelling.

173 (8) (a) A specified public agency intending to develop its land shall submit to the land
174 use authority a development plan and schedule:

175 (i) as early as practicable in the development process, but no later than the
176 commencement of construction; and

177 (ii) with sufficient detail to enable the land use authority to assess:

178 (A) the specified public agency's compliance with applicable land use ordinances;

179 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c),
180 (d), (e), and (g) caused by the development;

181 (C) the amount of any applicable fee described in Section 17-27a-509;

182 (D) any credit against an impact fee; and

183 (E) the potential for waiving an impact fee.

184 (b) The land use authority shall respond to a specified public agency's submission
185 under Subsection (8)(a) with reasonable promptness in order to allow the specified public
186 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the
187 process of preparing the budget for the development.

188 (9) Nothing in this section may be construed to:

189 (a) modify or supersede Section 17-27a-304; or

190 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that
191 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
192 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
193 1990, 42 U.S.C. 12102, or any other provision of federal law.

194 Section 2. Section 53G-6-201 is amended to read:

195 **53G-6-201. Definitions.**

196 As used in this part:

197 (1) (a) "Absence" or "absent" means the failure of a school-age child assigned to a class
198 or class period to attend a class or class period.

199 (b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence
200 for the sake of a truancy.

201 (2) "Education cooperative" means two or more families jointly providing education
202 services to school-aged children.

203 [~~2~~] (3) "Educational neglect" means the same as that term is defined in Section
204 80-1-102.

205 (4) "Extracurricular lessons" means the provision of educational services or
206 experiences beyond traditional academic instruction.

207 (5) (a) "Home-based education entity" means a person or association of persons that,
208 for compensation, provides education services to 25 or fewer students from their primary
209 residential dwelling, accessory dwelling unit, or residential property.

210 (b) "Home-based education entity" includes:

211 (i) a tutoring service;

212 (ii) an education cooperative; and

213 (iii) extracurricular lessons.

214 (c) "Home-based education entity" does not include a family that has filed an affidavit
215 for a child pursuant to Section 53G-6-204.

216 (6) (a) "Micro-education entity" means a person or association of persons that, for
217 compensation, provides education services to 150 students or fewer.

218 (b) "Micro-education entity" does not include:

219 (i) a family that has filed an affidavit for a child pursuant to Section 53G-6-204; or

220 (ii) a home-based education entity.

221 ~~[(3)]~~ (7) "Minor" means an individual who is under 18 years old.

222 ~~[(4)]~~ (8) "Parent" includes:

223 (a) a custodial parent of the minor;

224 (b) a legally appointed guardian of a minor; or

225 (c) any other person purporting to exercise any authority over the minor which could be
226 exercised by a person described in Subsection ~~[(4)]~~ (8)(a) or (b).

227 ~~[(5)]~~ (9) "School day" means the portion of a day that school is in session in which a
228 school-age child is required to be in school for purposes of receiving instruction.

229 ~~[(6)]~~ (10) "School year" means the period of time designated by a local school board or
230 charter school governing board as the school year for the school where the school-age child:

231 (a) is enrolled; or

232 (b) should be enrolled, if the school-age child is not enrolled in school.

233 ~~[(7)]~~ (11) "School-age child" means a minor who:

234 (a) is at least six years old but younger than 18 years old; and

235 (b) is not emancipated.

236 ~~[(8)]~~ (12) (a) "Truant" means a condition in which a school-age child, without a valid
237 excuse, and subject to Subsection ~~[(8)]~~ (12)(b), is absent for at least:

238 (i) half of the school day; or

239 (ii) if the school-age child is enrolled in a learner verified program, as that term is
240 defined by the state board, the relevant amount of time under the LEA's policy regarding the
241 LEA's continuing enrollment measure as it relates to truancy.

242 (b) A school-age child may not be considered truant under this part more than one time
243 during one day.

244 ~~[(9)]~~ (13) "Truant minor" means a school-age child who:

245 (a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and

246 (b) is truant.

247 [~~(10)~~] (14) (a) "Valid excuse" means:

248 (i) an illness, which may be either mental or physical, regardless of whether the
249 school-age child or parent provides documentation from a medical professional;

250 (ii) mental or behavioral health of the school-age child;

251 (iii) a family death;

252 (iv) an approved school activity;

253 (v) an absence permitted by a school-age child's:

254 (A) individualized education program; or

255 (B) Section 504 accommodation plan;

256 (vi) an absence permitted in accordance with Subsection 53G-6-803(5); or

257 (vii) any other excuse established as valid by a local school board, charter school
258 governing board, or school district.

