

**Senator Lincoln Fillmore** proposes the following substitute bill:

**PARTICIPATION IN EXTRACURRICULAR ACTIVITIES**

**AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jordan D. Teuscher**

Senate Sponsor: Lincoln Fillmore

**LONG TITLE**

**General Description:**

This bill amends provisions amending student participation in extracurricular activities.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ allows a private school student, a home school student, a charter school student, or an online school student to participate in extracurricular activities outside of the student's public school of residence under certain circumstances;
- ▶ prohibits a public school from participation in an athletics association that does not collect a birth certificate or other identifying documents during the registration process;
- ▶ allows athletes without access to a birth certificate to provide alternative documentation to an athletic association; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



26 This bill provides a coordination clause.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **53G-6-703**, as last amended by Laws of Utah 2019, Chapter 293

30 **53G-6-704**, as last amended by Laws of Utah 2019, Chapter 293

31 **53G-6-705**, as last amended by Laws of Utah 2019, Chapter 293

32 **53G-7-1102**, as renumbered and amended by Laws of Utah 2018, Chapter 3

33 **Utah Code Sections Affected by Coordination Clause:**

34 **53G-6-703**, as last amended by Laws of Utah 2019, Chapter 293



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **53G-6-703** is amended to read:

38 **53G-6-703. Private school and home school students' participation in**  
39 **extracurricular activities in a public school.**

40 (1) As used in this section:

41 (a) "Academic eligibility requirements" means the academic eligibility requirements  
42 that a home school student is required to meet to participate in an extracurricular activity in a  
43 public school.

44 (b) "Association" means the same as that term is defined in Section [53G-7-1101](#).

45 (c) "Extracurricular activity" means the same as that term is defined in Section  
46 [53G-7-501](#).

47 (d) "Initial establishment of eligibility requirements" means an association's eligibility  
48 requirements, policies, procedures, and transfer rules that a school student in grade 9 or 10  
49 must meet, and to which the student is bound, to participate on a high school sports team when  
50 the student:

51 (i) attends the high school in which the student is selected for membership on a high  
52 school sports team; or

53 (ii) does not attend the high school in which the student tries out for and is selected for  
54 membership on a high school sports team.

55 ~~(b)~~ (e) "Minor" means the same as that term is defined in Section [53G-6-201](#).

56 ~~(c)~~ (f) "Parent" means the same as that term is defined in Section [53G-6-201](#).

57           ~~[(d)]~~ (g) "Principal" means the principal of the school in which a home school student  
58 participates or intends to participate in an extracurricular activity.

59           (2) (a) A minor who is enrolled in a private school or a home school ~~[shall be]~~ is  
60 eligible to participate in an extracurricular activity at a public school as provided in this  
61 section.

62           (b) A private school student may only participate in an extracurricular activity at a  
63 public school that is not offered by the student's private school.

64           (c) (i) Except as provided in Subsection (2)(d), a private school student or a home  
65 school student may only participate in an extracurricular activity at:

66           ~~[(i)]~~ (A) the school ~~[within whose]~~ with attendance boundaries within which the  
67 student's custodial parent resides; or

68           ~~[(ii)]~~ (B) the school from which the student withdrew for the purpose of attending a  
69 private or home school.

70           (ii) A private school student or a home school student retains the ability to participate  
71 in an extracurricular activity at a school described in Subsection (2)(c)(i) if the student did not  
72 initially establish the student's eligibility at another school in grade 9 or 10.

73           (d) A school other than a school described in Subsection (2)(c)(i) ~~[or (ii)]~~ may allow a  
74 private school student or a home school student to participate in an extracurricular activity  
75 ~~[other than:]~~ that the public school sponsors and supports if:

76           (i) for an interscholastic competition of athletic teams [sponsored and supported by a  
77 public school; or], the private school student or the home school student meets the initial  
78 establishment of eligibility requirements;

79           (ii) for an interscholastic contest or competition for music, drama, or forensic groups or  
80 teams [sponsored and supported by a public school:], the private school student, subject to  
81 Subsection (2)(b), or the home school student meets the entry requirements for participation;

82           (iii) the private school student or the home school student meets the eligibility  
83 requirements under this section; and

84           (iv) the private school student or the home school student meets the enrollment  
85 requirements for public school in accordance with Part 4, School District Enrollment.

86           (3) (a) Except as provided in Subsections (4) through (13), a private school student or a  
87 home school student ~~[shall be]~~ is eligible to participate in an extracurricular activity at a public

88 school consistent with eligibility standards:

89 (i) applied to a fully enrolled public school student;

90 (ii) of the public school where the private school student or the home school student  
91 participates in an extracurricular activity; and

92 (iii) for the extracurricular activity in which the private school or the home school  
93 student participates.

