

**HEALTHY LIFESTYLES AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kathleen A. Riebe**

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

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**LONG TITLE**

**General Description:**

This bill amends provisions related to instruction in health.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
- ▶ repeals a provision prohibiting the encouragement of the use of contraceptive methods or devices;
- ▶ requires a local education agency to report to the State Board of Education on the percentage of students who receive written parental consent to participate in sex education instruction; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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



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

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

30 **53G-10-402. Instruction in health -- Parental consent requirements -- Conduct**  
31 **and speech of school employees and volunteers -- Political and religious doctrine**  
32 **prohibited.**

33 (1) As used in this section:

34 (a) "LEA governing board" means a local school board or charter school governing  
35 board.

36 (b) "Refusal skills" means instruction:

37 (i) in a student's ability to clearly and expressly refuse sexual advances by a minor or  
38 adult at any time, regardless of whether the student has previously expressed acceptance of a  
39 sexual advance by the minor or adult;

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

42 (iii) informing a student of the student's right to report and seek counseling for  
43 unwanted sexual advances at any time, regardless of whether the other individual has  
44 previously expressed acceptance of the student's sexual advances;

45 (iv) in sexual harassment; and

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

50 (2) (a) The state board shall establish curriculum requirements under Section  
51 **53E-3-501** that include instruction in:

52 (i) community and personal health;

53 (ii) physiology;

54 (iii) personal hygiene;

55 (iv) prevention of [~~communicable~~] infectious disease;

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

57 (vi) the harmful effects of pornography[~~]; and~~

58 (vii) healthy relationships, including recognizing sexual assault.

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

61 (i) stress the importance of abstinence from all sexual activity [~~before marriage and~~  
62 ~~fidelity after marriage as methods~~] as a method for preventing certain [~~communicable~~]  
63 infectious diseases;

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

65 (iii) prohibit instruction in:

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

67 (B) the advocacy of premarital or extramarital sexual activity; [~~or~~] and

68 [~~(C) the advocacy or encouragement of the use of contraceptive methods or devices;~~  
69 and]

70 (iv) [~~except as provided in Subsection (2)(d);~~] allow instruction to include information  
71 about contraceptive methods or devices that stresses effectiveness, limitations, risks, and  
72 information on state law applicable to minors obtaining contraceptive methods or devices.

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

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

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

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

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

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

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

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

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

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

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

94 (2)(g)(ii) shall:

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

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

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

102 (3) (a) A student shall receive instruction in the courses described in Subsection (2) on  
103 at least two occasions during the period that begins with the beginning of grade 8 and the end  
104 of grade 12.

105 (b) At the request of the state board, the Department of Health shall cooperate with the  
106 state board in developing programs to provide [~~instruction in those areas~~] the instruction  
107 described in Subsection (3)(a).

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

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

111 (ii) require a student's parent to be notified in advance and have an opportunity to  
112 review the information for which parental consent is required under Sections 76-7-322 and  
113 76-7-323.

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

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

120 (b) To ensure the effective performance of school personnel, the limitations described

121 in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school  
122 employee's or volunteer's official capacities if:

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

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

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

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

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

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

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

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

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

147 (d) In order to assist an LEA governing board in providing the professional  
148 development required under Subsection (7)(b), the state board shall, as appropriate, contract  
149 with a qualified individual or entity possessing expertise in the areas referred to in Subsection  
150 (7)(b) to develop and disseminate model teacher professional development programs that an  
151 LEA governing board may use to train the individuals referred to in Subsection (7)(b) to

152 effectively teach the values and qualities of character referenced in Subsection (7).

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

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

156 (a) LEA governing board policies on instruction described in this section;

157 (b) for a local school board, data for each county that the school district is located in,  
158 or, for a charter school governing board, data for the county in which the charter school is  
159 located, on the following:

160 (i) teen pregnancy;

161 (ii) child sexual abuse; and

162 (iii) sexually transmitted diseases and sexually transmitted infections; and

163 (c) the number of pornography complaints or other instances reported within the  
164 jurisdiction of the LEA governing board.

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

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

170 **53G-10-403. Required parental consent for sex education instruction.**

171 (1) As used in this section:

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

175 (A) sexual abstinence;

176 (B) human sexuality;

177 (C) human reproduction;

178 (D) reproductive anatomy;

179 (E) physiology;

180 (F) pregnancy;

181 (G) marriage;

182 (H) childbirth;

- 183 (I) parenthood;
- 184 (J) contraception;
- 185 (K) HIV/AIDS;
- 186 (L) sexually transmitted diseases; [~~or~~]
- 187 (M) refusal skills, as defined in Section 53G-10-402[-]; or
- 188 (N) healthy relationships.
- 189 (ii) "Sex education instruction" does not include child sexual abuse prevention
- 190 instruction described in Section 53G-9-207.
- 191 (b) "School" means the same as that term is defined in Section 53G-10-205.
- 192 (2) A school shall obtain prior written consent from a student's parent before the school
- 193 may provide sex education instruction to the student.
- 194 (3) If a student's parent chooses not to have the student participate in sex education
- 195 instruction, a school shall:
- 196 (a) waive the requirement for the student to participate in the sex education instruction;
- 197 or
- 198 (b) provide the student with a reasonable alternative to the sex education instruction
- 199 requirement.
- 200 (4) In cooperation with the student's teacher or school, a parent shall take responsibility
- 201 for the parent's student's sex education instruction if a school:
- 202 (a) waives the student's sex education instruction requirement in Subsection (3)(a); or
- 203 (b) provides the student with a reasonable alternative to the sex education instruction
- 204 requirement described in Subsection (3)(b).
- 205 (5) A student's academic or citizenship performance may not be penalized if the
- 206 student's parent chooses not to have the student participate in sex education instruction as
- 207 described in Subsection (3).
- 208 (6) An LEA shall annually report to the state board, for each grade in which the LEA
- 209 provides sex education instruction, the percentage of students in the grade that provide the
- 210 written consent described in Subsection (2).