

HEALTH EDUCATION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol S. Moss

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to health education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Education to establish curriculum requirements that include instruction in:
 - sexual assault resource strategies;
 - sexual violence behavior prevention; and
 - the legal implications of electronically distributing sexually explicit images;
- ▶ 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 reviewed data to inform the LEA's policies on health education; and
 - as appropriate, incorporate the data into health education; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53G-10-402**, as last amended by Laws of Utah 2020, Chapters 354, 408

32 **53G-10-403**, as last amended by Laws of Utah 2019, Chapter 293



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

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

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

39 (1) As used in this section:

40 (a) "Emotional manipulation" means seeking power over an individual through
41 dishonest or exploitative strategies using emotion to influence behavior or ideas.

42 (b) "Grooming" means a pattern of behavior in which an individual engages using
43 authority or influence, based on age or other factors, to normalize unwanted sexual advances or
44 contact.

45 ~~(a)~~ (c) "LEA governing board" means a local school board or charter school
46 governing board.

47 ~~(b)~~ (d) "Refusal skills" means instruction:

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

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

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

54 (iv) in sexual harassment; and

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

- 59 (e) "Sexual assault resource strategies" means tools for addressing physical and
60 psychological effects of sexual assault.
- 61 (f) (i) "Sexual coercion" means:
- 62 (A) the use of unreasonable pressure in an effort to compel an individual to initiate or
63 continue sexual activity against the individual's will; or
- 64 (B) words or conduct that wrongfully impair another individual's freedom of will and
65 ability to choose to refuse to engage in sexual activity.
- 66 (ii) "Sexual coercion" includes, for the purpose of encouraging an individual to engage
67 in sexual activity:
- 68 (A) intimidation, manipulation, or blackmail;
- 69 (B) threats of emotional or physical harm;
- 70 (C) threatening to disclose the individual's private sexual information; and
- 71 (D) threats of self-harm.
- 72 (g) "Sexual violence behavior prevention education" means instruction that:
- 73 (i) leads to a student understanding:
- 74 (A) that the student has a right to refuse any kind of physical touch from another
75 individual;
- 76 (B) how to effectively communicate to others about the student's boundaries; and
- 77 (C) the student's responsibility to respect other individuals' boundaries;
- 78 (ii) is free from victim shaming;
- 79 (iii) provides information about the early signs of:
- 80 (A) sexual coercion;
- 81 (B) emotional manipulation; and
- 82 (C) grooming strategies; and
- 83 (iv) may include instruction in refusal skills.
- 84 (2) (a) The state board shall establish curriculum requirements under Section
85 [53E-3-501](#) that include instruction in:
- 86 (i) community and personal health;
- 87 (ii) physiology;
- 88 (iii) personal hygiene;
- 89 (iv) prevention of communicable disease;

- 90 (v) refusal skills; [~~and~~]
- 91 (vi) the harmful effects of pornography[-];
- 92 (vii) the legal implications of electronically distributing sexually explicit images of the
- 93 individual who is distributing the images or of another individual;
- 94 (viii) sexual assault resource strategies; and
- 95 (ix) sexual violence behavior prevention education.

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

- 98 (i) stress the importance of abstinence from all sexual activity before marriage and
- 99 fidelity after marriage as methods for preventing certain communicable diseases;
- 100 (ii) stress personal skills that encourage individual choice of abstinence and fidelity;
- 101 (iii) prohibit instruction in:
 - 102 (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;
 - 103 (B) the advocacy of premarital or extramarital sexual activity; or
 - 104 (C) the advocacy or encouragement of the use of contraceptive methods or devices; and
- 105 (iv) except as provided in Subsection (2)(d), allow instruction to include information
- 106 about contraceptive methods or devices that stresses effectiveness, limitations, risks, and
- 107 information on state law applicable to minors obtaining contraceptive methods or devices.

108 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
109 state board shall make rules for an LEA governing board that adopts instructional materials
110 under Subsection (2)(g)(ii) that:

- 111 (i) require the LEA governing board to report on the materials selected and the LEA
- 112 governing board's compliance with Subsection (2)(h); and
- 113 (ii) provide for an appeal and review process of the LEA governing board's adoption of
- 114 instructional materials.
- 115 (d) The state board may not require an LEA to teach or adopt instructional materials
- 116 that include information on contraceptive methods or devices.

