

1 **HEALTH EDUCATION AMENDMENTS**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen H. Urquhart**

5 House Sponsor: \_\_\_\_\_

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7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to health courses taught in public schools.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ directs the State Board of Education to:

13 • establish curriculum requirements that include instruction in human  
14 development, healthy relationships, and reproductive health, including a general  
15 discussion of contraception with its benefits and limitations; and

16 • select instructional materials for use in a general discussion of contraception  
17 with its benefits and limitations;

18 ▶ imposes restrictions relating to health instruction;

19 ▶ requires that instructional materials for health instruction provide opportunities for  
20 interaction between a student and the student's parent or guardian; and

21 ▶ makes technical amendments.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 53A-13-101, as last amended by Laws of Utah 2004, Chapter 196

29 53A-13-101.1, as enacted by Laws of Utah 1993, Chapter 95

30 ENACTS:

31 53A-13-109.5, Utah Code Annotated 1953

32 53A-13-111, Utah Code Annotated 1953



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

35 Section 1. Section 53A-13-101 is amended to read:

36 **53A-13-101. Instruction in health -- Parental consent requirements.**

37 (1) ~~[(a)]~~ The State Board of Education shall establish curriculum requirements under  
38 Section 53A-1-402, that include instruction in:

39 ~~[(i)]~~ (a) community and personal health;

40 ~~[(ii)]~~ (b) physiology;

41 ~~[(iii)]~~ (c) personal hygiene; ~~[and]~~

42 ~~[(iv)]~~ (d) prevention of communicable disease~~[-];~~ and

43 ~~[(b) (i) That instruction shall stress:]~~

44 (e) human development, healthy relationships, and reproductive health, including a  
45 general discussion of contraception with its benefits and limitations.

46 (2) Instruction provided under Subsection (1) shall stress:

47 (a) that parents and legal guardians have the primary responsibility for instructing  
48 children about the items described in Subsection (1);

49 ~~[(A)]~~ (b) the importance of abstinence from all sexual activity before marriage and  
50 fidelity after marriage as methods for preventing certain communicable diseases; and

51 ~~[(B)]~~ (c) personal skills that encourage individual choice of abstinence and fidelity.

52 (3) Instruction provided under Subsection (1) may not include:

53 (a) instruction in the intricacies of intercourse, sexual stimulation, or erotic behavior;

54 (b) the advocacy of homosexuality;

55 (c) the distribution of contraceptive devices;

56 (d) explicit demonstrations of contraceptive devices; or

57 (e) the advocacy of sexual activity outside of marriage.

58 ~~[(ii)-(A)]~~ (4) (a) At no time may instruction be provided, including responses to

59 spontaneous questions raised by students, regarding any means or methods that facilitate or  
60 encourage the violation of any state or federal criminal law by a minor or an adult.

61 ~~[(B)] (b)~~ Subsection ~~[(1)(b)(ii)(A)] (4)(a)~~ does not preclude an instructor from  
62 responding to a spontaneous question as long as the response is consistent with the provisions  
63 of this section.

64 ~~[(c)(i) The board]~~ (5) Except as provided in Subsection (8), the State Board of  
65 Education shall recommend instructional materials for use in the curricula required under  
66 Subsection (1)~~[(a)]~~ after considering evaluations of instructional materials by the State  
67 Instructional Materials Commission.

68 ~~[(ii) A]~~ (6) Except as provided in Subsection (9), a local school board or charter  
69 school governing board may choose to adopt:

70 ~~[(A)] (a)~~ the instructional materials recommended under Subsection ~~[(1)(c)(i)] (5)~~; or

71 ~~[(B)] (b)~~ other instructional materials as provided in state board rule.

72 ~~[(iii)] (7)~~ The state board rule made under Subsection ~~[(1)(c)(ii)(B)] (6)(b)~~ shall  
73 include, at a minimum:

74 ~~[(A)] (a)~~ that the materials adopted by a local school board or charter school governing  
75 board under Subsection ~~[(1)(c)(ii)(B)] (6)(b)~~ shall be based upon recommendations of the  
76 school district's or charter school's Curriculum Materials Review Committee ~~[that comply with~~  
77 ~~state law and state board rules emphasizing abstinence before marriage and fidelity after~~  
78 ~~marriage, and prohibiting instruction in:]~~;

79 ~~[(I) the intricacies of intercourse, sexual stimulation, or erotic behavior;]~~

80 ~~[(H) the advocacy of homosexuality;]~~

81 ~~[(III) the advocacy or encouragement of the use of contraceptive methods or devices;~~

82 or]

83 ~~[(IV) the advocacy of sexual activity outside of marriage;]~~

84 ~~[(B)] (b)~~ that the adoption of instructional materials shall take place in an open and  
85 public regular meeting of the local school board ~~[for which prior notice is given to]~~ or charter  
86 school governing board;

87 (c) that parents and guardians of students attending schools in the school district [and]  
88 or the charter school shall:

89 (i) receive prior notice of the meeting at which the local school board or charter school

90 governing board adopts instructional materials; and

91 (ii) have an opportunity [for them] to express their views and opinions on the materials  
92 at the meeting;

93 ~~[(C)]~~ (d) a provision for an appeal and review [process] of the local school board's or  
94 charter school governing board's decision; and

95 ~~[(D)]~~ (e) a provision for a report by the local school board or charter school governing  
96 board to the State Board of Education of the action taken and the materials adopted by the local  
97 school board or charter school governing board under Subsections [(1)(c)(ii)(B) and (1)(c)(iii)]  
98 (6)(b) and (7).

