

**HEALTH EDUCATION AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Raymond P. Ward**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill amends provisions regarding instruction in health.

**Highlighted Provisions:**

This bill:

▶ provides that health education instruction may include information about the medical characteristics, effectiveness, ~~and~~ limitations, and risks of contraceptive methods or devices;

- ▶ reorganizes provisions related to instruction in health;
- ▶ requires the State Board of Education to make administrative rules; and
- ▶ makes technical and conforming 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 2018, Chapter 224 and renumbered and amended by Laws of Utah 2018, Chapter 3

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



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

29 **53G-10-402. Instruction in health -- Parental consent requirements -- Conduct**  
30 **and speech of school employees and volunteers -- Political and religious doctrine**  
31 **prohibited.**

32 (1) As used in this section:

33 (a) "Board" means the State Board of Education.

34 ~~[(b) "Local school board" means:]~~

35 ~~[(i) a local board of education elected in accordance with Section 53G-4-201; or]~~

36 ~~[(ii) a charter school governing board, as defined in Section 53G-5-102.]~~

37 (b) "LEA governing board" means a local school board or charter school governing  
38 board.

39 (c) "Parent" means a parent or legal guardian.

40 (d) "Refusal skills" means instruction:

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

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

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

47 (iv) in sexual harassment; and

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

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

54 (i) community and personal health;

55 (ii) physiology;

56 (iii) personal hygiene;

57 (iv) prevention of communicable disease;

58 (v) refusal skills; and

59 (vi) the harmful effects of pornography.

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

61 (b) The state board shall make rules ~~that~~ **for instruction** that:

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

64 [~~(B)~~ (ii) stress personal skills that encourage individual choice of abstinence and  
65 fidelity];

66 (iii) prohibit instruction in:

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

68 (B) the advocacy of premarital or extramarital sexual activity; or

69 (C) the advocacy or encouragement of the use of contraceptive methods or devices;

70 (iv) ~~that~~ **subject to Subsection (2)(g),** ~~allow~~ instruction to include information about  
70a the medical characteristics ~~of~~ **of contraceptive methods or devices such as** ~~the~~  
71 effectiveness, ~~and~~ ~~the~~ limitations ~~of~~ **of contraceptive methods or devices** , **and risks** ~~of~~  
71a ; and

72 (v) for an LEA governing board that adopts instructional materials under Subsection  
73 (2)(e)(ii):

74 (A) require the LEA governing board to report on the materials selected and the LEA  
75 governing board's compliance with Subsection (2)(f); and

76 (B) provide for an appeal and review process of the LEA governing board's adoption of  
77 the instructional materials.

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

81 [~~(B)~~ (ii) Subsection [~~(2)(b)(ii)(A)~~ (2)(c)(i) does not preclude an instructor from  
82 responding to a spontaneous question as long as the response is consistent with the provisions  
83 of this section.

84 [~~(e)(i)~~ (d) The board shall recommend instructional materials for use in the curricula  
85 required under Subsection (2)(a) after considering evaluations of instructional materials by the  
86 State Instructional Materials Commission.

87 [~~(i)~~ (e) ~~A local school~~ An LEA governing board may choose to adopt:

88 [~~(A)~~ (i) the instructional materials recommended under Subsection [~~(2)(e)(i)~~ (2)(d);

89 or

90 ~~[(B)]~~ (ii) other instructional materials ~~[as provided in board rule]~~ in accordance with  
 91 Subsection (2)(f).

92 ~~[(iii) The board rule made under Subsection (2)(c)(ii)(B) shall include, at a minimum:]~~

93 ~~[(A) that the materials adopted by a local school board under Subsection (2)(c)(ii)(B)~~  
 94 ~~shall be based upon recommendations of the school district's or charter school's Curriculum~~  
 95 ~~Materials Review Committee that comply with state law and board rules emphasizing~~  
 96 ~~abstinence before marriage and fidelity after marriage, and prohibiting instruction in:]~~

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

98 ~~[(H) the advocacy of premarital or extramarital sexual activity; or]~~

99 ~~[(HH) the advocacy or encouragement of the use of contraceptive methods or devices;]~~

100 (f) An LEA governing board that adopts instructional materials under Subsection  
 101 (2)(e)(ii) shall:

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

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

105 ~~[(B)]~~ (iii) ~~[that the adoption of]~~ adopt the instructional materials ~~[shall take place]~~ in an  
 106 open and regular meeting of the ~~[local school]~~ LEA governing board for which prior notice is  
 107 given to parents of students attending the respective schools and an opportunity for parents to  
 108 express their views and opinions on the materials at the meeting[;].

