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**Sensitive Materials**  
2026 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Ken Ivory**  
Senate Sponsor:

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**LONG TITLE**

**General Description:**

This bill enacts provisions related to sensitive materials in a public school.

**Highlighted Provisions:**

This bill:

- provides certain exceptions to sensitive material requirements;
- requires the State Board of Education and a local education governing board to adopt a certain policy regarding a school library;
- creates certain requirements for a school library;
- allows a student and a student's parent to agree to arbitrate certain claims;
- creates a right of action;
- implements provisions related to an individual seeking relief from a court related to sensitive materials;
- enacts provisions related to governmental immunity;
- enacts provisions related to severability; 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:

- 31 (a)(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) "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) "Material" means the same as that term is defined in Section 76-5c-101.
- 43 (d) "Minor" means any person less than 18 years old.
- 44 (e) "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) "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)(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) "Sensitive material" means an instructional material that constitutes objective  
64 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 (2)(a) [Sensitive] Except as provided in Subsection (2)(e), sensitive materials are
- 82 prohibited in the school setting.
- 83 (b) [A] Except as provided in Subsection (2)(e), a public school or an LEA may not:
- 84 (i) adopt, use, distribute, provide a student access to, or maintain in the school setting,
- 85 sensitive materials; or
- 86 (ii) permit a speaker or presenter in the school setting to display or distribute
- 87 sensitive materials.
- 88 (c) In evaluating, selecting, or otherwise considering action related to a given
- 89 instructional material under this section, each public school and each LEA shall
- 90 prioritize protecting children from the harmful effects of illicit pornography over
- 91 other considerations in evaluating instructional material.
- 92 (d) If an instructional material constitutes objective sensitive material:
- 93 (i) a public school or an LEA is not required to engage in a review under a subjective
- 94 sensitive material standard; and
- 95 (ii) the outcome of a subjective sensitive material evaluation has no bearing on the
- 96 non-discretionary objective sensitive material conclusion.
- 97 (e) The prohibitions described in Subsections (2)(a) and (2)(b) do not apply to and may
- 98 not be enforced against a specific sensitive material if the application or enforcement

99 of Subsections (2)(a) and (2)(b) against the specific sensitive material would violate  
100 the:

101 (i) United States Constitution; or

102 (ii) Utah Constitution.

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

105 (i) an employee of the relevant LEA;

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

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

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

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

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

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

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

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

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

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

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

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

- 201 (ii) a sensitive material determination occurred before July 1, 2024.
- 202 (8) The state board shall:
- 203 (a) in consultation with the Office of the Attorney General, provide guidance and
- 204 training to support public schools in identifying instructional materials that meet the
- 205 definition of sensitive materials under this section;
- 206 (b) establish a process through which an individual described in Subsection (3)(a) may
- 207 report to the state board an allegation that an LEA is out of compliance with this
- 208 section; and
- 209 (c) annually report to the Education Interim Committee, at or before the November
- 210 interim meeting, on implementation and compliance with this section, including:
- 211 (i) any policy the state board or an LEA adopts to implement or comply with this
- 212 section;
- 213 (ii) any rule the state board makes to implement or comply with this section; and
- 214 (iii) any complaints an LEA or the state board receives regarding a violation of this
- 215 section, including:
- 216 (A) action taken in response to a complaint described in this Subsection (8)(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) and other investigations or research.
- 222 (9) The state shall defend, indemnify, and hold harmless a person acting under color of state
- 223 law to enforce this section for any claims or damages, including court costs and attorney
- 224 fees, that:
- 225 (a) a person brings or incurs as a result of this section; and
- 226 (b) is not covered by the person's insurance policies or any coverage agreement that the
- 227 State Risk Management Fund issues.
- 228 (10) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the
- 229 Office of the Legislative Auditor General shall:
- 230 (a) conduct an audit of each school district's compliance with this section, ensuring the
- 231 completion of all school district audits before November 2028; and
- 232 (b) annually report to the Education Interim Committee regarding completed sensitive
- 233 material audits under this Subsection (10).
- 234 (11) The state board and each LEA governing board shall adopt a policy that requires a

235 school to establish a school library for the purposes of providing access only to materials  
236 that will most advance the education of a student who attends the school, while  
237 protecting a student from pornographic, indecent, and otherwise age-inappropriate  
238 content by ensuring that a school excludes these materials.

239 (12)(a) A school may not acquire or add to the school's collection:

240 (i) sensitive materials; or

241 (ii) instructional material described in Subsection (7)(a).

242 (b) With respect to this Subsection (12) only, nothing in this subsection authorizes,  
243 allows, or requires a school to remove materials that are already part of the school's  
244 collection.

245 (13)(a) An LEA governing board may before the start of the 2027-2028 school year,  
246 request that each student and each parent of a student agree to arbitrate, on an  
247 individual basis, any claim that arises out of the enforcement or implementation of  
248 this section.

249 (b) An LEA governing board shall comply with and enforce the requirements of this  
250 section except to the extent that:

251 (i) a court enjoins or otherwise restrains the LEA governing board or the LEA  
252 governing board's members from enforcing one or more of the provisions of this  
253 section; or

254 (ii) a state or federal appellate court declares particular provisions of this section  
255 unconstitutional or unenforceable.