94 (b) A school district or public school may not impose additional requirements on a  
95 private school student or a home school student to participate in an extracurricular activity that  
96 are not imposed on a fully enrolled public school student.

97 (c) (i) A private school student or a home school student who participates in an  
98 extracurricular activity at a public school shall pay the same fees as required of a fully enrolled  
99 public school student to participate in an extracurricular activity.

100 (ii) If a local school board or a charter school governing board imposes a mandatory  
101 student activity fee for a student enrolled in a public school, the fee may be imposed on a  
102 private school student or a home school student who participates in an extracurricular activity  
103 at the public school if the same benefits of paying the mandatory student activity fee that are  
104 available to a fully enrolled public school student are available to a private school student or a  
105 home school student who participates in an extracurricular activity at the public school.

106 (4) Eligibility requirements based on school attendance are not applicable to a home  
107 school student.

108 (5) A home school student meets academic eligibility requirements to participate in an  
109 extracurricular activity if:

110 (a) the student is mastering the material in each course or subject being taught; and

111 (b) the student is maintaining satisfactory progress towards achievement or promotion.

112 (6) (a) To establish a home school student's academic eligibility, a parent, teacher, or  
113 organization providing instruction to the student shall submit an affidavit to the principal  
114 indicating the student meets academic eligibility requirements.

115 (b) Upon submission of an affidavit pursuant to Subsection (6)(a), a home school  
116 student shall:

117 (i) be considered to meet academic eligibility requirements; and

118 (ii) retain academic eligibility for all extracurricular activities during the activity season

119 for which the affidavit is submitted, until:

120 (A) a panel established under Subsection (10) determines the home school student does  
121 not meet academic eligibility requirements; or

122 (B) the person who submitted the affidavit under Subsection (6)(a) provides written  
123 notice to the school principal that the student no longer meets academic eligibility  
124 requirements.

125 (7) (a) A home school student who loses academic eligibility pursuant to Subsection  
126 (6)(b)(ii)(B) may not participate in an extracurricular activity until the person who submitted  
127 the affidavit under Subsection (6)(a) provides written notice to the school principal that the  
128 home school student has reestablished academic eligibility.

129 (b) If a home school student reestablishes academic eligibility pursuant to Subsection  
130 (7)(a), the home school student may participate in extracurricular activities for the remainder of  
131 the activity season for which an affidavit was submitted under Subsection (6)(a).

132 (8) A person who has probable cause to believe a home school student does not meet  
133 academic eligibility requirements may submit an affidavit to the principal:

134 (a) asserting the home school student does not meet academic eligibility requirements;  
135 and

136 (b) providing information indicating that the home school student does not meet the  
137 academic eligibility requirements.

138 (9) A principal shall review the affidavit submitted under Subsection (8), and if the  
139 principal determines it contains information which constitutes probable cause to believe a  
140 home school student may not meet academic eligibility requirements, the principal shall  
141 request a panel established pursuant to Subsection (10) to verify the student's compliance with  
142 academic eligibility requirements.

143 (10) (a) A school district superintendent shall:

144 (i) appoint a panel of three individuals to verify a home school student's compliance  
145 with academic eligibility requirements when requested by a principal pursuant to Subsection  
146 (9); and

147 (ii) select the panel members from nominees submitted by national, state, or regional  
148 organizations whose members are home school students and parents.

149 (b) Of the members appointed to a panel under Subsection (10)(a):

150 (i) one member shall have experience teaching in a public school as a licensed teacher  
151 and in home schooling high school-age students;

152 (ii) one member shall have experience teaching in a higher education institution and in  
153 home schooling; and

154 (iii) one member shall have experience in home schooling high school-age students.

155 (11) A panel appointed under Subsection (10):

156 (a) shall review the affidavit submitted under Subsection (8);

157 (b) may confer with the person who submitted the affidavit under Subsection (8);

158 (c) shall request the home school student to submit test scores or a portfolio of work  
159 documenting the student's academic achievement to the panel;

160 (d) shall review the test scores or portfolio of work; and

161 (e) shall determine whether the home school student meets academic eligibility  
162 requirements.

163 (12) A home school student who meets academic eligibility requirements pursuant to  
164 Subsection (11), retains academic eligibility for all extracurricular activities during the activity  
165 season for which an affidavit is submitted pursuant to Subsection (6).

166 (13) (a) A panel's determination that a home school student does not comply with  
167 academic eligibility requirements is effective for an activity season and all extracurricular  
168 activities that have academic eligibility requirements.

