

HEALTH EDUCATION AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bill Wright

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill modifies requirements for health instruction, including human sexuality instruction.

Highlighted Provisions:

This bill:

- ▶ permits a local school board or charter school governing board to provide human sexuality instruction or instructional programs in accordance with state law and State Board of Education rules;
 - ▶ requires human sexuality instruction or instructional programs to teach and stress:
 - the importance of abstinence from all sexual activity before marriage and fidelity after marriage as the only sure methods for preventing certain communicable diseases; and
 - personal skills that encourage individual choice of abstinence and fidelity;
 - ▶ imposes certain restrictions for human sexuality instructional programs;
 - ▶ permits a local school board or charter school governing board to adopt abstinence only instructional materials recommended by:
 - the State Board of Education; or
 - the school district's or charter school's curriculum materials review committee;
- and
- ▶ makes technical changes.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **53A-13-101**, as last amended by Laws of Utah 2004, Chapter 196



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

37 Section 1. Section **53A-13-101** is amended to read:

38 **53A-13-101. Instruction in health -- Parental consent requirements -- Conduct**
39 **and speech of school employees and volunteers -- Political and religious doctrine**
40 **prohibited.**

41 (1) As used in this section:

42 (a) "Abstinence only instructional materials" means instructional materials that teach
43 and stress:

44 (i) the importance of abstinence from all sexual activity before marriage and fidelity
45 after marriage as the only sure methods for preventing certain communicable diseases; and

46 (ii) personal skills that encourage individual choice of abstinence and fidelity.

47 (b) "Human sexuality instruction or instructional program" means any course, unit,
48 class, activity, or presentation that provides instruction or information to students about sexual
49 abstinence, human reproduction, reproductive anatomy, reproductive physiology, marriage,
50 childbirth, or parenthood.

51 ~~[(+)(a)]~~ (2) The State Board of Education shall establish health curriculum
52 requirements under Section 53A-1-402, that include instruction in:

53 ~~[(i)]~~ (a) community and personal health;

54 ~~[(ii)]~~ (b) physiology;

55 ~~[(iii)]~~ (c) personal hygiene; and

56 ~~[(iv)]~~ (d) prevention of communicable disease.

57 (3) (a) (i) A local school board or charter school governing board may, but is not
58 required to, provide human sexuality instruction or instructional programs.

59 (ii) If a local school board or a charter school governing board decides to provide
 60 human sexuality instruction or instructional programs, the human sexuality instruction or
 61 instructional programs shall be provided in accordance with this section and ~~H→~~ **supporting** ~~←H~~
 61a State Board of

62 Education rules adopted under this section ~~H→~~ **and consistent with this section** ~~←H~~ .

63 (b) ~~[(i) That instruction]~~ Human sexuality instruction or instructional programs shall
 64 teach and stress:

65 ~~[(A)]~~ (i) the importance of abstinence from all sexual activity before marriage and
 66 fidelity after marriage as the only sure methods for preventing certain communicable diseases;
 67 and

68 ~~[(B)]~~ (ii) personal skills that encourage individual choice of abstinence and fidelity.

69 (c) Human sexuality instruction or instructional programs may not include instruction

70 in ~~H→~~ [f] ~~[-]~~ **or the advocacy of** [f] ~~[-, or the discussion of]~~ ~~←H~~ :

71 (i) the intricacies of intercourse, sexual stimulation, or erotic behavior;

72 (ii) ~~H→~~ **[the advocacy of]** ~~←H~~ homosexuality;

73 (iii) ~~H→~~ **[the advocacy or encouragement of]** the use of ~~←H~~ contraceptive methods or
 73a devices; or

74 (iv) ~~H→~~ **[the advocacy of]** ~~←H~~ sexual activity outside of marriage.

75 ~~[(ii)(A)]~~ (d) (i) At no time may instruction be provided, including responses to
 76 spontaneous questions raised by students, regarding any means or methods that facilitate or
 77 encourage the violation of any state or federal criminal law by a minor or an adult.

