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HEALTH EDUCATION AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to health education.

Highlighted Provisions:

This bill:

▶ requires the State Board of Education to establish curriculum requirements that include instruction in:

- sexual assault resource strategies; and
- sexual violence behavior prevention;
- ▶ amends provisions related to when a student receives health education instruction;
- ▶ requires a local education agency (LEA) to:
 - review data, including data on sexual assault, for each county in which the LEA is located;
 - use the data reviewed to inform the LEA's policies on health education; and
 - as appropriate, incorporate the data into health education;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53G-10-402**, as last amended by Laws of Utah 2020, Chapters 354 and 408

31 **53G-10-403**, as last amended by Laws of Utah 2019, Chapter 293



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

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

35 **53G-10-402. Instruction in health -- Parental consent requirements -- Conduct**
36 **and speech of school employees and volunteers -- Political and religious doctrine**
37 **prohibited.**

38 (1) As used in this section:

39 (a) "LEA governing board" means a local school board or charter school governing
40 board.

41 (b) "Refusal skills" means instruction:

42 (i) in a student's ability to clearly and expressly refuse sexual advances by a minor or
43 adult;

44 (ii) in a student's obligation to stop the student's sexual advances if refused by another
45 individual;

46 (iii) informing a student of the student's right to report and seek counseling for
47 unwanted sexual advances;

48 (iv) in sexual harassment; and

49 (v) informing a student that a student may not consent to criminally prohibited
50 activities or activities for which the student is legally prohibited from giving consent, including
51 the electronic transmission of sexually explicit images by an individual of the individual or
52 another.

53 (c) "Sexual assault resource strategies" means tools for addressing physical and
54 psychological effects of sexual assault.

55 (d) "Sexual violence behavior prevention education" means instruction that:

56 (i) leads to a student understanding:

57 (A) that the student has a right to refuse any kind of physical touch from another
58 individual;

59 (B) how to effectively communicate to others about the student's boundaries; and

60 (C) the student's responsibility to respect other individuals' boundaries;

61 (ii) is free from victim shaming;

62 (iii) provides information about the early signs of:

63 (A) coercion;

64 (B) emotional manipulation; and

65 (C) grooming strategies; and

66 (iv) may include instruction in refusal skills.

67 (2) (a) The state board shall establish curriculum requirements under Section
68 53E-3-501 that include instruction in:

69 (i) community and personal health;

70 (ii) physiology;

71 (iii) personal hygiene;

72 (iv) prevention of communicable disease;

73 (v) refusal skills; [~~and~~]

74 (vi) the harmful effects of pornography[-];

75 (vii) sexual assault resource strategies; and

76 (viii) sexual violence behavior prevention education.

77 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
78 state board shall make rules that, and instruction shall:

79 (i) stress the importance of abstinence from all sexual activity before marriage and
80 fidelity after marriage as methods for preventing certain communicable diseases;

81 (ii) stress personal skills that encourage individual choice of abstinence and fidelity;

82 (iii) prohibit instruction in:

83 (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

84 (B) the advocacy of premarital or extramarital sexual activity; or

85 (C) the advocacy or encouragement of the use of contraceptive methods or devices; and

86 (iv) except as provided in Subsection (2)(d), allow instruction to include information
87 about contraceptive methods or devices that stresses effectiveness, limitations, risks, and
88 information on state law applicable to minors obtaining contraceptive methods or devices.

89 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

90 state board shall make rules for an LEA governing board that adopts instructional materials
91 under Subsection (2)(g)(ii) that:

92 (i) require the LEA governing board to report on the materials selected and the LEA
93 governing board's compliance with Subsection (2)(h); and

94 (ii) provide for an appeal and review process of the LEA governing board's adoption of
95 instructional materials.

96 (d) The state board may not require an LEA to teach or adopt instructional materials
97 that include information on contraceptive methods or devices.

98 (e) (i) At no time may instruction be provided, including responses to spontaneous
99 questions raised by students, regarding any means or methods that facilitate or encourage the
100 violation of any state or federal criminal law by a minor or an adult.

101 (ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a
102 spontaneous question as long as the response is consistent with the provisions of this section.

103 (f) The state board shall recommend instructional materials for use in the curricula
104 required under Subsection (2)(a) after considering evaluations of instructional materials by the
105 State Instructional Materials Commission.

106 (g) An LEA governing board may choose to adopt:

107 (i) the instructional materials recommended under Subsection (2)(f); or

108 (ii) other instructional materials in accordance with Subsection (2)(h).

109 (h) An LEA governing board that adopts instructional materials under Subsection
110 (2)(g)(ii) shall:

111 (i) ensure that the materials comply with state law and board rules;

112 (ii) base the adoption of the materials on the recommendations of the LEA governing
113 board's Curriculum Materials Review Committee; and

114 (iii) adopt the instructional materials in an open and regular meeting of the LEA
115 governing board for which prior notice is given to parents of students attending the respective
116 schools and an opportunity for parents to express their views and opinions on the materials at
117 the meeting.

118 (3) (a) A student shall receive age-appropriate instruction in the courses described in
119 Subsection (2) on at least two occasions during the period that begins with the beginning of
120 grade [8] 7 and ends with the end of grade 12.