169 (b) A home school student who is not in compliance with academic eligibility  
170 requirements as determined by a panel appointed under Subsection (11) may seek to establish  
171 academic eligibility under this section for the next activity season.

172 (14) (a) A public school student who has been declared to be academically ineligible to  
173 participate in an extracurricular activity and who subsequently enrolls in a home school shall  
174 lose eligibility for participation in the extracurricular activity until the student:

175 (i) demonstrates academic eligibility by providing test results or a portfolio of the  
176 student's work to the school principal, provided that a student may not reestablish academic  
177 eligibility under this Subsection (14)(a) during the same activity season in which the student  
178 was declared to be academically ineligible;

179 (ii) returns to public school and reestablishes academic eligibility; or

180 (iii) enrolls in a private school and establishes academic eligibility.

181 (b) A public school student who has been declared to be behaviorally ineligible to  
182 participate in an extracurricular activity and who subsequently enrolls in a home school shall  
183 lose eligibility for participation in the extracurricular activity until the student meets eligibility  
184 standards as provided in Subsection (3).

185 (15) When selection to participate in an extracurricular activity at a public school is  
186 made on a competitive basis, a private school student [~~and~~] or a home school student [~~shall be~~]  
187 is eligible to try out for and participate in the activity as provided in this section.

188 (16) (a) If a student exits a public school to enroll in a private school or a home school  
189 mid-semester or during an activity season, and the student desires to participate in an  
190 extracurricular activity at the public school, the public school shall issue an interim academic  
191 assessment based on the student's work in each class.

192 (b) A student's academic eligibility to participate in an extracurricular activity under  
193 the circumstances described in Subsection (16)(a) [~~shall be based~~] is dependent on the student  
194 meeting public school academic eligibility standards at the time of exiting public school.

195 (c) A student may appeal an academic eligibility determination made under Subsection  
196 (16)(b) in accordance with procedures for appealing a public school student's academic  
197 eligibility.

198 Section 2. Section **53G-6-704** is amended to read:

199 **53G-6-704. Charter school students' participation in extracurricular activities at**  
200 **other public schools.**

201 (1) As used in this section:

202 (a) "Association" means the same as that term is defined in Section [53G-7-1101](#).

203 (b) "Extracurricular activity" means the same as that term is defined in Section  
204 [53G-7-501](#).

205 (c) "Initial establishment of eligibility requirements" means the same as that term is  
206 defined in Section [53G-6-703](#).

207 [(+) (2) A charter school student is eligible to participate in an extracurricular activity  
208 not offered by the student's charter school at:

209 (a) the school [~~within whose~~] with attendance boundaries within which the student's  
210 custodial parent resides, if, for an interscholastic competition of athletic teams, the student did  
211 not initially establish the student's eligibility at another public school in grade 9 or 10;

212 (b) the public school from which the student withdrew for the purpose of attending a  
213 charter school; or

214 (c) a public school that is not a charter school if the student's charter school is located  
215 on the campus of the public school or has local school board approval to locate on the campus  
216 of the public school.

217 ~~[(2)]~~ (3) In addition to the public schools listed in Subsection ~~[(1);]~~ (2), the state board  
218 may establish rules to allow a charter school student to participate in an extracurricular activity  
219 at a public school other than a public school listed in Subsection ~~[(1);]~~ (2).

220 ~~[(3)]~~ (4) A school other than a school described in Subsection ~~[(1)(a), (b), or (c)]~~ (2)  
221 may allow a charter school student to participate in ~~[extracurricular activities other than:]~~ an  
222 extracurricular activity a public school sponsors and supports if:

223 (a) for interschool competitions of athletic teams [sponsored and supported by a public  
224 school; or], the charter school student meets the initial establishment of eligibility  
225 requirements;

226 (b) for interschool contests or competitions for music, drama, or forensic groups or  
227 teams [sponsored and supported by a public school:], the charter school student meets the entry  
228 requirements for participation;

229 (c) the charter school student meets the eligibility requirements under this section; and

230 (d) the charter school student meets the enrollment requirements for public school in  
231 accordance with Part 4, School District Enrollment.

232 ~~[(4)]~~ (5) A charter school student is eligible for an extracurricular ~~[activities]~~ activity at  
233 a public school consistent with eligibility standards as applied to full-time students of the  
234 public school.

235 ~~[(5)]~~ (6) A school district or a public school may not impose additional requirements  
236 on a charter school student to participate in an extracurricular ~~[activities]~~ activity that are not  
237 imposed on full-time students of the public school.