259 (b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason
260 other than a reason described in Subsections (10)(a)(i) through (vi), unless specifically
261 permitted by the local school board, charter school governing board, or school district under
262 Subsection (10)(a)(vi).

263 Section 3. Section 53G-6-202 is amended to read:

264 **53G-6-202. Compulsory education.**

265 (1) As used in this section:

266 (a) "Intentionally" means the same as that term is defined in Section 76-2-103.

267 (b) "Notice of compulsory education violation" means a notice issued in accordance
268 with Subsections (3) and (4).

269 (c) "Remainder of the school year" means the portion of the school year beginning on
270 the day after the day on which a notice of compulsory education violation is served and ending
271 on the last day of the school year.

272 (2) Except as provided in Section 53G-6-204, 53G-6-212, or 53G-6-702, the parent of
273 a school-age child shall enroll and send the school-age child to a public or regularly established
274 private school.

275 (3) A school administrator, a designee of a school administrator, a law enforcement

276 officer acting as a school resource officer, or a truancy specialist may only issue a notice of
277 compulsory education violation to a parent of a school-age child if the school-age child is:

278 (a) in grade 1 through 6; and

279 (b) truant at least five times during the school year.

280 (4) A notice of compulsory education violation issued to a parent:

281 (a) shall direct the parent to:

282 (i) meet with school authorities to discuss the school-age child's school attendance
283 problems; and

284 (ii) cooperate with the local school board, charter school governing board, or school
285 district in securing regular attendance by the school-age child;

286 (b) shall designate the school authorities with whom the parent is required to meet;

287 (c) shall state that it is a class B misdemeanor for the parent to intentionally or without
288 good cause:

289 (i) fail to meet with the designated school authorities to discuss the school-age child's
290 school attendance problems; or

291 (ii) fail to prevent the school-age child from being truant five or more times during the
292 remainder of the school year;

293 (d) shall be served on the parent by personal service or certified mail; and

294 (e) may not be issued unless the school-age child has been truant at least five times
295 during the school year.

296 (5) Except during the period between March 17, 2021, and June 1, 2022, it is a class B
297 misdemeanor for a parent of a school-age child to intentionally or without good cause fail to
298 enroll the school-age child in school, unless the school-age child is exempt from enrollment
299 under Section [53G-6-204](#), [53G-6-212](#), or [53G-6-702](#).

300 (6) Except during the period between March 17, 2021, and June 1, 2022, it is a class B
301 misdemeanor for a parent of a school-age child who is in grade 1 through 6 to, after being
302 served with a notice of compulsory education violation, intentionally or without good cause:

303 (a) fail to meet with the school authorities designated in the notice of compulsory
304 education violation to discuss the school-age child's school attendance problems; or

305 (b) fail to prevent the school-age child from being truant five or more times during the
306 remainder of the school year.

307 (7) Except during the period described in Subsections (5) and (6), a local school board,
308 charter school governing board, or school district shall report violations of this section to the
309 appropriate county or district attorney.

310 (8) Except during the period described in Subsections (5) and (6), if school personnel
311 have reason to believe that, after a notice of compulsory education violation is issued, the
312 parent has failed to make a good faith effort to ensure that the school-age child receives an
313 appropriate education, the issuer of the compulsory education violation shall report to the
314 Division of Child and Family Services:

315 (a) identifying information of the school-age child and the parent who received the
316 notice of compulsory education violation;

317 (b) information regarding the longest number of consecutive school days the
318 school-age child has been absent or truant from school and the percentage of school days the
319 school-age child has been absent or truant during each relevant school term;

320 (c) whether the school-age child has made adequate educational progress;

321 (d) whether the requirements of Section 53G-6-206 have been met;

322 (e) whether the school-age child is two or more years behind the local public school's
323 age group expectations in one or more basic skills; and

324 (f) whether the school-age child is receiving special education services or systematic
325 remediation efforts.

326 (9) Notwithstanding this section, during the period described in Subsections (5) and
327 (6), a school administrator, designee of a school administrator, law enforcement officer acting
328 as a school resource officer, or truancy specialist may not issue or otherwise enforce a notice of
329 compulsory education.

