

**REPRODUCTIVE HEALTH EDUCATION
AMENDMENTS**

2010 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Lynn N. Hemingway

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

▸ directs the State Board of Education to:

- establish curriculum requirements that include instruction in human development, healthy relationships, and reproductive health, including a general discussion of contraception with its benefits and limitations; and
- select instructional materials for use in a general discussion of contraception with its benefits and limitations;

▸ imposes restrictions relating to health instruction;

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

▸ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 53A-13-101, as last amended by Laws of Utah 2004, Chapter 196

30 53A-13-101.1, as enacted by Laws of Utah 1993, Chapter 95

31 ENACTS:

32 53A-13-109.5, Utah Code Annotated 1953

33 53A-13-111, Utah Code Annotated 1953



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

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

37 **53A-13-101. Instruction in health -- Parental consent requirements.**

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (b) the advocacy of homosexuality;

56 (c) the distribution of contraceptive devices;

57 (d) explicit demonstrations of contraceptive devices; or

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

59 ~~[(ii)(A)]~~ (4) (a) At no time may instruction be provided, including responses to
60 spontaneous questions raised by students, regarding any means or methods that facilitate or
61 encourage the violation of any state or federal criminal law by a minor or an adult.

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

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

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

71 ~~[(A)]~~ (a) the instructional materials recommended under Subsection ~~[(1)(c)(i)]~~ (5); or
72 ~~[(B)]~~ (b) other instructional materials as provided in state board rule.

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

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

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

81 ~~[(II) the advocacy of homosexuality;]~~

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

83 ~~or]~~

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

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

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

90 (i) receive prior notice of the meeting at which the local school board or charter school
91 governing board adopts instructional materials; and

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

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

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

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

102 (a) evaluations of instructional materials by the State Instructional Materials
103 Commission; and

104 (b) public comment.

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

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

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

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

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

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

118 [~~3~~] (12) (a) The [board] State Board of Education shall adopt rules that:

119 (i) provide [~~that~~] for compliance with the parental consent requirements of Sections
120 76-7-322 and 76-7-323 [~~are complied with~~]; and

121 (ii) require a student's parent or legal guardian to be notified in advance and have an
122 opportunity to review the information for which parental consent is required under Sections
123 76-7-322 and 76-7-323.

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

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

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

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

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

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

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

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

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

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

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

152 ~~distribute appropriate written materials on the values, character traits, and conduct to each~~
153 ~~individual receiving the inservice training.]~~

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

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

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

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

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

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

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

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

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

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

183 the local school board or charter school governing board.

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

188 [~~3~~] (4) Public schools may not sponsor prayer or religious devotionals.

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

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

193 **53A-13-109.5. Conduct and speech of school employees and volunteers.**

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

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

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

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

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

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

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

213 (6) If a provision, subsection, sentence, clause, phrase, or word of this section, or the

214 application of it to any person or circumstance, is found to be unconstitutional, the balance of
215 this section shall be given effect without the invalid provision, subsection, sentence, clause,
216 phrase, or word.

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

218 **53A-13-111. Inservice training in values and character traits.**

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

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

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

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

Legislative Review Note
as of 1-28-10 12:18 PM

Office of Legislative Research and General Counsel