

# HB0197S04 compared with HB0197S03

~~{Omitted text}~~ shows text that was in HB0197S03 but was omitted in HB0197S04  
inserted text shows text that was not in HB0197S03 but was inserted into HB0197S04

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## School Materials Amendments

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Nicholeen P. Peck**

Senate Sponsor: Keven J. Stratton

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### LONG TITLE

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#### General Description:

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

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#### Highlighted Provisions:

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This bill:

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▸ defines a term;

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▸ ~~{requires a local education agency (LEA) to:}~~

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• ~~{send certain communications to the State Board of Education;}~~

12

• ~~{screen instructional material;}~~

13

• ~~{adopt certain policies; and}~~

10

▸ prohibits a Local Education Agency (LEA) from providing certain materials to students that have been removed statewide;

14

• ~~{ensure tools that allow access}~~ requires an LEA to review instructional material an LEA adds to {digital} the LEA's collection of instructional material ~~{include a filter}~~ ;

15

▸ ~~{prohibits a vendor from:}~~

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- 16           • { ~~advertising to a student through instructional material; and~~ }
- 17           • { ~~including~~ } enacts certain { ~~live links or website addresses in~~ } prohibitions on a vendor of  
digital instructional material; and
- 18           ▸ makes technical and conforming changes.

### 16 Money Appropriated in this Bill:

17           None

### 18 Other Special Clauses:

19           This bill provides a special effective date.

### 20 Utah Code Sections Affected:

21           AMENDS:

22           **53G-10-103** , as last amended by Laws of Utah 2025, Chapter 173

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

25           Section 1. Section **53G-10-103** is amended to read:

#### 26           **53G-10-103. Sensitive instructional materials.**

30           (1) As used in this section:

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

31           [(a)] (b)

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

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

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

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

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

38           [(b)] (c) "LEA governing board" means:

39           (i) for a school district, the local school board;

40           (ii) for a charter school, the charter school governing board; or

41           (iii) for the Utah Schools for the Deaf and the Blind, the state board.

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- 42 ~~[(e)]~~ (d) "Material" means the same as that term is defined in Section 76-5c-101.
- 43 ~~[(d)]~~ (e) "Minor" means any person less than 18 years old.
- 44 ~~[(e)]~~ (f) "Objective sensitive material" means an instructional material that constitutes pornographic or indecent material, as that term is defined in Section 76-5c-208, under the non-discretionary standards described in Subsections 76-5c-207(1)(a)(i)(A), (B), or (C).
- 48 ~~[(f)]~~ (g) "Public school" means:
- 49 (i) a district school;
- 50 (ii) a charter school; or
- 51 (iii) the Utah Schools for the Deaf and the Blind.
- 52 ~~[(g)]~~ (h)
- (i) "School setting" means, for a public school:
- 53 (A) in a classroom;
- 54 (B) in a school library; or
- 55 (C) on school property.
- 56 (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:
- 59 (A) an assembly;
- 60 (B) a guest lecture;
- 61 (C) a live presentation; or
- 62 (D) an event.
- 63 ~~[(h)]~~ (i)
- (i) "Sensitive material" means an instructional material that constitutes objective sensitive material or subjective sensitive material.
- 65 (ii) "Sensitive material" does not include an instructional material:
- 66 (A) that an LEA selects under Section 53G-10-402;
- 67 (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;
- 71 (C) for medical courses;
- 72 (D) for family and consumer science courses; or
- 73 (E) for another course the state board exempts in state board rule.

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- 74 (iii) "Subjective sensitive material" means an instructional material that constitutes pornographic or  
indecent material, as that term is defined in Section 76-5c-208, under the following factor-balancing  
standards:
- 77 (A) material that is harmful to minors under Section 76-5c-101;
- 78 (B) material that is pornographic under Section 76-5c-101; or
- 79 (C) material that includes certain fondling or other erotic touching under Subsection 76-5c-207(1)(a)(i)  
(D).
- 81 (i){(j)} ~~{ "Vendor" }~~ "UETN" means ~~{ an entity that provides digital instructional material to students in a~~  
school setting; the Utah Education and Telehealth Network, created in Section 53H-4-213.1.
- 83 (i){(k)} ~~{ under a contract with a contracting }~~ "Vendor" means an entity { ; or } that provides digital  
instructional material to students in a school setting;
- 84 (ii){(i)} ~~{ through donating the digital instructional material. }~~ under contract with a contracting entity;  
or
- 85 ~~{(2)}~~  
~~{(a)}~~ through donating the digital instructional material.
- 87 (2)  
(a) Sensitive materials are prohibited in the school setting.
- 86 (b) A public school or an LEA may not:
- 87 (i) adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive  
materials; or
- 89 (ii) permit a speaker or presenter in the school setting to display or distribute sensitive materials.
- 91 (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.
- 95 (d) If an instructional material constitutes objective sensitive material:
- 96 (i) a public school or an LEA is not required to engage in a review under a subjective sensitive material  
standard; and
- 98 (ii) the outcome of a subjective sensitive material evaluation has no bearing on the non-discretionary  
objective sensitive material conclusion.
- 100 (3)

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

- 102 (i) an employee of the relevant LEA;
- 103 (ii) a student who is enrolled in the relevant LEA;
- 104 (iii) a parent of a child who is enrolled in the relevant LEA; or
- 105 (iv) a member of the relevant LEA governing board.