330 Section 4. Section 53G-6-203 is amended to read:

331 **53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school**
332 **authorities.**

333 (1) Except as provided in Section 53G-6-204, 53G-6-212 or 53G-6-702, a school-age
334 child who is enrolled in a public school shall attend the public school in which the school-age
335 child is enrolled.

336 (2) Except during the period between the effective date of this bill and June 1, 2022,
337 accordance with Section 53G-8-211, a local school board, charter school governing board, or

338 school district may impose administrative penalties on a school-age child who is:

339 (a) in grade 7 or above, unless the school-age child is less than 12 years old; and

340 (b) truant.

341 (3) A local school board or charter school governing board:

342 (a) may authorize a school administrator, a designee of a school administrator, a law
343 enforcement officer acting as a school resource officer, or a truancy specialist to issue a notice
344 of truancy in accordance with Subsection (4); and

345 (b) shall establish a procedure for a school-age child, or the school-age child's parents,
346 to contest a notice of truancy.

347 (4) A notice of truancy described in Subsection (3):

348 (a) may not be issued until a school-age child has been truant at least five times during
349 the school year;

350 (b) may not be issued to a school-age child who is less than 12 years old or in a grade
351 below grade 7;

352 (c) may not be issued to a school-age child exempt from school attendance as provided
353 in Section [53G-6-204](#), [53G-6-212](#), or [53G-6-702](#);

354 (d) shall direct the school-age child who receives the notice of truancy and the parent
355 of the school-age child to:

356 (i) meet with school authorities to discuss the school-age child's trancies; and

357 (ii) cooperate with the local school board, charter school governing board, or school
358 district in securing regular attendance by the school-age child; and

359 (e) shall be mailed to, or served on, the school-age child's parent.

360 (5) (a) Except as provided in Subsection (5)(b), nothing in this part prohibits a local
361 school board, charter school governing board, or school district from taking action to resolve a
362 truancy problem with a school-age child who has been truant fewer than five times, provided
363 that the action does not conflict with the requirements of this part.

364 (b) A local school board, charter school governing board, or school district may not
365 take punitive action to resolve a truancy problem with a school-age child during the period
366 described in Subsection (2).

367 (6) Notwithstanding this section, during the period described in Subsection (2), a
368 school administrator, designee of a school administrator, law enforcement officer acting as a

369 school resource officer, or truancy specialist may not issue or otherwise enforce a notice of
370 truancy.

371 Section 5. Section **53G-6-206** is amended to read:

372 **53G-6-206. Duties of a local school board, charter school governing board, or**
373 **school district in resolving attendance problems -- Parental involvement -- Liability not**
374 **imposed -- Report to state board.**

375 (1) (a) Subject to Subsection (1)(b), a local school board, charter school governing
376 board, or school district shall make efforts to resolve the school attendance problems of each
377 school-age child who is, or should be, enrolled in the school district.

378 (b) A school-age child exempt from school attendance under Section [53G-6-204](#),
379 [53G-6-212](#), or [53G-6-702](#) is not considered to be a school-age child who is or should be
380 enrolled in a school district or charter school under Subsection (1)(a).

381 (2) The efforts described in Subsection (1) shall include, as reasonably feasible:

382 (a) counseling of the school-age child by school authorities;

383 (b) (i) issuing a notice of truancy to the school-age child in accordance with Section
384 [53G-6-203](#); or

385 (ii) issuing a notice of compulsory education violation to the school-age child's parent
386 in accordance with Section [53G-6-202](#);

387 (c) making any necessary adjustment to the curriculum and schedule to meet special
388 needs of the school-age child;

389 (d) considering alternatives proposed by the school-age child's parent;

390 (e) monitoring school attendance of the school-age child;

391 (f) voluntary participation in truancy mediation, if available; and

392 (g) providing the school-age child's parent, upon request, with a list of resources
393 available to assist the parent in resolving the school-age child's attendance problems.

394 (3) In addition to the efforts described in Subsection (2), the local school board, charter
395 school governing board, or school district may enlist the assistance of community and law
396 enforcement agencies as appropriate and reasonably feasible in accordance with Section
397 [53G-8-211](#).

398 (4) This section does not impose civil liability on boards of education, local school
399 boards, charter school governing boards, school districts, or their employees.

400 (5) Proceedings initiated under this part do not obligate or preclude action by the
401 Division of Child and Family Services under Section 53G-6-210.

402 (6) Each LEA shall annually report the following data separately to the state board:

403 (a) absences with a valid excuse; and

404 (b) absences without a valid excuse.

