

HB0473S02 compared with HB0473S01

~~{Omitted text}~~ shows text that was in HB0473S01 but was omitted in HB0473S02

inserted text shows text that was not in HB0473S01 but was inserted into HB0473S02

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1 **School Digital Materials Amendments**
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Nicholeen P. Peck
Senate Sponsor: Keven J. Stratton

2
3 **LONG TITLE**

4 **General Description:**

5 This bill amends and enacts provisions regarding the accessibility of sensitive material
6 through digital instructional material in a school setting.

7 **Highlighted Provisions:**

8 This bill:

9 ▶ defines terms;
10 ▶ includes information regarding sensitive material in the information the state board provides
through a certain parent portal;

12 ▶ requires each local education agency (LEA) to:

13 • provide certain information to parents at the time of student registration each year; and
14 • maintain a section on the homepage of the LEA's website regarding sensitive material
reporting;

16 ▶ allows the state board, an LEA, or the Utah Education and Telehealth Network (UETN) to
rescind certain contracts if a vendor does not remove access to digital sensitive material after a number of
instances;

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19 ▸ requires the state board, an LEA, or UETN to:

20 • remove access to digital instructional material that a vendor provides after a certain threshold
of violations;

22 • provide certain notice to each vendor with which the entity contracts to provide digital
instructional material in a school setting; and

24 • ensure that any database or school-provided device which a student may access uses a filter
or other software to prohibit access to sensitive material; and

26 ▸ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

32 **AMENDS:**

33 **53G-6-806** , as last amended by Laws of Utah 2024, Chapter 21 , as last amended by Laws of Utah
2024, Chapter 21

34 **53G-10-103** , as last amended by Laws of Utah 2024, Chapter 318 , as last amended by Laws of
Utah 2024, Chapter 318

35

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

37 Section 1. Section **53G-6-806** is amended to read:

38 **53G-6-806. Parent portal.**

39 (1) As used in this section:

40 (a) "Parent portal" means the posting the state board is required to provide under this section.

42 (b) "School" means a public elementary or secondary school, including a charter school.

43 (2)

 (a) The state board shall post information that allows a parent of a student enrolled in a school to:

45 (i) access an LEA's policies required by Sections 53G-9-203 and 53G-9-605;

46 (ii) be informed of resources and steps to follow when a student has been the subject, perpetrator, or
bystander of bullying, cyber-bullying, hazing, retaliation, or abusive conduct such as:

49 (A) resources for the student, including short-term mental health services;

50 (B) options for the student to make changes to the student's educational environment;

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- 52 (C) options for alternative school enrollment;
- 53 (D) options for differentiated start or stop times;
- 54 (E) options for differentiated exit and entrance locations; and
- 55 (F) the designated employee for an LEA who addresses incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct;
- 57 (iii) be informed of the steps and resources for filing a grievance with a school or LEA regarding bullying, cyber-bullying, hazing, or retaliation;
- 59 (iv) be informed of the steps and resources for seeking accommodations under the Americans with Disabilities Act of 1990, 42 U.S.C. sec. 12101 et seq;
- 61 (v) be informed of the steps and resources for seeking accommodations under state or federal law regarding religious accommodations;
- 63 (vi) receive information regarding the reporting of sensitive material, as described in Section 53G-10-103;
- 65 ~~[(vii)]~~ (vii) be informed of the steps and resources for filing a grievance for an alleged violation of state or federal law, including:
- 67 (A) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d-2000d-4;
- 68 (B) Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681-1688;
- 69 (C) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 794; and
- 70 (D) Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12131-12165;
- 72 ~~[(viii)]~~ (viii) receive information about constitutional rights and freedoms afforded to families in public education;
- 74 ~~[(viii)]~~ (ix) be informed of how to access an internal audit hotline if established by the state board; and
- 76 ~~[(ix)]~~ (x) be informed of services for military families.
- 77 (b) In addition to the information required under Subsection (2)(a), the state board:
- 78 (i) shall include in the parent portal:
- 79 (A) the comparison tool created under Section 53G-6-805;
- 80 (B) school level safety data, including data points described in Section 53E-3-516; and
- 82 (C) a link to the public safety portal described in Section 63A-16-1002; and
- 83 (ii) may include in the parent portal other information that the state board determines is helpful to parents.

