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## MEMORANDUM

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

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

**DATE:** September 9, 2016

**ACTION:** R277-604 *Private School, Home School, Electronic High School (EHS), and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests (Continuation and Amendment)*

### **Background:**

R277-604 is amended to provide technical and conforming changes. R277-604 is also coming due for its five-year review and continuation filing date of October 27, 2016. Staff has reviewed the rule and determined that the rule continues to be necessary.

### **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 R277-604, as continued and amended, on first reading and, if approved by the Committee, the Board consider approving R277-604, as continued and amended, on second and final reading.

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1 **R277. Education, Administration.**

2 **R277-604. Private School, Home School, ~~[ Electronic High School (EHS),]~~ and**  
3 **Bureau of Indian Affairs (BIA) Student Participation in Public School**  
4 **Achievement Tests.**

5 **R277-604-~~[2]~~1. Authority and Purpose.**

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

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

9 (b) Section 53A-1-401~~[(3)]~~, which allows the Board to ~~[adopt]make~~ rules ~~[in~~  
10 ~~accordance with its responsibilities]~~ to execute the Board's duties and responsibilities  
11 under the Utah Constitution and state law~~[,];~~; and

12 (c) Section 53A-1-603~~[(1)(a)]~~, which directs the Board to require school  
13 districts ~~[to implement the Utah Performance Assessment System for Students]~~ and  
14 charter schools to administer the U-PASS assessment system to uniformly measure  
15 statewide student performance.

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

17 ~~[(1)a]~~ to provide opportunities for Utah private school students and home  
18 school students who are Utah residents, and Utah students attending ~~[BIA]Bureau~~  
19 of Indian Affairs schools to participate in U-PASS;

20 ~~[(2)b]~~ to maintain the integrity and security of U-PASS;

21 ~~[(3)c]~~ to provide an orderly and manageable administrative process for public  
22 schools to include Utah private school students and home school students who are  
23 Utah residents, and Utah students attending BIA schools to participate in U-PASS  
24 if they so desire; and

25 ~~[(4)d]~~ to protect the public investment in U-PASS by making assessments  
26 available to students who are not funded by the public education system through  
27 fair, reasonable, and consistent practices.

28 **R277-604-~~[1]~~2. Definitions.**

29 ~~[A. Utah Basic Skills Competency Test (UBSCT) means the test required~~

30 under ~~Section 53A-1-611 for Utah students seeking a high school diploma~~  
31 ~~(suspended through at least the 2011-2012 school year).~~]

32 [C:](1) "Home school student" means a student who has been excused from  
33 compulsory education and for whom documentation has been completed under  
34 Section 53A-11-102.

35 [D. "Public school achievement test" means a standardized test which  
36 measures or attempts to measure the level of performance which a student has  
37 attained in one or more courses of study. Achievement tests shall mean criterion-  
38 referenced tests consistent with 53A-1-602(3)(b)(c) and (d).]

39 [B:](2) "Private school" means a school that is not a public school but:  
40 ~~[(1)a] has a location or space in Utah where teachers have regularly~~  
41 ~~scheduled[ face-to-face] classes with students;]~~

42 [(2)[b]a) has a current business license through the Utah Department of  
43 Commerce;

44 [(3)[e]b) is accredited [through the Northwest Accreditation Commission or  
45 another regional accrediting agency]as described in R277-410; and

46 [(4)[d]c) has and makes available a written policy for maintaining and  
47 securing student records[;].

48 ~~[(5)e) charges tuition generally consistent with other private schools in Utah;~~  
49 ~~and~~

50 ~~—— [(6)f) employs teachers with licenses, credentials or demonstrable skills and~~  
51 ~~expertise for instructing students in General Core[Curriculum] courses or areas.]~~

52 (3) "Utah Performance Assessment System for Students" or "U-PASS"  
53 means:

54 (a) the summative adaptive assessment of a student in grades 3 through 12  
55 in basic skills courses;

56 (b) the online writing assessment in grades 3 through 11;

57 (c) the college readiness assessment; and

58 (d) the summative assessment of a student in grade 3 to measure reading  
59 grade level using the end of year benchmark reading assessment.