99 (8) The State Board of Education shall select instructional materials for use in a general  
100 discussion of contraception with its benefits and limitations after considering:

101 (a) evaluations of instructional materials by the State Instructional Materials

102 Commission; and

103 (b) public comment.

104 (9) School districts and charter schools shall use only materials selected pursuant to  
105 Subsection (8) when providing instruction relating to contraception.

106 (10) Instructional materials recommended by the State Board of Education under  
107 Subsection (5), instructional materials adopted by a local school board or charter school  
108 governing board under Subsections (6)(b) and (7), and instructional materials selected by the  
109 State Board of Education under Subsection (8) shall:

110 (a) provide opportunities for interaction between a student and the student's parent or  
111 legal guardian; and

112 (b) comply with Subsections (2) and (3).

113 ~~[(2)]~~ (11) (a) Instruction in the courses described in Subsection (1) shall be [consistent  
114 and systematic] medically accurate and appropriate in grades [eight] seven through 12.

115 (b) At the request of the [board] State Board of Education, the Department of Health  
116 shall cooperate with the board in developing programs to provide instruction in those areas.

117 ~~[(3)]~~ (12) (a) The [board] State Board of Education shall adopt rules that:

118 (i) provide [that] for compliance with the parental consent requirements of Sections  
119 76-7-322 and 76-7-323 [are complied with]; and

120 (ii) require a student's parent or legal guardian to be notified in advance and have an

121 opportunity to review the information for which parental consent is required under Sections  
122 76-7-322 and 76-7-323.

123 (b) The ~~[board]~~ State Board of Education shall ~~[also]~~ provide procedures for  
124 disciplinary action for violation of Section 76-7-322 or 76-7-323.

125 ~~[(4)(a) In keeping with the requirements of Section 53A-13-109, and because school  
126 employees and volunteers serve as examples to their students, school employees or volunteers  
127 acting in their official capacities may not support or encourage criminal conduct by students,  
128 teachers, or volunteers.]~~

129 ~~[(b) To ensure the effective performance of school personnel, the limitations described  
130 in Subsection (4)(a) also apply to school employees or volunteers acting outside of their official  
131 capacities if:]~~

132 ~~[(i) they knew or should have known that their action could result in a material and  
133 substantial interference or disruption in the normal activities of the school; and]~~

134 ~~[(ii) that action does result in a material and substantial interference or disruption in the  
135 normal activities of the school.]~~

136 ~~[(c) Neither the State Office of Education nor local school districts may provide  
137 training of school employees or volunteers that supports or encourages criminal conduct.]~~

138 ~~[(d) The State Board of Education shall adopt rules implementing this section.]~~

139 ~~[(e) Nothing in this section limits the ability or authority of the State Board of  
140 Education and local school boards to enact and enforce rules or take actions that are otherwise  
141 lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing  
142 unfitness for duty.]~~

143 ~~[(5) Except as provided in Section 53A-13-101.1, political, atheistic, sectarian,  
144 religious, or denominational doctrine may not be taught in the public schools:]~~

145 ~~[(6)(a) Local school boards and their employees shall cooperate and share  
146 responsibility in carrying out the purposes of this chapter.]~~

147 ~~[(b) Each school district shall provide appropriate inservice training for its teachers,  
148 counselors, and school administrators to enable them to understand, protect, and properly  
149 instruct students in the values and character traits referred to in this section and Sections  
150 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and 53A-13-302 and  
151 distribute appropriate written materials on the values, character traits, and conduct to each~~

152 individual receiving the inservice training.]

