

R277-404 received final approval by the Utah State Board of Education on January 3, 2018. R277-404 is published in the February 1, 2018 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of March 12, 2018.

R277. Education, Administration.

R277-404. Requirements for Assessments of Student Achievement.

R277-404-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section[s] 53A-1-603[~~through 53A-1-611~~], which directs the Board to adopt rules for the[~~maintenance and~~] administration of [~~U-PASS~~]statewide assessments;
 - (c) Subsection 53A-15-1403(9)(b), which requires the Board to adopt rules to establish a statewide procedure for [~~excusing~~]exempting a student from taking certain assessments; and
 - (d) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to:
 - (a) provide consistent definitions; and
 - (b) assign responsibilities and procedures for [~~a Board developed and directed comprehensive assessment system for all students~~]the administration of statewide assessments, as required by state and federal law.

R277-404-2. Definitions.

- (1) "Benchmark reading assessment" means the Board approved literacy assessment that is administered to a student in grade 1, grade 2, and grade 3 at the beginning, middle, and end of year.
- (2) "College readiness assessment" means the:
 - (a) same as that term is defined in Section 53A-1-611; and
 - (b) American College Testing exam, or ACT.
- (3) "English Learner" or "EL[-] student" means a student who is learning in English as a second language.
- (4) "English language proficiency assessment" means the World-class Instructional Design and Assessment (WIDA) Assessing Comprehension in English State-to-State (ACCESS), which is designed to measure the acquisition of the academic English language for an English Learner student.
- (5) "Family Educational Rights and Privacy Act of 1974" or "FERPA," 20 U.S.C. 1232g, means a federal law designed to protect the privacy of students' education records.
- (6) "High school assessment":
 - (a) means the same as that term is defined in Section 53A-1-611.5;
 - (b) means the "Student Assessment of Growth and Excellence" or "SAGE"; and
 - (c) includes the SAGE assessment of proficiency in:
 - (i) English language arts grades 9 and 10;
 - (ii) Secondary Mathematics I, II, and III; and
 - (iii) science, including:

- (A) earth science;
- (B) biology;
- (C) physics; and
- (D) chemistry.

~~([6]7)~~ "National Assessment of Education Progress" or "NAEP" means the national achievement assessment administered by the United States Department of Education to measure and track student academic progress.

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

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

~~([9]8)~~ "State required assessment" means an assessment described in Subsection 53A-15-1403(9)(a).

(9) "Standards Assessment":

(a) means the same as that term is defined in Section 53A-1-604; and

(b) means the "Student Assessment of Growth and Excellence" or "SAGE";

(c) for the 2017-18 school year, includes one writing prompt from the writing portion of the SAGE English language arts assessment for each of grades 3 through 8.

(10) "Statewide assessment" means the:

(a) standards assessment;

(b) high school assessment;

(c) college readiness assessment;

(d) Utah alternative assessment;

(e) benchmark reading assessment; and

(f) English language proficiency assessment.

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

~~—— (a) English language arts grades 3 through 11;~~

~~—— (b) mathematics:~~

~~—— (i) grades 3 through 8; and~~

~~—— (ii) Secondary I, II, and III; and~~

~~—— (c) science:~~

~~—— (i) grades 4 through 8;~~

~~—— (ii) earth science;~~

~~—— (iii) biology;~~

~~—— (iv) physics; and~~

~~—— (v) chemistry.]~~

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

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

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

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

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

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

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

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

~~[(13)]12) (a) "Utah alternate assessment" means an assessment instrument:~~

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

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

~~(b) "Utah alternate assessment" means:~~

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

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

~~[(14)]13) "Utah eTranscript and Record Exchange" or "UTREx" means a system that allows:~~

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

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

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

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

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

~~_____ (c) the college readiness assessment; and~~

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

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

(1) This rule incorporates by reference the Standard Test Administration and Testing Ethics Policy, ~~[September 9]~~November 2, 201~~[6]~~7, which establishes:

(a) the purpose of testing;

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

(c) teaching practices before assessment occurs;

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

(e) unethical practices;

(f) accountability for ethical test administration;

(g) procedures related to testing ethics violations; and

(h) additional resources.

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

(a) [\[http://www.schools.utah.gov/assessment/Directors/Resources.aspx\]](http://www.schools.utah.gov/assessment/Directors/Resources.aspx)
<https://www.schools.utah.gov/assessment/>; and

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

R277-404-4. ~~[Assessment System--]~~ Superintendent Responsibilities.

(1) The Superintendent shall facilitate:

(a) administration of statewide assessments; and

(b) participation in NAEP, in accordance with Section 53A-1-603.