60 **R277-604-3. Private Schools.**

61 ~~[A.](1)~~ Private school students who are Utah residents, as defined under 53A-  
62 2-201, may ~~be allowed to~~ participate in U-PASS.

63 ~~[B.](2)~~ Private school students who are not Utah residents may participate in  
64 U-PASS only by payment in advance of the full cost of individual assessments as  
65 determined by local school board policy.

66 ~~[C.](3)(a)~~ Private schools that are interested in participating in U-PASS may,  
67 at the public school district's discretion, do so only in the public school district in  
68 which the private school is located.

69 ~~[(1)b]~~ School districts shall determine at which public schools within the district  
70 private school students may take achievement tests.

71 ~~[(2)c]~~ A private school may request the following from the school district in  
72 which the private school is located:

73 (i) an annual schedule of U-PASS dates~~;~~;

74 (ii) the locations at which private schools may be tested; and

75 (iii) written policies for private school student participation.~~[An annual U-~~  
76 ~~PASS schedule may be available online on school district websites.]~~

77 ~~[D.](4)~~ A ~~[S]~~school district ~~[policies]~~shall develop a policy regarding private  
78 school student participation in U-PASS, which shall include:

79 ~~[(1)a]~~ reasonable costs for the participation of Utah private school students  
80 in U-PASS to be paid in advance by either the student or the student's private  
81 school;

82 ~~[(2)b]~~ an explanation of reasonable costs including costs for administration  
83 materials, scoring, and reporting of assessment results~~[-and any state-related costs~~  
84 ~~as determined by the state, to be passed on to the state. School district~~  
85 ~~administration costs, determined by local boards, shall remain in the district.]~~;

86 ~~[(3)c]~~ notice to private school administrators of any required private school  
87 administrator participation in monitoring or proctoring of tests; and

88 ~~[(4)d]~~ reasonable time lines for private school requests for participation and

89 school district<sup>[/]</sup> or school response<sup>[:]</sup>.

90 ~~[(5)e] limits, if any, of numbers of non-public students that can be~~  
91 ~~accommodated by the public school for [all] test[s]ing; and~~  
92 ~~[(6)f] written notice to private schools of testing rules, including required~~  
93 ~~identification for staff and students of implements or materials that private schools~~  
94 ~~or private school students may or may not bring or use for each test.]~~

95 **R277-604-4. Home School Students.**

96 [A.](1) A [H]home school student[s] who~~[-are]~~is a Utah resident[s], as defined  
97 under Section 53A-2-201, ~~[shall be allowed to]~~may participate in U-PASS as  
98 provided in this rule.

99 [B.](2) A [H]home school student~~s shall be allowed to]~~ may participate in U-  
100 PASS only if ~~[they have]~~the student has satisfied the home schooling requirements  
101 of Section 53A-11-102.

102 [C. Home school student participation:]

103 [(1)3] A ~~[n-]E]elementary-age~~ home school student[s] who desires to  
104 participate in U-PASS may ~~[do so]~~participate ~~[only]~~in~~[-the]~~:

105 (a) the public school district in which the home school student's parent<sup>[/]</sup> or  
106 legal guardian resides<sup>[-]</sup>; or

107 (b) a charter school.