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

120 (ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a

121 spontaneous question as long as the response is consistent with the provisions of this section.

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

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

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

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

128 (h) An LEA governing board that adopts instructional materials under Subsection

129 (2)(g)(ii) shall:

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

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

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

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

140 (b) At the request of the state board, the Department of Health and Human Services
141 shall cooperate with the state board in developing programs to provide instruction in those
142 areas.

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

144 (i) provide that the parental consent requirements of Sections [76-7-322](#) and [76-7-323](#)
145 are complied with; and

146 (ii) require a student's parent to be notified in advance and have an opportunity to
147 review the information for which parental consent is required under Sections [76-7-322](#) and
148 [76-7-323](#).

149 (b) The state board shall also provide procedures for disciplinary action for violation of
150 Section [76-7-322](#) or [76-7-323](#).

151 (5) (a) In keeping with the requirements of Section [53G-10-204](#), and because school

152 employees and volunteers serve as examples to their students, school employees or volunteers
153 acting in their official capacities may not support or encourage criminal conduct by students,
154 teachers, or volunteers.

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

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

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

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

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

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

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

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

174 (b) An LEA governing board shall provide appropriate professional development for
175 the LEA governing board's teachers, counselors, and school administrators to enable them to
176 understand, protect, and properly instruct students in the values and character traits referred to
177 in this section and Sections [53E-9-202](#), [53E-9-203](#), [53G-10-202](#), [53G-10-203](#), [53G-10-204](#),
178 and [53G-10-205](#), and distribute appropriate written materials on the values, character traits, and
179 conduct to each individual receiving the professional development.

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

182 (d) In order to assist an LEA governing board in providing the professional

183 development required under Subsection (7)(b), the state board shall, as appropriate, contract
 184 with a qualified individual or entity possessing expertise in the areas referred to in Subsection
 185 (7)(b) to develop and disseminate model teacher professional development programs that an
 186 LEA governing board may use to train the individuals referred to in Subsection (7)(b) to
 187 effectively teach the values and qualities of character referenced in this Subsection (7).

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

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

191 ~~[(a)]~~ (i) LEA governing board policies on instruction described in this section;

192 ~~[(b)]~~ (ii) for a local school board, data for each county that the school district is located
 193 in, or, for a charter school governing board, data for the county in which the charter school is
 194 located, on the following:

195 ~~[(i)]~~ (A) teen pregnancy;

196 ~~[(ii)]~~ (B) child sexual abuse; and

197 ~~[(iii)]~~ (C) sexually transmitted diseases and sexually transmitted infections; and

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

200 (b) An LEA governing board shall:

201 (i) use the data reviewed under Subsection (8)(a)(ii) to inform the policies described in
 202 Subsection (8)(a)(i); and

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

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

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

210 **53G-10-403. Required parental consent for sex education instruction.**

211 (1) As used in this section:

212 (a) (i) "Sex education instruction" means any course material, unit, class, lesson,
 213 activity, or presentation that, as the focus of the discussion, provides instruction or information

214 to a student about:

215 (A) sexual abstinence;

216 (B) human sexuality;

217 (C) human reproduction;

218 (D) reproductive anatomy;

219 (E) physiology;

220 (F) pregnancy;

221 (G) marriage;

222 (H) childbirth;

223 (I) parenthood;

224 (J) contraception;

225 (K) HIV/AIDS;

226 (L) sexually transmitted diseases; [or]

227 (M) refusal skills, sexual assault resource strategies, and sexual violence behavior

228 prevention education, as those terms are defined in Section 53G-10-402; or

229 (N) the electronic transmission of sexually explicit images of the individual

230 distributing the images or another individual.

231 (ii) "Sex education instruction" does not include child sexual abuse prevention

232 instruction described in Section 53G-9-207.

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

234 (2) A school shall obtain prior written consent from a student's parent before the school
235 may provide sex education instruction to the student.

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

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

239 or

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

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

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

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

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