

1 **R277. Education, Administration.**

2 **R277-404. Requirements for Assessments of Student Achievement.**

3 **R277-404-1. Authority and Purpose.**

4 (1) This rule is authorized by:

5 (a) Utah Constitution Article X, Section 3, which vests general control and
6 supervision over public education in the Board;

7 (b) Section 53E-4-302, which directs the Board to adopt rules for the
8 administration of statewide assessments;

9 (c) Subsection 53G-6-803(9)(b), which requires the Board to adopt rules to
10 establish a statewide procedure for exempting a student from taking certain
11 assessments; and

12 (d) Subsection 53E-3-401(4), which allows the Board to make rules to execute
13 the Board's duties and responsibilities under the Utah Constitution and state law.

14 (2) The purpose of this rule is to:

15 (a) provide consistent definitions; and

16 (b) assign responsibilities and procedures for the administration of statewide
17 assessments, as required by state and federal law.

18

19 **R277-404-2. Definitions.**

20 (1) "Benchmark reading assessment" means the Board approved literacy
21 assessment that is administered to a student in grade 1, grade 2, and grade 3 at the
22 beginning, middle, and end of year.

23 (2) "College readiness assessment" means the:

24 (a) same as that term is defined in Section 53E-4-305; and

25 (b) American College Testing exam, or ACT.

26 (3) "English Learner" or "EL student" means a student who is learning in English
27 as a second language.

28 (4) "English language proficiency assessment" means the World-class
29 Instructional Design and Assessment (WIDA) Assessing Comprehension in English

30 State-to-State (ACCESS), which is designed to measure the acquisition of the academic
31 English language for an English Learner student.

32 (5) "Family Educational Rights and Privacy Act of 1974" or "FERPA," 20 U.S.C.
33 1232g, means a federal law designed to protect the privacy of students' education
34 records.

35 (6) "High school assessment":

36 (a) means the same as that term is defined in Section 53E-4-304;

37 (b) means the "~~[Student Assessment of Growth and Excellence]~~Utah Aspire
38 Plus" ~~[or "SAGE"]~~; and

39 (c) includes the ~~[SAGE]~~Utah Aspire Plus assessment of proficiency in:

40 (i) English ~~[language arts grades 9 and 10]~~;

41 (ii) ~~[Secondary Mathematics I, II, and III]~~math; ~~[and]~~

42 (iii) science; ~~and~~, including:

43 ~~(A) earth science;~~

44 ~~——(B) biology;~~

45 ~~——(C) physics; and~~

46 ~~——(D) chemistry.]~~

47 (iv) reading.

48 (7) "National Assessment of Education Progress" or "NAEP" means the national
49 achievement assessment administered by the United States Department of Education
50 to measure and track student academic progress.

51 (8) "State required assessment" means an assessment described in Subsection
52 53G-6-803(9)(a).

53 (9) "Standards Assessment":

54 (a) means the same as that term is defined in Section 53E-4-303; and

55 (b) means the "~~[Student Assessment of Growth and Excellence]~~Readiness
56 Improvement Success Empowerment " or "~~[SAGE.]~~RISE."

57 (c) for ~~[the 2017-18]~~each school year, includes one writing prompt from the
58 writing portion of the ~~[SAGE]~~RISE English language arts assessment for ~~[each of]~~

59 grades ~~[3]~~5 ~~[through]~~and 8.

60 (10) "Statewide assessment" means the:

- 61 (a) standards assessment;
- 62 (b) high school assessment;
- 63 (c) college readiness assessment;
- 64 (d) Utah alternative assessment;
- 65 (e) benchmark reading assessment; and
- 66 (f) English language proficiency assessment.

67 (11) "Section 504 accommodation plan" means a plan:

- 68 (a) required by Section 504 of the Rehabilitation Act of 1973; and
- 69 (b) designed to accommodate an individual who has been determined, as a
70 result of an evaluation, to have a physical or mental impairment that substantially limits
71 one or more major life activities.

72 (12)(a) "Utah alternate assessment" means an assessment instrument:

- 73 (i) for a student in special education with a disability so severe the student is not
74 able to participate in a statewide assessment even with an assessment accommodation
75 or modification; and
- 76 (ii) that measures progress on the Utah core instructional goals and objectives in
77 the student's IEP.

