

**STATE BOARD OF EDUCATION AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keith Grover**

House Sponsor: Nelson T. Abbott

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**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           ~~[(E)]~~ (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           (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.

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[5] 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.