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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Angie Stallings, Deputy Superintendent
Policy and Communication

DATE: October 6-7, 2016

ACTION: R277-404 *Requirements for Assessments of Student Achievement* (Amendment and Continuation)

Background:

The Board adopted an updated version of the Standard Test Administration and Testing Ethics Policy (Policy) in September. R277-404 incorporates the Policy by reference in the rule. R277-404 is amended to update the date of adoption of the Policy in the rule. R277-404 is also continued consistent with Board policy and administrative rulemaking procedures.

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 R277-404, as amended and continued, on first reading and, if approved by the Committee, the Board consider approving R277-404, as amended and continued, on second reading.

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1 **R277. Education, Administration.**

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

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

4 (1) This rule is authorized by:

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

7 (b) Sections 53A-1-603 through 53A-1-611, which direct the Board to adopt
8 rules for the maintenance and administration of U-PASS;

9 (c) Subsection 53A-15-1403(9)(b), which requires the Board to adopt rules to
10 establish a statewide procedure for excusing a student from taking certain
11 assessments; and

12 (d) Section 53A-1-401, which allows the Board to make rules to execute the
13 Board's duties and responsibilities under the Utah Constitution and state law.

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

15 (a) provide consistent definitions; and

16 (b) assign responsibilities and procedures for a Board developed and directed
17 comprehensive assessment system for all students, as required by state and federal
18 law.

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

20 (1) "Benchmark reading assessment" means the Dynamic Indicators of Basic
21 Early Literacy Skills or DIBELS assessment that is administered to a student in
22 grade 1, grade 2, and grade 3 at the beginning, middle, and end of year.

23 (2) "College readiness assessment" means the American College Testing
24 exam, or ACT.

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

27 (4) "English language proficiency assessment" means the World-class
28 Instructional Design and Assessment (WIDA) Assessing Comprehension in English
29 State-to-State (ACCESS), which is designed to measure the acquisition of the
30 academic English language for an English Learner student.

31 (5) "Family Educational Rights and Privacy Act of 1974" or "FERPA," 20

32 U.S.C. 1232g, means a federal law designed to protect the privacy of students'
33 education records.

34 (6) "National Assessment of Education Progress" or "NAEP" means the
35 national achievement assessment administered by the United States Department of
36 Education to measure and track student academic progress.

37 (7) "Online writing assessment" means the SAGE writing portion of the SAGE
38 English Language Arts Assessment that measures writing performance for a student
39 in grades 3 through 11.

40 (8) "Pre-post assessment" means an assessment administered at the
41 beginning of the school year and at the end of the school year to determine
42 individual student growth in academic proficiency that has occurred during the school
43 year.

44 (9) "State required assessment" means an assessment described in
45 Subsection 53A-15-1403(9)(a).

46 (10) "Student Assessment of Growth and Excellence" or "SAGE" means a
47 computer adaptive assessment for:

48 (a) English language arts grades 3 through 11;

49 (b) mathematics:

50 (i) grades 3 through 8; and

51 (ii) Secondary I, II, and III; and

52 (c) science:

53 (i) grades 4 through 8;

54 (ii) earth science;

55 (iii) biology;

56 (iv) physics; and

57 (v) chemistry.

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

59 (a) required by Section 504 of the Rehabilitation Act of 1973; and

60 (b) designed to accommodate an individual who has been determined, as a
61 result of an evaluation, to have a physical or mental impairment that substantially
62 limits one or more major life activities.

63 (12) "Summative adaptive assessment" means the SAGE assessment, which:

64 (a) is administered upon completion of instruction to assess a student's
65 achievement;

66 (b) is administered online under the direct supervision of a licensed educator;

67 (c) is designed to identify student achievement on the standards for the
68 respective grade and course; and

69 (d) measures a range of student ability, within the grade or course level
70 standards the student was taught, by adapting to each student's responses,
71 selecting more difficult questions when a student answers correctly and less difficult
72 questions when a student answers incorrectly.

73 (13)(a) "Utah alternate assessment" means an assessment instrument:

74 (i) for a student in special education with a disability so severe the student is
75 not able to participate in the components of U-PASS even with an assessment
76 accommodation or modification; and

77 (ii) that measures progress on the Utah core instructional goals and objectives
78 in the student's IEP.

79 (b) "Utah alternate assessment" means:

80 (i) for science, the Utah Alternate Assessment (UAA); and

81 (ii) for English language arts and mathematics, the Dynamic Learning Maps
82 (DLM).

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

85 (a) an LEA and the Superintendent to electronically exchange an individual
86 detailed student record; and

87 (b) electronic transcripts to be sent to any post-secondary institution, private
88 or public, in-state or out-of-state, that participates in the e-transcript service.

