

**MEMORANDUM**

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

**FROM:** Angie Stallings, Associate Superintendent  
Policy and Communication

**DATE:** June 9-10, 2016

**ACTION:** R277-403 *Student Reading Proficiency and Notice to Parents* (Amendment)

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**Background:**

The 2016 Legislature passed H.B. 40 *Agency Reporting Requirements*, which deleted several reporting requirements for the Board. R277-403 is amended to update the rule consistent with the new legislation and to provide technical and conforming changes. The report referenced in R277-403 is no longer required. Additionally, the rule is updated to include specific names of assessments which the Board has designated, as required in statute. This adds further clarity and avoids the practice of simply repeating language in rule that is in statute, or requiring the Board to direct itself in its own rule to take action on an item.

**Board Strategic Plan:**

This item supports the following imperative and strategies in the Board's Strategic Plan:  
Oversight - Monitor, review, and provide general supervision to all public education institutions and other entities for which the State Board has responsibility.

**Anticipated Action:**

It is proposed that the Standards and Assessment Committee consider approving R277-403, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-403, as amended on second reading.

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1 **R277. Education, Administration.**

2 **R277-403. Student Reading Proficiency and Notice to Parents.**

3 **R277-403-[2]1. Authority and Purpose.**

4 ~~[A.](1)~~ This rule is authorized ~~[under]~~by:

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

7 ~~(b)~~ Section 53A-1-401, which allows the Board to make rules to execute the  
8 Board's duties and responsibilities under the Utah Constitution and state law; and

9 ~~(c)~~ Section 53A-17a-150~~[(14)]~~, which directs the Board to make rules to  
10 implement the K-3 Reading Improvement Program and to require progress reports  
11 from each LEA documenting the LEA's satisfaction with its reading goals~~[(s), and by~~  
12 ~~Section 53A-1-401(3) which allows the Board to make rules in accordance with its~~  
13 ~~responsibilities]~~.

14 ~~[B.](2)~~ The purpose of this rule is:

15 ~~(a)~~ to designate assessments required in Section 53A-1-606.6;

16 ~~(b)~~ to provide definitions of terms used in Section 53A-1-606.6~~;~~;

17 ~~(c)~~ to provide necessary testing and reporting windows and timelines~~;~~; and

18 ~~(d)~~ to require submission by LEA~~[S]~~ of student reading assessment data to  
19 the ~~[USOE]~~Board.

20 **R277-403-[1]2. Definitions.**

21 ~~[A. "Board" means the Utah State Board of Education.]~~

22 ~~(1)~~ "Benchmark reading assessment" means the Dynamic Indicators of Basic  
23 Early Literacy Skills or DIBELS assessment.

24 ~~[B.](2)~~ "Competency" means a demonstrable acquisition of a specified  
25 knowledge, skill, or ability that has been organized into a hierarchical arrangement,  
26 leading to higher levels of knowledge, skill, or ability.

27 ~~[C. "Lacks proficiency" [for purposes of this rule] means that a student~~  
28 ~~requires additional instruction beyond that provided to typically developing peers in~~  
29 ~~order to close the gap between the student's current level of reading achievement~~  
30 ~~and that expected of all students in that grade as determined by valid and reliable~~  
31 ~~assessments as designated by the Board.~~

32 ~~D. “LEA” means a local education agency, including local school~~  
33 ~~boards/public school districts and charter schools.]~~

34 ~~[E. “Midpoint of the school year” means January 31 of the school year.]~~

35 ~~[F.](3) “Notification to parents” [for purposes of this rule] means notice by any~~  
36 ~~reasonable means, including electronic notice, notice by telephone, written notice,~~  
37 ~~or personal notice.~~

38 ~~[G.](4) “Reading below grade level” [for purposes of this rule] means that a~~  
39 ~~student:~~

40 ~~(a) performs below the benchmark score on the benchmark reading~~  
41 ~~assessment; and~~

42 ~~(b) requires additional instruction beyond that provided to typically[-]-~~  
43 ~~developing peers in order to close the gap between the student’s current level of~~  
44 ~~reading achievement and that expected of all students in that grade[as determined~~  
45 ~~by valid and reliable assessments as designated by the Board].~~

46 ~~[H.](5) “Reading remediation interventions” means reading instruction or~~  
47 ~~reading activities, or both, [in reading] given to students in addition to their regular~~  
48 ~~reading instruction, during another time in the school day, outside regular~~  
49 ~~instructional time, or in the summer, which is focused on specific needs as identified~~  
50 ~~by reliable and valid assessments.~~

51 ~~[I. “USOE” means the Utah State Office of Education.]~~

52 ~~[J. “Utah Consolidated Application (UCA)” means the web-based grants~~  
53 ~~management tool employed by the Utah State Office of Education by which local~~  
54 ~~education agencies submit plans and budgets for approval of the Utah State Office~~  
55 ~~of Education.]~~

56 **R277-403-~~[4]~~3. [Board/USOE]Superintendent Responsibilities.**

57 ~~[A.](1) The [Board]Superintendent shall [designate one]coordinate and~~  
58 ~~provide for the administration of the benchmark reading assessment for use~~  
59 ~~statewide by all LEAs to assess the reading competency of students in grade[s one]~~  
60 ~~1, ~~[two, and three]~~grade 2, and grade 3 for the beginning, [midpoint]middle, and end~~  
61 ~~of year[-assessments] as described in Section R277-403-4.~~

62 ~~[B. The USOE shall provide guidance to LEAs about valid and reliable~~

63 ~~assessments to be used for the midpoint supplemental assessments to assist in~~  
64 ~~evaluating the reading grade level of students.]~~

