

## HB0182S05 compared with HB0182S04

~~text~~ shows text that was in HB0182S04 but was deleted in HB0182S05.

text shows text that was not in HB0182S04 but was inserted into HB0182S05.

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~~Representative Karianne Lisonbee~~Senator Keith Grover proposes the following substitute bill:

### STUDENT SURVEY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor: Keith Grover

Cosponsors:	Katy Hall	Matt MacPherson
Brady Brammer	Tim Jimenez	Jordan D. Teuscher
Walt Brooks	Jason B. Kyle	R. Neil Walter
Joseph Elison	Trevor Lee	

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#### LONG TITLE

##### General Description:

This bill amends student survey requirements.

##### Highlighted Provisions:

This bill:

- ▶ removes references to the Utah Student Health and Risk Prevention Statewide Survey;

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- ▶ requires an LEA to:
  - ~~{to}~~ update policies to require parental consent for certain surveys given to a student;
  - ~~{to}~~ obtain the certain parental consent annually in writing;
  - ~~{to}~~ obtain new parental consent from parent's of a transferring student; and
  - ~~{to}~~ provide a parent a list of recipients of any data collected;
- ▶ prohibits an LEA from offering a reward or consequence to a student related to survey participation;
- ▶ allows an LEA to opt into administering the model school climate survey created by the State Board of Education; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

**26A-1-129**, as enacted by Laws of Utah 2020, Chapter 347

**53E-9-203**, as last amended by Laws of Utah 2022, Chapter 335

**53F-4-207**, as last amended by Laws of Utah 2022, Chapter 208

**53G-8-802**, as last amended by Laws of Utah 2023, Chapters 328, 383

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

Section 1. Section **26A-1-129** is amended to read:

**26A-1-129. Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program -- Reporting.**

(1) As used in this section, "grant program" means the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in this section.

(2) There is created the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program which shall be administered by local health departments in accordance with this section.

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(3) (a) A local health department shall administer the grant program with funds allocated to the grant program under Subsection 59-14-807(4)(d), to award grants to:

(i) a coalition of community organizations that is focused on substance abuse prevention;

(ii) a local government agency, including a law enforcement agency, for a program that is focused on substance abuse prevention; or

(iii) a local education agency as defined in Section 53E-1-102.

(b) A recipient of a grant under the grant program shall use the grant to address root causes and factors associated with the use of electronic cigarettes, marijuana, and other drugs:

(i) by addressing one or more risk or protective factors [~~identified in the Utah Student Health and Risk Prevention Statewide Survey~~]; and

(ii) through one or more of the following activities aimed at reducing use of electronic cigarettes, marijuana, and other drugs:

(A) providing information;

(B) enhancing individual skills;

(C) providing support to activities that reduce risk or enhance protections;

(D) enhancing access or reducing barriers systems, processes, or programs;

(E) changing consequences by addressing incentives or disincentives;

(F) changing the physical design or structure of an environment to reduce risk or enhance protections; or

(G) supporting modifications or changing policies.

(c) The grant program shall provide funding for a program or purpose that is:

(i) evidence-based; or

(ii) a promising practice as defined by the United States Centers for Disease Control and Prevention.

(4) (a) An applicant for a grant under the grant program shall submit an application to the local health department that has jurisdiction over the area in which the applicant is proposing use of grant funds.

(b) The application described in Subsection (4)(a) shall:

(i) provide a summary of how the applicant intends to expend grant funds; and

(ii) describe how the applicant will meet the requirements described in Subsection (3).

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(c) A local health department may establish the form or manner in which an applicant must submit an application for the grant program under this section.

(5) (a) A local health department shall:

(i) on or before June 30 of each year:

(A) review each grant application the local health department receives for the grant program; and

(B) select recipients for a grant under the grant program; and

(ii) before July 15 of each year, disperse grant funds to each selected recipient.

(b) A local health department may not award a single grant under this section in an amount that exceeds \$100,000.

(6) (a) Before August 1 of each year, a recipient of a grant under the grant program shall, for the previous year, submit a report to the local health department that:

(i) provides an accounting for the expenditure of grant funds;

(ii) describes measurable outcomes as a result of the expenditures;

(iii) describes the impact and effectiveness of programs and activities funded through the grant; and

(iv) indicates the amount of grant funds remaining on the date that the report is submitted.

(b) (i) A grant recipient shall submit the report described in Subsection (6)(a) before August 1 of each year until the grant recipient expends all funds awarded to the recipient under the grant program.

(ii) After a grant recipient expends all funds awarded to the recipient under the grant program, the grant recipient shall submit a final report to the local health department with the information described in Subsection (6)(a).

(7) (a) On or before September 1 of each year, each local health department shall submit the reports described in Subsection (6) to the Association of Local Health Departments.

