

**PUBLIC EDUCATION CURRICULUM REQUIREMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to certain public education curriculum and instructional materials.

**Highlighted Provisions:**

This bill:

- ▶ requires the State Board of Education to report on certain curriculum, instructional, and training materials to the Education Interim Committee;
- ▶ amends parent or guardian consent requirements for a student to receive child sexual abuse prevention instruction; and
- ▶ makes technical and conforming corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53A-13-101**, as last amended by Laws of Utah 2016, Chapter 144

**53A-13-101.2**, as last amended by Laws of Utah 2015, Chapter 91

**53A-13-112**, as enacted by Laws of Utah 2014, Chapter 342

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

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

30 **53A-13-101. Instruction in health -- Parental consent requirements -- Conduct**  
31 **and speech of school employees and volunteers -- Political and religious doctrine**  
32 **prohibited.**

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

- 35 (i) community and personal health;  
36 (ii) physiology;  
37 (iii) personal hygiene; and  
38 (iv) prevention of communicable disease.

39 (b) (i) That instruction shall stress:

40 (A) the importance of abstinence from all sexual activity before marriage and fidelity  
41 after marriage as methods for preventing certain communicable diseases; and

42 (B) personal skills that encourage individual choice of abstinence and fidelity.

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

46 (B) Subsection (1)(b)(ii)(A) does not preclude an instructor from responding to a  
47 spontaneous question as long as the response is consistent with the provisions of this section.

48 (c) (i) The ~~[board]~~ State Board of Education shall recommend instructional materials  
49 for use in the curricula required under Subsection (1)(a) after considering evaluations of  
50 instructional materials by the State Instructional Materials Commission.

51 (ii) A local school board or charter school governing board may choose to adopt:

52 (A) the instructional materials recommended under Subsection (1)(c)(i); or

53 (B) other instructional materials as provided in ~~[state board]~~ State Board of Education  
54 rule.

55 (iii) The ~~[state board]~~ State Board of Education rule made under Subsection

56 (1)(c)(ii)(B) shall include, at a minimum:

57 (A) that the materials adopted by a local school board or charter school governing

58 board under Subsection (1)(c)(ii)(B) shall be based upon recommendations of the school

59 district's or charter school's Curriculum Materials Review Committee that comply with state  
 60 law and [~~state board~~] State Board of Education rules emphasizing abstinence before marriage  
 61 and fidelity after marriage, and prohibiting instruction in:

- 62 (I) the intricacies of intercourse, sexual stimulation, or erotic behavior;
- 63 (II) the advocacy of homosexuality;
- 64 (III) the advocacy or encouragement of the use of contraceptive methods or devices; or
- 65 (IV) the advocacy of sexual activity outside of marriage;

66 (B) that the adoption of instructional materials shall take place in an open and regular  
 67 meeting of the local school board or charter school governing board for which prior notice is  
 68 given to parents and guardians of students attending the schools [~~in the district~~] and an  
 69 opportunity for them to express their views and opinions on the materials at the meeting;

70 (C) provision for an appeal and review process of the local school board's or charter  
 71 school governing board's decision; and

72 (D) provision for a report to the State Board of Education by the local school board [~~to~~  
 73 ~~the State Board of Education~~] or charter school governing board of the action taken and the  
 74 materials adopted by the local school board [~~under Subsections (1)(c)(ii)(B) and (1)(c)(iii).~~] or  
 75 charter school governing board under Subsections (1)(c)(ii)(B) and Subsection (1)(c)(iii).

76 (2) (a) Instruction in the courses described in Subsection (1) shall be consistent and  
 77 systematic in grades [~~eight~~] 8 through 12.

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

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

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

84 (ii) require a student's parent or legal guardian to be notified in advance and have an  
 85 opportunity to review the information for which parental consent is required under Sections  
 86 76-7-322 and 76-7-323.

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

89 (4) (a) In keeping with the requirements of Section 53A-13-109, and because school

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

93 (b) To ensure the effective performance of school personnel, the limitations described  
94 in Subsection (4)(a) also apply to school employees or volunteers acting outside of their official  
95 capacities if:

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

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

100 (c) Neither the State Board of Education [~~nor~~], local school districts, nor charter  
101 schools may allow training of school employees or volunteers that supports or encourages  
102 criminal conduct.

103 (d) The State Board of Education shall adopt rules implementing this section.

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

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

110 (6) (a) Local school boards, charter school governing boards, and [~~their~~] employees of  
111 the respective boards shall cooperate and share responsibility in carrying out the purposes of  
112 this chapter.

113 (b) Each school district and charter school shall provide appropriate inservice training  
114 for its teachers, counselors, and school administrators to enable them to understand, protect,  
115 and properly instruct students in the values and character traits referred to in this section and  
116 Sections [53A-13-101.1](#), [53A-13-101.2](#), [53A-13-101.3](#), [53A-13-109](#), [53A-13-301](#), and  
117 [53A-13-302](#) and distribute appropriate written materials on the values, character traits, and  
118 conduct to each individual receiving the inservice training.

