

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) Section~~s~~ 53A-1-603~~[through 53A-1-611]~~, which directs the Board to adopt rules  
8 for the~~[maintenance and]~~ administration of [U-PASS] statewide assessments;

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

12 (d) Section 53A-1-401, which allows the Board to make rules to execute the Board's  
13 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]the administration of statewide  
18 assessments, as required by state and federal law.

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

20 (1) "Benchmark reading assessment" means the Board approved literacy  
21 assessment that is administered to a student in grade 1, grade 2, and grade 3 at the  
22 beginning, middle, and end of year.

23 (2) "College readiness assessment" means the:

24 (a) same as that term is defined in Section 53A-1-611; and

25 (b) American College Testing exam, or ACT.

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

28 (4) "English language proficiency assessment" means the World-class Instructional  
29 Design and Assessment (WIDA) Assessing Comprehension in English State-to-State

30 (ACCESS), which is designed to measure the acquisition of the academic English  
31 language for an English Learner student.

32 (5) "Family Educational Rights and Privacy Act of 1974" or "FERPA," 20 U.S.C.  
33 1232g, means a federal law designed to protect the privacy of students' education records.

34 (6) "High school assessment":

35 (a) means the same as that term is defined in Section 53A-1-611.5;

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

37 (c) includes the SAGE assessment of proficiency in:

38 (i) English language arts grades 9 and 10;

39 (ii) Secondary Mathematics I, II, and III; and

40 (iii) science, including:

41 (A) earth science;

42 (B) biology;

43 (C) physics; and

44 (D) chemistry.

45 ~~[(6)7]~~ "National Assessment of Education Progress" or "NAEP" means the national  
46 achievement assessment administered by the United States Department of Education to  
47 measure and track student academic progress.

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

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

54 ~~[(9)8]~~ "State required assessment" means an assessment described in Subsection  
55 53A-15-1403(9)(a).

56 (9) "Standards Assessment":

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

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

59 (c) for the 2017-18 school year, includes one writing prompt from the writing portion

60 of the SAGE English language arts assessment for each of grades 3 through 8.

61 (10) "Statewide assessment" means the:

62 (a) standards assessment;

63 (b) high school assessment;

64 (c) college readiness assessment;

65 (d) Utah alternative assessment;

66 (e) benchmark reading assessment; and

67 (f) English language proficiency assessment.

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

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

71 ~~—— (b) mathematics:~~

72 ~~—— (i) grades 3 through 8; and~~

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

74 ~~—— (c) science:~~

75 ~~—— (i) grades 4 through 8;~~

76 ~~—— (ii) earth science;~~

77 ~~—— (iii) biology;~~

78 ~~—— (iv) physics; and~~

79 ~~—— (v) chemistry.]~~

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

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

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

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

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

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

89 ~~—— (c) is designed to identify student achievement on the standards for the respective~~

90 ~~grade and course; and~~

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

95 ~~[(13)12]~~(a) "Utah alternate assessment" means an assessment instrument:

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

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

101 (b) "Utah alternate assessment" means:

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

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

104 ~~[(14)13]~~ "Utah eTranscript and Record Exchange" or "UTREx" means a system that  
105 allows:

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

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

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

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

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

114 ~~——(c) the college readiness assessment; and~~

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

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

- 119 (1) This rule incorporates by reference the Standard Test Administration and Testing  
120 Ethics Policy, ~~[September 9]~~November 2, 201[6]7, which establishes:
- 121 (a) the purpose of testing;
  - 122 (b) the statewide assessments to which the policy applies;
  - 123 (c) teaching practices before assessment occurs;
  - 124 (d) required procedures for after an assessment is complete and for providing  
125 assessment results;
  - 126 (e) unethical practices;
  - 127 (f) accountability for ethical test administration;
  - 128 (g) procedures related to testing ethics violations; and
  - 129 (h) additional resources.
- 130 (2) A copy of the Standard Test Administration and Testing Ethics Policy is located  
131 at:
- 132 (a) [~~http://www.schools.utah.gov/assessment/Directors/Resources.aspx~~]  
133 https://www.schools.utah.gov/assessment; and
  - 134 (b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah  
135 84111.

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

- 137 (1) The Superintendent shall facilitate:
- 138 (a) administration of statewide assessments; and
  - 139 (b) participation in NAEP, in accordance with Section 53A-1-603.
- 140 ~~[(1) The Board's comprehensive assessment system for all students in grades K-12~~  
141 ~~includes:~~
- 142 ~~——(a) the U-PASS assessments;~~
  - 143 ~~——(b) pre-post kindergarten assessment for a kindergarten student as determined by~~  
144 ~~the LEA;~~
  - 145 ~~——(c) the benchmark reading assessment;~~
  - 146 ~~——(d) the Utah alternate assessment, for an eligible student with a disability;~~
  - 147 ~~——(e) the English language proficiency assessment;~~