(b) The Association of Local Health Departments shall compile the reports and, in collaboration with the Department of Health, submit a report to the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the grant program;

(ii) the impact and effectiveness of programs and activities that the grant program

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funds during the previous fiscal year; and

(iii) any recommendations for legislation.

Section 2. Section **53E-9-203** is amended to read:

**53E-9-203. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.**

(1) (a) Except as provided in Subsection [(7)] (8), Section 53G-9-604, and Section 53G-9-702, an LEA shall include in policies [adopted by a school district or charter school] the LEA adopts under Section 53E-9-202 [~~shall include prohibitions on the administration~~] a requirement for obtaining prior written consent from the student's parent when administering to a student [of]:

(i) any psychological or psychiatric examination, test, or treatment[ ~~or~~];and

(ii) any survey, analysis, or evaluation [~~without the prior written consent of the student's parent,~~] in which the purpose or [~~evident intended effect~~] effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

[(a)] (i) A political affiliations or, except as provided under Section 53G-10-202 or rules of the state board, political philosophies;

[(b)] (ii) B mental or psychological problems;

[(c)] (iii) C sexual behavior, orientation, gender identity, or attitudes;

[(d)] (iv) D illegal, anti-social, self-incriminating, or demeaning behavior;

[(e)] (v) E critical appraisals of individuals with whom the student or family member has close family relationships;

[(f)] (vi) F religious affiliations or beliefs;

[(g)] (vii) G legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and

[(h)] (viii) H income, except as required by law ~~{}~~.

(b) An LEA shall annually obtain prior written consent **for the following** at the time a student registers with the LEA ~~{ for the following }~~:

(i) surveys related to an early warning system described in Section 53F-4-207;

(ii) surveys that include social emotional learning questions; and

(iii) the school climate survey described in Section 53G-8-802.

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(2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.

(3) Except as provided in Subsection [(7)] (8), Section 53G-9-604, and Section 53G-9-702, the ~~[prohibitions]~~ requirements under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent has been obtained.

(4) An LEA may not:

(a) use the prior written consent described in Subsection (1) that a different LEA obtained for a student who transfers to the LEA after the beginning of the school year; ~~and~~ or

(b) provide:

(i) a reward to a student for a student's participation in any psychological or psychiatric examination, test, ~~and~~ treatment, survey, analysis, or evaluation; ~~and~~ or

(ii) a consequence to a student for a student's lack of participation in any psychological or psychiatric examination, test, treatment, survey, analysis, or evaluation.

[(4)] (5) (a) Written parental consent is valid only if a parent has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:

(i) records or information, including information about relationships, that may be examined or requested;

(ii) the means by which the records or information shall be examined or reviewed;

(iii) the means by which the information is to be obtained;

(iv) the purposes for which the records or information are needed;

(v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and

(vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.

(b) For a survey described in Subsection (1), the LEA shall ensure that the written notice described in Subsection [(4)](a) shall include an Internet address ~~{} {}~~ where a parent can view the exact survey to be administered to the parent's student.] (5)(a) includes:

(i) the survey the LEA will administer to the parent's student;

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(ii) the intended purposes and uses of the data collected;

~~{ (iii) if any, the consequences for refusing to provide the data; and~~

~~† (iv) iii) the types of persons or governmental entities that:~~

(A) share the collected data including a list of recipients who will receive the student-level data; or

(B) receive the data collected from a governmental entity on a regular or contractual basis; and

~~(v) iv) the record series as defined in Section 63G-2-103 that in which the data is or will be included in, if applicable.~~

~~(5) (6) (a) Except in response to a situation which a school employee reasonably believes to be an emergency, [or] as authorized under Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports, [or] by order of a court, or as described in Subsection (1)(b), disclosure to a parent must be given at least two weeks before information protected under this section is sought.~~

(b) Following disclosure, a parent may waive the two week minimum notification period.

(c) Unless otherwise agreed to by a student's parent and the person requesting written consent, the authorization is valid only for the activity for which it was granted.

(d) A written withdrawal of authorization submitted to the school principal by the authorizing parent terminates the authorization.

(e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

~~(6) (7) (a) This section does not limit the ability of a student under Section 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.~~

(b) (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent without delay.

(ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to

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notify the student's parent of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection ~~[(6)(b)(ii)]~~ (7)(b)(ii) only if it determines that the student would be endangered by notification of the student's parent, or if that notification is otherwise prohibited by state or federal law.

~~[(7)]~~ (8) (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

- (i) referring the student to appropriate prevention services; and
- (ii) informing the student's parent.

(b) ~~[On or before September 1, 2014, a school district or charter school]~~ An LEA shall develop and adopt a policy regarding intervention measures consistent with Subsection ~~[(7)(a)]~~ (8)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.

