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## MEMORANDUM

**TO:** Members, Utah State Board of Education

**FROM:** Brad C. Smith  
Chief Executive Officer

**DATE:** April 9-10, 2015

**ACTION:** R277-404 *Requirement for Assessment of Student Achievement*  
(Amendment)

**Background:** In its February 19, 2015 meeting, the State Board of Education discussed the issue of parents/guardians excusing students from testing, and Superintendent Brad Smith indicated he would bring information to the March Board meeting to facilitate a Board policy on this issue.

In its March 6, 2015 meeting, the State Board of Education unanimously approved on first reading amendments to R477-404 clarifying parental rights in opting their children out of state assessments mandated by the Board and state statute. The Board requested the rule be brought to the April 9 Standards and Assessment Committee meeting for further discussion and consideration.

In addition, S. B. 204, *Parental Rights in Public Education Amendments* was passed during the 2015 legislative session. The legislation directs the State Board of Education to establish procedures and to maintain and publish a list of state assessments, state assessment systems, and software that qualify under the statute.

**Key Points:** Board rule R277-404 has been amended to address Board and legislative concerns. The rule is amended to clarify parental rights in regards to excusing students from testing. In addition to the rule and the statute, the following information has been provided as background to the Board discussion and action:

1. 2013-14 SAGE Parental Exclusion Report
2. State by State Comparisons of Exclusion Rules
3. Utah Assessment Schedule
4. Assessment Information

**Anticipated Action:** USOE staff will be prepared to answer questions and provide information as needed. The Committee will consider approving amendments to R277-404 on second reading, and if approved, the Board will consider approving the rule on third and final reading.

**Contact:** Brad Smith, 801-538-7510  
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1 **R277. Education, Administration.**

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

3 **R277-404-[2]1. Authority and Purpose.**

4 A. This rule is authorized by Utah Constitution Article  
5 X, Section 3 which vests general control and supervision of  
6 public education in the Board, Sections 53A-1-603 through  
7 53A-1-611 which direct the Board to adopt rules for the  
8 maintenance and administration of U-PASS, and Section  
9 53A-1-401(3) which allows the Board to adopt rules in  
10 accordance with its responsibilities.

11 B. The purpose of this rule is to provide consistent  
12 definitions and to assign responsibilities and procedures for  
13 a Board developed and directed comprehensive assessment system  
14 for all students, as required by state and federal law.

15 **R277-404-[1]2. Definitions.**

16 A. "Board" means the Utah State Board of Education.

17 B. "Benchmark reading assessment" means an assessment  
18 determined by the Board for students in grade 1 through 3 and  
19 administered to students at the beginning, midpoint and end of  
20 year;

21 C. "College readiness assessment" means an assessment  
22 adopted by the Board that includes a college admissions test  
23 that provides an assessment of language arts, mathematics, and  
24 science, that is most commonly used by local universities to  
25 assess student preparation for college. The college readiness  
26 assessment may include the Armed Services Vocational Aptitude  
27 Battery (ASVAB) and a battery of assessments that is  
28 predictive of success in higher education. "College readiness  
29 assessment" includes the American College Testing exam, (ACT).

30 D. "Educator" means an individual licensed under Section  
31 53A-6-104 and who meets the requirements of R277-501.

32 E. "English Learner (EL) student" means a student who is  
33 learning in English as a second language.

34 F. "English language proficiency assessment" means an  
35 assessment designated by the USOE and designed to measure the  
36 acquisition of the academic English language for English  
37 Learners.

38 G. "Family Educational Rights and Privacy Act of 1974  
39 (FERPA)," 20 U.S.C. 1232g, means a federal law designed to  
40 protect the privacy of students' education records. The law  
41 is hereby incorporated by reference.

42 H. "Individualized Education Program (IEP)" means an  
43 individualized instructional and assessment plan for students  
44 who are eligible for special education services under the  
45 Individuals with Disabilities Education Act of 2004.

46 I. "LEA" means local education agency, including local  
47 school boards/ public school districts and schools, and  
48 charter schools.

49 J. "National Assessment of Education Progress (NAEP)" is  
50 the national achievement assessment administered by the United  
51 States Department of Education to measure and track student  
52 academic progress.

53 K. "Online Writing Assessment" means a Board-designated  
54 online assessment to measure writing performance for students  
55 in grades 3 through 11.

56 L. "Pre-post" means an assessment administered at the  
57 beginning of the school year and at the end of the school year  
58 to determine individual student growth in academic proficiency  
59 which has occurred during the school year.

60 M. "State administered assessments" means summative SAGE,  
61 benchmark reading assessments, and the ACT.

62 [M]N. "Student Assessment of Growth and Excellence  
63 (SAGE)" means a summative computer adaptive assessment for  
64 English language arts grades 3 through 11; mathematics grades  
65 3 through 8, and Secondary I, II, and III; science grades 4  
66 through 8, earth science, biology, physics and chemistry.

67 [N]O. "Section 504 accommodation plan" required by

68 Section 504 of the Rehabilitation Act of 1973, means a plan  
69 designed to accommodate an individual who has been determined,  
70 as a result of an evaluation, to have a physical or mental  
71 impairment that substantially limits one or more major life  
72 activities.

73 [Ø]P. "Summative adaptive assessments" means assessments  
74 administered upon completion of instruction to assess a  
75 student's achievement. The assessments are administered  
76 online under the direct supervision of a licensed educator and  
77 are designed to identify student achievement on the standards  
78 for the respective grade and course. The assessments measure  
79 the full range of student ability by adapting to each  
80 student's responses, selecting more difficult questions when  
81 a student answers correctly and less difficult questions when  
82 a student answers incorrectly.

83 [P]Q. "USOE" means the Utah State Office of Education.

84 [Q]R. "Utah alternate assessment" means an assessment  
85 instrument designated by the USOE for students in special  
86 education with disabilities so severe they are not able to  
87 participate in the components of U-PASS even with assessment  
88 accommodations or modifications. The Utah alternative  
89 assessment measures progress on the Utah core instructional  
90 goals and objectives in the student's individual education  
91 program (IEP).

92 [R]S. "Utah eTranscript and Record Exchange (UTREx)"  
93 means a system that allows individual detailed student records  
94 to be exchanged electronically between public education LEAs  
95 and the USOE, and allows electronic transcripts to be sent to  
96 any post-secondary institution, private or public, in-state or  
97 out-of-state, that participates in the e-transcript service.

98 [S]T. "Utah Performance Assessment System for Students  
99 (U-PASS)" means:

100 (1) summative adaptive assessments of students in grades  
101 3 through 12 in basic skills courses;

- 102           (2) an online writing assessment in grades 3 through 11,  
103 as part of SAGE;
- 104           (3) college readiness assessments; and
- 105           (4) summative assessment of students in grade 3 to  
106 measure reading grade level using grade 3 SAGE English  
107 Language Arts.

108 **R277-404-3. Board Responsibilities.**

109           A. The Board shall maintain a comprehensive assessment  
110 system for all students in grades K-12. This assessment  
111 system shall include:

112           (1) summative adaptive assessments in English language  
113 arts for grades 3 through 11; mathematics for grades 3 through  
114 8; secondary math 1, 2, and 3; and science for grades 4  
115 through 8; earth systems, biology, physics and chemistry;

116           (2) Online Writing Assessment for grades 3 through 11;

117           (3) pre-post kindergarten assessment for kindergarten  
118 students as determined by the LEA;

119           (4) one benchmark reading assessment approved by the  
120 Board for students in grades 1 through 3 and administered to  
121 students at the beginning, midpoint and end of year;

122           (5) grade 3 end of year summative reading assessment  
123 using grade 3 SAGE English Language Arts;

124           (6) Utah's alternate assessment, for eligible students  
125 with disabilities;

126           (7) an English language proficiency test;

127           (8) National Assessment of Educational Progress (NAEP);

128           (9) college readiness assessments for grade 11 and  
129 optional college and career readiness assessments in grade 8  
130 or 9 and 10, as determined by the LEA; and

131           (10) reporting by the USOE of U-PASS results to include:

132           (a) student performance based on information that is  
133 disaggregated with respect to race, ethnicity, gender, English  
134 proficiency, eligibility for special education services, and

135 free or reduced price school lunch status;

136 (b) security features to maintain the integrity of the  
137 system, including statewide uniform assessment dates,  
138 assessment administration protocols, and training; and

139 (c) summative adaptive assessment results disseminated by  
140 USOE to LEAs, parents, and others, as appropriate, consistent  
141 with FERPA.

142 B. The Board shall provide specific rules, administrative  
143 guidelines, timelines, procedures, and assessment ethics  
144 training and requirements for all required assessments.

145 **R277-404-4. LEA Responsibilities.**

146 A. LEAs shall develop a comprehensive assessment system  
147 plan to include the assessments described in R277-404-3A.  
148 This plan shall, at a minimum, include:

149 (1) professional development for educators to fully  
150 implement the assessment system;

151 (2) training for educators and appropriate  
152 paraprofessionals in the requirements of assessment  
153 administration ethics; and

154 (3) training for educators and appropriate  
155 paraprofessionals to utilize assessment results effectively to  
156 inform instruction; and

157 (4) adequate oversight of test administration to ensure  
158 compliance with Section 53A-1-603(1) as follows:

159 (a) LEAs or online providers shall test all enrolled  
160 students unless students have a written parental excuse under  
161 Section 53A-15-1403(9);

162 (b) Students participating in the Statewide Online  
163 Education Program shall be assessed consistent with Section  
164 53A-15-1210; and

165 (c) Third party vendors or contractors may not administer  
166 or supervise U-PASS assessments.

167 B. LEAs shall make all policies and procedures consistent

168 with the law, Board rules for standardized assessment  
169 administration, and the USOE Testing Ethics Policy, approved  
170 by the Board August 8, 2014.