78 ~~[(B) Subsection (1)(b) (ii)(A) does not preclude an]~~

79 (ii) An instructor ~~[from responding]~~ may respond to a spontaneous question as long as
 80 the response is consistent with the provisions of this section.

81 ~~[(e)(i)]~~ (e) (i) (A) The board ~~H→~~ **, in consultation with parents,** ~~←H~~ shall recommend
 81a abstinence only instructional materials

82 for use in ~~[the curricula required under Subsection (1)(a)] human sexuality instruction or~~

83 instructional programs ~~H→~~ **[after considering evaluations of abstinence only instructional materials**

84 by the State Instructional Materials Commission] ~~←H~~ .

84a ~~H→~~ **(B) Abstinence only instructional materials recommended under Subsection (3)(e)(i)(A)**

84b **may include abstinence only instructional materials developed by the State Board of Education**

84c **in consultation with parents or abstinence only instructional materials evaluated by the State**

84d **Instructional Materials Commission.**

84e **(C) Instructional materials recommended under Subsection (3)(e)(i)(A) shall include**

84f a parent education component in which instruction or instructional materials are made
84g available to parents to assist parents in providing human sexuality instruction to their
84h children.

85 ~~[(B)]~~ (D) ←H The board may not recommend instructional materials other than abstinence
85a only
86 instructional materials for use in human sexuality instruction or instructional programs.

87 (ii) A local school board or charter school governing board may choose to adopt:

88 (A) the abstinence only instructional materials recommended under Subsection [~~(1)~~(e)]
89 (3)(e)(i); or

90 (B) other abstinence only instructional materials as provided in state board rule.

91 (iii) The state board rule made under Subsection [~~(1)(c)~~] (3)(e)(ii)(B) shall include, at a
92 minimum:

93 (A) that the abstinence only instructional materials adopted by a local school board or
94 charter school governing board under Subsection [~~(1)(c)~~] (3)(e)(ii)(B) shall be based upon
95 recommendations of the school district's or charter school's curriculum materials review
96 committee that comply with [~~state law and state board rules emphasizing abstinence before~~
97 ~~marriage and fidelity after marriage, and prohibiting instruction in:~~] the requirements and
98 restrictions applicable to human sexuality instruction or instructional programs specified in
99 Subsections (3)(b) and (c);

99a **Ĥ→ (B) that parents or guardians of children enrolled in the school district or charter**
99b **school shall be the majority of members of a curriculum materials review committee;**

99c **(C) that a school district or charter school, in consultation with parents, may develop**
99d **abstinence only curriculum materials;**

99e **(D) that abstinence only instructional materials adopted under Subsection (3)(e)(ii)(B)**
99f **shall include a parent education component in which instruction or instructional materials are**
99g **made available to parents to assist parents in providing human sexuality instruction to their**
99h **children. ←Ĥ**

100 [~~(I) the intricacies of intercourse, sexual stimulation, or erotic behavior;~~]

101 [~~(II) the advocacy of homosexuality;~~]

102 [~~(III) the advocacy or encouragement of the use of contraceptive methods or devices;~~

103 or]

104 [~~(IV) the advocacy of sexual activity outside of marriage;~~]

105 **Ĥ→ [(B)] (E) ←Ĥ** that the adoption of abstinence only instructional materials shall take
105a place in an

106 open and regular meeting of the local school board or charter school governing board for which
107 prior notice is given to parents and guardians of students attending schools in the district and an
108 opportunity for them to express their views and opinions on the materials at the meeting;

109 **Ĥ→ [(c)] (F) ←Ĥ** provision for an appeal and review process of the local school board's or
109a charter

110 school governing board's decision; and

111 **Ĥ→ [(D)] (G) ←Ĥ** provision for a report by the local school board or charter school
111a governing board

112 to the State Board of Education of the action taken and the abstinence only instructional

113 materials adopted by the local school board or charter school governing board under
114 Subsections ~~[(1)(e)]~~ (3)(e)(ii)(B) and ~~[(1)(e)]~~ (3)(e)(iii).