78 (b) "Utah alternate assessment" means:

- 79 (i) for science, the Utah Alternate Assessment (UAA); and
- 80 (ii) for English language arts and mathematics, the Dynamic Learning Maps
81 (DLM).

82 (13) "Utah eTranscript and Record Exchange" or "UTREx" means a system that
83 allows:

- 84 (a) an LEA and the Superintendent to electronically exchange an individual
85 detailed student record; and
- 86 (b) electronic transcripts to be sent to any post-secondary institution, private or
87 public, in-state or out-of-state, that participates in the e-transcript service.

88

89 **R277-404-3. Incorporation of Standard Test Administration and Testing Ethics**
90 **Policy by Reference.**

91 (1) This rule incorporates by reference the Standard Test Administration and
92 Testing Ethics Policy, [~~July 16~~August 2, 2018, which establishes:

93 (a) the purpose of testing;

94 (b) the statewide assessments to which the policy applies;

95 (c) teaching practices before assessment occurs;

96 (d) required procedures for after an assessment is complete and for providing
97 assessment results;

98 (e) unethical practices;

99 (f) accountability for ethical test administration;

100 (g) procedures related to testing ethics violations; and

101 (h) additional resources.

102 (2) A copy of the Standard Test Administration and Testing Ethics Policy is
103 located at:

104 (a) <https://www.schools.utah.gov/assessment>; and

105 (b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah
106 84111.

107

108 **R277-404-4. Superintendent Responsibilities.**

109 (1) The Superintendent shall facilitate:

110 (a) administration of statewide assessments; and

111 (b) participation in NAEP, in accordance with Subsection 53E-4-302(1)(b).

112 (2) The Superintendent shall provide guidelines, timelines, procedures, and
113 assessment ethics training and requirements for all statewide assessments.

114 (3) The Superintendent shall designate a testing schedule for each statewide
115 assessment and publish the testing window dates on the Board's website before the
116 beginning of the school year.

117

118 **R277-404-5. LEA Responsibilities - Time Periods for Assessment Administration.**

119 (1)(a) Except as provided in Section (1)(b), (1)(c), and R277-404-7 an LEA shall
120 administer statewide assessments to all students enrolled in the grade level or course to
121 which the assessment applies.

122 ~~[(b) An LEA is not required to administer the high school assessment to students-~~
123 ~~in grades 11 or 12.]~~

124 ~~[(e)b]~~ A student's IEP team, English Learner team, or Section 504
125 accommodation plan team shall determine an individual student's participation in
126 statewide assessments consistent with the Utah Participation and Accommodations
127 Policy.

128 (2) An LEA shall develop a plan to administer statewide assessments.

129 (3) The plan shall include:

130 (a) the dates that the LEA will administer each statewide assessment;

131 ~~[(b) an indication of whether the LEA elects to offer the LEA's grade 11 students-~~
132 ~~the SAGE assessment;]~~

133 ~~[(e)b]~~ professional development for an educator to fully implement the
134 assessment system;

135 ~~[(e)c]~~ training for an educator and an appropriate paraprofessional in the
136 requirements of assessment administration ethics; and

137 ~~[(e)d]~~ training for an educator and an appropriate paraprofessional to use
138 statewide assessment results effectively to inform instruction.

139 (4) An LEA shall submit the plan to the Superintendent by September 15
140 annually.

141 (5) At least once each school year, an LEA shall provide professional
142 development for all educators, administrators, and assessment administrators
143 concerning guidelines and procedures for statewide assessment administration,
144 including educator responsibility for assessment security and proper professional
145 practices.

146 (6) LEA assessment staff shall use the Standard Test Administration and Testing
147 Ethics Policy in providing training for all assessment administrators and proctors.

148 (7) An LEA may not release state assessment data publicly until authorized to do
149 so by the Superintendent.

150 (8) An LEA educator or trained employee shall administer statewide
151 assessments consistent with the testing schedule published on the Board's website.

152 (9) An LEA educator or trained employee shall complete all required assessment
153 procedures prior to the end of the assessment window defined by the Superintendent.

154 (10)(a) If an LEA requires an alternative schedule with assessment dates outside
155 of the Superintendent's published schedule, the LEA shall submit the alternative testing
156 plan to the Superintendent by September 15 annually.