171 C. At least once each school year, LEAs shall provide  
172 professional development for all educators, administrators,  
173 and standardized assessment administrators concerning  
174 guidelines and procedures for standardized assessment  
175 administration, including educator responsibility for  
176 assessment security and proper professional practices.

177 D. LEA assessment staff shall use the USOE Testing Ethics  
178 Policy in providing training for all assessment  
179 administrators/proctors.

180 E. LEAs may not release state assessment data publicly  
181 until authorized to do so by the USOE.

182 **R277-404-5. School Responsibilities.**

183 A. LEAs/schools shall require educators and assessment  
184 administrators/proctors to individually sign the Testing  
185 Ethics signature page provided by the USOE acknowledging or  
186 assuring that the educator administers assessments consistent  
187 with ethics and protocol requirements.

188 B. All educators and assessment administrators shall  
189 conduct assessment preparation, supervise assessment  
190 administration, provide assessment results and complete error  
191 resolution.

192 C. All educators and assessment administrators/proctors  
193 shall securely handle and return all protected assessment  
194 materials, where instructed, in strict accordance with the  
195 procedures and directions specified in assessment  
196 administration manuals, LEA rules and policies, Board rules,  
197 USOE Testing Ethics Policy, and state applications of federal  
198 requirements for funding.

199 D. A student's IEP, EL, or Section 504 team shall  
200 determine an individual student's participation in statewide

201 assessments.

202 **R277-404-6. Student and Parent Participation in Student**  
203 **Assessments in Public Schools; Parental Exclusion from Testing**  
204 **and Safe Harbor Provisions.**

205 A. Parents are primarily responsible for their children's  
206 education and have the constitutional right to determine which  
207 aspects of public education, including assessment systems, in  
208 which their children participate. Parental rights may be  
209 exercised without notice or permission. Parents may further  
210 exercise their inherent rights to exempt their children from  
211 certain assessments without further consequence by an LEA.

212 [A]B. All LEAs shall administer the [~~comprehensive~~]state  
213 administered assessments [~~system~~]to all students unless:

214 (1) the Utah alternat[ive]e assessment is approved for  
215 specific students consistent with federal law and as specified  
216 in a student's IEP; or

217 (2) [~~unless~~]students are excused by a parent or guardian  
218 under Section 53A-15-1403(9) and as provided in this rule.

219 C. A parent may exercise the right to exempt their child  
220 from any assessment mandated by the Board or state statute.  
221 Upon exercising the right to exempt a child from a state-  
222 mandated assessment under this provision, an LEA shall not  
223 impose any adverse consequence on a child as a result of the  
224 exercise of rights under this provision. In order to exercise  
225 the right to exempt a child from state-mandated testing under  
226 this provision and insure the protections of this provision,  
227 a parent shall annually complete a written parent excuse form  
228 (on a form to be approved by the USOE), a minimum of five (5)  
229 days prior to the administration of the assessment and provide  
230 the form to the responsible LEA.

231 D. School grading, teacher evaluations, and student  
232 progress reports or grades will not be negatively impacted by  
233 students excused from state administered assessments.

234 E. Any assessment not mandated by the Board or state-  
235 statute, the administration of such assessments, and the  
236 consequence of taking or failing to take such assessments  
237 shall be governed by policies to be adopted by each LEA.

238 ~~[B]F. [An LEA educator]~~LEAs shall provide a student's  
239 individual test results and scores to the student's  
240 parent~~[/legal]~~ or guardian~~[—consistent with FERPA]~~ upon  
241 request and consistent with the protection of student privacy.

242 **R277-404-7. Public Education Employee Compliance with**  
243 **Assessment Requirements, Protocols, and Security.**

244 A. Educators, test administrators/proctors,  
245 administrators, and school employees may not:

246 (1) provide students directly or indirectly with specific  
247 questions, answers, or the content of any specific item in a  
248 standardized assessment prior to assessment administration;

249 (2) download, copy, print, take pictures of or make any  
250 facsimile of protected assessment material prior to, during or  
251 after assessment administration without express permission of  
252 the USOE and LEA administrators;

253 (3) change, alter or amend any student online or paper  
254 response answer or any other standardized assessment materials  
255 at any time in such a way that alters the student's intended  
256 response;

257 (4) use any prior form of any standardized assessment  
258 (including pilot assessment materials) that has not been  
259 released by the USOE in assessment preparation without express  
260 permission of the USOE and LEA administrators;

261 (5) violate any specific assessment administrative  
262 procedure specified in the assessment administration manual,  
263 or violate any state or LEA standardized assessment policy or  
264 procedure, or violate any procedure specified in the USOE  
265 Testing Ethics Policy;

266 (6) fail to administer a state required assessment;

267 (7) fail to administer a state required assessment within  
268 the designated assessment window;

269 (8) submit falsified data;

270 (9) allow students to copy, reproduce, or photograph  
271 assessment items or components; or

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

275 B. A school employee shall promptly report all assessment  
276 violations or irregularities to a building administrator, an  
277 LEA superintendent or director, or the USOE.

278 C. Educators who violate these rules or assessment  
279 protocols are subject to Utah Professional Practices Advisory  
280 Commission or Board disciplinary action consistent with R277-  
281 515.

282 D. All assessment materials, questions and student  
283 responses for required assessments shall be designated  
284 protected, consistent with Section 63G-2-305, until released  
285 by the USOE.

286 E. Each LEA shall ensure that all assessment content is  
287 secured so that only authorized personnel have access and that  
288 assessment materials are returned to USOE following testing,  
289 as required by the USOE. Individual educators or school  
290 employees may not retain or distribute test materials, in  
291 either paper or electronic form, for purposes inconsistent  
292 with ethical test administration or beyond the time period  
293 allowed for test administration.

294 **R277-404-8. Time Periods for Assessment Administration.**

295 A. LEA educators or trained employees shall administer  
296 assessments required under R277-404-3 consistent with the  
297 following schedule:

298 (1) All summative adaptive assessments, an online writing  
299 assessment and a Utah alternative assessment (elementary and

300 secondary, English language arts, math, science) within the  
301 USOE annually designated assessment windows.

302 (2) The English language proficiency assessment:

303 (a) LEA educators or trained employees shall administer  
304 the assessment annually to all English Learner students  
305 identified as Level 1 Entering, Level 2 Beginning, Level 3  
306 Developing, Level 4 Expanding, or enrolled for the first time  
307 in the LEA at any time during the school year to show student  
308 progress; and

309 (b) LEA educators or trained employees shall submit  
310 English language proficiency assessment materials to the USOE-  
311 identified scoring provider for scanning and scoring on a  
312 schedule defined by the USOE.

313 (3) LEA educators or trained employees shall administer  
314 pre-post kindergarten assessment for kindergarten students as  
315 determined by the LEA during assessment windows determined by  
316 the LEA.

317 (4) LEA educators or trained employees shall administer  
318 one benchmark reading assessment determined by the Board for  
319 grade 1, grade 2, and grade 3 students in the beginning,  
320 midpoint, and end of the school year.

321 (5) LEA educators or trained employees shall administer  
322 grade 3 end of year summative reading assessment using grade  
323 3 SAGE English Language Arts.

324 (6) LEA educators or trained employees shall administer  
325 NAEP assessments determined and required annually by the  
326 United States Department of Education and administered to  
327 students as directed by United States Department of Education.

328 B. LEA educators or trained employees shall complete all  
329 required assessment procedures prior to the end of the USOE-  
330 defined assessment window(s).

331 C. LEAs that have alternative schedules shall submit an  
332 annual testing plan to the USOE by September 1 annually. The  
333 plan shall:

334 (1) set dates for summative adaptive assessment  
335 administration for courses taught face to face or online;

336 (2) set dates to assess students at the point in the  
337 course where students have had approximately the same amount  
338 of instructional time as students on a traditional full year  
339 schedule; and

340 (3) provide a course level assessment schedule to the  
341 USOE before instruction begins for the course.

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

343 A. The USOE IT Section shall communicate regularly with  
344 LEAs regarding required formats for electronic submission of  
345 required data.

346 B. LEAs shall update UTREx data using the processes and  
347 according to schedule(s) determined by the USOE.

348 C. LEAs shall ensure that any computer software for  
349 maintaining or submitting LEA data is compatible with data  
350 reporting requirements as determined in R277-484.

351 D. The USOE shall provide directions to all LEAs  
352 detailing the data exchange requirements for each assessment.

353 E. Each LEA shall verify that all the requirements of the  
354 USOE-provided directions have been satisfied.

355 F. Consistent with Utah law, the USOE shall return  
356 assessment results from all required assessments to the school  
357 before the end of the school year.

358 **KEY: assessment, student achievement**

359 **Date of Enactment or Last Substantive Amendment: [~~November 10,~~**  
360 **2014]2015**

361 **Notice of Continuation: September 13, 2013**

362 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**  
363 **53A-1-603 through 53A-1-611; 53A-1-401(3)**



# Assessment Schedule for Utah public school students

- The following chart details assessments offered or required by the state or federal government.
- Individual districts or governing boards may offer additional tests that are not mandated by the state or federal government.