89 (15) "Utah Performance Assessment System for Students" or "U-PASS"
90 means:

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

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

94 (c) the college readiness assessment; and

95 (d) the summative assessment of a student in grade 3 to measure reading

96 grade level using the end of year benchmark reading assessment.

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

99 (1) This rule incorporates by reference the Standard Test Administration and
100 Testing Ethics Policy, [~~January 7~~September 9, 2016], which establishes:

- 101 (a) the purpose of testing;
- 102 (b) the state assessments to which the policy applies;
- 103 (c) teaching practices before assessment occurs;
- 104 (d) required procedures for after an assessment is complete and for providing
105 assessment results;
- 106 (e) unethical practices;
- 107 (f) accountability for ethical test administration;
- 108 (g) procedures related to ethics violations; and
- 109 (h) additional resources.

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

112 (a) [http://www.schools.utah.gov/assessment/Directors/Resources/\[EthicsPolicy\].aspx](http://www.schools.utah.gov/assessment/Directors/Resources/[EthicsPolicy].aspx);
113 and

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

116 **R277-404-4. Assessment System - Superintendent Responsibilities.**

117 (1) The Board's comprehensive assessment system for all students in grades
118 K-12 includes:

- 119 (a) the U-PASS assessments;
- 120 (b) pre-post kindergarten assessment for a kindergarten student as
121 determined by the LEA;
- 122 (c) the benchmark reading assessment;
- 123 (d) the Utah alternate assessment, for an eligible student with a disability;
- 124 (e) the English language proficiency assessment;
- 125 (f) the National Assessment of Educational Progress (NAEP); and

- 126 (g) reporting by the Superintendent of U-PASS results.
- 127 (2) The report required by Subsection(1)(g) shall include:
- 128 (a) student performance based on information that is disaggregated with
129 respect to race, ethnicity, gender, English proficiency, eligibility for special education
130 services, and free or reduced price school lunch status;
- 131 (b) security features to maintain the integrity of the system, including
132 statewide uniform assessment dates, assessment administration protocols, and
133 training; and
- 134 (c) summative adaptive assessment results disseminated by the
135 Superintendent to an LEA, parent, and other, as appropriate, consistent with
136 FERPA.
- 137 (3) The Superintendent shall provide guidelines, timelines, procedures, and
138 assessment ethics training and requirements for all required assessments.
- 139 (4) The Superintendent shall designate a testing schedule for each
140 state-required assessment and publish the testing window dates on the Board's
141 website before the beginning of the school year.

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

- 144 (1) Except as provided in Section 53A-1-603, an LEA shall develop a
145 comprehensive assessment system plan to include the assessments described in
146 Subsection R277-404-5(1).
- 147 (2) The plan shall include:
- 148 (a) the dates that the LEA will administer each required assessment;
- 149 (b) if the LEA decided to offer its grade 11 students only the college readiness
150 assessment and not the SAGE assessment;
- 151 (c) professional development for an educator to fully implement the
152 assessment system;
- 153 (d) training for an educator and an appropriate paraprofessional in the
154 requirements of assessment administration ethics;
- 155 (e) training for an educator and an appropriate paraprofessional to utilize
156 assessment results effectively to inform instruction; and

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

159 (i) an LEA or online provider shall test all enrolled students unless a student
160 has a written parental excuse under Subsection 53A-15-1403(9);

161 (ii) a student participating in the Statewide Online Education Program is
162 assessed consistent with Section 53A-15-1210; and

163 (iii) a third party vendor or contractor may not administer or supervise U-
164 PASS.

165 (3) An LEA shall submit the plan to the Superintendent by September 15
166 annually.

167 (4) At least once each school year, an LEA shall provide professional
168 development for all educators, administrators, and standardized assessment
169 administrators concerning guidelines and procedures for standardized assessment
170 administration, including educator responsibility for assessment security and proper
171 professional practices.

172 (5) LEA assessment staff shall use the Standard Test Administration and
173 Testing Ethics Policy in providing training for all assessment administrators and
174 proctors.

175 (6) An LEA may not release state assessment data publicly until authorized
176 to do so by the Superintendent.

177 (7) An LEA educator or trained employee shall administer assessments
178 required under R277-404-5 consistent with the testing schedule published on the
179 Board's website.

180 (8) An LEA educator or trained employee shall complete all required
181 assessment procedures prior to the end of the assessment window defined by the
182 Superintendent.

183 (9)(a) If an LEA requires an alternative schedule with assessment dates
184 outside of the Superintendent's published schedule, the LEA shall submit the
185 alternative testing plan to the Superintendent by September 15 annually.