65 ~~[C.](2) The [USOE]Superintendent shall provide procedures for LEAs to~~  
66 ~~determine expected reading [levels of first, second, and third grade~~  
67 ~~students]competencies of students in grade 1, grade 2, and grade 3.~~

68 ~~[D. The Board shall contract with an educational technology provider, selected~~  
69 ~~through a request for proposals process, for a diagnostic assessment system for~~  
70 ~~reading for students in kindergarten through grade three that meets the requirements~~  
71 ~~of 53A-1-606.7.]~~

72 ~~[E.](3) To the extent [of]that funds are available, the [USOE]Superintendent~~  
73 ~~shall [select interested LEAs to use]distribute the diagnostic reading assessment [for~~  
74 ~~reading]to LEAs.~~

75 ~~[F. The USOE shall provide timelines to LEAs for notification to the USOE of:~~  
76 ~~—— (1) LEA selected assessments;~~  
77 ~~—— (2) student reading data required by law;~~  
78 ~~—— (3) assurance of compliance with all legislative and Board requirements as~~  
79 ~~requested.~~

80 ~~—— G. LEAs that select the assessment technology shall use the assessment~~  
81 ~~consistent with Board directives.~~

82 ~~—— H. The Board shall evaluate the diagnostic assessment system for reading~~  
83 ~~by comparing the learning gains for students in LEAs that do not use the diagnostic~~  
84 ~~assessment system for reading with LEAs that used the diagnostic reading~~  
85 ~~assessment.~~

86 ~~—— I. The Board shall report to the Education Interim Committee consistent with~~  
87 ~~timelines and information required under Section 53A-17a-150(13).~~

88 ~~—— J. The Board shall make an annual report to the Public Education~~  
89 ~~Appropriations Subcommittee as described in 53A-17a-150(16).]~~

90 **R277-403-[3]4. LEA Responsibilities - Timelines.**

91 ~~[A.](1) An LEA[s] shall administer the [Board approved] benchmark reading~~  
92 ~~assessments [at the beginning, in the middle, and at the end of grade one, grade two~~  
93 ~~and grade three]in grade 1, grade 2, and grade 3 within the following testing~~

94 windows~~[determined by USOE.];~~  
95 (a) the first benchmark before September 30;  
96 (b) the second benchmark between December 1 and January 31; and  
97 (c) the third benchmark between the middle of April and June 15.  
98 (2) An LEA shall report benchmark reading assessment results to the  
99 Superintendent by:  
100 (a) October 30;  
101 (b) the last day of February; and  
102 (c) June 30.  
103 ~~[B. Following each benchmark assessment, an LEA or school within an LEA~~  
104 ~~shall notify parents or guardians of the student's results.~~  
105 ~~—— [C. At the beginning, in the middle and at the end of the school year, each~~  
106 ~~LEA or school within an LEA, shall identify every student currently enrolled in the~~  
107 ~~school who is in the first, second, or third grade who is not reading at grade level.]~~  
108 ~~[D.](3) If a benchmark assessment or supplemental reading assessment~~  
109 ~~indicates a student [lacks competency in a reading skill]is reading below grade level,~~  
110 ~~the LEA shall implement the notification and reading remediation interventions~~  
111 ~~described in Section 53A-1-606.6.[:~~  
112 ~~—— (1) provide notice to parents of student's lack of competency;~~  
113 ~~—— (2) provide information to the parent or guardian regarding appropriate~~  
114 ~~interventions available to the student outside regular instructional time that may~~  
115 ~~include tutoring, before and after school programs, or summer school;~~  
116 ~~—— (3) provide focused individualized intervention to develop the reading skill;~~  
117 ~~—— (4) administer formative assessments to measure the success of the focused~~  
118 ~~intervention; and~~  
119 ~~—— (5) inform the student's parent or guardian of activities that the parent or~~  
120 ~~guardian may engage in with the student to assist the student in improving reading~~  
121 ~~competency.]~~  
122 ~~[E.](4) An LEA[s] shall report benchmark reading assessment results to~~  
123 ~~parents of students in grade 1, grade 2, and grade 3 by:~~  
124 ~~(a) [in the beginning,]October 30;~~  
125 ~~(b) [by February 15,]the last day of February; and~~

126 (c) ~~[at the end of grade one, grade two and grade three, assessment~~  
127 ~~results]~~June 30.

128 [F.](5) An LEA[s] shall also report to parents the student's reading level at the  
129 end of~~[third]~~ grade 3.

130 [G.](6) An LEA[s] shall ~~[provide as part of the UTREx Data~~  
131 ~~Submission;]~~submit to UTREx the following information from the benchmark  
132 assessment:

133 (a) whether or not each student is reading on grade level at each  
134 administration of the assessment;

135 (b) whether or not each student received reading intervention; and

136 (c) the composite score for each student at each administration of the  
137 assessment.

138 ~~[(1) the number of students in each of grades 1, 2, and 3 that were reading~~  
139 ~~below grade level at the beginning, midpoint, and end of the school year;~~

140 ~~—— (2) the number of students in each grade level that were reading below grade~~  
141 ~~level at the midpoint of the school year and who received reading remediation~~  
142 ~~interventions;~~

143 ~~—— (3) the name of each student in grades 1, 2, and 3 and a designation of~~  
144 ~~whether the student is reading at grade level or below grade level; and~~

145 ~~—— (4) the name of each student in grades 1, 2, and 3 who received reading~~  
146 ~~interventions as required under R277-403-3G in the prior school year.]~~

147 (7) An LEA that selects the reading assessment technology shall use the  
148 assessment consistent with Board directives.

149 **KEY: students, reading, competency**

150 **Date of Enactment or Last Substantive Amendment: ~~[November 7, 2013]~~2016**

151 **Notice of Continuation: June 10, 2013**

152 **Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-606.6(2);**  
153 **53A-1-401~~[(3)]~~**