109 ~~[(C) provision for an appeal and review process of the local school board's decision;~~  
 110 ~~and]~~

111 ~~[(D) provision for a report by the local school board to the board of the action taken~~  
 112 ~~and the materials adopted by the local school board under Subsections (2)(c)(ii)(B) and~~  
 113 ~~(2)(c)(iii):]~~

113a **Ĥ→ (g) The state board may not require an LEA to teach or adopt instructional materials that**  
 113b **include information on contraceptive methods or devices. ←Ĥ**

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

117 (b) At the request of the board, the Department of Health shall cooperate with the  
 118 board in developing programs to provide instruction in those areas.

119 (4) (a) The board shall adopt rules that:

120 (i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323

121 are complied with; and

122 (ii) require a student's parent to be notified in advance and have an opportunity to  
123 review the information for which parental consent is required under Sections [76-7-322](#) and  
124 [76-7-323](#).

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

127 (5) (a) In keeping with the requirements of Section [53G-10-204](#), and because school  
128 employees and volunteers serve as examples to their students, school employees or volunteers  
129 acting in their official capacities may not support or encourage criminal conduct by students,  
130 teachers, or volunteers.

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

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

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

139 (c) The board or [~~a local school~~] an LEA governing board may not allow training of  
140 school employees or volunteers that supports or encourages criminal conduct.

141 (d) The board shall adopt rules implementing this section.

142 (e) Nothing in this section limits the ability or authority of the board or [~~a local school~~]  
143 an LEA governing board to enact and enforce rules or take actions that are otherwise lawful,  
144 regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness  
145 for duty.

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

148 (7) (a) [~~A local school~~] An LEA governing board and [~~a local school~~] an LEA  
149 governing board's employees shall cooperate and share responsibility in carrying out the  
150 purposes of this chapter.

151 (b) [~~A local school~~] An LEA governing board shall provide appropriate professional

152 development for the [~~local school~~] LEA governing board's teachers, counselors, and school  
153 administrators to enable them to understand, protect, and properly instruct students in the  
154 values and character traits referred to in this section and Sections [53E-9-202](#), [53E-9-203](#),  
155 [53G-10-202](#), [53G-10-203](#), [53G-10-204](#), and [53G-10-205](#), and distribute appropriate written  
156 materials on the values, character traits, and conduct to each individual receiving the  
157 professional development.

158 (c) [~~A local school~~] An LEA governing board shall make the written materials  
159 described in Subsection (7)(b) available to classified employees, students, and parents of  
160 students.

161 (d) In order to assist [~~a local school~~] an LEA governing board in providing the  
162 professional development required under Subsection (7)(b), the board shall, as appropriate,  
163 contract with a qualified individual or entity possessing expertise in the areas referred to in  
164 Subsection (7)(b) to develop and disseminate model teacher professional development  
165 programs that [~~a local school~~] an LEA governing board may use to train the individuals  
166 referred to in Subsection (7)(b) to effectively teach the values and qualities of character  
167 referenced in Subsection (7).

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

170 (8) [~~A local school~~] An LEA governing board shall review every two years:

171 (a) [~~local school~~] LEA governing board policies on instruction described in this  
172 section;

173 (b) for a local board of education of a school district, data for each county that the  
174 school district is located in, or, for a charter school governing board, data for the county in  
175 which the charter school is located, on the following:

176 (i) teen pregnancy;

177 (ii) child sexual abuse; and

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

179 (c) the number of pornography complaints or other instances reported within the  
180 jurisdiction of the [~~local school~~] LEA governing board.

181 (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this  
182 section, or the application thereof to any person or circumstance, is found to be

183 unconstitutional, the balance of this section shall be given effect without the invalid provision,  
184 subsection, sentence, clause, phrase, or word.