

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) Subsection 53E-3-401(4), which allows the Board to make rules to execute
8 the Board's duties and responsibilities under the Utah Constitution and state law;

9 (c) Section 53E-4-302, which directs the Board to adopt rules for the
10 administration of statewide assessments; and

11 (d) Subsection 53G-6-803(9)(b), which requires the Board to adopt rules to
12 establish a statewide procedure for exempting a student from taking certain
13 assessments.

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

15 (a) provide consistent definitions; and

16 (b) assign responsibilities and procedures for the administration of statewide
17 assessments, as required by state and federal law.

18

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

20 (1) "Benchmark reading assessment" means the same as the term is defined in
21 Section R277-406-2 [Board approved literacy or mathematics assessment that is
22 administered to a student in grade 1, grade 2, and grade 3 at the beginning, middle, and
23 end of year].

24 (2) "Benchmark mathematics assessment" means the same as the term is
25 defined in Section R277-406-2 [Board approved mathematics assessment administered
26 to a student in grade 1, grade 2, and grade 3 at the beginning, middle, and end of year].

27 (3) "College readiness assessment" means the:

28 (a) same as that term is described in Section 53E-4-305; and

29 (b) the ACT.

30 (4) "English Learner" or "EL student" means a student who is learning in English
31 as a second language.

32 (5) "English language proficiency assessment" means the WIDA Assessing
33 Comprehension in English State-to-State (ACCESS), which is designed to measure the
34 acquisition of the academic English language for an English Learner student.

35 (6) "Family Educational Rights and Privacy Act of 1974" or "FERPA," 20 U.S.C.
36 1232g, means a federal law designed to protect the privacy of students' education
37 records.

38 (7) "High school assessment":

39 (a) means the same as that term is described in Section 53E-4-304;

40 (b) means the "Utah Aspire Plus"; and

41 (c) includes the Utah Aspire Plus assessment of proficiency in:

42 (i) English;

43 (ii) math;

44 (iii) science; and

45 (iv) reading.

46 (8) "National Assessment of Education Progress" or "NAEP" means the national
47 achievement assessment administered by the United States Department of Education
48 to measure and track student academic progress.

49 (9) "Statewide assessment" means an assessment described in Subsection
50 53G-6-803(9)(a).

51 (10) "Standards Assessment":

52 (a) means the same as that term is described in Subsection 53E-4-303(2)(a);

53 and

54 (b) means the "Readiness Improvement Success Empowerment" or "RISE";

55 (c) for each school year, includes one writing prompt from the writing portion of
56 the RISE English language arts assessment for grades 5 and 8.

57 (11) "Statewide assessment" means the:

58 (a) the same as that term is defined in Subsection 53E-4-301(2);

59 (b) Utah alternate assessment; and

60 (c) English language proficiency assessment.

61 (12) "Section 504 accommodation plan" means a plan:

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

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

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

67 (i) for a student in special education with a disability so severe the student is not
68 able to participate in a statewide assessment even with an assessment accommodation
69 or modification; and

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

72 (b) "Utah alternate assessment" means, for English language arts, science and
73 mathematics, the Dynamic Learning Maps (DLM).

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

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

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

80

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

83 (1) This rule incorporates by reference the Standard Test Administration and
84 Testing Ethics Policy, [~~May 6, 2021~~April 7, 2022], which establishes:

85 (a) the purpose of testing;

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

87 (c) direction to reference the formative tools' guidance documentation;

88 (d) teaching practices before assessment occurs;

89 (e) required procedures for after an assessment is complete and for providing
90 assessment results;

91 (f) unethical practices;

92 (g) accountability for ethical test administration;

93 (h) procedures related to testing ethics violations; and

94 (i) additional resources.

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

97 (a) <https://schools.utah.gov/assessment?mid=1104&tid=4> and

98 (b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah
99 84111.

100

101 **R277-404-4. Superintendent Responsibilities.**

102 (1) The Superintendent shall facilitate:

103 (a) administration of statewide assessments; and

104 (b) participation in NAEP, in accordance with Subsection 53E-4-302(1)(b).

105 (2) The Superintendent shall provide guidelines, timelines, procedures, and
106 assessment ethics training and requirements for all statewide assessments.

107 (3) The Superintendent shall designate a testing schedule for each statewide
108 assessment and publish the testing window dates on the Board's website before the
109 beginning of the school year.

110

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

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

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

118 (2) An LEA shall develop a plan to administer statewide assessments.

119 (3) The plan shall include:

120 (a) the dates that the LEA will administer each statewide assessment;

121 (b) professional development for an educator to fully implement the assessment
122 system;

123 (c) training for an educator, appropriate paraprofessional, or third party proctor in
124 the requirements of assessment administration ethics; and

125 (d) training for an educator and an appropriate paraprofessional to use statewide
126 assessment results effectively to inform instruction.