Assessment	Description	Grade	Required By	Data Use	Approximate Testing Time	Testing Window	Data Collection and Reporting under FERPA
<b>SAGE Summative</b> (Student Assessment of Growth and Excellence)	End of course/grade assessment in English language arts, math and science	English language arts 3-11, Math 3-8, Math I, II, III Science 4-11, Earth Systems, Biology, Physics, Chemistry	Federal and State Law, USOE Board Rule	1. Assess proficiency in English language arts, math and science 2. UCAS (Utah Comprehensive Accountability System) 3. School Grading 4. Teacher evaluation	90 minutes per content area	Six weeks prior to last Monday of the school year 2014-15 <ul style="list-style-type: none"> <li>• ELA Writing: 2/2/2015- 2/20/2015</li> <li>• Math/Science : 4/1/2014-6/20/2015</li> <li>• Reading ELA 4/15/2015- 6/20/2015</li> </ul> <small>*LEA discretion with alternate schedules with USOE approval</small>	Daily UTREx files for USOE and Local LEA reporting <ul style="list-style-type: none"> <li>• Additional immediate online reporting system for parent/teacher/student use</li> </ul>
<b>Online Writing Assessment</b> embedded in the SAGE English language arts assessment	Writing assessment aligned to Utah state core writing standards	English language arts 3-11	Federal and State Law, USOE Board Rule	1. Assess proficiency in writing as part of English language arts 2. UCAS (Utah Comprehensive Accountability System) 3. Teacher evaluation	Two 1-hour writing sessions	<ul style="list-style-type: none"> <li>• ELA Writing: 2/2/2015- 2/20/2015 (additional field testing 2015)</li> </ul> <small>*LEA discretion with alternate schedules with USOE approval</small>	Daily UTREx files for USOE and Local LEA reporting <ul style="list-style-type: none"> <li>• Additional immediate online reporting system for parent/teacher student use</li> </ul>
<b>SAGE Interim</b> (Student Assessment of Growth and Excellence)	Fall and mid-year assessment in English language arts, math and science	English language arts 3-11, Math 3-8, Math I, II, III Science 4-11, Earth Systems, Biology, Physics, Chemistry	Optional	Assess proficiency in English language arts, math and science	90 minutes per content area	Open window	<ul style="list-style-type: none"> <li>• Immediate online reporting system for teacher/ student use</li> </ul>
<b>DIBELS</b> (Dynamic Indicators of Basic Early Literacy Skills)	Reading fluency assessment	1-3	State Law, USOE Board Rule	1. Assess reading proficiency 2. Assess reading goals	5 minutes per student, three times per year	Completed by: Sep. 30, Jan. 31, and June 15	Local LEA submission of files to USOE through UTREx of reading designation only three times a year. <ul style="list-style-type: none"> <li>• USOE &amp; Local LEA reporting</li> </ul>
<b>WIDA ACCESS</b> (World Class Instruction Design)	English language proficiency assessment for English learner (EL) students	EL students K-12	Federal and State Law, USOE Board Rule	1. Language proficiency 2. Placement 3. EL Services	3-4 hours	Jan. 14 –March 13 <ul style="list-style-type: none"> <li>• Same window for traditional and year round</li> </ul>	Local LEA submission of files to USOE through UTREx <ul style="list-style-type: none"> <li>• Local LEA reporting</li> </ul>

Assessment	Description	Grade	Required By	Data Use	Approximate Testing Time	Testing Window	Data Collection and Reporting
<b>EXPLORE &amp; PLAN</b>	College and career readiness exams	8 or 9, 10	State Law, USOE Board Rule	School information	2-3 hours	September 1- November 28, 2014	Local LEA submission of files to ACT for Scoring <ul style="list-style-type: none"> <li>USOE &amp; Local LEA reporting</li> </ul>
<b>ACT</b>	College and career readiness exams	11	State Law, USOE Board Rule	School Grading	3-4 hours	First Tuesday in March (make-up test third Tuesday in March)	Local LEA submission of files to ACT for Scoring <ul style="list-style-type: none"> <li>USOE &amp; Local LEA reporting</li> </ul>
<b>NAEP</b> (National Assessment of Educational Progress)	National assessment given to students across the nation	Sampling of Utah schools in grades 4, 8, 12	Federal and State Law, USOE Board Rule	National Content Test in language arts, math and science	90 minutes	Jan. 21-Mar 1	USOE submission to NAEP <ul style="list-style-type: none"> <li>USOE reporting in aggregate</li> </ul>
<b>DLM</b> Dynamic Learning Maps (Utah Alternative Assessment)	Alternative Utah state summative assessment for special education students	3-11 (1% of students)	Federal and State Law, USOE Board Rule	Assess proficiency in language arts, math and science; used for school and teacher accountability	Varies by student	Six weeks prior to last Monday of school year	Daily UTREx files for USOE and Local LEA reporting

**\*UTREx/Data Clearinghouse**

The UTREx/Data Clearinghouse gathers and stores student data throughout the year for exchanging student records and for reporting at the local, state and national levels under FERPA guidelines.

**Updated August 14, 2014 by the Utah State Board of Education**

## What is the Role of Assessment in Education?

Assessment is the process of gathering and using information from multiple and diverse sources in order to develop a deep understanding of what students know, understand, and can do with their knowledge as a result of their educational experiences; the process culminates when assessment results are used to improve subsequent learning. Today's students need to know not only the basic reading and arithmetic skills, but also skills that will allow them to face a world that is continually changing. They must be able to think critically, to analyze, and to make inferences as never before. Teachers use assessment information to guide their instruction. Assessment results provide teachers with the information they need to provide appropriate individualized instruction, remediation, or enhanced learning experiences. Assessment is a valuable instructional tool to ensure that students are receiving the appropriate instructional supports.

### Three Types of Assessment: Formative, Interim/Benchmark, Summative:

Formative Assessment refers to a wide variety of methods that teachers use on a daily basis to conduct in process evaluations of student learning and academic progress during a lesson, unit, or course. Formative assessments help teachers identify concepts that students are struggling to understand, skills they are having difficulty acquiring or learning standards they have not yet achieved so that adjustments can be made to lessons, instructional techniques and academic support given. The general goal of formative assessment is collect data while it is happening. Examples would be daily class quizzes, discussions, checking for understanding, and monitoring progress.

Interim/Benchmark Assessment refers to assessments that occur at specific intervals along the way to ensure that learning is occurring at the rate and the degree expected. This data is used to compare student achievement and progress with that of other students. Typically teachers use this data to inform their lesson planning and instructional materials. Often, teachers will view these data together and plan together as a way to improve their own professional learning and improve teaching.

Summative Assessment refers to assessments that are used to evaluate student learning progress and achievement at the conclusion of a specific instructional period. It can be thought of as an annual check-up to reflect on student learning that has happened during the year as to the degree that the student's achievement for the year/course has been attained. The data can be used to compare student achievement and progress with that of other students, teachers, and schools.

Role of Assessment	Teachers	Students/Parents	Schools	Policymakers	USOE involvement
<b>Formative</b> EX: Daily quizzes, small and whole class discussions, learning games, monitoring progress.	Checking for understanding, adjusting instruction, question and answer for mastery.	Promotes parent and student understanding and monitoring of content and student learning. Provides feedback for additional supports.	Supports teachers in daily instruction, provides collaborative tools, informs instructional practice, and improves remediation and enrichment strategies.	Financial support of tools, platforms, professional learning opportunities etc. to assist teachers in daily instruction.	Provides "tools" only support of platforms, item banks, modules and professional learning opportunities that teachers can optionally use to assist daily instruction. No data collection.
<b>Interim/Benchmark</b> Periodic assessments given within a term or focused on specific learning standards. EX: District created, school created, DIBELS, one SAGE interim	Ensure student learning is occurring at rate and to degree expected. Provides opportunities for school level collaboration.	Ensure learning is occurring at the rate and degree expected. Students can seek additional supports if needed along the way.	Local data is used for collaboration for student/school improvement process.	Financial support of tools platforms, etc. to assist teachers in common assessments and instruction.	Provide one optional SAGE interim opportunity. No data collected at state level.
<b>Summative</b> EX: SAGE ELA, Math, and Science, ACT, CTE certifications	Data is used to reflect if students are on track for college and career readiness, and identify strengths and weaknesses in instruction and in student achievement.	Annual check-up to determine college and career readiness, and identify individual student strengths and weaknesses.	Provides schools/districts with information on student/teacher /grade and school achievement that can be compared within and across groups. Data is used in school improvement process.	Compare school achievement and growth for accountability purposes. Provide rewards and/or interventions to schools. Target resources to schools in need of improvement.	Provide implementation of summative assessment processes. Provide all summative assessment data and reporting utilizing growth and achievement measurements used by all stakeholders.

# Response to Concerns Surrounding Summative SAGE Assessments

- 1. End of Course Testing takes too much time and decreases instructional time**

Summative (end of course) assessments provide valuable student information. Similar to an annual check-up, student reports of a SAGE summative assessment can be used to improve future instruction for individual students. This data gives parents, students, and their teachers' valuable information about their new students at the beginning of the school year. With summative data schools can measure the achievement and growth of students each year as well as monitor achievement and growth at the school, district and state level. Actual summative testing time is less than 1% of the instructional school year (6.5 hours out of a 990 hour; minimum instructional schedule).
- 2. SAGE is too difficult and confusing for students**

SAGE measures readiness for college and careers. Challenging questions assess more rigorous standards designed to prepare students to be successful in post high school endeavors. SAGE provides critical and timely data which allows students to better prepare for their future. With this data, students and their parents can access strategic support and interventions needed to prevent expensive and time-consuming professional or college-level courses.
- 3. SAGE technology is frustrating and problematic for students to navigate**

All new technologies have a learning curve and USOE has received some feedback that the technology was difficult for some students to navigate during the first time SAGE was administered. However, the majority of the feedback has been very positive with schools and districts reporting that students were more engaged in the testing process and liked the new format and test questions. LEAs have worked with USOE to address all technology concerns.
- 4. SAGE roll out has been poorly executed**

The initial implementation of any new technology system includes a learning curve for all involved. Given the condensed timeline for implementation, the number of students, tests and schools that implemented this new system at the very same time, there have been relatively few concerns. All of these concerns have either been addressed immediately, or placed on schedules for future upgrades. Local districts agree that the roll out was smoother than expected, much better than previously implemented computer based testing.
- 5. Changing assessment systems/platforms is painful**

Implementing new systems always results in a learning curve. Students, teachers and administrators as well as Information Technology staff require time to learn and become comfortable with any new system. In 2013, the previous tests, Criterion-Referenced Tests (CRTs) were computer administered to approximately 390,000 students. Regardless of the platform chosen for SAGE, the majority of students would have been required to learn a new testing system.
- 6. SAGE testing requires too many computers**

The use of technology to develop, administer and score assessments has placed a great burden on schools with limited technology. Utah began assessing students for end of level tests with a computer based administration in 2007. Each year following, more schools implemented computer based testing. In 2009, all end of level tests administered in the spring were administered in a computer based format, resulting in 100% of Utah students participating in computer testing, three years before SAGE was implemented. Districts and schools that have implemented additional locally required computer tests, have also increased the requirement for technology to administer all of these tests. As students prepare for post-secondary success, computer testing is used in both colleges and careers based training.