157 (b) The alternative testing plan shall set dates for assessment administration for
158 courses taught face-to-face or online.

159

160 **R277-404-6. School Responsibilities.**

161 (1)(a) An LEA, school, or educator may not use a student's score on a state
162 required assessment to determine:

163 (i) the student's academic grade, or a portion of the student's academic grade, for
164 the appropriate course; or

165 (ii) whether the student may advance to the next grade level.

166 (b)(i) An LEA may consider, as one of multiple lines of evidence, a student's
167 score on a state required assessment to determine whether a student may enroll in an
168 honors, advanced placement, or International Baccalaureate course.

169 (ii) An LEA may not prohibit a student from enrolling in an honors, advanced
170 placement, or International Baccalaureate course:

171 (A) based on a student's score on a state required assessment; or

172 (B) because the student was exempted from taking a state required assessment.

173 (c) In accordance with Subsection 53G-6-803(1), an LEA shall reasonably
174 accommodate a parent's or guardian's request to allow a student's demonstration of

175 proficiency on a state required assessment to fulfill a requirement in a course.

176 (2) An LEA and school shall require an educator, assessment administrator, and
177 proctor to individually sign a document provided by the Superintendent acknowledging
178 or assuring that the educator administers statewide assessments consistent with ethics
179 and protocol requirements.

180 (3) An educator and assessment administrator shall conduct assessment
181 preparation, supervise assessment administration, and certify assessment results
182 before providing results to the Superintendent.

183 (4) An educator, assessment administrator, and proctor shall securely handle
184 and return all protected assessment materials, where instructed, in strict accordance
185 with the procedures and directions specified in assessment administration manuals,
186 LEA rules and policies, and the Standard Test Administration and Testing Ethics Policy.

187

188 **R277-404-7. Student and Parent Participation in Student Assessments in Public**
189 **Schools; Parental Exclusion from Testing and Safe Harbor Provisions.**

190 (1) As used in this section, "penalize" means to put in an unfavorable position or
191 at an unfair disadvantage.

192 (2)(a) Parents are primarily responsible for their children's education and have
193 the constitutional right to determine which aspects of public education, including
194 assessment systems, in which their children participate.

195 (b) Parents may further exercise their inherent rights to exempt their children
196 from a state required assessment without further consequence by an LEA.

197 (3)(a) A parent may exercise the right to exempt their child from a state required
198 assessment.

199 (b) Except as provided in Subsection (3)(c), an LEA may not penalize a student
200 who is exempted from a state required assessment under this section.

201 (c) If a parent exempts the parent's child from the basic civics test required in
202 Sections 53E-4-205 and R277-700-8, the parent's child is not exempt from the
203 graduation requirement in Subsection 53E-4-205(2), and may not graduate without

204 successfully completing the requirements of Sections 53E-4-205 and R277-700-8.

205 (4)(a) To exercise the right to exempt a child from a state required assessment
206 under this provision and ensure the protections of this provision, a parent shall:

207 (i) fill out:

208 (A) the Parental Exclusion from State Assessment Form provided on the Board's
209 website; or

210 (B) an LEA specific form as described in Subsection (4)(b); and

211 (ii) submit the form:

212 (A) to the principal or LEA either by email, mail, or in person; and

213 (B) on an annual basis; and

214 (C) except as provided in Subsection (4)(b), at least one day prior to the
215 beginning of the assessment.

216 (b) An LEA may allow a parent to exempt a student from taking a state required
217 assessment less than one day prior to the beginning of the assessment upon parental
218 request.

219 (c) An LEA may create an LEA specific form for a parent to fill out as described in
220 Subsection (4)(a)(i)(B) if:

221 (i) the LEA includes a list of local LEA assessments that a parent may exempt
222 the parent's student from as part of the LEA specific form; and

223 (ii) the LEA specific form includes all of the information described in the Parental
224 Exclusion from State Assessment Form provided on the Board's website as described
225 in Subsection (4)(a)(i)(A).

226 (5)(a) A teacher, principal, or other LEA administrator may contact a parent to
227 verify that the parent submitted a parental exclusion form described in Subsection
228 (4)(a)(i).

229 (b) An LEA may request, but may not require, a parent to meet with a teacher,
230 principal, or other LEA administrator regarding the parent's request to exclude the
231 parent's student from taking a state required assessment.