238 ~~[(6)]~~ (7) (a) The state board shall make rules establishing fees for charter school  
239 students' participation in an extracurricular ~~[activities]~~ activity at school district schools.

240 (b) The rules shall provide that:

241 (i) charter school students pay the same fees as other students to participate in an  
242 extracurricular [activities] activity;



243 (ii) charter school students are eligible for fee waivers pursuant to Section [53G-7-504](#);

244 (iii) for each charter school student who participates in an extracurricular activity at a  
245 school district school, the charter school shall pay a share of the school district's costs for the  
246 extracurricular activity; and

247 (iv) a charter school's share of the costs of an extracurricular activity shall reflect state  
248 and local tax revenues expended, except capital facilities expenditures, for an extracurricular  
249 activity in a school district or a school divided by total student enrollment of the school district  
250 or the school.

251 (c) In determining a charter school's share of the costs of an extracurricular activity  
252 under Subsections [~~(6)(b)(iii) and (iv)~~] (7)(b)(iii) and (iv), the state board may establish  
253 uniform fees statewide based on average costs statewide or average costs within a sample of  
254 school districts.

255 [~~(7)~~] (8) When selection to participate in an extracurricular activity at a public school is  
256 made on a competitive basis, a charter school student is eligible to try out for and participate in  
257 the activity as provided in this section.

258 Section 3. Section **53G-6-705** is amended to read:

259 **53G-6-705. Online students' participation in extracurricular activities.**

260 (1) As used in this section:

261 (a) "Association" means the same as that term is defined in Section [53G-7-1101](#).

262 (b) "Extracurricular activity" means the same as that term is defined in Section  
263 [53G-7-501](#).

264 (c) "Initial establishment of eligibility requirements" means the same as that term is  
265 defined in Section [53G-6-703](#).

266 [~~(a)~~] (d) "Online education" means the use of information and communication  
267 technologies to deliver educational opportunities to a student in a location other than a school.

268 [~~(b)~~] (e) "Online student" means a student who:

269 (i) participates in an online education program sponsored or supported by the state  
270 board, a school district, or a charter school; and

271 (ii) generates funding for the school district or the school pursuant to Subsection  
272 [~~53F-2-102(4)~~] [53F-2-102\(5\)](#) and rules of the state board.

273 (2) An online student is eligible to participate in an extracurricular [~~activities~~] activity

274 at:

275 (a) the school [~~within whose~~] with attendance boundaries within which the student's  
276 custodial parent resides, if, for an interscholastic competition of athletic teams, the student did  
277 not initially establish the student's eligibility at another public school in grade 9 or 10; or

278 (b) the public school from which the student withdrew for the purpose of participating  
279 in an online education program.

280 (3) A public school other than a school described in Subsection [~~(2)(a) or (b)~~] (2) may  
281 allow an online student to participate in an extracurricular [activities other than] activity that  
282 the public school sponsors and supports if:

283 (a) for interschool competitions of athletic teams sponsored and supported by a public  
284 school[; or], the online school student meets the initial establishment of eligibility  
285 requirements;

286 (b) for interschool contests or competitions for music, drama, or forensic groups or  
287 teams sponsored and supported by a public school[-], the online school student meets the entry  
288 requirements for participation;

289 (c) the online school student meets the eligibility requirements under this section; and

290 (d) the online school student meets the enrollment requirements for public school in  
291 accordance with Part 4, School District Enrollment.

292 (4) An online student is eligible [~~for~~] to participate in an extracurricular [activities]  
293 activity at a public school consistent with eligibility standards as applied to full-time students  
294 of the public school.

295 (5) A school district or public school may not impose additional requirements on an  
296 online school student to participate in an extracurricular [activities] activity that are not  
297 imposed on full-time students of the public school.

298 (6) (a) The state board shall make rules establishing fees for an online school student's  
299 participation in an extracurricular [activities] activity at school district schools.

300 (b) The rules shall provide that:

301 (i) online school students pay the same fees as other students to participate in an  
302 extracurricular [activities] activity;

303 (ii) online school students are eligible for fee waivers pursuant to Section 53G-7-504;

304 (iii) for each online school student who participates in an extracurricular activity at a

305 school district school, the online school shall pay a share of the school district's costs for the  
306 extracurricular activity; and

307 (iv) an online school's share of the costs of an extracurricular activity shall reflect state  
308 and local tax revenues expended, except capital facilities expenditures, for an extracurricular  
309 activity in a school district or school divided by total student enrollment of the school district  
310 or school.