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85 (3)

(a) The state board shall post the parent portal at a location that is easily located by a parent.

87 (b) The state board shall update the parent portal at least annually.

88 (c) In accordance with state and federal law, the state board may collaborate with a third-party to provide safety data visualization in comparison to other states' data.

90 (4) An LEA shall annually notify each of the following of how to access the parent portal:

91 (a) a parent of a student; and

92 (b) a teacher, principal, or other professional staff within the LEA.

93 Section 2. Section **53G-10-103** is amended to read:

94 **53G-10-103. Sensitive instructional materials.**

95 (1) As used in this section:

96 (a) "Contracting entity" means the LEA governing board, state board, or UETN that contracts with a vendor for a given digital instructional material, including a digital database.

96 ~~[(a)]~~ (b)

(i) "Instructional material" means a material, regardless of format, used:

97 (A) as or in place of textbooks to deliver curriculum within the state curriculum framework for courses of study by students; or

99 (B) to support a student's learning in any school setting.

100 (ii) "Instructional material" includes reading materials, handouts, videos, digital materials, websites, online applications, and live presentations.

102 (iii) "Instructional material" does not mean exclusively library materials.

103 ~~[(b)]~~ (c) "LEA governing board" means~~[-]~~ the same as that term is defined in Section 53E-1-102.

105 ~~[(i) for a school district, the local school board;]~~

106 ~~[(ii) for a charter school, the charter school governing board; or]~~

107 ~~[(iii) for the Utah Schools for the Deaf and the Blind, the state board.]~~

108 ~~[(e)]~~ (d) "Material" means the same as that term is defined in Section 76-10-1201.

109 ~~[(d)]~~ (e) "Minor" means any person less than 18 years old.

110 ~~[(e)]~~ (f) "Objective sensitive material" means an instructional material that constitutes pornographic or indecent material, as that term is defined in Section 76-10-1235, under the non-discretionary standards described in Subsection 76-10-1227(1)(a)(i), (ii), or (iii).

114 ~~[(f)]~~ (g) "Public school" means:

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- 115 (i) a district school;
116 (ii) a charter school; or
117 (iii) the Utah Schools for the Deaf and the Blind.
- 118 ~~[(g)]~~ [(h)]
(i) "School setting" means, for a public school:
- 119 (A) in a classroom;
120 (B) in a school library; or
121 (C) on school property.
- 122 (ii) "School setting" includes the following activities that an organization or individual or organization
outside of a public school conducts, if a public school or an LEA sponsors or requires the activity:
- 125 (A) an assembly;
126 (B) a guest lecture;
127 (C) a live presentation; or
128 (D) an event.
- 129 ~~[(h)]~~ [(i)]
(i) "Sensitive material" means an instructional material that constitutes objective sensitive material or
subjective sensitive material.
- 131 (ii) "Sensitive material" does not include an instructional material:
- 132 (A) that an LEA selects under Section 53G-10-402;
133 (B) for a concurrent enrollment course that contains sensitive material and for which a parent receives
notice from the course provider of the material before enrollment of the parent's child and gives the
parent's consent by enrolling the parent's child;
- 137 (C) for medical courses;
138 (D) for family and consumer science courses; or
139 (E) for another course the state board exempts in state board rule.
- 140 (iii) "Subjective sensitive material" means an instructional material that constitutes pornographic
or indecent material, as that term is defined in Section 76-10-1235, under the following factor-
balancing standards:
- 143 (A) material that is harmful to minors under Section 76-10-1201;
144 (B) material that is pornographic under Section 76-10-1203; or
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(C) material that includes certain fondling or other erotic touching under Subsection 76-10-1227(1)(a) (iv).

