

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 administration
10 of statewide assessments; and

11 (d) Subsection 53G-6-803(9)(b), which requires the Board to adopt rules to establish
12 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 assessment" means the Board approved literacy or mathematics
20 assessment that is administered to a student in grade 1, grade 2, and grade 3 at the
21 beginning, middle, and end of year.

22 ~~[(2) "Benchmark mathematics assessment" means the Board approved mathematics
23 assessment administered to a student in grade 1, grade 2, and grade 3 at the beginning,
24 middle, and end of year.]~~

25 ~~[(2)](3) "College readiness assessment" means the:~~

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

27 (b) the ACT.

28 ~~[(3)](4) "English Learner" or "EL student" means a student who is learning in English
29 as a second language.~~

30 ~~[(4)]~~(5) "English language proficiency assessment" means the WIDA Assessing
31 Comprehension in English State-to-State (ACCESS), which is designed to measure the
32 acquisition of the academic English language for an English Learner student.

33 ~~[(5)]~~(6) "Family Educational Rights and Privacy Act of 1974" or "FERPA," 20 U.S.C.
34 1232g, means a federal law designed to protect the privacy of students' education records.

35 ~~[(6)]~~(7) "High school assessment":

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

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

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

39 (i) English;

40 (ii) math;

41 (iii) science; and

42 (iv) reading.

43 ~~[(7)]~~(8) "National Assessment of Education Progress" or "NAEP" means the national
44 achievement assessment administered by the United States Department of Education to
45 measure and track student academic progress.

46 ~~[(8)]~~(9) "Statewide assessment" means an assessment described in Subsection
47 [53G-6-803](#)(9)(a).

48 ~~[(9)]~~(10) "Standards Assessment":

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

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

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

53 ~~[(10)]~~(11) "Statewide assessment" means the:

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

55 (b) Utah alternate assessment; and

56 (c) English language proficiency assessment.

57 ~~[(11)]~~(12) "Section 504 accommodation plan" means a plan:

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

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

62 ~~[(42)](13)~~(a) "Utah alternate assessment" means an assessment instrument:

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

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

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

70 ~~[(43)](14)~~ "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 detailed
73 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 Policy**
78 **by Reference.**

79 (1) This rule incorporates by reference the Standard Test Administration and Testing
80 Ethics Policy, ~~[June 4, 2020]~~May 6, 2021, which establishes:

81 (a) the purpose of testing;

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

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

84 ~~[(e)](d)~~ teaching practices before assessment occurs;

85 ~~[(d)](e)~~ required procedures for after an assessment is complete and for providing
86 assessment results;

87 ~~[(e)](f)~~ unethical practices;

88 ~~(f)~~(g) accountability for ethical test administration;
89 ~~(g)~~(h) procedures related to testing ethics violations; and
90 ~~(h)~~(i) additional resources.

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

93 (a) <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 administer
109 statewide assessments to all students enrolled in the grade level or course to which the
110 assessment applies.

111 (b) A student's IEP team, English Learner team, or Section 504 accommodation plan
112 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, appropriate paraprofessional, or third party proctor in the
120 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 development
125 for all educators, administrators, and assessment administrators, including third party
126 proctors, concerning guidelines and procedures for statewide assessment administration,
127 including educator responsibility for assessment security and proper professional practices.

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

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

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

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

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

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

144

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

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

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

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

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

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

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

161

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

164 (1) As used in this section, "penalize" means to put in an unfavorable position or at
165 an unfair disadvantage, including restricting enrollment in courses the student otherwise
166 qualifies for.

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

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

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

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

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

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

182 (i) fill out:

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

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

186 (ii) submit the form:

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

188 (B) on an annual basis; and

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

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

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

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

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

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

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

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

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

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

213 (9) An LEA shall allow an educator to provide an academic incentive for a student's
214 performance on a statewide assessment in accordance with Subsections [53E-4-303](#)(4)(b),
215 [304](#)(3), and [305](#)(4).

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

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

222

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

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

227 (a) violate any specific assessment administrative procedure specified in the
228 assessment administration manual, violate any state or LEA statewide assessment policy
229 or procedure, or violate any procedure specified in the Standard Test Administration and
230 Testing Ethics Policy;

231 (b) fail to administer a statewide assessment;

232 (c) fail to administer a statewide assessment within the designated assessment
233 window;

234 (d) submit falsified data;

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

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

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

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

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

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

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

254

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

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

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

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

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

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

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

268 (7) Beginning with the 2021-2022 school year and consistent with Utah law, the
269 Superintendent shall return assessment results from all statewide assessments to the
270 school before the end of the school year.

271

272 **KEY: assessments, student achievements**

273 **Date of Enactment or Last Substantive Amendment: August 24, 2020**

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

275 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-4-302; 53E-3-
276 401(4); 53G-6-803(9)(b)**