311 (c) In determining an online school's share of the costs of an extracurricular activity  
312 under Subsections (6)(b)(iii) and (iv), the state board may establish uniform fees statewide  
313 based on average costs statewide or average costs within a sample of school districts.

314 (7) When selection to participate in an extracurricular activity at a public school is  
315 made on a competitive basis, an online student is eligible to try out for and participate in the  
316 activity as provided in this section.

317 Section 4. Section **53G-7-1102** is amended to read:

318 **53G-7-1102. Public schools prohibited from membership.**

319 (1) A public school may not be a member of or pay dues to an association that:

320 (a) is not in compliance [~~on or after July 1, 2017,~~] with:

321 ~~[(a)] (i) this part;~~

322 ~~[(b)] (ii) Title 52, Chapter 4, Open and Public Meetings Act;~~

323 ~~[(c)] (iii) Title 63G, Chapter 2, Government Records Access and Management Act; and~~

324 ~~[(d)] (iv) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act[-];~~

325 (b) does not collect each student's birth certificate or equivalent documentation, as  
326 described in Subsection (2), to determine eligibility as a condition of the association's  
327 registration process for an athletic team, event, or category; or

328 (c) does not require a student to provide the athlete's date of birth and sex as a  
329 condition of the registration process for an athletic team, event, or category.

330 (2) Except as provided in Subsection (3), for a student who is homeless or not a United  
331 States citizen and who is unable to provide a birth certificate, the association may collect the  
332 student's:

333 (a) state-issued identification document, including a driver's license or passport; or

334 (b) federally recognized identification document, including a document that the  
335 Department of Homeland Security issues.

336 (3) Subsection (1)(b) or (2) do not apply to an association for a student who is a  
 337 homeless child or youth, as defined in the McKinney-Vento Homeless Assistance Act, 42  
 338 U.S.C. Sec. 11431 et seq.

339 (4) Nothing in this section limits or impairs an LEA's requirement to verify a student's  
 340 initial eligibility to participate in an athletic team, event, or category under applicable state or  
 341 federal law or state board rule, including the student's:

- 342 (a) residency status;
- 343 (b) age;
- 344 (c) sex;
- 345 (d) academic requirements; or
- 346 (e) school enrollment capacity.

347 ~~[(2)]~~ (5) Unless otherwise specified, an association's compliance with or an association  
 348 employee or officer's compliance with the provisions described in Subsection (1) does not alter:

- 349 (a) the association's public or private status; or
- 350 (b) the public or private employment status of the employee or officer.

351 **Section 5. Coordinating H.B. 209 with S.B. 166 -- Substantive and technical**  
 352 **amendments.**

353 If this H.B. 209 and S.B. 166, Education Entity Amendments, both pass and become  
 354 law, the Office of Legislative Research and General Counsel shall prepare the Utah Code  
 355 database for publication by amending Subsections [53G-6-703\(2\)\(c\)](#) and (d) to read:

356 "(c) (i) Except as provided in Subsection (2)(d), a private school student or a home  
 357 school student may only participate in an extracurricular activity at:

358 [(i)] (A) the school [~~within whose~~] with attendance boundaries within which the  
 359 student's custodial parent resides; or

360 [(ii)] (B) the school from which the student withdrew for the purpose of attending a  
 361 private or home school.

362 (ii) A private school student, a micro-education entity student, a home school student,  
 363 or a home-based education entity student retains the ability to participate in an extracurricular  
 364 activity at a school described in Subsection (2)(c)(i) if the student did not initially establish the  
 365 student's eligibility at another school in grade 9 or 10.

366 (d) A school other than a school described in Subsection (2)(c)(i) [~~or (ii)~~] may allow a

367 private school student or a home school student to participate in an extracurricular activity  
368 [~~other than~~] that the public school sponsors and supports if:

369 (i) for an interscholastic competition of athletic teams [sponsored and supported by a  
370 public school, or], the private school student, the micro-education entity student, the home  
371 school student, or the home-based education entity student meets the initial establishment of  
372 eligibility requirements;

373 (ii) for an interscholastic contest or competition for music, drama, or forensic groups or  
374 teams [sponsored and supported by a public school.];

375 (A) subject to Subsection (2)(b), the private school student or the micro-education  
376 entity student meets the entry requirements for participation; or

377 (B) the home school student or the home-based education entity student meets the entry  
378 requirements for participation;

379 (iii) the private school student, the micro-education entity student, the home school  
380 student, or the home-based education entity student meets the eligibility requirements under  
381 this section; and

382 (iv) the private school student, the micro-education entity student, the home school  
383 student, or the home-based education entity student meets the enrollment requirements for  
384 public school in accordance with Part 4, School District Enrollment."