**7. Where do the SAGE questions come from?**

All SAGE questions go through an extensive Utah-specific development and review process. Utah teachers and content experts review each question for alignment to the Utah Core Standards, depth of knowledge, bias and sensitivity, and item difficulty. All questions are reviewed by a 15 member parent panel chosen by the Utah State Legislature, Utah State Board of Education, and the Governor's office. Continual development allows Utah to own items written by Utah teachers for Utah teachers.

**8. Why can't all parents view the test questions?**

SAGE summative tests are similar to final exams, ACT, SAT, Advanced Placement Tests, GED, GRE, etc., where the test questions are kept secure to ensure that each student has the same opportunity to answer questions correctly. The validity of test scores is dependent on secure questions. Parents can view similar questions through the public SAGE training tests. A 15 member Parent Review Committee has reviewed every question in the SAGE item (questions) bank.

**9. Test prep for SAGE is too time consuming**

Teachers are encouraged to focus their instructional time on teaching the Utah Core Standards. Minimal time should be spent on teaching students good test taking strategies and reviewing the technology to respond to different types of test questions. With the adaptive nature of SAGE, there is no "prepping" for the test. There are over 400 questions available for each test. The best preparation is teaching the core standards.

**10. Scores on SAGE are too low**

SAGE scores now provide essential data as to each student's performance in regards to college and career readiness. With the increased rigor of the Utah Core Standards, the aligned assessment system has increased expectations of student performance. The SAGE results now are similar to scores on ACT and NAEP. Recent experience in other states, as well as past experience in Utah suggests that test scores will improve after the administration of a new assessment.

**11. End of course data requires that student data is sent to a third party vendor for scoring**

Many assessments currently in use in Utah involve administration and scoring by a third party vendor (outside service provider). Local districts use Yearly Progress Pro (YPP), DIBELS, Illuminate, Data Wise, Utah Compose, Accuity, ACT and ASVAB and are all administered and scored by third party vendors. The data is secure and complies with all board, state and federal requirements for the transfer, storing and reporting of the data. The Utah State Board of Education owns student data collected, scored, or held by third party vendors. Vendors may not share or sell that data. In addition, student level data cannot be shared or used for any purpose outside the scope of the limited expressed permission of the Board.

**12. SAGE results aren't nationally normed**

"Norming" infers the comparison of a student to other test takers. Student normed performance is not measured against a standard or criteria but only other test takers. Due to the recent implementation of Common Core Standards, there are currently no national assessments that have been normed. SAGE results are benchmarked against proficiency on the Utah core standards, with ACT and NAEP used as referents to determine the proficiency cut scores, thus ensuring college and career readiness.

**13. SAGE needs to be improved**

USOE has implemented improvements to SAGE based on feedback received from the spring 2014 administration. These improvements and enhancements include: reducing the time for the writing test, adding a dictionary, improving the test administration instructions and improving the text to speech and listening features, and additional item development. USOE will continue to improve SAGE each year.



## 2013-14 SAGE Summative Tests Parental Exclusion Report

### Background

Utah Code 53A-15-1403(9) permits parents, or students over the age of 18, to request to be excused from tests administered statewide, including the Student Assessment of Growth and Excellence (SAGE) Summative tests. That law also instructs that, as a result of the student being excluded from statewide tests, neither the district or charter school (LEA) nor its staff should be negatively affected in school grading or employee evaluations. As such, students who were exempt from testing in accordance with this law are excluded from participation and performance calculations for Utah's state accountability measures. These students cannot be excluded from federal accountability measures and reports, however, and are reported as non-participants. This may affect an LEA's qualification for and the reception of certain federal dollars. A student who was not under parental exclusion and did not take the SAGE SUMMATIVE test due to absence or other reasons is counted as a non-participant in both state and federal accountability participation rate calculations.

### Parental Exclusion Rates

For the 2013-2014 school year, 1,119,465 SAGE Summative tests were expected to be taken (including the Math, Science, and English Language Arts subject tests). Approximately 2% of these tests were not taken due to the parental exclusion under Utah Code 53A-15-1403(9). This percentage was higher in charter schools (7.6%) than in district schools (1.5%). Parental exclusion rates, by LEA, ranged from 0% to 73%. Sixteen schools had a parental exclusion rate of over 20%. Among these, seven were online or virtual schools, seven were charter schools, and two were district schools.



LEA Type	LEA Name	Percent of Tests with Parental Exclusion
District	Alpine District	2.8%
District	Beaver District	2.5%
District	Box Elder District	0.3%
District	Cache District	0.5%
District	Canyons District	0.8%
District	Carbon District	0.4%
District	Daggett District	0.6%
District	Davis District	1.9%
District	Duchesne District	4.3%
District	Emery District	0.2%
District	Garfield District	0.1%
District	Grand District	3.3%
District	Granite District	0.7%
District	Iron District	0.2%
District	Jordan District	1.0%
District	Juab District	0.7%
District	Kane District	1.4%
District	Logan City District	0.3%
District	Millard District	0.2%
District	Morgan District	6.5%
District	Murray District	1.7%
District	Nebo District	0.8%
District	North Sanpete District	1.2%
District	North Summit District	0.7%
District	Ogden City District	0.4%
District	Park City District	1.4%
District	Piute District	3.0%
District	Provo District	5.1%
District	Rich District	1.99%
District	Salt Lake District	0.3%
District	San Juan District	1.0%
District	Sevier District	1.8%
District	South Sanpete District	2.6%
District	South Summit District	0.3%
District	Tintic District	1.2%
District	Tooele District	1.5%
District	Uintah District	5.1%
District	Wasatch District	1.6%
District	Washington District	1.5%
District	Wayne District	0.7%
District	Weber District	1.0%
<b>District</b>	<b>Overall</b>	<b>1.5%</b>



LEA Type	LEA Name	Percent of Tests with Parental Exclusion
Charter	Academy for Math Engineering & Science (AMES)	0.3%
Charter	Alianza Academy	1.6%
Charter	American Leadership Academy	7.4%
Charter	American Preparatory Academy	1.3%
Charter	Aristotle Academy	0.0%
Charter	Bear River Charter School	2.5%
Charter	Beehive Science & Technology Academy (BSTA)	1.2%
Charter	Canyon Grove Academy	19.7%
Charter	Canyon Rim Academy	0.0%
Charter	Channing Hall	0.0%
Charter	City Academy	0.9%
Charter	C.S. Lewis Academy	49.8%
Charter	DaVinci Academy	33.0%
Charter	Dual Immersion Academy	0.0%
Charter	Early Light Academy at Daybreak	6.3%
Charter	East Hollywood High	0.3%
Charter	Edith Bowen Laboratory School	0.0%
Charter	Endeavor Hall	1.2%
Charter	Entheos Academy	3.9%
Charter	Excelsior Academy	3.7%
Charter	Fast Forward High	1.3%
Charter	Freedom Preparatory Academy	5.8%
Charter	Gateway Preparatory Academy	24.6%
Charter	George Washington Academy	5.9%
Charter	Good Foundations Academy	2.4%
Charter	Guadalupe School	0.0%
Charter	Hawthorn Academy	0.0%
Charter	Highmark Charter School	1.9%
Charter	Intech Collegiate High School	1.1%
Charter	Itineris Early College High	8.7%
Charter	Jefferson Academy	3.5%
Charter	John Hancock Charter School	19.8%
Charter	Karl G. Maeser Preparatory Academy	11.7%
Charter	Lakeview Academy	3.7%
Charter	Leadership Learning Academy	1.7%
Charter	Legacy Preparatory Academy	9.0%
Charter	Liberty Academy	7.9%
Charter	Lincoln Academy	13.5%
Charter	Mana Academy Charter School	50.3%
Charter	Maria Montessori Academy	1.5%
Charter	Merit College Preparatory Academy	3.3%
Charter	Moab Charter School	0.0%



LEA Type	LEA Name	Percent of Tests with Parental Exclusion
Charter	Monticello Academy	1.8%
Charter	Mountain Heights Academy	15.1%
Charter	Mountainville Academy	5.4%
Charter	Navigator Pointe Academy	1.5%
Charter	Northern Utah Academy for Math Engineering & Science (NUAMES)	2.5%
Charter	Noah Webster Academy	2.3%
Charter	North Davis Preparatory Academy	2.4%
Charter	North Star Academy	3.8%
Charter	Odyssey Charter School	10.4%
Charter	Ogden Preparatory Academy	0.5%
Charter	Open Classroom	2.6%
Charter	Pacific Heritage Academy	29.1%
Charter	Paradigm High School	22.6%
Charter	Pinnacle Canyon Academy	0.0%
Charter	Pioneer High School for the Performing Arts	72.7%
Charter	Promontory School of Expeditionary Learning	1.8%
Charter	Providence Hall	4.2%
Charter	Quest Academy	2.3%
Charter	Ranches Academy	1.1%
Charter	Reagan Academy	0.7%
Charter	Renaissance Academy	10.8%
Charter	Rockwell Charter High School	19.3%
Charter	Salt Lake Arts Academy	0.1%
Charter	Salt Lake Center for Science Education	0.0%
Charter	Salt Lake School for the Performing Arts	0.0%
Charter	Soldier Hollow Charter School	5.1%
Charter	Spectrum Academy	2.6%
Charter	Success Academy	0.3%
Charter	Summit Academy	2.8%
Charter	Summit Academy High School	2.9%
Charter	Syracuse Arts Academy	0.7%
Charter	Thomas Edison	5.4%
Charter	Timpanogos Academy	0.0%
Charter	Tuacahn High School for the Performing Arts	1.6%
Charter	Uintah River High	6.7%
Charter	Utah Career Path High School	16.5%
Charter	Utah Connections Academy	9.0%
Charter	Utah County Academy of Science (UCAS)	0.0%
Charter	Utah International Charter School	0.0%
Charter	Utah Virtual Academy	21.7%
Charter	Valley Academy	1.6%
Charter	Venture Academy	3.2%