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

128 (5) At least once each school year, an LEA shall provide professional
129 development for all educators, administrators, and assessment administrators, including
130 third party proctors, concerning guidelines and procedures for statewide assessment
131 administration, including educator responsibility for assessment security and proper
132 professional practices.

133 (6) LEA assessment staff or third party proctor staff shall use the Standard Test
134 Administration and Testing Ethics Policy in providing training for all assessment
135 administrators and proctors.

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

138 (8) An LEA educator, third party proctor, or trained employee shall administer
139 statewide assessments consistent with the testing schedule published on the Board's
140 website.

141 (9) An LEA educator, third party proctor, or trained employee shall complete all
142 required assessment procedures prior to the end of the assessment window defined by
143 the Superintendent.

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

147 (b) The alternative testing plan shall set dates for assessment administration for
148 courses taught face-to-face or online.

149

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

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

153 (a) based on a student's score on a statewide assessment; or

154 (b) because the student was exempted from taking a statewide assessment.

155 (2) An LEA and school shall require an educator, assessment administrator, and
156 proctor, including a third party proctor, to individually sign a document provided by the
157 Superintendent acknowledging or assuring that the educator administers statewide
158 assessments consistent with ethics and protocol requirements.

159 (3) An educator and assessment administrator shall conduct assessment
160 preparation, supervise assessment administration, and certify assessment results before
161 providing results to the Superintendent.

162 (4) An educator, assessment administrator, and proctor shall securely handle and
163 return all protected assessment materials, where instructed, in strict accordance with the
164 procedures and directions specified in assessment administration manuals, LEA rules
165 and policies, and the Standard Test Administration and Testing Ethics Policy.

166

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

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

171 (2)(a) A parent is primarily responsible for a child's education and has the
172 constitutional right to determine which aspects of public education the child participates
173 in, including assessment systems.

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

176 (3)(a) A parent may exercise the right to exempt their child from a statewide
177 assessment.

178 (b) Except as provided in Subsection (3)(c), an LEA may not penalize a student
179 who is exempted from a statewide assessment under this section.

180 (c) If a parent exempts the parent's child from the basic civics test required in
181 Sections 53E-4-205 and R277-700-8, the parent's child is not exempt from the graduation
182 requirement in Subsection 53E-4-205(2), and may not graduate without successfully
183 completing the requirements of Sections 53E-4-205 and R277-700-8.

184 (4)(a) To exercise the right to exempt a child from a statewide assessment under
185 this provision and ensure the protections of this provision, a parent shall:

186 (i) fill out:

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

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

190 (ii) submit the form:

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

192 (B) on an annual basis; and

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

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

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

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

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

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

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

211 (6) The administration of any assessment that is not a statewide assessment,
212 including consequences associated with taking or failing to take the assessment, is
213 governed by policy adopted by each LEA.

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

217 (8) An LEA may not provide a nonacademic reward to a student for a student's
218 participation in or performance on a statewide assessment.

219 (9) An LEA shall allow an educator to provide an academic incentive for a
220 student's performance on a statewide assessment in accordance with Subsections 53E-
221 4-303(4)(b), 304(3), and 305(4).

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

225 (11) An LEA may allow a student who has been exempted from participating in a
226 statewide assessment under this section to be physically present in the room during test
227 administration.

228

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

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

233 (a) violate any specific assessment administrative procedure specified in the
234 assessment administration manual, violate any state or LEA statewide assessment policy
235 or procedure, or violate any procedure specified in the Standard Test Administration and
236 Testing Ethics Policy;

237 (b) fail to administer a statewide assessment;

238 (c) fail to administer a statewide assessment within the designated assessment
239 window;

240 (d) submit falsified data;

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

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

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

248 (3) An educator who violates this rule or an assessment protocol is subject to Utah
249 Professional Practices Advisory Commission or Board disciplinary action consistent with
250 R277-215.

251 (4) All assessment material, questions, and student responses for required
252 assessments is designated protected, consistent with Subsection 63G-2-305(5), until
253 released by the Superintendent.

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

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

260

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

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

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

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

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

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

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

274 (7) Beginning with the [~~2021~~]-2022-2023 school year and consistent with Utah
275 law, the Superintendent shall return assessment results from all statewide assessments
276 to the school before the end of the school year.

277

278 **KEY: assessments, student achievements**

279 **Date of Enactment or Last Substantive Amendment: [~~July 20, 2021~~] 2022**
280 **Notice of Continuation: [~~November 29, 2016~~] 2022**
281 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-4-302; 53E-3-**
282 **401(4); 53G-6-803(9)(b)**