232 (6) The administration of any assessment that is not a state required

233 assessment, including consequences associated with taking or failing to take the
234 assessment, is governed by policy adopted by each LEA.

235 (7) An LEA shall provide a student's individual test results and scores to the
236 student's parent or guardian upon request and consistent with the protection of student
237 privacy.

238 (8) An LEA may not reward a student for a student's participation in or
239 performance on a state required assessment.

240 (9) An LEA shall ensure that a student who has been exempted from
241 participating in a state required assessment under this section is provided with an
242 alternative learning experience if the student is in attendance during test administration.

243 (10) An LEA may allow a student who has been exempted from participating in a
244 state required assessment under this section to be physically present in the room during
245 test administration.

246

247 **R277-404-8. Public Education Employee Compliance with Assessment**
248 **Requirements, Protocols, and Security.**

249 (1) An educator, test administrator or proctor, administrator, or school employee
250 may not:

251 (a) provide a student directly or indirectly with a specific question, answer, or the
252 content of any specific item in a statewide assessment prior to assessment
253 administration;

254 (b) download, copy, print, take a picture of, or make any facsimile of protected
255 assessment material prior to, during, or after assessment administration without express
256 permission of the Superintendent and an LEA administrator;

257 (c) change, alter, or amend any student online or paper response answer or any
258 other statewide material at any time in a way that alters the student's intended
259 response;

260 (d) use any prior form of any statewide assessment, including pilot assessment
261 materials, that the Superintendent has not released in assessment preparation without

262 express permission of the Superintendent and an LEA administrator;

263 (e) violate any specific assessment administrative procedure specified in the
264 assessment administration manual, violate any state or LEA statewide assessment
265 policy or procedure, or violate any procedure specified in the Standard Test
266 Administration and Testing Ethics Policy;

267 (f) fail to administer a statewide assessment;

268 (g) fail to administer a statewide assessment within the designated assessment
269 window;

270 (h) submit falsified data;

271 (i) allow a student to copy, reproduce, or photograph an assessment item or
272 component; or

273 (j) knowingly do anything that would affect the security, validity, or reliability of
274 statewide assessment scores of any individual student, class, or school.

275 (2) A school employee shall promptly report an assessment violation or
276 irregularity to a building administrator, an LEA superintendent or director, or the
277 Superintendent.

278 (3) An educator who violates this rule or an assessment protocol is subject to
279 Utah Professional Practices Advisory Commission or Board disciplinary action
280 consistent with R277-515.

281 (4) All assessment material, questions, and student responses for required
282 assessments is designated protected, consistent with Section 63G-2-305, until released
283 by the Superintendent.

284 (5)(a) Each LEA shall ensure that all assessment content is secured so that only
285 authorized personnel have access and that assessment materials are returned to
286 Superintendent following testing, as required by the Superintendent.

287 (b) An individual educator or school employee may not retain or distribute test
288 materials, in either paper or electronic form, for purposes inconsistent with ethical test
289 administration or beyond the time period allowed for test administration.

290

291 **R277-404-9. Data Exchanges.**

292 (1) The Board's IT Section shall communicate regularly with an LEA regarding
293 the required format for electronic submission of required data.

294 (2) An LEA shall update UTREx data using the processes and according to
295 schedules determined by the Superintendent.

296 (3) An LEA shall ensure that any computer software for maintaining or submitting
297 LEA data is compatible with data reporting requirements established in Rule R277-484.

298 (4) The Superintendent shall provide direction to an LEA detailing the data
299 exchange requirements for each statewide assessment.

300 (5) An LEA shall ensure that all statewide assessment data have been collected
301 and certify that the data are ready for accountability purposes no later than July 12.

302 (6) An LEA shall verify that it has satisfied all the requirements of the
303 Superintendent's directions described in this section.

304 (7) Consistent with Utah law, the Superintendent shall return assessment results
305 from all statewide assessments to the school before the end of the school year.

306

307 **KEY: assessment, student achievement**

308 **Date of Enactment or Last Substantive Amendment: March 14, 2018**

309 **Notice of Continuation: November 29, 2016**

310 **Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; Title 53E, Chapter**
311 **4, Part 3; 53E-3-401(4)**