LEA Type	LEA Name	Percent of Tests with Parental Exclusion
Charter	Vista at Entrada School of Performing Arts and Technology	2.4%
Charter	Voyage Academy	0.9%
Charter	Walden School of Liberal Arts	1.8%
Charter	Wasatch Peak Academy	0.0%
Charter	Weilenmann School of Discovery	0.9%
<b>Charter</b>	<b>Overall</b>	<b>7.6%</b>



TO: Jo Ellen Shaeffer and Judy Park, USOE  
FROM: Scott Marion, Center for Assessment  
RE: Technical and Policy Advisory Recommendations on “Opt Out”  
DATE: March 30, 2015

USOE asked the Utah Technical Advisory (TAC) and the Policy Advisory Committees (PAC) to offer recommendations about how USOE should address the accountability implications presented by the recently passed legislation, Parental Rights in Education (Senate Bill 204-S02). The TAC met on March 17<sup>th</sup> and the PAC met on March 25<sup>th</sup>. Both groups discussed and offered recommendations regarding the “opt out” law recognizing that the Utah State Board of Education will need to adopt a rule that addresses the ramifications of having too many students missing from accountability calculation to produce valid scores (or grades).

Both committees were concerned with any rule that permits fewer than 95% of students to participate in statewide assessments. While 95% may seem arbitrarily high, we can look at another extreme and acknowledge that, if only 20% of the students participated in the state assessments, for example, it does not seem possible to provide a credible accountability score. Therefore, both advisory bodies offered recommendations for the State Board that tried to meet the spirit of the law while preserving the credibility of the accountability scores.

The TAC recommended a lower threshold of **80% participation**. Once a school/district has fewer than 80% of its students participating (i.e., 79.9%), **no school grade or other accountability** score should be provided. However, the TAC was concerned that if the 20% of potential non-participants were not representative of the rest of the school population, the accountability results would still be invalid. Therefore, the TAC also recommended that **once the participation rate drops below 90%** (i.e., 89.9%), a test<sup>1</sup> must be performed to document that the participating **students are representative of the full school population**. If the school fails this test, no school grade or other accountability score will be provided.

The TAC strongly recommended that **students be prohibiting from opting out of formative assessment** and locally-developed assessments because it will harm students by depriving educators and students of instructionally useful information and instructionally beneficial experiences. It would be equivalent to allowing students to opt out of instruction.

The PAC fully endorsed the TAC recommendations presented above. However, the PAC wanted to go one step further and **require that any score/grade based on fewer than 95% of the school enrollment be marked with an asterisk (\*)** to indicate that it is not likely a fully valid score.

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<sup>1</sup> The specific criteria for such a test will be based on tolerances associated with a chi-square test associated for evaluating differences in proportions.

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## Assessment Opt-Out Policies: State responses to parent pushback

Stephanie Aragon, Julie Rowland and Micah Ann Wixom

With new state assessments kicking into full swing across the country, schools are seeing more and more parents wanting to opt out their children. Determining whether states allow assessment opt-outs can be complex and is constantly evolving. In some states the answer is clear: State policies either allow or prohibit state assessment opt-outs, or state departments of education issue clear guidance that opt-outs are not allowed.

In many states, however, the guidance as to whether opt-outs are allowed is far less clear, as departments of education are often silent on the issue. Additionally, many states have no consequences in place for not participating in mandatory assessments, adding a further wrinkle to defining what it means for states to truly prohibit opt-outs.

“Confusion is growing as parents increasingly want to opt their children out of state tests. Some state policies are clear on this issue, but many are still working through the process.”

### KEY TAKEAWAYS

State laws in California and Utah allow parents to opt their children out of state assessments for any reason.

Legislation introduced in New Jersey would allow opt-outs. Similar legislation in Mississippi failed to progress.

Laws in some states – such as Arkansas and Texas – clearly prohibit opt-outs, while the law is less clear in other states.



*The information provided in this report is not exhaustive and derives from a variety of sources. It is meant to provide state education leaders with a broad look at how their peer states are handling similar challenges.*

## Opt-outs allowed

A few states have laws or regulations expressly allowing parents to opt out of assessments for any reason. **Utah**<sup>1</sup> and **California**<sup>2</sup> provide good examples of explicit opt-out language. Additionally, legislators in **New Jersey** and **North Dakota** recently introduced bills that would allow parents to opt out of assessments.

New Jersey's bill would require parents to provide written notification at least 14 days before the assessment and would require districts and schools to provide alternative activities.<sup>3</sup> North Dakota's bill would require parents to be notified of their right to opt out prior to test administration.<sup>4</sup> Another bill expressly permitting opt-outs was introduced this session in **Mississippi**, but subsequently died in committee.<sup>5</sup>

In several other states, opt-outs are not provided in statute but are permitted by the department of education. The **Minnesota** Department of Education, for example, has indicated that there are no consequences for students who opt out of state exams.<sup>6</sup> Even though the completion of state exams is included as a graduation requirement, diplomas cannot be withheld from students who refuse to participate. Similarly, the **Michigan** Department of Education discourages but does not prohibit student opt-outs.<sup>7</sup>

Many states exempt students from participating in state assessments in cases of a physical disability, medical reasons or emergencies. Two states allow parents to opt out for a religious objection (see sidebar). Activist groups across the country have encouraged parents to use these limited exemptions as a basis for opting out even when students may not fit within the exemptions. This is occurring in Portland, **Oregon**, where activists are encouraging parents to opt out under the state's religious exemption.<sup>8</sup>

## Opt-outs not allowed: The spectrum of guidance

In states that do not expressly allow students and parents to opt out, publicly available responses from state departments of education run along a spectrum from silence on the issue to state guidance or policies clearly prohibiting opt-outs.

Departments of education in several states – such as **New Jersey**<sup>9</sup> and **South Carolina**<sup>10</sup> – have given guidance to local district and school leadership that either prohibits schools and districts from allowing parents to opt their children out or expressly states that students must take state assessments.

Few state departments provide information directly to parents and the public about opting out. **Oregon**<sup>11</sup> and **Ohio**<sup>12</sup> appear to be two of the only states that take the extra step of providing public information, clearly outlining both the purpose of their state assessments and the potential consequences to not taking them.

In states that prohibit opting out of state assessments, departments frequently cite state policies. These policies usually require school districts to administer state assessments to all students in specified grades – sometimes with limited exceptions. In addition to requiring districts to administer assessments to all students, some states' policies also require students to take them. For example, state law in **Arkansas** says that participation in the state testing program is mandatory,<sup>13</sup> while **Texas** does not allow parents to

### Religious exemptions

**Oregon**<sup>16</sup> and **Pennsylvania**<sup>17</sup> excuse students from state testing to accommodate religious beliefs. In Pennsylvania, parents seem to be utilizing this policy to opt their students out of state tests.<sup>18</sup> It doesn't appear the state has issued guidance to parents or districts on this issue, although some school districts are apparently taking disciplinary action against teachers who inform parents about this opt-out provision.<sup>19</sup>

### Research on opt-outs and their impact

A **New Jersey** law firm has analyzed court cases and laws commonly cited by the parent advocacy group United Opt Out. The analysis concluded that these sources do not support a parent's right to opt students out of state assessments.<sup>20</sup>

Research for Action's policy brief describes how opt-outs may positively or negatively impact school performance ratings and teacher and principal evaluations.<sup>21</sup>

remove a student from class or other school activity to avoid a test.<sup>14</sup> Many departments of education also cite provisions from Section 1111 of the No Child Left Behind Act to support their stance that students must participate in state assessments.<sup>15</sup>

Finally, many states appear to be silent on the issue, meaning there is no publicly available communication from departments of education to local district and school leaders or the public about the state's stance on opting-out. In these cases, local district or school leaders may adopt their own policies. For example, a **North Dakota** school district informed parents that while state policies require the district to administer state assessments to all students, the district will not take action against any student who does not participate.<sup>22</sup>

## Loosening a state's grip on testing

A handful of states are seeking ways to bypass state laws to release districts from their testing obligations. In **Colorado**, the state Board of Education was stymied in its attempt to grant testing waivers to districts after the state attorney general determined that it does not have this authority. However, the board recently passed a motion that relieves districts of any penalty if fewer than 95 percent of students participate in testing because of opt-outs this spring.<sup>23</sup> The Department of Education encouraged districts to make a good faith effort to test all students in accordance with state and federal law.

In **Louisiana**, Gov. Bobby Jindal recently issued an executive order that could allow parent opt-outs, although stakeholders have requested that the Board of Education clarify the state's policy.<sup>24</sup>

### A parent rights state of mind: New York City

New York City's City Council is currently considering allowing parents to opt out of assessments.<sup>25</sup> A potential resolution, which will likely be released by publication of this paper, would ask the city's Education Department to add provisions about parent opt-out to the department's Parents' Bill of Rights and Responsibilities.