153 ~~[(e) The written materials shall also be made available to classified employees,~~  
154 ~~students, and parents and guardians of students.]~~

155 ~~[(d) In order to assist school districts in providing the inservice training required under~~  
156 ~~Subsection (6)(b), the State Board of Education shall as appropriate, contract with a qualified~~  
157 ~~individual or entity possessing expertise in the areas referred to in Subsection (6)(b) to develop~~  
158 ~~and disseminate model teacher inservice programs which districts may use to train the~~  
159 ~~individuals referred to in Subsection (6)(b) to effectively teach the values and qualities of~~  
160 ~~character referenced in that subsection.]~~

161 ~~[(e) In accordance with the provisions of Subsection (4)(c), inservice training may not~~  
162 ~~support or encourage criminal conduct.]~~

163 ~~[(7) If any one or more provision, subsection, sentence, clause, phrase, or word of this~~  
164 ~~section, or the application thereof to any person or circumstance, is found to be~~  
165 ~~unconstitutional, the balance of this section shall be given effect without the invalid provision,~~  
166 ~~subsection, sentence, clause, phrase, or word.]~~

167 Section 2. Section **53A-13-101.1** is amended to read:

168 **53A-13-101.1. Political and religious doctrine prohibited -- Maintaining**  
169 **constitutional freedom in the public schools.**

170 (1) Except as provided in this section, political, atheistic, sectarian, religious, or  
171 denominational doctrine may not be taught in public schools.

172 ~~[(+)]~~ (2) Any instructional activity, performance, or display which includes  
173 examination of or presentations about religion, political or religious thought or expression, or  
174 the influence [thereof] of religion or political or religious thought or expression on music, art,  
175 literature, law, politics, history, or any other element of the curriculum, including the  
176 comparative study of religions, [which] may be undertaken in public schools, if the  
177 instructional activity, performance, or display is:

178 (a) designed to achieve secular educational objectives included within the context of a  
179 course or activity; and

180 (b) conducted in accordance with applicable rules of the [state and local boards of  
181 education, may be undertaken in the public schools] State Board of Education and policies of  
182 the local school board or charter school governing board.

183           ~~[(2)]~~ (3) No aspect of cultural heritage, political theory, moral theory, or societal value  
184 shall be included within or excluded from public school curricula for the primary reason that it  
185 affirms, ignores, or denies religious belief, religious doctrine, a religious sect, or the existence  
186 of a spiritual realm or supreme being.

187           ~~[(3)]~~ (4) Public schools may not sponsor prayer or religious devotionals.

188           ~~[(4)]~~ (5) School officials and employees may not use their positions to endorse,  
189 promote, or disparage a particular religious, denominational, sectarian, agnostic, or atheistic  
190 belief or viewpoint.

191           Section 3. Section **53A-13-109.5** is enacted to read:

192           **53A-13-109.5. Conduct and speech of school employees and volunteers.**

193           (1) In keeping with the requirements of Section 53A-13-109, and because school  
194 employees and volunteers serve as examples to their students, school employees or volunteers  
195 acting in their official capacities may not support or encourage criminal conduct by students,  
196 teachers, or volunteers.

197           (2) To ensure the effective performance of school personnel, the limitations described  
198 in Subsection (1) also apply to school employees or volunteers acting outside of their official  
199 capacities if:

200           (a) they know or should have known that their action could result in a material and  
201 substantial interference or disruption in the normal activities of the school; and

202           (b) that action results in a material and substantial interference or disruption in the  
203 normal activities of the school.

204           (3) Neither the State Office of Education nor a school district or charter school may  
205 provide training of school employees or volunteers that supports or encourages criminal  
206 conduct.

207           (4) The State Board of Education shall adopt rules implementing this section.

208           (5) Nothing in this section limits the ability or authority of the State Board of  
209 Education, a local school board, or charter school governing board to enact and enforce rules or  
210 policies or take actions that are otherwise lawful regarding educators', employees', or  
211 volunteers' qualifications or behavior evidencing unfitness for duty.

212           (6) If a provision, subsection, sentence, clause, phrase, or word of this section, or the  
213 application of it to any person or circumstance, is found to be unconstitutional, the balance of

214 this section shall be given effect without the invalid provision, subsection, sentence, clause,  
215 phrase, or word.

216 Section 4. Section **53A-13-111** is enacted to read:

217 **53A-13-111. Inservice training in values and character traits.**

218 (1) A school district or charter school shall provide appropriate inservice training for  
219 its teachers, counselors, and school administrators to enable them to understand, protect, and  
220 properly instruct students in the values and character traits referred to in Sections  
221 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and 53A-13-302 and  
222 distribute appropriate written materials on the values, character traits, and conduct to each  
223 individual receiving the inservice training.

224 (2) The written materials shall also be made available to classified employees, students,  
225 and parents and guardians of students.

226 (3) In order to assist school districts and charter schools in providing the inservice  
227 training required under Subsection (1), the State Board of Education shall as appropriate,  
228 contract with a qualified individual or entity possessing expertise in the areas referred to in  
229 Subsection (1) to develop and disseminate model teacher inservice programs which districts  
230 may use to train the individuals referred to in Subsection (1) to effectively teach the values and  
231 qualities of character referenced in Subsection (1).

232 (4) In accordance with the provisions of Section 53A-13-109.5, inservice training may  
233 not support or encourage criminal conduct.

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**Legislative Review Note**  
**as of 1-27-10 12:15 PM**

**Office of Legislative Research and General Counsel**