405 Section 6. Section 53G-6-212 is enacted to read:

406 **53G-6-212. Micro-education entity and home-based education entity waivers and**
407 **exemptions.**

408 (1) A home-based education entity or a micro-education entity may form to provide
409 education services to school-aged children.

410 (2) A micro-education entity or home-based education entity is solely responsible for
411 the following criteria with regard to the entity's students:

412 (a) the selection of instructional materials and textbooks;

413 (b) the time, place, and method of instruction; and

414 (c) the evaluation of the instruction.

415 (3) A local health department may not require a micro-education entity or a
416 home-based education entity to obtain a permit or undergo an inspection in order to prepare or
417 provide food.

418 (4) A parent of a student attending a micro-education entity or home-based education
419 entity is exempt from requirements described in Title 53G, Chapter 6, Part 2, Compulsory
420 Education.

421 (5) The State Office of Education or any other state entity may not require a
422 micro-education entity or a home-based education entity to:

423 (a) conduct a student assessment;

424 (b) maintain records of instruction or attendance; and

425 (c) require teaching or other credentials for individuals providing instruction at a
426 micro-education entity or a home-based education entity.

427 Section 7. Section 53G-6-702 is amended to read:

428 **53G-6-702. Dual enrollment.**

429 (1) As used in this section, "minor" means the same as that term is defined in Section
430 53G-6-201.

431 (2) A person having control of a minor who is enrolled in a regularly established
432 private school, micro-education entity, home-based education entity, or a home school may
433 also enroll the minor in a public school for dual enrollment purposes.

434 (3) The minor may participate in any academic activity in the public school available to
435 students in the minor's grade or age group, subject to compliance with the same rules and
436 requirements that apply to a full-time student's participation in the activity.

437 (4) (a) A student enrolled in a dual enrollment program in a district school is
438 considered a student of the district in which the district school of attendance is located for
439 purposes of state funding to the extent of the student's participation in the district school
440 programs.

441 (b) A student enrolled in a dual enrollment program in a charter school is considered a
442 student of the charter school for purposes of state funding to the extent of the student's
443 participation in the charter school programs.

444 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
445 state board shall make rules for purposes of dual enrollment to govern and regulate the
446 transferability of credits toward graduation that are earned in a private school, micro-education
447 entity, home-based education entity, or home school.

448 Section 8. Section **53G-6-703** is amended to read:

449 **53G-6-703. Private school and home school students' participation in**
450 **extracurricular activities in a public school.**

451 (1) As used in this section:

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

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

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

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

459 (2) (a) A minor who is enrolled in a private school, micro-education entity,
460 home-based education entity, or a home school shall be eligible to participate in an
461 extracurricular activity at a public school as provided in this section.

462 (b) A private school or micro-education entity student may only participate in an
463 extracurricular activity at a public school that is not offered by the student's private school or
464 micro-education entity.

465 (c) Except as provided in Subsection (2)(d), [~~a private school student or a home school~~
466 ~~student may only participate in an extracurricular activity at:~~] a student of a private school,
467 micro-education entity, home-based education entity, or home school may only participate in
468 an extracurricular activity at:

469 (i) the school within whose attendance boundaries the student's custodial parent
470 resides; or

471 (ii) the school from which the student withdrew for the purpose of attending a private
472 school, micro-education entity, home-based education entity, or home school.

473 (d) A school other than a school described in Subsection (2)(c)(i) or (ii) may allow [~~a~~
474 ~~private school student or a home school student~~] a student of a private school, micro-education
475 entity, or home school to participate in an extracurricular activity other than:

476 (i) an interscholastic competition of athletic teams sponsored and supported by a public
477 school; or

478 (ii) an interscholastic contest or competition for music, drama, or forensic groups or
479 teams sponsored and supported by a public school.

480 (3) (a) Except as provided in Subsections (4) through (13), a private school or home
481 school student shall be eligible to participate in an extracurricular activity at a public school
482 consistent with eligibility standards:

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

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

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

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

491 (c) (i) A private school or home school student who participates in an extracurricular
492 activity at a public school shall pay the same fees as required of a fully enrolled public school

493 student to participate in an extracurricular activity.

494 (ii) If a local school board or charter school governing board imposes a mandatory
495 student activity fee for a student enrolled in a public school, the fee may be imposed on a
496 private school or home school student who participates in an extracurricular activity at the
497 public school if the same benefits of paying the mandatory student activity fee that are
498 available to a fully enrolled public school student are available to a private school or home
499 school student who participates in an extracurricular activity at the public school.

