

Nicholeen P. Peck proposes the following substitute bill:

**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**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- defines a term;
- prohibits a Local Education Agency (LEA) from providing certain materials to students that have been removed statewide;
- requires an LEA to review instructional material an LEA adds to the LEA's collection of instructional material;
- enacts certain prohibitions on a vendor of digital instructional material; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**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:*

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

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

(1) As used in this section:

- (a) "Contracting entity" means the entity, including the LEA governing board, the state

29 board, or UETN, that contracts with a vendor for a given digital instructional  
30 material, including a digital database.

31 [~~(a)~~] (b)(i) "Instructional material" means a material, regardless of format, used:

32 (A) as or in place of textbooks to deliver curriculum within the state curriculum  
33 framework for 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  
36 materials, websites, 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.

42 [~~(c)~~] (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  
45 pornographic or indecent material, as that term is defined in Section 76-5c-208, under  
46 the non-discretionary standards described in Subsections 76-5c-207(1)(a)(i)(A), (B),  
47 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  
57 individual or organization outside of a public school conducts, if a public school  
58 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  
64           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  
68           which a parent receives notice from the course provider of the material before  
69           enrollment of the parent's child and gives the parent's consent by enrolling the  
70           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.
- 74           (iii) "Subjective sensitive material" means an instructional material that constitutes  
75           pornographic or indecent material, as that term is defined in Section 76-5c-208,  
76           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  
80           Subsection 76-5c-207(1)(a)(i)(D).
- 81           (j) "UETN" means the Utah Education and Telehealth Network, created in Section  
82           53H-4-213.1.
- 83           (k) "Vendor" means an entity that provides digital instructional material to students in a  
84           school setting:  
85           (i) under contract with a contracting entity; or  
86           (ii) through donating the digital instructional material.
- 87           (2)(a) Sensitive materials are prohibited in the school setting.
- 88           (b) A public school or an LEA may not:  
89           (i) adopt, use, distribute, provide a student access to, or maintain in the school setting,  
90           sensitive materials; or  
91           (ii) permit a speaker or presenter in the school setting to display or distribute  
92           sensitive materials.
- 93           (c) In evaluating, selecting, or otherwise considering action related to a given  
94           instructional material under this section, each public school and each LEA shall  
95           prioritize protecting children from the harmful effects of illicit pornography over  
96           other considerations in evaluating instructional material.

- 97 (d) If an instructional material constitutes objective sensitive material:  
98 (i) a public school or an LEA is not required to engage in a review under a subjective  
99 sensitive material standard; and  
100 (ii) the outcome of a subjective sensitive material evaluation has no bearing on the  
101 non-discretionary objective sensitive material conclusion.
- 102 (3)(a) Except as provided in Subsection (3)(b), the following individuals may initiate a  
103 sensitive material review under this section:  
104 (i) an employee of the relevant LEA;  
105 (ii) a student who is enrolled in the relevant LEA;  
106 (iii) a parent of a child who is enrolled in the relevant LEA; or  
107 (iv) a member of the relevant LEA governing board.
- 108 (b)(i) As used in this Subsection (3)(b), "unsuccessful challenge" means an allegation  
109 that a given instructional material constitutes sensitive material that the LEA  
110 concludes to be erroneous, either on direct review or on appeal to the LEA  
111 governing board, resulting in the retention of the given instructional material.  
112 (ii) Notwithstanding Subsection (3)(a), after an individual makes three unsuccessful  
113 challenges during a given academic year, the individual may not trigger a  
114 sensitive material review under this section during the remainder of the given  
115 academic year.
- 116 (4) Upon receipt of an allegation from an individual described in Subsection (3)(a), an LEA  
117 shall:  
118 (a)(i) make an initial determination as to whether the allegation presents a plausible  
119 claim that the challenged instructional material constitutes sensitive material,  
120 including whether the allegation includes excerpts and other evidence to support  
121 the allegation; and  
122 (ii) if the LEA determines that the allegation presents a plausible claim that the  
123 challenged instructional material constitutes sensitive material under Subsection  
124 (4)(a)(i), immediately remove the challenged material from any school setting that  
125 provides student access to the challenged material until the LEA completes the  
126 LEA's full review of the challenged material under this section;
- 127 (b)(i) engage in a review of the allegations and the challenged instructional material  
128 using the objective sensitive material standards; and  
129 (ii) if the LEA makes a determination that the challenged instructional material  
130 constitutes objective sensitive material, ensure that the material remains