{(j)} (j) "UETN" means the Utah Education and Telehealth Network, created in Section 53B-17-105.

{(j)} (k)

(i) "Vendor" means an entity that provides digital instructional material to students in a school setting:

(A) under a contract with { the state board, an LEA, or UETN } a contracting entity; or

(B) through donating the digital instructional material.

(ii) "Vendor" does not include an internet service provider, as that term is defined in Section 76-10-1230.

(2)

(a) Sensitive materials are prohibited in the school setting.

(b) A public school or an LEA may not:

(i) adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive materials; or

(ii) permit a speaker or presenter in the school setting to display or distribute sensitive materials.

(c) In evaluating, selecting, or otherwise considering action related to a given instructional material under this section, each public school and each LEA shall prioritize protecting children from the harmful effects of illicit pornography over other considerations in evaluating instructional material.

(d) If an instructional material constitutes objective sensitive material:

(i) a public school or an LEA is not required to engage in a review under a subjective sensitive material standard; and

(ii) the outcome of a subjective sensitive material evaluation has no bearing on the non-discretionary objective sensitive material conclusion.

(3)

(a) Except as provided in Subsection (3)(b), the following individuals may initiate a sensitive material review under this section:

(i) an employee of the relevant LEA;

(ii) a student who is enrolled in the relevant LEA;

(iii) a parent of a child who is enrolled in the relevant LEA; or

(iv) a member of the relevant LEA governing board.

(b)

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(i) As used in this Subsection (3)(b), "unsuccessful challenge" means an allegation that a given instructional material constitutes sensitive material that the LEA concludes to be erroneous, either on direct review or on appeal to the LEA governing board, resulting in the retention of the given instructional material.

(ii) Notwithstanding Subsection (3)(a), after an individual makes three unsuccessful challenges during a given academic year, the individual may not trigger a sensitive material review under this section during the remainder of the given academic year.

(4) Upon receipt of an allegation from an individual described in Subsection (3)(a), an LEA shall:

(a)

(i) make an initial determination as to whether the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material, including whether the allegation includes excerpts and other evidence to support the allegation; and

(ii) if the LEA determines that the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material under Subsection (4)(a)(i), immediately remove the challenged material from any school setting that provides student access to the challenged material until the LEA completes the LEA's full review of the challenged material under this section;

(b)

(i) engage in a review of the allegations and the challenged instructional material using the objective sensitive material standards; and

(ii) if the LEA makes a determination that the challenged instructional material constitutes objective sensitive material, ensure that the material remains inaccessible to students in any school setting;

(c) only if the LEA makes a determination that the challenged instructional material does not constitute objective sensitive material:

(i) review the allegations and the challenged instructional material under the subjective material standards, ensuring that the review includes parents who are reflective of the members of the school's community when determining if an instructional material is subjective sensitive material;

(ii) allow student access to the challenged instructional material during the LEA's subjective sensitive material review if the student's parent gives consent regarding the specific challenged instructional material; and

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(iii) if the LEA makes a determination that the challenged instructional material constitutes subjective sensitive material, ensure that the material is inaccessible to students in any school setting, including the termination of the parent consent option described in Subsection (4)(c)(ii); and

(d) communicate to the state board: {F{}} ÷

(i) the allegation[-and-] ;

(ii) the LEA's final determination regarding the allegation and the challenged instructional material[-] ;
and

(iii) if the challenged instructional material is digital material, the vendor providing access to the digital material.

(5)

(a) An individual described in Subsection (3)(a) may appeal an LEA's decision regarding a sensitive material review, regardless of whether the LEA removed or retained the challenged instructional material, to the LEA governing board.

(b) An LEA governing board shall vote in a public board meeting to decide the outcome of a sensitive material review appeal, clearly identifying:

(i) the board's rationale for the decision; and

(ii) the board's determination on each component of the statutory and any additional policy standards the board uses to reach the board's conclusions.

