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Teaching Materials Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol S. Moss

Senate Sponsor:

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LONG TITLE

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General Description:

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This bill exempts certain courses from requirements regarding the instructional material for those courses.

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Highlighted Provisions:

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This bill:

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- ▶ amends a definition to add certain course material as exempt from sensitive material requirements when a parent gives consent.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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This bill provides a special effective date.

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Utah Code Sections Affected:

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AMENDS:

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

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

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

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53G-10-103 . Sensitive instructional materials.

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(1) As used in this section:

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

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

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

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

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

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(b) "LEA governing board" means:

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- (i) for a school district, the local school board;
- (ii) for a charter school, the charter school governing board; or
- (iii) for the Utah Schools for the Deaf and the Blind, the state board.

(c) "Material" means the same as that term is defined in Section 76-5c-101.

(d) "Minor" means any person less than 18 years old.

(e) "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).

(f) "Public school" means:

- (i) a district school;
- (ii) a charter school; or
- (iii) the Utah Schools for the Deaf and the Blind.

(g)(i) "School setting" means, for a public school:

- (A) in a classroom;
- (B) in a school library; or
- (C) on school property.

(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:

- (A) an assembly;
- (B) a guest lecture;
- (C) a live presentation; or
- (D) an event.

(h)(i) "Sensitive material" means an instructional material that constitutes objective sensitive material or subjective sensitive material.

(ii) "Sensitive material" does not include an instructional material:

- (A) that an LEA selects under Section 53G-10-402;
- (B) for a concurrent enrollment course, Advanced Placement course, or International Baccalaureate 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;
- (C) for medical courses;

65 (D) for family and consumer science courses; or
66 (E) for another course the state board exempts in state board rule.

67 (iii) "Subjective sensitive material" means an instructional material that constitutes
68 pornographic or indecent material, as that term is defined in Section 76-5c-208,
69 under the following factor-balancing standards:
70 (A) material that is harmful to minors under Section 76-5c-101;
71 (B) material that is pornographic under Section 76-5c-101; or
72 (C) material that includes certain fondling or other erotic touching under
73 Subsection 76-5c-207(1)(a)(i)(D).

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

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

76 (i) adopt, use, distribute, provide a student access to, or maintain in the school setting,
77 sensitive materials; or
78 (ii) permit a speaker or presenter in the school setting to display or distribute
79 sensitive materials.

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

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

85 (i) a public school or an LEA is not required to engage in a review under a subjective
86 sensitive material standard; and
87 (ii) the outcome of a subjective sensitive material evaluation has no bearing on the
88 non-discretionary objective sensitive material conclusion.

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

91 (i) an employee of the relevant LEA;
92 (ii) a student who is enrolled in the relevant LEA;
93 (iii) a parent of a child who is enrolled in the relevant LEA; or
94 (iv) a member of the relevant LEA governing board.

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

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

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

105 (a)(i) make an initial determination as to whether the allegation presents a plausible
106 claim that the challenged instructional material constitutes sensitive material,
107 including whether the allegation includes excerpts and other evidence to support
108 the allegation; and
109 (ii) if the LEA determines that the allegation presents a plausible claim that the
110 challenged instructional material constitutes sensitive material under Subsection
111 (4)(a)(i), immediately remove the challenged material from any school setting that
112 provides student access to the challenged material until the LEA completes the
113 LEA's full review of the challenged material under this section;

114 (b)(i) engage in a review of the allegations and the challenged instructional material
115 using the objective sensitive material standards; and
116 (ii) if the LEA makes a determination that the challenged instructional material
117 constitutes objective sensitive material, ensure that the material remains
118 inaccessible to students in any school setting;

119 (c) only if the LEA makes a determination that the challenged instructional material
120 does not constitute objective sensitive material:
121 (i) review the allegations and the challenged instructional material under the
122 subjective material standards, ensuring that the review includes parents who are
123 reflective of the members of the school's community when determining if an
124 instructional material is subjective sensitive material;

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

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

132 (d) communicate to the state board the allegation and the LEA's final determination

regarding the allegation and the challenged instructional 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:

- (i) at least three school districts; or
- (ii) at least two school districts and five charter schools.

(c) The state board shall:

- (i) aggregate allegations and LEA determinations described in Subsection (4)(d); and
- (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.

(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:

- (A) place the material on the agenda of a public board meeting within 60 days

167 after the day on which the state board makes the communication to LEAs
168 under Subsection (7)(c); and

169 (B) at the specified state board meeting, vote to overturn the application of the
170 requirement described in Subsection (7)(a) to remove a given material from
171 student access statewide.

172 (ii) If the state board votes to overturn the application of the statewide removal
173 requirement described in Subsection (7)(a) under Subsection (7)(d)(i):
174 (A) the statewide removal requirement described in Subsection (7)(a) no longer
175 applies;
176 (B) an LEA may choose to return the given material to student access; and
177 (C) nothing affects the findings of an LEA governing board regarding removal of
178 the given material within the board's LEA.

179 (e) This Subsection (7) applies to sensitive materials that LEAs remove from student
180 access, regardless of whether:
181 (i) the sensitive material determinations occur in the same academic year; or
182 (ii) a sensitive material determination occurred before July 1, 2024.

183 (8) The state board shall:

184 (a) in consultation with the Office of the Attorney General, provide guidance and
185 training to support public schools in identifying instructional materials that meet the
186 definition of sensitive materials under this section;

187 (b) establish a process through which an individual described in Subsection (3)(a) may
188 report to the state board an allegation that an LEA is out of compliance with this
189 section; and

190 (c) annually report to the Education Interim Committee, at or before the November
191 interim meeting, on implementation and compliance with this section, including:
192 (i) any policy the state board or an LEA adopts to implement or comply with this
193 section;
194 (ii) any rule the state board makes to implement or comply with this section; and
195 (iii) any complaints an LEA or the state board receives regarding a violation of this
196 section, including:
197 (A) action taken in response to a complaint described in this Subsection (8)(c)(iii);
198 (B) if an LEA retains an instructional material for which the LEA or the state
199 board receives a complaint, the LEA's rationale for retaining the instructional
200 material; and

201 (C) compliance failures that the state board identifies through the reporting
202 process described in Subsection (8)(b) and other investigations or research.

203 (9) The state shall defend, indemnify, and hold harmless a person acting under color of state
204 law to enforce this section for any claims or damages, including court costs and attorney
205 fees, that:

206 (a) a person brings or incurs as a result of this section; and
207 (b) is not covered by the person's insurance policies or any coverage agreement that the
208 State Risk Management Fund issues.

209 (10) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the
210 Office of the Legislative Auditor General shall:

211 (a) conduct an audit of each school district's compliance with this section, ensuring the
212 completion of all school district audits before November 2028; and
213 (b) annually report to the Education Interim Committee regarding completed sensitive
214 material audits under this Subsection (10).

215 **Section 2. Effective Date.**

216 This bill takes effect on July 1, 2026.