While **New York** state does not have a formal opt-out provision, the city's parent guide to assessment participation indicates that principals must respect the parents' decision about testing and work with parents to provide students with an alternate activity.<sup>25</sup>

## Related ECS resources:

For a high-level overview of which tests are taken where, check out our snapshot of states' assessment choices, *50 Ways to Test: A look at state summative assessments in 2014-15*.

To better understand the standards landscape, *States and the (not so) new standards – where are they now?* examines how states are affirming, modifying or replacing the Common Core State Standards and provides information about who controls standard-setting in various states.

Take a deeper dive with *State standard-setting processes*, which includes profiles of the actions taken in eight states, as well as the measures used by those states to validate their standards.

*The following appendix provides a brief snapshot of information related to assessment opt-outs across the 50 states and District of Columbia, where available.*

# Appendix

## Alabama

No information identified.

## Alaska

No information identified.

## Arizona

The Department of Education's [parent guide to understanding state assessments](#) clearly states that, per state and federal policies, parents may not allow students to opt out of state assessments.

## Arkansas

According to the [state Department of Education](#), participation in state assessments is mandatory under state law unless the state Board of Education decides otherwise. However, the state board is not permitted to make accommodations that negate the validity of a statewide assessment, which result in less than 95 percent of all students attending public school participating in the testing program.

## California

California law ([Cal. Educ. Code § 60615](#)) allows parents to [opt their children out of assessments](#) through a written request.

Districts are required to keep track of how many students were opted out by their parents.

## Colorado

Although the state attorney general recently found that the state Board of Education does not have the authority to grant testing waivers to districts, the board recently passed a motion that seeks to exempt districts from any penalty if fewer than 95 percent of students participate in testing this spring.

## Connecticut

The Department of Education clarified the state's policies on state assessments in [two separate documents](#) sent to district-level staff, namely that all students (with two minor exemptions) must take them.

## Delaware

Citing state and federal law, the Department of Education's one-page [publication on opt-outs](#) states that students are exempt from state tests only for extreme medical incidents or for reasons of mental health.

## District of Columbia

While information from the District of Columbia was not identified, [one high school](#) warned that students who do not participate in assessments will not be eligible to participate in sports next year.

## Florida

Although information about Florida's position could not be located on the Department of Education's website, it appears that Florida does not allow students to opt out of assessments. Pam Stewart, the state's commissioner of education, wrote a [letter](#) to state Sen. Don Gaetz clarifying Florida's position and highlighting, in detail, the potential consequences of a student opting out. Interestingly, a Florida school district had voted to opt the entire district out of state tests but [reversed that decision](#) because of the consequences.

## Georgia

No information identified.

## Hawaii

Hawaii appears to require all students to participate in state assessments (see p. 14 of the state's [test administration manual](#)).

## Idaho

Idaho [has no policy allowing for students to opt out](#). It appears that districts can make their own decisions, but the Department of Education provides help for any districts that need to respond to parents who want to opt out. The state's [Smarter Balanced Educator Communicators Toolkit](#) includes suggested answers to questions about opting out.

## Illinois

The Illinois State Board of Education issued a [letter](#) to parents stating that students may not opt out of the PARCC assessment under state and federal law. The board also states that districts can develop a policy for those students who refuse to take assessments on testing days, but emphasizes that refusal would violate state and federal laws.

## Indiana

[Indiana's Department of Education](#) acknowledges that it is not against the law for a parent to refuse to allow a child to participate in assessments but cautions that students must participate in statewide assessments to graduate. Additional consequences and procedures to manage students who refuse to participate are determined at the local school level.

### *Iowa*

Iowa provides clear guidance on its Department of Education website, prohibiting opt-outs under state and federal law. The department provides that school districts determine the consequences for parents who choose to opt their children out.

### *Kansas*

Opt-out issues are handled at the local level. Kansas expects a minimum of 95 percent participation this year.

### *Kentucky*

The commissioner of education clarified that opting out of assessments is prohibited. He cited Kentucky statute [Ky. Rev. Stat. Ann. § 158.6453](#) and [703 Ky. Admin. Regs. 5:140](#) as creating an accountability system that is designed to ensure that all schools and districts are serving all students and that gaps in categories of students are identified, addressed and closed. The commissioner asked that schools explain to parents that all students must be tested to accomplish these goals.

### *Louisiana*

In addition to efforts to remove the Common Core standards from his state, Gov. Bobby Jindal issued an [executive order](#) on Jan. 30, 2015, that could allow parent opt-outs. According to [news reports](#), the governor, state school boards association and a state teachers union, along with several districts and Common Core opponents, have requested that the Board of Elementary and Secondary Education schedule a special meeting to clarify the state's opt-out policy.

### *Maine*

No information identified.

### *Maryland*

According to a [brochure](#) released by the Maryland State Department of Education, while parents have a fundamental right to choose whether to send their children to a public school, they cannot selectively choose or reject parts of the public education program itself – including student testing. A parent-initiated [lawsuit](#) challenging mandatory assessments and confirming a parent's right to refuse testing in Maryland is pending.

### *Massachusetts*

According to a 2014 [letter](#) from the state's commissioner of education, participation is mandatory because Massachusetts law ([Mass. Gen. Laws Ann. 69 §11](#)) does not contain an opt-out provision. However, the same letter requires schools to provide an alternative educational activity for students who refuse to participate in the assessment. Still, one [Massachusetts district](#) that allowed students to refuse to take a state pilot exam received a

[notice](#) from the Board of Elementary and Secondary Education reiterating the assessment mandate.

### *Michigan*

According to a [report](#) by the Michigan Department of Education, there is no rule prohibiting parents from opting their students out of assessments. However, districts are encouraged to limit exemptions because they will be held to the requirement that 95 percent of their students complete the assessment.

### *Minnesota*

Currently, no consequences exist for students in Minnesota who opt out of state exams. According to a [Department of Education presentation](#), although students in grade 8 and above are expected to participate in the exams in order to meet their graduation assessment requirements, diplomas will not be withheld from students who are absent during testing. While state statute does not specifically allow for opt-outs, it does not prevent students from refusing to participate. Some districts assist in this process by providing opt-out forms (like the form provided by Minneapolis Public Schools).

### *Mississippi*

State statute ([Miss. Code Ann. § 37-16-7](#)) requires students to achieve a passing score on each of the required high school exit exams in order to receive their diploma. There is a [bill](#) working its way through the legislature that would prohibit entirely the state Board of Education and local school districts from including assessments in graduation requirements. [Another bill](#) that specifically granted parents the right to opt their children out of the exams and to formalize a procedure for opt-outs died in committee.

### *Missouri*

Currently, no formal process exists for students to opt out of state assessments. A [Q&A report](#) by the Department of Education notes that districts are compelled by federal and state statute to assess all of the students in their district. [State statute](#) requires district school boards to establish a written policy on student participation in these exams.

### *Montana*

No information was identified.

### *Nebraska*

It is unclear if parents may opt out of state assessments on behalf of students. Some materials from the Department of Education (including the [2013 online test administration manual](#) and the [accountability scoring rules](#)) reference a mechanism for parent refusal of state assessments, but other materials do not. The

department's position on this issue is unclear.

### *Nevada*

Apparently the Department of Education [allowed parents](#) to opt out of 2013 state assessment [field testing](#). No further information was identified.

### *New Hampshire*

[State law](#) requires that assessments be administered in all school districts and that all students in all grades participate. According to a [release](#) from the Department of Education, public school children are legally required to take the assessment and parents have no legal right to opt their children out. [Exemptions exist](#) only in special circumstances, such as serious illness, severe emotional distress and participation in another state or alternative assessment.

### *New Jersey*

The Department of Education sent [guidance](#) to district and school leadership on the opt-out issue, informing them that state and federal policy requires students to participate in statewide assessments and encouraging district and school leadership to inform parents and students why the assessments are important. According to a few news articles ([here](#) and [here](#)), Commissioner of Education David Hespe encouraged districts to create policies on handling opt outs, including potential disciplinary actions.

### *New Mexico*

In [this assessment procedures manual](#), the Department of Education makes clear that federal and [state law](#) require all students to participate in state assessments. Students who refuse to take the test, with the exception of those who receive a state medical exemption, count against the school for A-F School Grades. Although alternative methods are identified, the state requests that students demonstrate competency in the five core subject areas through completion of the accountability assessment in order to meet graduation requirements.

### *New York*

While there is a contingent in New York actively advocating for testing opt outs, the New York Department of Education issued guidance in 2013 clearly stating that there is no provision in statute or regulation allowing parents to opt their children out of state tests. Despite this guidance, education policy leaders in New York City are taking steps that would allow for opt outs (see sidebar).

### *North Carolina*

According to a [handbook](#) released by the state Board of Education, [board policy](#) prevents students from opting out of exams. An exam answer sheet must be provided to all students. Students whose answer sheets are blank will receive the lowest

possible score and the student's course and overall grade point average may be negatively affected. A [memo](#) from the deputy state superintendent provides additional information to LEA superintendents and charter school directors about assessment mandates and the protocol for handling refusal requests.

### *North Dakota*

There is no information from the Department of Education on this matter. However, legislators recently introduced [H.B. 1283](#), which would allow parents to opt out of state assessments and would require parents to be notified of their right to opt out prior to test administration. In addition, officials from the [West Fargo Public Schools District](#) disseminated information to parents informing them that while the district is required to administer assessments to all students, the district will not take action against any student and any student's family if the student does not complete the assessment.

### *Ohio*

The Department of Education prepared a [document](#) outlining the importance of student participation in state tests and three possible consequences to opting out. Ohio is one of only a few states in which the department clearly and publicly outlined the potential consequences of students not taking state assessments. Some of those consequences include:

1. Third graders may be retained due to the state's third-grade reading and retention policies.
2. Opting out may affect high school graduation, as assessments are part of the state's graduation requirements.
3. English language learners may be delayed or prevented from exiting the English development program.