(6) An LEA governing board may not enact rules or policies that prevent the LEA governing board from:

(a) revisiting a previous decision;

(b) reviewing a recommendation of LEA personnel or a parent-related committee regarding a challenged instructional material; or

(c) reconsidering a challenged instructional material if the LEA governing board receives additional information regarding the material.

(7)

(a) Except as provided in Subsection (7)(d), if the threshold described in Subsection (7)(b) is met, each LEA statewide shall remove the relevant instructional material from student access.

(b) The requirement described in Subsection (7)(a) to remove a given material from student access applies if the following number of LEAs makes a determination that a given instructional material constitutes objective sensitive material:

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- 240 (i) at least three school districts; or
241 (ii) at least two school districts and five charter schools.
- 242 (c) The state board shall:
- 243 (i) aggregate allegations and LEA determinations described in Subsection (4)(d); and
244 (ii) no later than 10 school days after the day on which the condition described in Subsection (7)(b)
occurs, communicate to all LEAs the application of the requirement described in Subsection (7)(a)
to remove the material from student access.
- 248 (d)
- (i) When the threshold described in Subsection (7)(b) is met for a given instructional material, in
addition to making the communication described in Subsection (7)(c), the state board may:
- 251 (A) place the material on the agenda of a public board meeting within 60 days after the day on
which the state board makes the communication to LEAs under Subsection (7)(c); and
254 (B) at the specified state board meeting, vote to overturn the application of the requirement
described in Subsection (7)(a) to remove a given material from student access statewide.
- 257 (ii) If the state board votes to overturn the application of the statewide removal requirement described in
Subsection (7)(a) under Subsection (7)(d)(i):
- 259 (A) the statewide removal requirement described in Subsection (7)(a) no longer applies;
261 (B) an LEA may choose to return the given material to student access; and
262 (C) nothing affects the findings of an LEA governing board regarding removal of the given material
within the board's LEA.
- 264 (e) Each LEA, the state board, and UETN shall remove student access **that the LEA, state board,**
or UETN facilitates to any material that a vendor provides if three separate items of digital
instructional material that the vendor provides are subject to statewide removal under this section.
- 267 [(e)] (f) This Subsection (7) applies to sensitive materials that LEAs remove from student access,
regardless of whether:
- 269 (i) the sensitive material determinations occur in the same academic year; or
270 (ii) a sensitive material determination occurred before July 1, 2024.
- 271 (8) The state board shall:
- 272 (a) in consultation with the Office of the Attorney General, provide guidance and training to support
public schools in identifying instructional materials that meet the definition of sensitive materials
under this section;

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- (b) establish a process through which an individual described in Subsection (3)(a) may report to the state board an allegation that an LEA is out of compliance with this section; and
- (c) annually report to the Education Interim Committee, at or before the November interim meeting, on implementation and compliance with this section, including:
- (i) any policy the state board or an LEA adopts to implement or comply with this section;
 - (ii) any rule the state board makes to implement or comply with this section; and
 - (iii) any complaints an LEA or the state board receives regarding a violation of this section, including:
 - (A) action taken in response to a complaint described in this Subsection (8)(c)(iii);
 - (B) if an LEA retains an instructional material for which the LEA or the state board receives a complaint, the LEA's rationale for retaining the instructional material; and
 - (C) compliance failures that the state board identifies through the reporting process described in Subsection (8)(b) and other investigations or research.
- (9) The state shall defend, indemnify, and hold harmless a person acting under color of state law to enforce this section for any claims or damages, including court costs and attorney fees, that:
- (a) a person brings or incurs as a result of this section; and
 - (b) is not covered by the person's insurance policies or any coverage agreement that the State Risk Management Fund issues.
- (10) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General shall:
- (a) conduct an audit of each school district's compliance with this section, ensuring the completion of all school district audits before November 2028; and
 - (b) annually report to the Education Interim Committee regarding completed sensitive material audits under this Subsection (10).
- (11)
- (a) At the time of student registration each year, each LEA shall provide to parents:
- ~~{(i) {a physical copy of information regarding the process for reporting sensitive material in a school setting within the LEA;}}~~
 - ~~{(ii)}~~ (i) an email containing the information described in Subsection {(H)(a)(i)} ~~(11)(a)(ii)~~; and
 - ~~{(iii)}~~ (ii) a direct link to the LEA's website that addresses sensitive material reporting described in Subsection (11)(b).