148 ~~\_\_\_\_\_ (f) the National Assessment of Educational Progress (NAEP); and~~  
149 ~~\_\_\_\_\_ (g) reporting by the Superintendent of U-PASS results.~~  
150 ~~\_\_\_\_\_ (2) The report required by Subsection(1)(g) shall include:~~  
151 ~~\_\_\_\_\_ (a) student performance based on information that is disaggregated with respect to~~  
152 ~~race, ethnicity, gender, English proficiency, eligibility for special education services, and~~  
153 ~~free or reduced price school lunch status;~~  
154 ~~\_\_\_\_\_ (b) security features to maintain the integrity of the system, including statewide~~  
155 ~~uniform assessment dates, assessment administration protocols, and training; and~~  
156 ~~\_\_\_\_\_ (c) summative adaptive assessment results disseminated by the Superintendent to~~  
157 ~~an LEA, parent, and other, as appropriate, consistent with FERPA.]~~  
158 ([3]2) The Superintendent shall provide guidelines, timelines, procedures, and  
159 assessment ethics training and requirements for all [required]statewide assessments.  
160 ([4]3) The Superintendent shall designate a testing schedule for each  
161 state~~[required]~~wide assessment and publish the testing window dates on the Board's  
162 website before the beginning of the school year.

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

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

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

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

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

175 ([2]3) The plan shall include:

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

177 (b) ~~if~~an indication of whether the LEA ~~decided~~elects to offer ~~its~~the LEA's grade  
178 11 students ~~only the college readiness assessment and not~~ the SAGE assessment;

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

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

183 (e) training for an educator and an appropriate paraprofessional to ~~utilize~~use  
184 statewide assessment results effectively to inform instruction~~;~~ and.

185 ~~(f) adequate oversight of test administration to ensure compliance with Section 53A-~~  
186 ~~1-603 as follows:~~

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

189 ~~(f) assurances that:~~

190 ~~— (i) a student participating in an online course is assessed;~~

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

193 ~~— (iii) a third party vendor or contractor [may] is not permitted to administer or supervise~~  
194 ~~[U-PASS] statewide assessment.]~~

195 ([3]4) An LEA shall submit the plan to the Superintendent by September 15  
196 annually.

197 ([4]5) At least once each school year, an LEA shall provide professional  
198 development for all educators, administrators, and~~—standardized~~ assessment  
199 administrators concerning guidelines and procedures for ~~standardized~~statewide  
200 assessment administration, including educator responsibility for assessment security and  
201 proper professional practices.

202 ([5]6) LEA assessment staff shall use the Standard Test Administration and Testing  
203 Ethics Policy in providing training for all assessment administrators and proctors.

204 ([6]7) An LEA may not release state assessment data publicly until authorized to do  
205 so by the Superintendent.

206 ([7]8) An LEA educator or trained employee shall administer statewide assessments

207 ~~[required under R277-404-5]~~ consistent with the testing schedule published on the Board's  
208 website.

209 ([8]9) An LEA educator or trained employee shall complete all required assessment  
210 procedures prior to the end of the assessment window defined by the Superintendent.

211 ([9]10)(a) If an LEA requires an alternative schedule with assessment dates outside  
212 of the Superintendent's published schedule, the LEA shall submit the alternative testing  
213 plan to the Superintendent by September 15 annually.

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

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

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

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

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

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

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

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

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

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

232 (2) An LEA and school shall require an educator~~[and]~~<sub>1</sub> assessment administrator<sub>1</sub>  
233 and proctor to individually sign ~~[the Testing Ethics signature page]~~a document provided by  
234 the Superintendent acknowledging or assuring that the educator administers statewide  
235 assessments consistent with ethics and protocol requirements.

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

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

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

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

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

251 ~~[(1)2]~~(a) Parents are primarily responsible for their children's education and have  
252 the constitutional right to determine which aspects of public education, including  
253 assessment systems, in which their children participate.

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

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

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

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

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

263 (b) Except as provided in Subsection (3)(c), an LEA may not penalize a student who  
264 is exempted from a state required assessment under this section~~[upon exercising the right~~

265 to exempt a child from a state required assessment under this provision, an LEA may not  
266 impose an adverse consequence on a child as a result of the exercise of rights under this  
267 provision].

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

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

275 (i) fill out:

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

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

279 (ii) submit the form:

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

281 (B) on an annual basis; and

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

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

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

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

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

294 (5)(a) A teacher, principal, or other LEA administrator may contact a parent to verify

295 that the parent submitted a parental exclusion form described in Subsection (4)(a)(i).

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

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

302 ~~[(7)6] [Any assessment that is not a state required assessment, t] The administration  
303 of [the]any assessment[s, and the] that is not a state required assessment, including  
304 consequences [of]associated with taking or failing to take the assessment[s], is governed  
305 by policy adopted by each LEA.~~

306 ~~[(8)7] An LEA shall provide a student's individual test results and scores to the  
307 student's parent or guardian upon request and consistent with the protection of student  
308 privacy.~~

309 ~~[(9)8] An LEA may not reward a student for [taking] a student's participation in or  
310 performance on a state required assessment.~~

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

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

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

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

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

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

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

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

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

337 (f) fail to administer a state~~[required]~~wide assessment;

338 (g) fail to administer a state~~[required]~~wide assessment within the designated  
339 assessment window;

340 (h) submit falsified data;

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

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

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

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

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

353 (5)(a) Each LEA shall ensure that all assessment content is secured so that only

354 authorized personnel have access and that assessment materials are returned to  
355 Superintendent following testing, as required by the Superintendent.

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

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

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

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

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

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

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

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

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

375 **KEY: assessment, student achievement**

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

377 **Notice of Continuation: November 29, 2016**

378 **Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53A-1-603 through**  
379 **53A-1-611; 53A-1-401**