186 (b) The alternative testing plan shall set dates for summative adaptive
187 assessment administration for courses taught face to face or online.

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

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

191 (a) the student's academic grade, or a portion of the student's academic
192 grade, for the appropriate course; or

193 (b) whether the student may advance to the next grade level.

194 (2) An LEA and school shall require an educator and assessment
195 administrator and proctor to individually sign the Testing Ethics signature page
196 provided by Superintendent acknowledging or assuring that the educator administers
197 assessments consistent with ethics and protocol requirements.

198 (3) All educators and assessment administrators shall conduct assessment
199 preparation, supervise assessment administration, and certify assessment results
200 before providing results to the Superintendent.

201 (4) All educators and assessment administrators and proctors shall securely
202 handle and return all protected assessment materials, where instructed, in strict
203 accordance with the procedures and directions specified in assessment
204 administration manuals, LEA rules and policies, and the Standard Test
205 Administration and Testing Ethics Policy.

206 (5) A student's IEP, EL, or Section 504 accommodation plan team shall
207 determine an individual student's participation in statewide assessments consistent
208 with the Utah Participation and Accommodations Policy.

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

211 (1)(a) Parents are primarily responsible for their children's education and have
212 the constitutional right to determine which aspects of public education, including
213 assessment systems, in which their children participate.

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

216 (2) An LEA shall administer state required assessments to all students unless:

217 (a) the Utah alternate assessment is approved for specific students consistent
218 with federal law and as specified in the student's IEP; or

219 (b) students are excused by a parent or guardian under Section 53A-15-
220 1403(9) and as provided in this rule.

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

223 (b) Except as provided in Subsection (3)(c), upon exercising the right to
224 exempt a child from a state required assessment under this provision, an LEA may
225 not impose an adverse consequence on a child as a result of the exercise of rights
226 under this provision.

227 (c) If a parent exempts the parent's child from the basic civics test required
228 in Sections 53A-13-109.5 and R277-700-8, the parent's child is not exempt from the
229 graduation requirement in Subsection 53A-13-109.5(2), and may not graduate
230 without successfully completing the requirements of Sections 53A-13-109.5 and
231 R277-700-8.

232 (4)(a) In order to exercise the right to exempt a child from a state required
233 assessment under this provision and insure the protections of this provision, a parent
234 shall:

235 (i) fill out:

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

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

239 (ii) submit the form:

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

241 (B) on an annual basis and at least one day prior to beginning of the
242 assessment.

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

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

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

250 (5)(a) A teacher, principal, or other LEA administrator may contact a parent

251 to verify that the parent submitted a parental exclusion form described in Subsection
252 (4)(a)(i).

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

256 (6) School grading, teacher evaluations, and student progress reports or
257 grades may not be negatively impacted by students excused from taking a state
258 required assessment.

259 (7) Any assessment that is not a state required assessment, the
260 administration of the assessments, and the consequence of taking or failing to take
261 the assessments is governed by policy adopted by each LEA.

262 (8) An LEA shall provide a student's individual test results and scores to the
263 student's parent or guardian upon request and consistent with the protection of
264 student privacy.

265 (9) An LEA may not reward a student for taking a state required assessment.

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

268 (1) An educator, test administrator or proctor, administrator, or school
269 employee may not:

270 (a) provide a student directly or indirectly with a specific question, answer, or
271 the content of any specific item in a standardized assessment prior to assessment
272 administration;

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

276 (c) change, alter, or amend any student online or paper response answer or
277 any other standardized assessment material at any time in a way that alters the
278 student's intended response;

279 (d) use any prior form of any standardized assessment, including pilot
280 assessment materials, that the Superintendent has not released in assessment
281 preparation without express permission of the Superintendent and an LEA

282 administrator;

283 (e) violate any specific assessment administrative procedure specified in the
284 assessment administration manual, violate any state or LEA standardized
285 assessment policy or procedure, or violate any procedure specified in the Standard
286 Test Administration and Testing Ethics Policy;

287 (f) fail to administer a state required assessment;

288 (g) fail to administer a state required assessment within the designated
289 assessment window;

290 (h) submit falsified data;

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

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

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

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

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

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

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

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

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

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

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

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

320 (5) An LEA shall ensure that all summative testing data have been collected
321 and certify that the data are ready for accountability purposes no later than July 12.

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

324 (7) Consistent with Utah law, the Superintendent shall return assessment
325 results from all required assessments to the school before the end of the school
326 year.

327 **KEY: assessment, student achievement**

328 **Date of Enactment or Last Substantive Amendment: [~~August 11, 2016~~]2017**

329 **Notice of Continuation: [~~September 13, 2013~~]2016**

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