### *Oklahoma*

The Department of Education does not provide opt-out options to students. According to a [report](#), statutory and Department of Education rules require all districts to provide a test to every student enrolled in respective testing grades. If a parent wants to opt a child out of an exam, the district must provide the test to the student and document the student's refusal to participate. The failure of a district to achieve a 95 percent participation rate will result in the district automatically earning a lower grade on the A-F report card.

### *Oregon*

The Department of Education provides an [FAQ](#) on testing exemptions, which includes information about allowed exemptions (disabilities or religious beliefs) and the request process; federal and state requirements; how exemptions impact school accountability ratings; and the impact of opt-outs on

graduation.

### *Pennsylvania*

State policy allows parents to opt their children out of state assessments if a test conflicts with a family's religious or moral beliefs, and parents seem to be using this policy. It doesn't appear the state has issued guidance to parents or districts on this issue, although some school districts are apparently taking disciplinary action against teachers who inform parents about this opt-out provision.

### *Rhode Island*

The Department of Education expects all students to participate in statewide assessments, and students may only be exempted, with department approval, for medical reasons or emergencies.

### *South Carolina*

One of South Carolina's state superintendents sent guidance to school district leaders on this issue. In short, state and federal policy does not provide opt-out provisions for parents or students.

### *South Dakota*

State policies require districts to administer state assessments to all students (S.D. Code Ann. § 13-3-55; S.D. Admin. R. 24:55:07:08) and all students are required to take them (S.D. Admin. R. 24:55:07:01), with an exemption for English language learner students (S.D. Admin. R. 24:55:07:11). No information from the Department of Education was identified.

### *Tennessee*

It does not appear that the Department of Education has issued any guidance on this issue. However, state achievement tests for students in grades 3-8 compose a percentage of the student's final grade, up to 25 percent (Tenn. Code Ann. §49-1-617). The department does allow for department-approved medical exemptions. Legislation enacted in 2014 allows parents to opt their student out of participating in a survey, analysis, or evaluation, but it is not clear if this extends to state assessments (Tenn. Code Ann. §49-2-211).

### *Texas*

According to Texas law (Tex. Educ. Code Ann. § 26.010), parents are not entitled to remove a child from class or other school activity to avoid a test. Although no information from the Texas Education Agency was identified, the Texas Association of School Boards has provided guidance to school boards about opting out of standardized tests, including the potential consequences of missing these tests.

### *Utah*

Utah law (Utah Code Ann. § 53A-15-1403(9)) allows parents to opt their children out of state assessments. These students are excluded from state accountability measures but cannot be excluded from federal accountability measures and reports. (Also see a recent memo from the Department of Education about the state's opt-out policy.)

### *Vermont*

In 2014, the Department of Education issued a statement to help districts and school boards answer questions about opting out. In short, school districts are required to participate in state assessments and each school must account for 100 percent of its enrolled students by reporting a score or documenting a valid exemption, which include health or personal emergencies but not parent refusal.

### *Virginia*

In a 2013 memo to school district leaders, the state superintendent clarified that state assessment regulations do not provide for an opt-out policy and gave procedures to follow for any students refusing to take assessments. One of the procedures strongly encourages schools to request a written statement from parents about the reason for refusal, which should be included in the student's file.

### *Washington*

According to the Department of Education, a parent may refuse to have his/her child take state tests. However, high school students must pass certain state assessments before graduating.

### *West Virginia*

No information was identified.

### *Wisconsin*

Per state policy (Wis. Stat. § 118.30(2)(b)3), school districts in Wisconsin must excuse students in grades 4, 8 and 9-11 from state assessments at any time during the testing window upon the request of a parent. Students in other grades may only be excused at the discretion of the school board.

### *Wyoming*

In 2014, the Department of Education requested an opinion from the Wyoming Attorney General's office regarding parent opt-outs from state-mandated testing. According to an opinion from the office of the state's attorney general, districts are required to assess all eligible students and students may not opt out of assessment.

## ENDNOTES

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- 2 Cal. Educ. Code § 60615
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- 5 H.B. 1176, 2015 Reg. Session, (January 19, 2015), <http://billstatus.ls.state.ms.us/documents/2015/pdf/HB/1100-1199/HB1176IN.pdf> (accessed February 24, 2015).
- 6 Jennifer Dugan, Minnesota Department of Education, “Minnesota Assessment System: Update”, slide 15 (Minnesota Department of Education) <http://webcache.googleusercontent.com/search?q=cache:MJqAluYZw6EJ:www.mn-acac.org/Resources/Documents/ACI/New%2520ACT%2520Test%2520Requirements.pptx+%&cd=8&hl=en&ct=clnk&gl=us> (February 24, 2015).
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- 12 Ohio Department of Education, “Information on Student Participation in State Tests,” <https://education.ohio.gov/getattachment/53dc1f3e-11f1-4093-875c-090e160b187f/Guidance-on-Student-Participation-in-State-Tests.pdf.aspx> (February 23, 2015).
- 13 Ark. Code Ann. § 6-15-433(c)(7)
- 14 Tex. Educ. Code Ann. § 26.010
- 15 20 U.S.C. § 6311
- 16 State of Oregon, Department of Education, Exemptions from Testing: Frequently Asked Questions (Oregon: Department of Education, 2015), [http://www.ode.state.or.us/wma/teachlearn/testing/admin/asmt\\_exemption\\_faq.pdf](http://www.ode.state.or.us/wma/teachlearn/testing/admin/asmt_exemption_faq.pdf) (accessed February 24, 2015).
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FOLLOW US



1 PARENTAL RIGHTS IN PUBLIC EDUCATION

2 AMENDMENTS

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 Chief Sponsor: Aaron Osmond

6 House Sponsor: Rich Cunningham

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8 LONG TITLE

9 General Description:

10 This bill amends provisions related to certain rights of a parent or guardian of a student  
11 enrolled in a public school and provisions related to achievement tests.

12 Highlighted Provisions:

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ limits the grade levels of a student that is subject to a parent's or guardian's right to  
16 retain a student on grade level;
- 17 ▶ amends provisions related to a parent's or guardian's right to excuse a student from  
18 attendance for certain purposes;
- 19 ▶ amends provisions related to a parent's or guardian's right to excuse a student from  
20 taking certain tests;
- 21 ▶ provides that an accommodation to certain rights of a parent or guardian may only  
22 be provided if the accommodation is consistent with federal law and a student's  
23 Individualized Education Plan, if applicable; and
- 24 ▶ requires the State Board of Education to make rules providing that scores on certain  
25 tests may not be considered in determining a student's academic grade or whether a  
26 student may advance to the next grade level.

27 Money Appropriated in this Bill:

28 None

29 Other Special Clauses:

30 None

31 **Utah Code Sections Affected:**

32 **AMENDS:**

33 **53A-1-603**, as last amended by Laws of Utah 2013, Chapter 161

34 **53A-15-1401**, as enacted by Laws of Utah 2014, Chapter 392

35 **53A-15-1402**, as enacted by Laws of Utah 2014, Chapter 392

36 **53A-15-1403**, as enacted by Laws of Utah 2014, Chapter 392

37

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

39 Section 1. Section **53A-1-603** is amended to read:

40 **53A-1-603. Duties of State Board of Education.**

41 (1) The State Board of Education shall:

42 (a) require each school district and charter school to implement the Utah Performance  
43 Assessment System for Students, hereafter referred to as U-PASS;

44 (b) require the state superintendent of public instruction to submit and recommend  
45 criterion-referenced achievement tests or online computer adaptive tests, college readiness  
46 assessments, an online writing assessment for grades 5 and 8, and a test for students in grade 3  
47 to measure reading grade level to the board for approval and adoption and distribution to each  
48 school district and charter school by the state superintendent;

49 (c) develop an assessment method to uniformly measure statewide performance, school  
50 district performance, and school performance of students in grades 3 through 12 in mastering  
51 basic skills courses; and

52 (d) provide for the state to participate in the National Assessment of Educational  
53 Progress state-by-state comparison testing program.

54 (2) Except as provided in Subsection (3) and Subsection 53A-1-611(3), under  
55 U-PASS, the State Board of Education shall annually require each school district and charter  
56 school, as applicable, to administer:

57 (a) as determined by the State Board of Education, statewide criterion-referenced tests

58 or online computer adaptive tests in grades 3 through 12 and courses in basic skill areas of the  
59 core curriculum;

60 (b) an online writing assessment to all students in grades 5 and 8;

61 (c) college readiness assessments as detailed in Section 53A-1-611; and

62 (d) a test to all students in grade 3 to measure reading grade level.

63 (3) Beginning with the 2014-15 school year, the State Board of Education shall  
64 annually require each school district and charter school, as applicable, to administer a computer  
65 adaptive assessment system that is:

66 (a) adopted by the State Board of Education; and

67 (b) aligned to Utah's common core.

68 (4) The board shall adopt rules for the conduct and administration of U-PASS to  
69 include the following:

70 (a) the computation of student performance based on information that is disaggregated  
71 with respect to race, ethnicity, gender, limited English proficiency, and those students who  
72 qualify for free or reduced price school lunch;

73 (b) security features to maintain the integrity of the system, which could include  
74 statewide uniform testing dates, multiple test forms, and test administration protocols;

75 (c) the exemption of student test scores, by exemption category, such as limited  
76 English proficiency, mobility, and students with disabilities, with the percent or number of  
77 student test scores exempted being publically reported at a district level;

78 (d) compiling of criterion-referenced, online computer adaptive, and online writing test  
79 scores and test score averages at the classroom level to allow for:

80 (i) an annual review of those scores by parents of students and professional and other  
81 appropriate staff at the classroom level at the earliest point in time;

82 (ii) the assessment of year-to-year student progress in specific classes, courses, and  
83 subjects;

84 (iii) a teacher to review, prior to the beginning of a new school year, test scores from  
85 the previous school year of students who have been assigned to the teacher's class for the new

86 school year;

87 (e) allowing a school district or charter school to have its tests administered and scored  
88 electronically to accelerate the review of test scores and their usefulness to parents and  
89 educators under Subsection (4)(d), without violating the integrity of U-PASS; and

90 (f) providing that scores on the tests and assessments required under Subsection (2)(a)  
91 and Subsection (3) ~~shall~~ may not be considered in determining:

92 (i) a student's academic grade for the appropriate course ~~and~~; or

93 (ii) whether a student ~~shall~~ may advance to the next grade level.