115 ~~[(2)]~~ (4) (a) Instruction in the courses described in Subsection ~~[(1)]~~ (2) shall be
116 consistent and systematic in grades eight through 12.

117 (b) At the request of the ~~[board]~~ State Board of Education, the Department of Health
118 shall cooperate with the board in developing programs to provide instruction in those areas.

119 ~~[(3)]~~ (5) (a) The ~~[board]~~ State Board of Education shall adopt rules that:

120 (i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323

121 are complied with; and

122 (ii) require a student's parent or legal guardian to be notified in advance and have an
123 opportunity to review the information for which parental consent is required under Sections
124 76-7-322 and 76-7-323.

125 (b) The ~~[board]~~ State Board of Education shall also provide procedures for disciplinary
126 action for violation of Section 76-7-322 or 76-7-323.

127 ~~[(4)]~~ (6) (a) In keeping with the requirements of Section 53A-13-109, and because
128 school employees and volunteers serve as examples to their students, school employees or
129 volunteers acting in their official capacities may not support or encourage criminal conduct by
130 students, teachers, or volunteers.

131 (b) To ensure the effective performance of school personnel, the limitations described
132 in Subsection ~~[(4)]~~ (6)(a) also apply to school employees or volunteers acting outside of their
133 official capacities if:

134 (i) they knew or should have known that their action could result in a material and
135 substantial interference or disruption in the normal activities of the school; and

136 (ii) that action does result in a material and substantial interference or disruption in the
137 normal activities of the school.

138 (c) Neither the State Office of Education ~~[nor]~~, local school districts, nor charter
139 schools may provide training of school employees or volunteers that supports or encourages
140 criminal conduct.

141 (d) The State Board of Education shall adopt rules implementing this section.

142 (e) Nothing in this section limits the ability or authority of the State Board of
143 Education ~~[and]~~, local school boards, or charter school governing boards to enact and enforce
144 rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers'
145 qualifications or behavior evidencing unfitness for duty.

146 ~~[(5)]~~ (7) Except as provided in Section 53A-13-101.1, political, atheistic, sectarian,
147 religious, or denominational doctrine may not be taught in the public schools.

148 ~~[(6)]~~ (8) (a) Local school boards, charter school governing boards, and their employees
149 shall cooperate and share responsibility in carrying out the purposes of this chapter.

150 (b) Each school district and charter school shall provide appropriate inservice training
151 for its teachers, counselors, and school administrators to enable them to understand, protect,

152 and properly instruct students in the values and character traits referred to in this section and
153 Sections 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and
154 53A-13-302 and distribute appropriate written materials on the values, character traits, and
155 conduct to each individual receiving the inservice training.

156 (c) The written materials shall also be made available to classified employees, students,
157 and parents and guardians of students.

158 (d) In order to assist school districts in providing the inservice training required under
159 Subsection [~~(6)~~] (8)(b), the State Board of Education [~~shall~~] may as appropriate, contract with a
160 qualified individual or entity possessing expertise in the areas referred to in Subsection [~~(6)~~]
161 (8)(b) to develop and disseminate model teacher inservice programs which districts may use to
162 train the individuals referred to in Subsection [~~(6)~~] (8)(b) to effectively teach the values and
163 qualities of character referenced in that subsection.

164 (e) In accordance with the provisions of Subsection [~~(4)~~] (6)(c), inservice training may
165 not support or encourage criminal conduct.

166 [~~(7)~~] (9) If any one or more provision, subsection, sentence, clause, phrase, or word of
167 this section, or the application thereof to any person or circumstance, is found to be
168 unconstitutional, the balance of this section shall be given effect without the invalid provision,
169 subsection, sentence, clause, phrase, or word.

Legislative Review Note
as of 2-7-12 8:45 AM

Office of Legislative Research and General Counsel