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**HEALTH EDUCATION AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Raymond P. Ward**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill repeals language prohibiting instruction in the advocacy or encouragement of the use of contraceptive methods or devices.

**Highlighted Provisions:**

This bill:

- ▶ repeals language prohibiting the advocacy or encouragement of the use of contraceptive methods or devices; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53G-10-402**, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section **53G-10-402** is amended to read:

**53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine**





28 **prohibited.**

29 (1) (a) The State Board of Education shall establish curriculum requirements under  
30 Section 53E-3-501 that include instruction in:

- 31 (i) community and personal health;
- 32 (ii) physiology;
- 33 (iii) personal hygiene; and
- 34 (iv) prevention of communicable disease.

35 (b) (i) That instruction shall stress:

36 (A) the importance of abstinence from all sexual activity before marriage and fidelity  
37 after marriage as methods for preventing certain communicable diseases; and

38 (B) personal skills that encourage individual choice of abstinence and fidelity.

39 (ii) (A) At no time may instruction be provided, including responses to spontaneous  
40 questions raised by students, regarding any means or methods that facilitate or encourage the  
41 violation of any state or federal criminal law by a minor or an adult.

42 (B) Subsection (1)(b)(ii)(A) does not preclude an instructor from responding to a  
43 spontaneous question as long as the response is consistent with the provisions of this section.

44 (c) (i) The board shall recommend instructional materials for use in the curricula  
45 required under Subsection (1)(a) after considering evaluations of instructional materials by the  
46 State Instructional Materials Commission.

47 (ii) A local school board may choose to adopt:

- 48 (A) the instructional materials recommended under Subsection (1)(c)(i); or
- 49 (B) other instructional materials as provided in state board rule.

50 (iii) The state board rule made under Subsection (1)(c)(ii)(B) shall include, at a  
51 minimum:

52 (A) that the materials adopted by a local school board under Subsection (1)(c)(ii)(B)  
53 shall be based upon recommendations of the school district's Curriculum Materials Review  
54 Committee that comply with state law and state board rules emphasizing abstinence before  
55 marriage and fidelity after marriage, and prohibiting instruction in:

- 56 (I) the intricacies of intercourse, sexual stimulation, or erotic behavior;
- 57 (II) the advocacy of premarital or extramarital sexual activity; or
- 58 [~~(III) the advocacy or encouragement of the use of contraceptive methods or devices;~~]

59           ~~(IV)~~ (III) the advocacy of sexual activity outside of marriage;

60           (B) that the adoption of instructional materials shall take place in an open and regular  
61 meeting of the local school board for which prior notice is given to parents and guardians of  
62 students attending schools in the district and an opportunity for them to express their views and  
63 opinions on the materials at the meeting;

64           (C) provision for an appeal and review process of the local school board's decision; and

65           (D) provision for a report by the local school board to the State Board of Education of  
66 the action taken and the materials adopted by the local school board under Subsections  
67 (1)(c)(ii)(B) and (1)(c)(iii).

68           (2) (a) Instruction in the courses described in Subsection (1) shall be consistent and  
69 systematic in grades eight through 12.

70           (b) At the request of the board, the Department of Health shall cooperate with the  
71 board in developing programs to provide instruction in those areas.

72           (3) (a) The board shall adopt rules that:

73           (i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323  
74 are complied with; and

75           (ii) require a student's parent or legal guardian to be notified in advance and have an  
76 opportunity to review the information for which parental consent is required under Sections  
77 76-7-322 and 76-7-323.

78           (b) The board shall also provide procedures for disciplinary action for violation of  
79 Section 76-7-322 or 76-7-323.

80           (4) (a) In keeping with the requirements of Section 53G-10-204, and because school  
81 employees and volunteers serve as examples to their students, school employees or volunteers  
82 acting in their official capacities may not support or encourage criminal conduct by students,  
83 teachers, or volunteers.

84           (b) To ensure the effective performance of school personnel, the limitations described  
85 in Subsection (4)(a) also apply to school employees or volunteers acting outside of their official  
86 capacities if:

87           (i) they knew or should have known that their action could result in a material and  
88 substantial interference or disruption in the normal activities of the school; and

89           (ii) that action does result in a material and substantial interference or disruption in the

90 normal activities of the school.

91 (c) Neither the State Board of Education nor local school districts may allow training  
92 of school employees or volunteers that supports or encourages criminal conduct.

93 (d) The State Board of Education shall adopt rules implementing this section.

94 (e) Nothing in this section limits the ability or authority of the State Board of  
95 Education and local school boards to enact and enforce rules or take actions that are otherwise  
96 lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing  
97 unfitness for duty.

98 (5) Except as provided in Section [53G-10-202](#), political, atheistic, sectarian, religious,  
99 or denominational doctrine may not be taught in the public schools.

100 (6) (a) Local school boards and their employees shall cooperate and share  
101 responsibility in carrying out the purposes of this chapter.

102 (b) Each school district shall provide appropriate inservice training for its teachers,  
103 counselors, and school administrators to enable them to understand, protect, and properly  
104 instruct students in the values and character traits referred to in this section and Sections  
105 [53E-9-202](#), [53E-9-203](#), [53G-10-202](#), [53G-10-203](#), [53G-10-204](#), and [53G-10-205](#), and distribute  
106 appropriate written materials on the values, character traits, and conduct to each individual  
107 receiving the inservice training.

108 (c) The written materials shall also be made available to classified employees, students,  
109 and parents and guardians of students.

110 (d) In order to assist school districts in providing the inservice training required under  
111 Subsection (6)(b), the State Board of Education shall as appropriate, contract with a qualified  
112 individual or entity possessing expertise in the areas referred to in Subsection (6)(b) to develop  
113 and disseminate model teacher inservice programs which districts may use to train the  
114 individuals referred to in Subsection (6)(b) to effectively teach the values and qualities of  
115 character referenced in that subsection.

116 (e) In accordance with the provisions of Subsection (4)(c), inservice training may not  
117 support or encourage criminal conduct.

118 (7) If any one or more provision, subsection, sentence, clause, phrase, or word of this  
119 section, or the application thereof to any person or circumstance, is found to be  
120 unconstitutional, the balance of this section shall be given effect without the invalid provision,

121 subsection, sentence, clause, phrase, or word.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**