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

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

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

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

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

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

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

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

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

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

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

523 (b) If a home school student reestablishes academic eligibility pursuant to Subsection

524 (7)(a), the home school student may participate in extracurricular activities for the remainder of
525 the activity season for which an affidavit was submitted under Subsection (6)(a).

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

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

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

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

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

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

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

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

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

546 (ii) one member shall have experience teaching in a higher education institution and in
547 home schooling; and

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

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

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

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

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

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

555 (e) shall determine whether the home school student meets academic eligibility
556 requirements.

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

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

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

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

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

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

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

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

579 (15) When selection to participate in an extracurricular activity at a public school is
580 made on a competitive basis, a private school student and a home school student shall be
581 eligible to try out for and participate in the activity as provided in this section.

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

586 (b) A student's academic eligibility to participate in an extracurricular activity under
587 the circumstances described in Subsection (16)(a) shall be based on the student meeting public
588 school academic eligibility standards at the time of exiting public school.

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

592 Section 9. Section **53G-6-706** is amended to read:

593 **53G-6-706. Placement of a student of a home school, micro-education entity, or**
594 **home-based education entity, who transfers to a public school.**

595 (1) For the purposes of this section [~~:(a) "Home school student" means a student who~~
596 ~~attends a home school pursuant to Section 53G-6-204.~~ (b) "Parent", "parent" means the same
597 as that term is defined in Section **53G-6-201**.

598 (2) [~~When a home school student transfers from a home school~~] When a student of a
599 home school, micro-education entity, or home-based education entity transfers from a home
600 school, micro-education entity, or home-based education entity to a public school, the public
601 school shall place the student in the grade levels, classes, or courses that the student's parent
602 and in consultation with the school administrator determine are appropriate based on the
603 parent's assessment of the student's academic performance.

604 (3) (a) Within 30 days of [~~a home school~~] the student's placement in a public school
605 grade level, class, or course, either the student's teacher or the student's parent may request a
606 conference to consider changing the student's placement.

607 (b) If the student's teacher and the student's parent agree on a placement change, the
608 public school shall place the student in the agreed upon grade level, class, or course.

609 (c) If the student's teacher and the student's parent do not agree on a placement change,
610 the public school shall evaluate the student's subject matter mastery in accordance with
611 Subsection (3)(d).

612 (d) The student's parent has the option of:

613 (i) allowing the public school to administer, to the student, assessments that are:

614 (A) regularly administered to public school students; and

615 (B) used to measure public school students' subject matter mastery and determine
616 placement; or

617 (ii) having a private entity or individual administer assessments of subject matter
618 mastery to the student at the parent's expense.

619 (e) After an evaluation of a student's subject matter mastery, a public school may
620 change ~~the~~ the student's placement in a grade level, class, or course.

621 (4) ~~[This]~~ Pursuant to Section [53G-6-702](#), this section does not apply to a student who
622 is dual enrolled in a public school and a ~~[home school pursuant to Section [53G-6-702](#)];~~

623 (a) home school;

624 (b) micro-education entity; or

625 (c) home-based education entity

626 Section 10. Section **53G-9-302** is amended to read:

627 **53G-9-302. Immunization required -- Exception -- Weighted pupil unit funding.**

628 (1) A student may not attend a school unless:

629 (a) the school receives an immunization record from the legally responsible individual
630 of the student, the student's former school, or a statewide registry that shows:

631 (i) that the student has received each vaccination required by the department under
632 Section [53G-9-305](#); or

633 (ii) for any required vaccination that the student has not received, that the student:

634 (A) has immunity against the disease for which the vaccination is required, because the
635 student previously contracted the disease as documented by a health care provider, as that term
636 is defined in Section [78B-3-103](#); or

637 (B) is exempt from receiving the vaccination under Section [53G-9-303](#);

638 (b) the student qualifies for conditional enrollment under Section [53G-9-308](#); or

639 (c) the student:

640 (i) is a student, as defined in Section [53E-3-903](#); and

641 (ii) complies with the immunization requirements for military children under Section
642 [53E-3-905](#).

643 (2) An LEA may not receive weighted pupil unit money for a student who is not
644 permitted to attend school under Subsection (1).

645 (3) Requirements under this section do not apply to a micro-education entity or a
646 home-based education entity, as described in Section [53G-6-212](#).