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

123 (4) (a) The state board shall adopt rules that:

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

126 (ii) require a student's parent to be notified in advance and have an opportunity to
127 review the information for which parental consent is required under Sections 76-7-322 and
128 76-7-323.

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

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

135 (b) To ensure the effective performance of school personnel, the limitations described
136 in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school
137 employee's or volunteer's official capacities if:

138 (i) the employee or volunteer knew or should have known that the employee's or
139 volunteer's action could result in a material and substantial interference or disruption in the
140 normal activities of the school; and

141 (ii) that action does result in a material and substantial interference or disruption in the
142 normal activities of the school.

143 (c) The state board or an LEA governing board may not allow training of school
144 employees or volunteers that supports or encourages criminal conduct.

145 (d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah
146 Administrative Rulemaking Act, rules implementing this section.

147 (e) Nothing in this section limits the ability or authority of the state board or an LEA
148 governing board to enact and enforce rules or take actions that are otherwise lawful, regarding
149 educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

150 (6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious,
151 or denominational doctrine may not be taught in the public schools.

152 (7) (a) An LEA governing board and an LEA governing board's employees shall
153 cooperate and share responsibility in carrying out the purposes of this chapter.

154 (b) An LEA governing board shall provide appropriate professional development for
155 the LEA governing board's teachers, counselors, and school administrators to enable them to
156 understand, protect, and properly instruct students in the values and character traits referred to
157 in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204,
158 and 53G-10-205, and distribute appropriate written materials on the values, character traits, and
159 conduct to each individual receiving the professional development.

160 (c) An LEA governing board shall make the written materials described in Subsection
161 (7)(b) available to classified employees, students, and parents of students.

162 (d) In order to assist an LEA governing board in providing the professional
163 development required under Subsection (7)(b), the state board shall, as appropriate, contract
164 with a qualified individual or entity possessing expertise in the areas referred to in Subsection
165 (7)(b) to develop and disseminate model teacher professional development programs that an
166 LEA governing board may use to train the individuals referred to in Subsection (7)(b) to
167 effectively teach the values and qualities of character referenced in Subsection (7).

168 (e) In accordance with the provisions of Subsection (5)(c), professional development
169 may not support or encourage criminal conduct.

170 (8) (a) An LEA governing board shall review every two years:

171 [~~(a)~~] (i) LEA governing board policies on instruction described in this section;
172 [~~(b)~~] (ii) for a local school board, data for each county that the school district is located
173 in, or, for a charter school governing board, data for the county in which the charter school is
174 located, on the following:

175 [~~(i)~~] (A) teen pregnancy;
176 [~~(ii)~~] (B) child sexual abuse; [~~and~~]
177 [~~(iii)~~] (C) sexually transmitted diseases and sexually transmitted infections; and
178 (D) sexual assault; and

179 [~~(e)~~] (iii) the number of pornography complaints or other instances reported within the
180 jurisdiction of the LEA governing board.

181 (b) An LEA governing board shall:

182 (i) use the data reviewed under Subsection (8)(a)(ii) to inform the policies described in

183 Subsection (8)(a)(i); and

184 (ii) incorporate the data reviewed under Subsection (8)(a)(ii) into the instruction
185 described in this section as the LEA governing board determines is appropriate.

186 (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this
187 section, or the application thereof to any person or circumstance, is found to be
188 unconstitutional, the balance of this section shall be given effect without the invalid provision,
189 subsection, sentence, clause, phrase, or word.

190 Section 2. Section **53G-10-403** is amended to read:

191 **53G-10-403. Required parental consent for sex education instruction.**

192 (1) As used in this section:

193 (a) (i) "Sex education instruction" means any course material, unit, class, lesson,
194 activity, or presentation that, as the focus of the discussion, provides instruction or information
195 to a student about:

196 (A) sexual abstinence;

197 (B) human sexuality;

198 (C) human reproduction;

199 (D) reproductive anatomy;

200 (E) physiology;

201 (F) pregnancy;

202 (G) marriage;

203 (H) childbirth;

204 (I) parenthood;

205 (J) contraception;

206 (K) HIV/AIDS;

207 (L) sexually transmitted diseases; or

208 (M) refusal skills, sexual assault resource strategies, and sexual violence behavior
209 prevention education, as those terms are defined in Section [53G-10-402](#).

210 (ii) "Sex education instruction" does not include child sexual abuse prevention
211 instruction described in Section [53G-9-207](#).

212 (b) "School" means the same as that term is defined in Section [53G-10-205](#).

213 (2) A school shall obtain prior written consent from a student's parent before the school

214 may provide sex education instruction to the student.

215 (3) If a student's parent chooses not to have the student participate in sex education
216 instruction, a school shall:

217 (a) waive the requirement for the student to participate in the sex education instruction;

218 or

219 (b) provide the student with a reasonable alternative to the sex education instruction
220 requirement.

221 (4) In cooperation with the student's teacher or school, a parent shall take responsibility
222 for the parent's student's sex education instruction if a school:

223 (a) waives the student's sex education instruction requirement in Subsection (3)(a); or

224 (b) provides the student with a reasonable alternative to the sex education instruction
225 requirement described in Subsection (3)(b).

226 (5) A student's academic or citizenship performance may not be penalized if the
227 student's parent chooses not to have the student participate in sex education instruction as
228 described in Subsection (3).