256 (c) The Office of the Attorney General and the state board shall advise and assist the  
257 LEA governing board in drafting an arbitration clause that complies with the  
258 requirements of Subsection (13)(a).

259 (d) An LEA governing board may request that a student and the student's parent agree to  
260 arbitrate a claim in addition to the claim described in Subsection (13)(a).

261 (14) An individual an LEA governing board harms through the failure to comply with the  
262 requirements of this section has a right of action against the LEA for injunctive relief to  
263 ensure compliance with this section.

264 (15)(a) An individual who seeks declaratory or injunctive relief to prevent enforcement  
265 of this section, or who represents a litigant seeking declaratory or injunctive relief, is  
266 jointly and severally liable for the costs and reasonable attorney fees the prevailing  
267 party incurs.

268 (b) Subsection (15)(a) applies to an action brought in state court or federal court and

- 269 includes an action seeking to prevent enforcement by:  
270 (i) the state;  
271 (ii) a political subdivision;  
272 (iii) an officer, employee, or agent of the state or a political subdivision; or  
273 (iv) another individual authorized to enforce this section.
- 274 (c) A party is a prevailing party if a court:  
275 (i) dismisses a claim seeking relief described in Subsection (15)(a);  
276 (ii) enters judgment in favor of the party on a claim seeking the relief; or  
277 (iii) receives a voluntary dismissal or non-suit of a claim seeking the relief.
- 278 (d) A prevailing party may recover only the costs and attorney fees incurred in:  
279 (i) defending a claim on which the party prevailed; or  
280 (ii) seeking recovery of costs and attorney fees under this section.
- 281 (e) A prevailing party may bring a civil action to recover costs and attorney fees under  
282 this section no later than three years after:  
283 (i) the date a dismissal or judgment becomes final after appellate review; or  
284 (ii) the expiration of the time to seek appellate review.
- 285 (f) In an action brought under Subsection (15)(e), the following do not constitute a  
286 defense:  
287 (i) failure to seek costs or attorney fees in the underlying action;  
288 (ii) a court's refusal in the underlying action to apply this section; or  
289 (iii) a determination in the underlying action that a provision of this section is invalid,  
290 unconstitutional, or preempted.
- 291 (g) Title 78B, Chapter 25, Uniform Public Expression Protection Act, does not apply to  
292 an action brought under Subsection (15)(e).
- 293 (h) A court may not award costs or attorney fees under this Subsection (15) if the award  
294 would violate:  
295 (i) the United States Constitution;  
296 (ii) the Utah Constitution; or  
297 (iii) federal law.
- 298 (16)(a) Except to the extent federal law preempts, the following immunities apply to an  
299 action that challenges the validity, enforceability, or application of this section, or  
300 seeks to prevent enforcement of this section:  
301 (i) the state, state officers, and state employees retain constitutional sovereign  
302 immunity;

- 303           (ii) a political subdivision and the political subdivision's officers and employees  
304           retain governmental immunity; and
- 305           (iii) officers and employees retain official immunity.
- 306       (b) The immunities described in Subsection (16)(a) apply in all courts and adjudicative  
307           proceedings.
- 308       (c) A provision of state law does not waive an immunity described in Subsection (16)(a)  
309           unless the provision expressly refers to this section and expressly states an intent to  
310           wave immunity.
- 311       (d) An attorney representing the state, a political subdivision, or an officer or employee  
312           of the state may not waive an immunity described in Subsection (16)(a).
- 313       (e) A court of this state lacks jurisdiction to:
- 314           (i) grant declaratory or injunctive relief declaring this section invalid or  
315           unenforceable;
- 316           (ii) restrain enforcement of this section; or
- 317           (iii) restrain the filing, docketing, adjudication, or enforcement of an action this  
318           section authorizes.
- 319       (f) A court may not certify a plaintiff class or defendant class in an action seeking the  
320           relief described in Subsection (16)(e).
- 321       (g) This section does not prevent a litigant from asserting the invalidity or  
322           unconstitutionality of this section as a defense in an action brought against the litigant.
- 323       (17) This section does not waive governmental immunity in accordance with Section  
324           63G-7-201.
- 325       (18)(a) If any one or more provision, section, subsection, sentence, clause, phrase, or  
326           word of this part, facially or as applied to any person or circumstance is found to be  
327           unconstitutional:
- 328           (i) the provision, section, subsection, sentence, clause, phrase, or word is severable;  
329           (ii) the balance of this part remains effective notwithstanding the finding regarding  
330           constitutionality; and
- 331           (iii) the Legislature would have passed this part, and every other part, provision,  
332           section, subsection, sentence, clause, phrase, or word, regardless of the severance  
333           described in this Subsection (18)(a).
- 334       (b) This Subsection (18) applies to any provision, section, subsection, sentence, clause,  
335           phrase, or word of this part, regardless of the time of enactment, amendment, or  
336           repeal.

337           Section 2. **Effective Date.**

338           This bill takes effect:

339           (1) except as provided in Subsection (2), May 6, 2026; or

340           (2) if approved by two-thirds of all members elected to each house:

341                 (a) upon approval by the governor;

342                 (b) without the governor's signature, the day following the constitutional time limit of

343                         Utah Constitution, Article VII, Section 8; or

344                 (c) in the case of a veto, the date of veto override.