~~[(8)]~~ (9) ~~[Local school boards and charter school governing boards]~~ An LEA governing board shall provide inservice for teachers and administrators on the implementation of this section.

~~[(9)]~~ (10) The state board shall provide procedures for disciplinary action for violations of this section.

~~[(10)]~~ (11) Data collected from a survey described in Subsection (1):

(a) is a private record as provided in Section 63G-2-302;

(b) may not be shared except in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

(c) may only be used by ~~for~~ an individual, organization, or governmental entity including the state board for the purposes identified in the notice described in Subsection (5); and

~~[(c)]~~ (d) may not be included in a student's Student Achievement Backpack, as that term is defined in Section 53E-3-511.



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Section 3. Section **53F-4-207** is amended to read:

**53F-4-207. Student intervention early warning program.**

(1) As used in this section:

(a) "Digital program" means a program that provides information for student early intervention as described in this section.

(b) "Online data reporting tool" means a system described in Section 53E-4-311.

(c) "Participating LEA" means an LEA that receives access to a digital program under Subsection (5).

(2) (a) The state board shall, subject to legislative appropriations:

(i) subject to Subsection (2)(c), enhance the online data reporting tool and provide additional formative actionable data on student outcomes; and

(ii) select through a competitive contract process a provider to provide to an LEA a digital program as described in this section.

(b) Information collected or used by the state board for purposes of enhancing the online data reporting tool in accordance with this section may not identify a student individually.

(c) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the primary exceptionalities described in Subsection (3)(e)(ii).

(3) The enhancement to the online data reporting tool and the digital program shall:

(a) be designed with a user-appropriate interface for use by teachers, school administrators, and parents;

(b) provide reports on a student's results at the student level on:

(i) a national assessment;

(ii) a local assessment; and

(iii) a standards assessment described in Section 53E-4-303;

(c) have the ability to provide data from aggregate student reports based on a student's:

(i) teacher;

(ii) school;

(iii) school district, if applicable; or

(iv) ethnicity;

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(d) provide a viewer with the ability to view the data described in Subsection (2)(c) on a single computer screen;

(e) have the ability to compare the performance of students, for each teacher, based on a student's:

(i) gender;

(ii) special needs, including primary exceptionality as defined by state board rule;

(iii) English proficiency;

(iv) economic status;

(v) migrant status;

(vi) ethnicity;

(vii) response to tiered intervention;

(viii) response to tiered intervention enrollment date;

(ix) absence rate;

(x) feeder school;

(xi) type of school, including primary or secondary, public or private, Title I, or other general school-type category;

(xii) course failures; and

(xiii) other criteria, as determined by the state board; and

(f) have the ability to load data from a local, national, or other assessment in the data's original format within a reasonable time.

(4) Subject to legislative appropriations, the online data reporting tool and digital program shall:

(a) integrate criteria for early warning indicators, including the following criteria:

(i) discipline;

(ii) attendance;

(iii) behavior;

(iv) course failures; and

(v) other criteria as determined by a local school board or charter school governing board;

(b) provide a teacher or administrator the ability to view the early warning indicators described in Subsection (4)(a) with a student's assessment results described in Subsection

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(3)(b);

(c) provide data on response to intervention using existing assessments or measures that are manually added, including assessment and nonacademic measures;

(d) provide a user the ability to share interventions within a reporting environment and add comments to inform other teachers, administrators, and parents;

(e) save and share reports among different teachers and school administrators, subject to the student population information a teacher or administrator has the rights to access;

(f) automatically flag a student profile when early warning thresholds are met so that a teacher can easily identify a student who may be in need of intervention;

(g) incorporate a variety of algorithms to support student learning outcomes and provide student growth reporting by teacher;

(h) integrate response to intervention tiers and activities as filters for the reporting of individual student data and aggregated data, including by ethnicity, school, or teacher;

(i) have the ability to generate parent communication to alert the parent of academic plans or interventions; and

(j) configure alerts based upon student academic results, including a student's performance on the previous year's standards assessment described in Section 53E-4-303.

(5) (a) The state board shall, subject to legislative appropriations, select an LEA to receive access to a digital program through a provider described in Subsection (2)(a)(ii).

(b) An LEA that receives access to a digital program shall:

(i) pay for 50% of the cost of providing access to the digital program to the LEA; and

(ii) no later than one school year after accessing a digital program, report to the state board in a format required by the state board on:

(A) the effectiveness of the digital program;

(B) positive and negative attributes of the digital program;

(C) recommendations for improving the online data reporting tool; and

(D) any other information regarding a digital program requested by the state board.

(c) The state board shall consider recommendations from an LEA for changes to the online data reporting tool.