94 (5) (a) A school district or charter school, as applicable, is encouraged to administer an  
95 online writing assessment to students in grade 11.

96 (b) The State Board of Education may award a grant to a school district or charter  
97 school to pay for an online writing assessment and instruction program that may be used to  
98 assess the writing of students in grade 11.

99 (6) The State Board of Education shall make rules:

100 (a) establishing procedures for applying for and awarding money for computer adaptive  
101 tests;

102 (b) specifying how money for computer adaptive tests shall be allocated among school  
103 districts and charter schools that qualify to receive the money; and

104 (c) requiring reporting of the expenditure of money awarded for computer adaptive  
105 testing and evidence that the money was used to implement computer adaptive testing.

106 (7) The State Board of Education shall assure that computer adaptive tests are  
107 administered in compliance with the requirements of Chapter 13, Part 3, Utah Family  
108 Educational Rights and Privacy Act.

109 (8) (a) The State Board of Education shall establish a committee consisting of 15  
110 parents of Utah public education students to review all computer adaptive test questions.

111 (b) The committee established in Subsection (8)(a) shall include the following parent  
112 members:

113 (i) five members appointed by the chair of the State Board of Education;

114 (ii) five members appointed by the speaker of the House of Representatives; and  
115 (iii) five members appointed by the president of the Senate.

116 (c) The State Board of Education shall provide staff support to the parent committee.

117 (d) The term of office of each member appointed in Subsection (8)(b) is four years.

118 (e) The chair of the State Board of Education, the speaker of the House of  
119 Representatives, and the president of the Senate shall adjust the length of terms to stagger the  
120 terms of committee members so that approximately 1/2 of the committee members are  
121 appointed every two years.

122 (f) No member may receive compensation or benefits for the member's service on the  
123 committee.

124 (9) (a) School districts and charter schools shall require each licensed employee to  
125 complete two hours of professional development on youth suicide prevention within their  
126 license cycle in accordance with Section 53A-6-104.

127 (b) The State Board of Education shall develop or adopt sample materials to be used by  
128 a school district or charter school for professional development training on youth suicide  
129 prevention.

130 (c) The training required by this Subsection (9) shall be incorporated into professional  
131 development training required by rule in accordance with Section 53A-6-104.

132 Section 2. Section 53A-15-1401 is amended to read:

133 **53A-15-1401. Definitions.**

134 As used in this part:

135 (1) "Federal law" means:

136 (a) a statute passed by the Congress of the United States; or

137 (b) a final regulation:

138 (i) adopted by an administrative agency of the United States government; and

139 (ii) published in the code of federal regulations or the federal register.

140 (2) "Individualized Education Program" or "IEP" means a written statement, for a  
141 student with a disability, that is developed, reviewed, and revised in accordance with the

142 Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

143 ~~[(1)]~~ (3) "LEA" means a school district, charter school, or the Utah Schools for the  
144 Deaf and the Blind.

145 ~~[(2)]~~ (4) "Reasonably accommodate" means an LEA shall make its best effort to enable  
146 a parent or guardian to exercise a parental right specified in Section 53A-15-1403:

147 (a) without substantial impact to staff and resources, including employee working  
148 conditions, safety and supervision on school premises and for school activities, and the  
149 efficient allocation of expenditures; and

150 (b) while balancing:

151 (i) the parental rights of parents or guardians;

152 (ii) the educational needs of other students;

153 (iii) the academic and behavioral impacts to a classroom;

154 (iv) a teacher's workload; and

155 (v) the assurance of the safe and efficient operation of a school.

156 Section 3. Section 53A-15-1402 is amended to read:

157 **53A-15-1402. Annual notice of parental rights.**

158 (1) An LEA shall annually notify a parent or guardian of a student enrolled in the LEA  
159 of the parent's or guardian's rights as specified in this part.

160 (2) An LEA satisfies the notification requirement described in Subsection (1) by  
161 posting the information on the LEA's website or through other means of electronic  
162 communication.

163 Section 4. Section 53A-15-1403 is amended to read:

164 **53A-15-1403. Parental right to academic accommodations.**

165 (1) (a) A student's parent or guardian is the primary person responsible for the  
166 education of the student, and the state is in a secondary and supportive role to the parent or  
167 guardian. As such, a student's parent or guardian has the right to reasonable academic  
168 accommodations from the student's LEA as specified in this section.

169 (b) Each accommodation shall be considered on an individual basis and no student

170 shall be considered to a greater or lesser degree than any other student.

171 (c) The parental rights specified in this section do not include all the rights or  
172 accommodations that may be available to a student's parent or guardian as a user of the public  
173 education system.

174 (d) An accommodation under this section may only be provided if the accommodation  
175 is:

176 (i) consistent with federal law; and

177 (ii) consistent with a student's IEP if the student already has an IEP.

178 (2) An LEA shall reasonably accommodate a parent's or guardian's written request to  
179 retain a student in kindergarten through grade 8 on grade level based on the student's academic  
180 ability or the student's social, emotional, or physical maturity.

181 (3) An LEA shall reasonably accommodate a parent's or guardian's initial selection of a  
182 teacher or request for a change of teacher.

183 (4) An LEA shall reasonably accommodate the request of a student's parent or guardian  
184 to visit and observe any class the student attends.

185 ~~[(5)(a) An LEA shall reasonably accommodate a written request of a student's parent~~  
186 ~~or guardian to excuse the student from attendance for a family event or visit to a health care~~  
187 ~~provider, without obtaining a note from the provider.]~~

188 ~~[(b) An excused absence provided under Subsection (5)(a) does not diminish~~  
189 ~~expectations for the student's academic performance.]~~

190 (5) Notwithstanding Chapter 11, Part 1, Compulsory Education Requirements, an LEA  
191 shall record an excused absence for a scheduled family event or a scheduled proactive visit to a  
192 health care provider if:

193 (a) the parent or guardian submits a written statement at least one school day before the  
194 scheduled absence; and

195 (b) the student agrees to make up course work for school days missed for the scheduled  
196 absence in accordance with LEA policy.

197 (6) (a) An LEA shall reasonably accommodate a parent's or guardian's written request

198 to place a student in a specialized class, a specialized program, or an advanced course.

199 (b) An LEA shall consider multiple academic data points when determining an  
200 accommodation under Subsection (6)(a).

201 (7) Consistent with Section 53A-13-108, which requires the State Board of Education  
202 to establish graduation requirements that use competency-based standards and assessments, an  
203 LEA shall allow a student to earn course credit towards high school graduation without  
204 completing a course in school by:

205 (a) testing out of the course; or

206 (b) demonstrating competency in course standards.

207 (8) An LEA shall reasonably accommodate a parent's or guardian's request to meet  
208 with a teacher at a mutually agreeable time if the parent or guardian is unable to attend a  
209 regularly scheduled parent teacher conference.

210 [~~(9) (a) Upon the written request of a student's parent or guardian, an LEA shall excuse~~  
211 ~~the student from taking a test that is administered statewide or the National Assessment of~~  
212 ~~Educational Progress.]~~

213 [~~(b) The State Board of Education shall ensure through board rule that neither an LEA~~  
214 ~~nor its employees are negatively impacted through school grading or employee evaluation due~~  
215 ~~to a student not taking a test pursuant to Subsection (9)(a).]~~

216 (9) (a) At the request of a student's parent or guardian, an LEA shall excuse a student  
217 from taking an assessment that:

218 (i) is federally mandated;

219 (ii) is mandated by the state under this title; or

220 (iii) requires the use of:

221 (A) a state assessment system; or

222 (B) software that is provided or paid for by the state.

223 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
224 State Board of Education shall make rules:

225 (i) to establish a statewide procedure for excusing a student under Subsection (9)(a)

226 that:

227 (A) does not place an undue burden on a parent or guardian; and

228 (B) may be completed online; and

229 (ii) to prevent negative impact, to the extent authorized by state statute, to an LEA or  
230 an LEA's employees through school grading or employee evaluations due to a student not  
231 taking a test under Subsection (9)(a).

232 (c) An LEA:

233 (i) shall follow the procedures outlined in rules made by the State Board of Education  
234 under Subsection (9)(b) to excuse a student under Subsection (9)(a);

235 (ii) may not require procedures to excuse a student under Subsection (9)(a) in addition  
236 to the procedures outlined in rules made by the State Board of Education under Subsection  
237 (9)(b); and

238 (iii) may not reward a student for taking an assessment described in Subsection (9)(a).

239 (d) The State Board of Education shall:

240 (i) maintain and publish a list of state assessments, state assessment systems, and  
241 software that qualify under Subsection (9)(a); and

242 (ii) audit and verify an LEA's compliance with the requirements of this Subsection (9).

243 (10) (a) An LEA shall provide for:

244 (i) the distribution of a copy of a school's discipline and conduct policy to each student  
245 in accordance with Section 53A-11-903; and

246 (ii) a parent's or guardian's signature acknowledging receipt of the school's discipline  
247 and conduct policy.

248 (b) An LEA shall notify a parent or guardian of a student's violation of a school's  
249 discipline and conduct policy and allow a parent or guardian to respond to the notice in  
250 accordance with Chapter 11, Part 9, School Discipline and Conduct Plans.