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

~~— (a) the U-PASS assessments;~~

~~— (b) pre-post kindergarten assessment for a kindergarten student as determined by the LEA;~~

~~— (c) the benchmark reading assessment;~~

~~— (d) the Utah alternate assessment, for an eligible student with a disability;~~

~~— (e) the English language proficiency assessment;~~

~~— (f) the National Assessment of Educational Progress (NAEP); and~~

~~— (g) reporting by the Superintendent of U-PASS results.~~

~~— (2) The report required by Subsection(1)(g) shall include:~~

~~— (a) student performance based on information that is disaggregated with respect to race, ethnicity, gender, English proficiency, eligibility for special education services, and free or reduced price school lunch status;~~

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

~~— (c) summative adaptive assessment results disseminated by the Superintendent to an LEA, parent, and other, as appropriate, consistent with FERPA.]~~

~~[(3)2] The Superintendent shall provide guidelines, timelines, procedures, and assessment ethics training and requirements for all ~~[required]~~ statewide assessments.~~

~~[(4)3] The Superintendent shall designate a testing schedule for each state~~[-required]~~ wide assessment and publish the testing window dates on the Board's website before the beginning of the school year.~~

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

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

(b) An LEA is not required to administer the high school assessment to students in grades 11 or 12.

(c) A student's IEP team, English Learner team, or Section 504 accommodation plan team shall determine an individual student's participation in statewide assessments consistent with the Utah Participation and Accommodations Policy.

(1)2) ~~[Except as provided in Section 53A-1-603, a]~~An LEA shall develop a ~~[comprehensive assessment system]~~ plan to ~~[include the]~~administer statewide assessments~~[described in Subsection R277-404-5(1)].~~

(2)3) The plan shall include:

(a) the dates that the LEA will administer each ~~[required]~~statewide assessment;

(b) ~~[if]~~an indication of whether the LEA ~~[decided]~~elects to offer ~~[its]~~the LEA's grade 11 students~~[only the college readiness assessment and not]~~ the SAGE assessment;

(c) professional development for an educator to fully implement the assessment system;

(d) training for an educator and an appropriate paraprofessional in the requirements of assessment administration ethics; and

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

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

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

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

~~—(iii) a third party vendor or contractor may not administer or supervise U-PASS.]~~

(3)4) An LEA shall submit the plan to the Superintendent by September 15 annually.

(4)5) At least once each school year, an LEA shall provide professional development for all educators, administrators, and~~[-standardized]~~ assessment administrators concerning guidelines and procedures for ~~[standardized]~~statewide assessment administration, including educator responsibility for assessment security and proper professional practices.

(5)6) LEA assessment staff shall use the Standard Test Administration and Testing Ethics Policy in providing training for all assessment administrators and proctors.

(6)7) An LEA may not release state assessment data publicly until authorized to do so by the Superintendent.

(7)8) An LEA educator or trained employee shall administer statewide assessments ~~[required under R277-404-5]~~ consistent with the testing schedule published on the Board's website.

(8)9) An LEA educator or trained employee shall complete all required assessment procedures prior to the end of the assessment window defined by the Superintendent.

(9)10)(a) If an LEA requires an alternative schedule with assessment dates outside of the Superintendent's published schedule, the LEA shall submit the alternative testing plan to the Superintendent by September 15 annually.

(b) The alternative testing plan shall set dates for~~[-summative-adaptive]~~ assessment administration for courses taught face-to-face or online.

R277-404-6. School Responsibilities.

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

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

([b]ii) whether the student may advance to the next grade level.

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

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

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

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

(c) In accordance with Subsection 53A-15-1403(1), an LEA shall reasonably accommodate a parent's or guardian's request to allow a student's demonstration of proficiency on a state required assessment to fulfill a requirement in a course.

(2) An LEA and school shall require an educator~~—and~~, assessment administrator, and proctor to individually sign ~~[the Testing Ethics signature page]~~ a document provided by the Superintendent acknowledging or assuring that the educator administers statewide assessments consistent with ethics and protocol requirements.

(3) ~~[A]~~An educator[s] and assessment administrator[s] shall conduct assessment preparation, supervise assessment administration, and certify assessment results before providing results to the Superintendent.

(4) ~~[A]~~An educator~~s—and~~, assessment administrator[s], and proctor[s] shall securely handle and return all protected assessment materials, where instructed, in strict accordance with the procedures and directions specified in assessment administration manuals, LEA rules and policies, and the Standard Test Administration and Testing Ethics Policy.

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

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

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

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

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

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

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

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

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

(b) Except as provided in Subsection (3)(c), an LEA may not penalize a student who is exempted from a state required assessment under this section ~~upon exercising the right to exempt a child from a state required assessment under this provision, an LEA may not impose an adverse consequence on a child as a result of the exercise of rights under this provision~~.

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

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

(i) fill out:

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

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

(ii) submit the form:

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

(B) on an annual basis; and

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

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

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

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

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

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

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

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

~~[(7) (6) [Any assessment that is not a state required assessment, t]The administration of [the]any assessment[s, and the] that is not a state required assessment, including consequences [of]associated with taking or failing to take the assessment[s], is governed by policy adopted by each LEA.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) submit falsified data;

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

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

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

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

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

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

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

R277-404-9. Data Exchanges.

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

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

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

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

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

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

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

KEY: assessment, student achievement

Date of Enactment or Last Substantive Amendment: [~~January 24, 2017~~]2018

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