106 (b)

(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.

110 (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.

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

116 (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

120 (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;

125 (b)

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

127 (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;

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

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- (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;
- 136 (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
- 139 (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
- 143 (d) communicate to the state board {f {}} {;}
- 144 {(ii)} the allegation {f and {}} {;}
- 145 {(ii)} the LEA's final determination regarding the allegation and the challenged instructional material {f. {} ; and }
- 147 ~~{(iii) if the challenged instructional material is digital material, the vendor providing access to the digital material.}~~
- 149 (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.
- 152 (b) An LEA governing board shall vote in a public board meeting to decide the outcome of a sensitive material review appeal, clearly identifying:
- 154 (i) the board's rationale for the decision; and
- 155 (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.
- 157 (6) An LEA governing board may not enact rules or policies that prevent the LEA governing board from:
- 159 (a) revisiting a previous decision;
- 160 (b) reviewing a recommendation of LEA personnel or a parent-related committee regarding a challenged instructional material; or
- 162 (c) reconsidering a challenged instructional material if the LEA governing board receives additional information regarding the material.

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- 164 (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.
- 167 (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:
- 170 (i) at least three school districts; or
- 171 (ii) at least two school districts and five charter schools.
- 172 (c) The state board shall:
- 173 (i) aggregate allegations and LEA determinations described in Subsection (4)(d); and
- 174 (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.
- 178 (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:
- 181 (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
- 184 (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.
- 187 (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):
- 189 (A) the statewide removal requirement described in Subsection (7)(a) no longer applies;
- 191 (B) an LEA may choose to return the given material to student access; and
- 192 (C) nothing affects the findings of an LEA governing board regarding removal of the given material within the board's LEA.
- 192 (e) An LEA may not make available for student use an instructional material that has been removed statewide through the process described in this Subsection (7).
- 194 ~~(e)~~ (f) This Subsection (7) applies to sensitive materials that LEAs remove from student access, regardless of whether:
- 196 (i) the sensitive material determinations occur in the same academic year; or

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- 197 (ii) a sensitive material determination occurred before July 1, 2024.
- 198 (8) An LEA shall review each instructional material the LEA adds to the LEA's collection of  
instructional materials before making the instructional material available for student use to ensure  
the instructional material does not contain sensitive material.
- 198 ~~[(8)]~~ (9) The state board shall:
- 199 (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;
- 202 (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
- 205 (c) annually report to the Education Interim Committee, at or before the November interim meeting, on  
implementation and compliance with this section, including:
- 207 (i) any policy the state board or an LEA adopts to implement or comply with this section;
- 209 (ii) any rule the state board makes to implement or comply with this section; and
- 210 (iii) any complaints an LEA or the state board receives regarding a violation of this section, including:
- 212 (A) action taken in response to a complaint described in this ~~[Subsection (8)(c)(iii)]~~ Subsection (9)(c)  
(iii);
- 213 (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
- 216 (C) compliance failures that the state board identifies through the reporting process described in  
~~[Subsection (8)(b)]~~ Subsection (9)(b) and other investigations or research.
- 218 ~~[(9)]~~ (10) 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:
- 221 (a) a person brings or incurs as a result of this section; and
- 222 (b) is not covered by the person's insurance policies or any coverage agreement that the State Risk  
Management Fund issues.
- 229 (11) A vendor may not sell or promote goods or services through a digital instructional material the  
vendor provides to a contracting entity.
- 224 ~~[(10)]~~ (12) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the Office of  
the Legislative Auditor General shall:
- 226

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(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

228 (b) annually report to the Education Interim Committee regarding completed sensitive material audits under this ~~Subsection (10)~~ Subsection (12).

230 ~~{(11) Each LEA shall: }~~

231 ~~{(a) screen each instructional material an LEA adds to the LEA's collection of instructional materials for sensitive materials; }~~

233 ~~{(b) before the beginning of the 2026-2027 school year, adopt a policy for the selection of instructional materials that prevents potentially sensitive materials from entering a school, including: }~~

236 ~~{(i) materials in the school library; }~~

237 ~~{(ii) artificial intelligence tools the state board provides; and }~~

238 ~~{(iii) digital instructional materials; and }~~

239 ~~{(c) ensure that each device, database, or service a school or LEA provides that allows a student to access digital instructional materials includes a filter or other software service: }~~

242 ~~{(i) that prohibits access to sensitive material; }~~

243 ~~{(ii) that uses blocked keyword lists; and }~~

244 ~~{(iii) for which LEA personnel decrypt websites to ensure the efficacy of the filtering, including any online school library and other encrypted websites that students commonly access: }~~

247 ~~{(12) A vendor may not: }~~

248 ~~{(a) advertise a product or service to a student when the student is using instructional materials the vendor provides; }~~

250 ~~{(b) allow a third-party to advertise products or services to a student, either through direct advertisement, or through the inclusion of advertising content within the instructional materials; or }~~

253 ~~{(c) include live links or website addresses in the materials the vendor provides to sites or materials that: }~~

255 ~~{(i) contain objective sensitive material; }~~

256 ~~{(ii) are not educationally focused; or }~~

257 ~~{(iii) {advertise a product or service. }~~

237 Section 2. **Effective date.**

Effective Date.

This bill takes effect on July 1, 2026.

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2-12-26 8:35 AM