- 131                   inaccessible to students in any school setting;
- 132           (c) only if the LEA makes a determination that the challenged instructional material  
133           does not constitute objective sensitive material:
- 134           (i) review the allegations and the challenged instructional material under the  
135           subjective material standards, ensuring that the review includes parents who are  
136           reflective of the members of the school's community when determining if an  
137           instructional material is subjective sensitive material;
- 138           (ii) allow student access to the challenged instructional material during the LEA's  
139           subjective sensitive material review if the student's parent gives consent regarding  
140           the specific challenged instructional material; and
- 141           (iii) if the LEA makes a determination that the challenged instructional material  
142           constitutes subjective sensitive material, ensure that the material is inaccessible to  
143           students in any school setting, including the termination of the parent consent  
144           option described in Subsection (4)(c)(ii); and
- 145           (d) communicate to the state board the allegation and the LEA's final determination  
146           regarding the allegation and the challenged instructional material.
- 147   (5)(a) An individual described in Subsection (3)(a) may appeal an LEA's decision  
148   regarding a sensitive material review, regardless of whether the LEA removed or  
149   retained the challenged instructional material, to the LEA governing board.
- 150           (b) An LEA governing board shall vote in a public board meeting to decide the outcome  
151           of a sensitive material review appeal, clearly identifying:
- 152           (i) the board's rationale for the decision; and
- 153           (ii) the board's determination on each component of the statutory and any additional  
154           policy standards the board uses to reach the board's conclusions.
- 155   (6) An LEA governing board may not enact rules or policies that prevent the LEA  
156   governing board from:
- 157           (a) revisiting a previous decision;
- 158           (b) reviewing a recommendation of LEA personnel or a parent-related committee  
159           regarding a challenged instructional material; or
- 160           (c) reconsidering a challenged instructional material if the LEA governing board  
161           receives additional information regarding the material.
- 162   (7)(a) Except as provided in Subsection (7)(d), if the threshold described in Subsection  
163   (7)(b) is met, each LEA statewide shall remove the relevant instructional material  
164   from student access.

- 165 (b) The requirement described in Subsection (7)(a) to remove a given material from  
166 student access applies if the following number of LEAs makes a determination that a  
167 given instructional material constitutes objective sensitive material:
- 168 (i) at least three school districts; or
  - 169 (ii) at least two school districts and five charter schools.
- 170 (c) The state board shall:
- 171 (i) aggregate allegations and LEA determinations described in Subsection (4)(d); and
  - 172 (ii) no later than 10 school days after the day on which the condition described in  
173 Subsection (7)(b) occurs, communicate to all LEAs the application of the  
174 requirement described in Subsection (7)(a) to remove the material from student  
175 access.
- 176 (d)(i) When the threshold described in Subsection (7)(b) is met for a given  
177 instructional material, in addition to making the communication described in  
178 Subsection (7)(c), the state board may:
- 179 (A) place the material on the agenda of a public board meeting within 60 days  
180 after the day on which the state board makes the communication to LEAs  
181 under Subsection (7)(c); and
  - 182 (B) at the specified state board meeting, vote to overturn the application of the  
183 requirement described in Subsection (7)(a) to remove a given material from  
184 student access statewide.
- 185 (ii) If the state board votes to overturn the application of the statewide removal  
186 requirement described in Subsection (7)(a) under Subsection (7)(d)(i):
- 187 (A) the statewide removal requirement described in Subsection (7)(a) no longer  
188 applies;
  - 189 (B) an LEA may choose to return the given material to student access; and
  - 190 (C) nothing affects the findings of an LEA governing board regarding removal of  
191 the given material within the board's LEA.
- 192 (e) An LEA may not make available for student use an instructional material that has  
193 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  
195 access, regardless of whether:
- 196 (i) the sensitive material determinations occur in the same academic year; or
  - 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

199 of instructional materials before making the instructional material available for student  
 200 use to ensure the instructional material does not contain sensitive material.

201 [~~8~~] (9) The state board shall:

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

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

208 (c) annually report to the Education Interim Committee, at or before the November  
 209 interim meeting, on implementation and compliance with this section, including:

210 (i) any policy the state board or an LEA adopts to implement or comply with this  
 211 section;

212 (ii) any rule the state board makes to implement or comply with this section; and

213 (iii) any complaints an LEA or the state board receives regarding a violation of this  
 214 section, including:

215 (A) action taken in response to a complaint described in this [~~Subsection (8)(c)(iii)]~~  
 216 Subsection (9)(c)(iii);

217 (B) if an LEA retains an instructional material for which the LEA or the state  
 218 board receives a complaint, the LEA's rationale for retaining the instructional  
 219 material; and

220 (C) compliance failures that the state board identifies through the reporting  
 221 process described in [~~Subsection (8)(b)]~~ Subsection (9)(b) and other  
 222 investigations or research.

223 [~~9~~] (10) The state shall defend, indemnify, and hold harmless a person acting under color  
 224 of state law to enforce this section for any claims or damages, including court costs and  
 225 attorney fees, that:

226 (a) a person brings or incurs as a result of this section; and

227 (b) is not covered by the person's insurance policies or any coverage agreement that the  
 228 State Risk Management Fund issues.

229 (11) A vendor may not sell or promote goods or services through a digital instructional  
 230 material the vendor provides to a contracting entity.

231 [~~10~~] (12) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8,  
 232 the Office of the Legislative Auditor General shall:

233 (a) conduct an audit of each school district's compliance with this section, ensuring the  
234 completion of all school district audits before November 2028; and

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

237 Section 2. **Effective Date.**

238 This bill takes effect on July 1, 2026.