

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 the
8 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 assessments.

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

14 (a) provide consistent definitions; and

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

17

18 **R277-404-2. Definitions.**

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

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

23 (a) same as that term is described in Section [53E-4-305](#); and

24 (b) [~~American College Testing exam, or~~]the ACT.

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

27 (4) "English language proficiency assessment" means the [~~World-class~~
28 ~~Instructional Design and Assessment~~-(~~JWIDA~~[~~]~~) Assessing Comprehension in English
29 State-to-State (ACCESS), which is designed to measure the acquisition of the academic

30 English language for an English Learner student.

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

33 (6) "High school assessment":

34 (a) means the same as that term is described in Section [53E-4-304](#);

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

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

37 (i) English;

38 (ii) math;

39 (iii) science; and

40 (iv) reading.

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

44 (8) "Statewide [~~required~~] assessment" means an assessment described in
45 Subsection [53G-6-803](#)(9)(a).

46 (9) "Standards Assessment":

47 (a) means the same as that term is described in Subsection [53E-4-303](#)(2)(a); and

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

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

51 (10) "Statewide assessment" means the:

52 (a) the same as that term is defined in Subsection [53E-4-301](#)(2);

53 (b) Utah [~~alternative~~]alternate assessment; and

54 (c) English language proficiency assessment.

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

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

57 (b) designed to accommodate an individual who has been determined, as a result
58 of an evaluation, to have a physical or mental impairment that substantially limits one or

59 more major life activities.

60 (12)(a) "Utah alternate assessment" means an assessment instrument:

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

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

66 (b) "Utah alternate assessment" means¹[:

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

68 ~~——(ii)]~~ for English language arts, science and mathematics, the Dynamic Learning
69 Maps (DLM).

70 (13) "Utah eTranscript and Record Exchange" or "UTREx" means a system that
71 allows:

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

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

76

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

79 (1) This rule incorporates by reference the Standard Test Administration and
80 Testing Ethics Policy, ~~[June 6, 2019]~~ June 4, 2020, which establishes:

81 (a) the purpose of testing;

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

83 (c) teaching practices before assessment occurs;

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

86 (e) unethical practices;

87 (f) accountability for ethical test administration;

88 (g) procedures related to testing ethics violations; and

89 (h) additional resources.

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

92 (a) [<https://www.schools.utah.gov/assessment?mid=1104&tid=5;>]

93 <https://schools.utah.gov/assessment?mid=1104&tid=4> and

94 (b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah
95 84111.

96

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

98 (1) The Superintendent shall facilitate:

99 (a) administration of statewide assessments; and

100 (b) participation in NAEP, in accordance with Subsection [53E-4-302\(1\)\(b\)](#).

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

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

106

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

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

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

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

115 (3) The plan shall include:

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

117 (b) professional development for an educator to fully implement the assessment
118 system;

119 (c) training for an educator, ~~[and an]~~ appropriate paraprofessional, or third party
120 proctor in the requirements of assessment administration ethics; and

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

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

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

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

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

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

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

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

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

145

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

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

149 (a) based on a student's score on a statewide [~~required~~]assessment; or

150 (b) because the student was exempted from taking a statewide [~~required~~
151]assessment.

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

156 (3) An educator and assessment administrator shall conduct assessment
157 preparation, supervise assessment administration, and certify assessment results before
158 providing results to the Superintendent.

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

163

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

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

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

171 (b) Parents may further exercise their inherent rights to exempt their children from
172 a statewide [~~required~~]assessment without further consequence by an LEA.

173 (3)(a) A parent may exercise the right to exempt their child from a statewide
174 [~~required~~]assessment.

175 (b) Except as provided in Subsection (3)(c), an LEA may not penalize a student
176 who is exempted from a statewide ~~[required]~~ assessment under this section.

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

181 (4)(a) To exercise the right to exempt a child from a statewide ~~[required]~~
182 assessment under this provision and ensure the protections of this provision, a parent
183 shall:

184 (i) fill out:

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

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

188 (ii) submit the form:

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

190 (B) on an annual basis; and

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

193 (b) An LEA may allow a parent to exempt a student from taking a statewide
194 ~~[required]~~ assessment less than one day prior to the beginning of the assessment upon
195 parental request.

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

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

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

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

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

205 (b) An LEA may request, but may not require, a parent to meet with a teacher,
206 principal, or other LEA administrator regarding the parent's request to exclude the parent's
207 student from taking a statewide ~~[required-]~~assessment.

208 (6) The administration of any assessment that is not a statewide ~~[required~~
209]assessment, including consequences associated with taking or failing to take the
210 assessment, is governed by policy adopted by each LEA.

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

214 (8) An LEA may not provide a nonacademic reward to a student for a student's
215 participation in or performance on a statewide ~~[required-]~~assessment.

216 (9) An LEA shall allow an educator to provide an academic incentive for a student's
217 performance on a statewide ~~[required-]~~assessment in accordance with Subsections
218 [53E-4-303\(4\)\(b\)](#), [304\(3\)](#), and [305\(4\)](#).

219 (10) An LEA shall ensure that a student who has been exempted from
220 participating in a statewide ~~[required-]~~assessment under this section is provided with an
221 alternative learning experience if the student is in attendance during test administration.

222 (11) An LEA may allow a student who has been exempted from participating in a
223 statewide ~~[required-]~~assessment under this section to be physically present in the room
224 during test administration.

225

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

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

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

232 ~~—(b) download, copy, print, take a picture of, or make any facsimile of protected~~

233 ~~assessment material prior to, during, or after assessment administration without express~~
234 ~~permission of the Superintendent and an LEA administrator;~~

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

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

240 ([e]a) violate any specific assessment administrative procedure specified in the
241 assessment administration manual, violate any state or LEA statewide assessment policy
242 or procedure, or violate any procedure specified in the Standard Test Administration and
243 Testing Ethics Policy;

244 ([f]b) fail to administer a statewide assessment;

245 ([g]c) fail to administer a statewide assessment within the designated assessment
246 window;

247 ([h]d) submit falsified data;

248 ([i]e) allow a student to copy, reproduce, or photograph an assessment item or
249 component; or

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

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

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

258 (4) All assessment material, questions, and student responses for required
259 assessments is designated protected, consistent with Subsection [63G-2-305v\(5\)](#), until
260 released by the Superintendent.

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

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

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

267

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

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

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

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

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

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

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

281 (7) Beginning with the 2021-2022 school year and c[G]onsistent with Utah law, the
282 Superintendent shall return assessment results from all statewide assessments to the
283 school before the end of the school year.

284

285 **KEY: assessments, student achievements**

286 **Date of Enactment or Last Substantive Amendment: November 8, 2019**

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

288 **Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-4-302](#);**
289 **[53E-3-401\(4\)](#); [53G-6-803\(9\)\(b\)](#)**