119 (c) The written materials shall also be made available to classified employees, students,  
120 and parents and guardians of students.

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

127 (e) In accordance with the provisions of Subsection (4)(c), inservice training may not  
128 support or encourage criminal conduct.

129 (7) If any one or more provision, subsection, sentence, clause, phrase, or word of this  
130 section, or the application thereof to any person or circumstance, is found to be  
131 unconstitutional, the balance of this section shall be given effect without the invalid provision,  
132 subsection, sentence, clause, phrase, or word.

133 (8) The State Board of Education shall submit a report, in accordance with Subsection  
134 (9) and subject to Subsection (11), if the State Board of Education:

135 (a) revises a curriculum requirement described in Subsection (1)(a);

136 (b) makes a recommendation on instructional material as described in Subsection  
137 (1)(c)(i);

138 (c) adopts a rule for other instructional materials as described in Subsection  
139 (1)(c)(ii)(B); or

140 (d) revises training or instructional materials described in Subsection  
141 53A-13-112(2)(c).

142 (9) If required to submit a report under Subsection (8), the board shall submit the  
143 report in writing to the Education Interim Committee no later than 60 days after the day on  
144 which the board takes an action described in Subsection (8)(a), (b), (c), or (d).

145 (10) No later than November 30, 2017, the State Board of Education shall report in  
146 writing, subject to Subsection (11), to the Education Interim Committee on the training and  
147 instructional materials described in Subsection 53A-13-112(2).

148 (11) A report described in Subsection (8) or (10) shall include:

149 (a) a copy of the curriculum, instructional, or training materials and any reference  
150 materials used or distributed by the State Board of Education;

151 (b) the name of each individual or entity consulted by the State Board of Education in

152 the creation and development of the curriculum, instructional, or training materials;

153 (c) any source material that the State Board of Education relied on when approving the  
154 curriculum, instructional, or training materials;

155 (d) the name of each individual or entity who created a source material described in  
156 Subsection (11)(c); and

157 (e) the name of each individual or entity who provided funding for:

158 (i) an individual or entity for purposes of consultation as described in Subsection  
159 (11)(b);

160 (ii) the development or publication of source material described in Subsection (11)(c);  
161 and

162 (iii) an individual or entity in support of the creation of source material as described in  
163 Subsection (11)(d).

164 Section 2. Section **53A-13-101.2** is amended to read:

165 **53A-13-101.2. Waivers of participation -- Required parental consent for human**  
166 **sexuality instruction.**

167 (1) As used in this section:

168 (a) [(†)] "Human sexuality instruction" means any course material, unit, class, lesson,  
169 activity, or presentation that, as the focus of the discussion, provides instruction or information  
170 to a student about:

171 (A) sexual abstinence;

172 (B) human sexuality;

173 (C) human reproduction;

174 (D) reproductive anatomy;

175 (E) physiology;

176 (F) pregnancy;

177 (G) marriage;

178 (H) childbirth;

179 (I) parenthood;

180 (J) contraception;

181 (K) HIV/AIDS; [or]

182 (L) sexually transmitted diseases[-]; or

183            [(ii)] (M) [~~"Human sexuality instruction" does not include~~] child sexual abuse  
184 prevention instruction described in Section [53A-13-112](#), if a local school board, governing  
185 board of a charter, or an individual school elects to require prior written consent from a parent  
186 or guardian under Subsection [53A-13-112\(5\)\(c\)](#).

187            (b) "Parent" means a parent or legal guardian.

188            (c) "School" means a public school.

189            (2) If a parent of a student, or a secondary student, determines that the student's  
190 participation in a portion of the curriculum or in an activity would require the student to affirm  
191 or deny a religious belief or right of conscience, or engage or refrain from engaging in a  
192 practice forbidden or required in the exercise of a religious right or right of conscience, the  
193 parent or the secondary student may request:

194            (a) a waiver of the requirement to participate; or

195            (b) a reasonable alternative that requires reasonably equivalent performance by the  
196 student of the secular objectives of the curriculum or activity in question.

197            (3) The school shall promptly notify a student's parent if the secondary student makes a  
198 request under Subsection (2).

199            (4) If a request is made under Subsection (2), the school shall:

200            (a) waive the participation requirement;

201            (b) provide a reasonable alternative to the requirement; or

202            (c) notify the requesting party that participation is required.

203            (5) The school shall ensure that the provisions of Subsection [53A-13-101.3\(3\)](#) are met  
204 in connection with any required participation under Subsection (4)(c).

205            (6) A school shall obtain prior written consent from a student's parent before the school  
206 may provide human sexuality instruction to the student.

207            (7) If a student's parent chooses not to have the student participate in human sexuality  
208 instruction, a school shall:

209            (a) waive the requirement for the student to participate in the human sexuality  
210 instruction; or

211            (b) provide the student with a reasonable alternative to the human sexuality instruction  
212 requirement.