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(b) Each LEA website shall maintain an easily accessible and clearly visible section on the website's homepage for reporting violations of law regarding sensitive material.

(12)

(a) The state board, an LEA, or UETN may refuse donations of materials by a vendor or nonprofit if the materials contain sensitive material.

~~{(a)}~~ (b) ~~{The state board, an LEA, or UETN may refuse donations of materials by a vendor or nonprofit, or}~~ A contracting entity may, without any penalty or any further financial obligation, rescind or otherwise terminate a contract for a vendor to provide instructional material into which the ~~{state board, LEA, or UETN}~~ contracting entity enters on or after July 1, 2025, ~~{if}~~ after three instances of:

(i)

~~{(i)}~~ (A) for material under a contract of an LEA, the ~~{state board or}~~ LEA governing board ~~{determines}~~ determining that the digital instructional material is or contains objective sensitive material; ~~{and}~~ or

(B) for material under a contract of the state board or UETN, an LEA reporting that the LEA governing board has determined that the digital instructional material is or contains objective sensitive material; and

(ii) within 30 school days after the day on which the ~~{state board or LEA governing board provide}~~ contracting entity provides notice of ~~{the}~~ a determination described in Subsection (12)

(a)(i), the vendor ~~{fails}~~ failing to eliminate the segment of the digital instructional material containing the objective sensitive material or otherwise remove access to the sensitive material.

~~{(b)}~~ (c) In any contract for a vendor to provide digital instructional material for which the parties negotiate terms and into which the ~~{state board, an LEA, or UETN enters}~~ parties enter on or after July 1, 2025, the ~~{state board, LEA, or UETN}~~ contracting entity shall ensure that the contract contains:

(i) notice provisions regarding the requirements and prohibitions regarding digital sensitive material in this section, including any relevant rule or policy of the contracting entity; ~~{and}~~

(ii) provisions prohibiting vendors from including live or typed links to sites or material outside the vendor's material; and

~~{(i)}~~ (iii) provisions requiring the vendor to notify the contracting entity of any update, modification, or addition to the digital instructional material the vendor provides that ~~{may contain}~~ contains or

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~~{constitute}~~ constitutes objective sensitive material, including links to other material or websites from within the digital instructional material.

330 ~~{(e)}~~ (d) Before an LEA, the state board, or UETN may require the removal of ~~{donation-of}~~ donated digital instructional materials from a vendor, the ~~{receiving}~~ entity receiving the donation shall provide notice ~~{regarding}~~ of the requirements and prohibitions regarding sensitive material in this section.

334 ~~{(d)}~~ (e) The state board, an LEA, or UETN may remove a segment of digital instructional material that is found, through the processes described in this section, to contain sensitive material from the relevant curriculum.

337 ~~{(e) {An LEA, the state board, and the Utah Education and Telehealth Network shall each:}~~

348 (f) Each LEA and school shall ensure that any LEA- or school-provided device, database, or service that allows a student to access digital instructional material includes a filter or other software service that prohibits access to sensitive material.

338 ~~{(i) {{notify each vendor with which the entity contracts to provide digital instructional material in a school setting regarding the requirements, prohibitions, and processes in this section and any relevant rule or policy of the contracting entity; and}}~~

342 ~~{(ii) {ensure that any device, database, or service that allows a student to access digital instructional material includes a filter or other software service that prohibits access to sensitive material.}}~~

351 Section 3. **Effective date.**

This bill takes effect on July 1, 2025.

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