108 ~~[(2)4] A [S]secondary home school student[s] who desires to participate in~~  
109 ~~U-PASS may [do so]participate:~~

110 ~~[(a) only in the public school district in which the home school student's~~  
111 ~~parent<sup>[/]</sup> or legal guardian resides:~~

112 ~~[(b) [only ]if the student is enrolled in one or more Core program<sup>[(s)]</sup> or~~  
113 ~~course<sup>[(s)]</sup> at the resident public school.~~

114 ~~[(3)5] A [S]school district[s] shall determine at which public school<sup>[(s)]</sup> within~~  
115 ~~the district qualifying home school students may take achievement tests.]~~

116 [(4)[6]4] A home school student<sup>[/]</sup> or parent may request the following from  
117 the school district in which the home school student<sup>[/]</sup> or parent resides or a charter

118 school:

119 (a) an annual schedule of U-PASS dates[.];

120 (b) the locations at which home school students may be tested; and

121 (c) written policies for home school student participation.

122 ~~[D.](7)5~~ A [S]school district shall develop a polic[ies]y regarding home school  
123 student participation in U-PASS, which ~~shall include~~:

124 ~~(1)a~~ ~~[any costs required from traditional students]~~ may not require a home  
125 school student to pay a fee that is not charged to traditional students[.];

126 ~~(2)b~~ shall include notice to home school students[.] or parents of any  
127 required parent[.] or adult participation in monitoring or proctoring of tests; and

128 ~~(3)c~~ shall include reasonable time lines for home school requests for  
129 participation and school district[.] or school response[.].

130 ~~((4)d) limits, if any, of numbers of non-public students that can be~~  
131 ~~accommodated by the public school for all tests; and~~

132 ~~———(5)e) written notice to home school students[.] or parents of testing rules,~~  
133 ~~including required identification and proof of residency for adults and students and~~  
134 ~~implements or materials that home school students may or may not bring or use for~~  
135 ~~each test.~~

136 ~~———[E.](8) The [USOE]Board shall absorb the costs for testing qualifying~~  
137 ~~[(enrolled in one or more Core program(s) or course(s) at the public school)] home~~  
138 ~~school students unless or until the number of home school students requesting~~  
139 ~~testing in all districts exceeds two percent of the public education students enrolled~~  
140 ~~in the state.~~

141 **~~R277-604-5. Utah Electronic High School (EHS) Students:~~**

142 ~~———[A.](1) An EHS student[s] may participate in testing in the student's school~~  
143 ~~district and school of residence, consistent with Section 53A-2-201, if:~~

144 ~~———(1)a) the student has been enrolled in EHS by the school counselor~~  
145 ~~consistent with the student's SEOP; and~~

146 ~~———(2)b) the student has met all requirements and standards described in R277-~~

147 ~~604-4(7) for Utah home school students.~~  
148 ~~—— [B.](2) The [USOE]Board shall absorb the costs for testing[ of] Utah EHS~~  
149 ~~students until and unless the number of EHS students exceeds two percent of the~~  
150 ~~number of [traditionally]regularly enrolled Utah public school students in the state.]~~

151 **R277-604-~~[6]~~5. Bureau of Indian Affairs (BIA) Students.**

152 [A.](1) BIA schools s ~~[administrators shall be responsible to meet]~~may  
153 participate in all U-PASS requirements for all Utah students.

154 [B.](2) Materials and training shall be provided to BIA schools from the public  
155 school district in which the school is located on the schedule that applies to Utah  
156 school districts.

157 ~~[C.](3) BIA school administrators shall be notified of all information and~~  
158 ~~training by the public school district in which the school is located.]~~

159 **R277-604-6. LEA Responsibilities.**

160 An LEA shall comply with the following when administering U-PASS to a  
161 private, home school, or Bureau of Indian Affairs' student:

162 (1) Board Rule R277-404; and

163 (2) the Standard Test Administration and Testing Ethics Policy described in  
164 R277-404-3.

165 **KEY: home school, private school, electronic high school, participation,**  
166 **achievement tests**

167 **Date of Enactment or Last Substantive Amendment: ~~[August 9, 2010]~~2016**

168 **Notice of Continuation: ~~[October 27, 2011]~~2016**

169 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3);**  
170 **53A-1-603(1)(a)**