213            (8) In cooperation with the student's teacher or school, a parent shall take responsibility

214 for the parent's student's human sexuality instruction if a school:

215 (a) waives the student's human sexuality instruction requirement in Subsection (7)(a);

216 or

217 (b) provides the student with a reasonable alternative to the human sexuality

218 instruction requirement described in Subsection (7)(b).

219 (9) A student's academic or citizenship performance may not be penalized if:

220 (a) the secondary student or the student's parent chooses to exercise a religious right or  
221 right of conscience in accordance with the provisions of this section; or

222 (b) the student's parent chooses not to have the student participate in human sexuality  
223 instruction as described in Subsection (7).

224 Section 3. Section 53A-13-112 is amended to read:

225 **53A-13-112. Child sexual abuse prevention.**

226 (1) As used in this section, "school personnel" is as defined in Section 53A-11-605.

227 (2) (a) On or before July 1, 2015, the State Board of Education shall approve, in  
228 partnership with the Department of Human Services, age-appropriate instructional materials for  
229 the training and instruction described in Subsections (3)(a) and (4).

230 (b) After July 1, 2015, the State Board of Education, in partnership with the  
231 Department of Human Services, may revise the training or instructional materials approved  
232 under Subsection (2)(a).

233 (c) If the State Board of Education revises training or instructional materials as  
234 described in this section, the State Board of Education shall submit a report in accordance with  
235 Section 53A-13-113.

236 (3) (a) Beginning in the 2016-17 school year, a school district or charter school shall  
237 provide training and instruction on child sexual abuse prevention and awareness to:

238 (i) school personnel in elementary and secondary schools on:

239 (A) responding to a disclosure of child sexual abuse in a supportive, appropriate  
240 manner; and

241 (B) the mandatory reporting requirements described in Sections 53A-6-502 and  
242 62A-4a-403; and

243 (ii) parents or guardians of elementary school students on:

244 (A) recognizing warning signs of a child who is being sexually abused; and



245 (B) effective, age-appropriate methods for discussing the topic of child sexual abuse  
246 with a child.

247 (b) A school district or charter school shall use the instructional materials approved by  
248 the State Board of Education under Subsection (2) to provide the training and instruction to  
249 school personnel and parents or guardians under Subsection (3)(a).

250 (4) (a) In accordance with Subsections (4)(b) and (5), a school district or charter school  
251 may provide instruction on child sexual abuse prevention and awareness to elementary school  
252 students using age-appropriate curriculum.

253 (b) Beginning in the 2016-17 school year, a school district or charter school that  
254 provides the instruction described in Subsection (4)(a) shall use the instructional materials  
255 approved by the board under Subsection (2) to provide the instruction.

256 (5) (a) An elementary school student may not be given the instruction described in  
257 Subsection (4) unless the parent or guardian of the student:

258 (i) is:

259 [(i)] (A) notified in advance of the~~[-(A)]~~ instruction ~~[and the content of the~~  
260 ~~instruction]; [and]~~

261 ~~[(B) parent or guardian's right to have the student excused from the instruction;]~~

262 [(ii)] (B) given an opportunity to review the instructional materials before the  
263 instruction occurs; and

264 [(iii)] (C) allowed to be present when the instruction is delivered~~[-]; and~~

265 ~~[(b) Upon the written request of the parent or guardian of an elementary school student,~~  
266 ~~the student shall be excused from the instruction described in Subsection (4).]~~

267 (ii) as applicable under Subsection (5)(c), provides prior written consent in accordance  
268 with Section 53A-13-101.2 for the student to be given the instruction or is notified in advance  
269 of the parent or guardian's right to have the student excused from the instruction.

270 ~~[(e)]~~ (b) Participation of a student requires compliance with Sections 53A-13-301 and  
271 53A-13-302.

272 (c) (i) If a school district or charter school provides instruction under Subsection (4),  
273 the local school board of a school district, except as provided in Subsection (5)(c)(ii), or  
274 governing board of a charter school shall require one of the following:

275 (A) that a parent or guardian provide prior written consent in accordance with Section

276 [53A-13-101.2](#) for the student to be given the instruction; or

277 (B) that a student be excused from the instruction upon the written request of the parent  
278 or guardian.

279 (ii) A local school board may allow an individual school within the school district to  
280 determine whether the school will require prior written consent as described in Subsection  
281 (5)(c)(i)(A) or require that a student be excused from instruction as described in Subsection  
282 (5)(c)(i)(B).

283 (6) A school district or charter school may determine the mode of delivery for the  
284 training and instruction described in Subsections (3) and (4).

285 (7) (a) The State Board of Education shall report to the Education Interim Committee  
286 on the progress of the provisions of this section by the committee's November 2017 meeting.

287 (b) Upon request of the State Board of Education, a school district or charter school  
288 shall provide to the State Board of Education information that is necessary for the report  
289 required under Subsection (7)(a).

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**