(6) Information described in this section shall be used in accordance with and provided subject to:

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- (a) Title 53E, Chapter 9, Student Privacy and Data Protection;
- (b) Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
- (c) the parental consent requirements in Section 53E-9-203.

(7) (a) A parent or guardian may opt the parent's or guardian's student [~~out of~~] into participating in a survey prepared by a participating LEA's online data reporting tool described in this section.

(b) An LEA shall provide notice to a parent of:

- (i) the administration of a survey described in Subsection (7)(a);
- (ii) if applicable, that the survey may request information from students that is non-academic in nature;
- (iii) where the parent may access the survey described in Subsection (7)(a) to be administered; and

(iv) the opportunity to opt a student out of participating in a survey as described in Subsection (7)(a).

(c) A participating LEA shall annually provide notice to parents and guardians on how the participating LEA uses student data through the online data reporting tool to provide instruction and intervention to students.

Section 4. Section **53G-8-802** is amended to read:

**53G-8-802. State Safety and Support Program -- State board duties -- LEA duties.**

(1) There is created the State Safety and Support Program.

(2) The state board shall:

(a) develop in conjunction with the Office of Substance Use and Mental Health model student safety and support policies for an LEA, including:

(i) evidence-based procedures for the assessment of and intervention with an individual whose behavior poses a threat to school safety;

(ii) procedures for referrals to law enforcement; and

(iii) procedures for referrals to a community services entity, a family support organization, or a health care provider for evaluation or treatment;

(b) provide training:

(i) in school safety;

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(ii) in evidence-based approaches to improve school climate and address and correct bullying behavior;

(iii) in evidence-based approaches in identifying an individual who may pose a threat to the school community;

(iv) in evidence-based approaches in identifying an individual who may be showing signs or symptoms of mental illness;

(v) on permitted disclosures of student data to law enforcement and other support services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

(vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections 53E-9-203 and 53E-9-305; and

(vii) for administrators on rights and prohibited acts under:

(A) Chapter 9, Part 6, Bullying and Hazing;

(B) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.;

(C) Title IX of Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(D) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.; and

(E) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;

(c) conduct and disseminate evidence-based research on school safety concerns;

(d) disseminate information on effective school safety initiatives;

(e) encourage partnerships between public and private sectors to promote school safety;

(f) provide technical assistance to an LEA in the development and implementation of school safety initiatives;

(g) in conjunction with the Department of Public Safety, develop and make available to an LEA a model critical incident response training program that includes:

(i) protocols for conducting a threat assessment, and ensuring building security during an incident, as required in Section 53G-8-701.5;

(ii) standardized response protocol terminology for use throughout the state;

(iii) protocols for planning and safety drills; and

(iv) recommendations for safety equipment for schools including amounts and types of first aid supplies;

(h) provide space for the public safety liaison described in Section 53-1-106 and the school-based mental health specialist described in Section 26B-5-211;

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(i) create a model school climate survey that may be used by an LEA to assess stakeholder perception of a school environment [~~and, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules~~]:

~~[(i) requiring an LEA to:]~~

~~[(A) create or adopt and disseminate a school climate survey; and]~~

~~[(B) disseminate the school climate survey;]~~

~~[(ii) recommending the distribution method, survey frequency, and sample size of the survey; and]~~

~~[(iii) specifying the areas of content for the school climate survey]; and~~

(j) collect aggregate data and school climate survey results from [~~each~~] an LEA that administers the model school climate survey described in Subsection (2)(i).

(3) Nothing in this section [~~requires~~] requires:

(a) an individual to respond to a school climate survey[:]; or

(b) an LEA to use the model school climate survey or any specified questions in the model school climate survey described in Subsection (2)(i).

(4) The state board shall require an LEA to:

(a) (i) if an LEA administers a school climate survey, review [data from the state board-facilitated surveys containing] school climate data for each school within the LEA; and

(ii) based on the review described in Subsection (4)(a)(i):

(A) revise practices, policies, and training to eliminate harassment and discrimination in each school within the LEA;

(B) adopt a plan for harassment- and discrimination-free learning; and

(C) host outreach events or assemblies to inform students and parents of the plan adopted under Subsection (4)(a)(ii)(B);

(b) no later than September 1 of each school year, send a notice to each student, parent, and LEA staff member stating the LEA's commitment to maintaining a school climate that is free of harassment and discrimination; and

(c) report to the state board[:]

~~[(i) no later than August 1, 2023, on the LEA's plan adopted under Subsection (4)(a)(ii)(B); and]~~

~~[(ii) after August 1, 2023,]~~ annually on the LEA's implementation of the plan under

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Subsection (4)(a)(ii)(B) and progress.

Section 5. **Effective date.**

This bill takes effect on July 1, 2024.