

PUBLIC EDUCATION CURRICULUM AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to certain public education curriculum and instructional materials.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education to report on certain curriculum, instructional, and training materials to the Education Interim Committee;
- ▶ amends parent or guardian consent requirements for a student to receive child sexual abuse prevention instruction; and
- ▶ makes technical and conforming corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

53A-13-101.2, as last amended by Laws of Utah 2015, Chapter 91

53A-13-112, as enacted by Laws of Utah 2014, Chapter 342



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

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

30 **53A-13-101. Instruction in health -- Parental consent requirements -- Conduct**
31 **and speech of school employees and volunteers -- Political and religious doctrine**
32 **prohibited -- Curriculum reports.**

33 (1) (a) The State Board of Education shall establish curriculum requirements under
34 Section **53A-1-402**, that include instruction in:

- 35 (i) community and personal health;
- 36 (ii) physiology;
- 37 (iii) personal hygiene; and
- 38 (iv) prevention of communicable disease.

39 (b) (i) That instruction shall stress:

40 (A) the importance of abstinence from all sexual activity before marriage and fidelity
41 after marriage as methods for preventing certain communicable diseases; and

42 (B) personal skills that encourage individual choice of abstinence and fidelity.

43 (ii) (A) At no time may instruction be provided, including responses to spontaneous
44 questions raised by students, regarding any means or methods that facilitate or encourage the
45 violation of any state or federal criminal law by a minor or an adult.

46 (B) Subsection (1)(b)(ii)(A) does not preclude an instructor from responding to a
47 spontaneous question as long as the response is consistent with the provisions of this section.

48 (c) (i) The [~~board~~] State Board of Education shall recommend instructional materials
49 for use in the curricula required under Subsection (1)(a) after considering evaluations of
50 instructional materials by the State Instructional Materials Commission.

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

52 (A) the instructional materials recommended under Subsection (1)(c)(i); or

53 (B) other instructional materials as provided in [~~state board~~] State Board of Education
54 rule.

55 (iii) The [~~state board~~] State Board of Education rule made under Subsection
56 (1)(c)(ii)(B) shall include, at a minimum:

57 (A) that the materials adopted by a local school board or charter school governing
58 board under Subsection (1)(c)(ii)(B) shall be based upon recommendations of the school

59 district's or charter school's curriculum materials review committee that comply with state law
 60 and [~~state board~~] State Board of Education rules emphasizing abstinence before marriage and
 61 fidelity after marriage, and prohibiting instruction in:

- 62 (I) the intricacies of intercourse, sexual stimulation, or erotic behavior;
- 63 (II) the advocacy of homosexuality;
- 64 (III) the advocacy or encouragement of the use of contraceptive methods or devices; or
- 65 (IV) the advocacy of sexual activity outside of marriage;

66 (B) that the adoption of instructional materials shall take place in an open and regular
 67 meeting of the local school board or charter school governing board for which prior notice is
 68 given to parents and guardians of students attending the schools [~~in the district~~] and an
 69 opportunity for them to express their views and opinions on the materials at the meeting;

70 (C) provision for an appeal and review process of the local school board's or charter
 71 school governing board's decision; and

72 (D) provision for a report to the State Board of Education by the local school board [~~to~~
 73 ~~the State Board of Education~~] or charter school governing board of the action taken and the
 74 materials adopted by the local school board or charter school governing board under
 75 [~~Subsections~~] Subsection (1)(c)(ii)(B) and [~~(1)(c)(iii)] this Subsection (1)(c)(iii).~~

76 (2) (a) Instruction in the courses described in Subsection (1) shall be consistent and
 77 systematic in grades [~~eight~~] 8 through 12.

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

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

82 (i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323
 83 are complied with; and

84 (ii) require a student's parent or legal guardian to be notified in advance and have an
 85 opportunity to review the information for which parental consent is required under Sections
 86 76-7-322 and 76-7-323.

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

89 (4) (a) In keeping with the requirements of Section 53A-13-109, and because school

90 employees and volunteers serve as examples to their students, school employees or volunteers
91 acting in their official capacities may not support or encourage criminal conduct by students,
92 teachers, or volunteers.

93 (b) To ensure the effective performance of school personnel, the limitations described
94 in Subsection (4)(a) also apply to school employees or volunteers acting outside of their official
95 capacities if:

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

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

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

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

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

108 (5) Except as provided in Section 53A-13-101.1, political, atheistic, sectarian,
109 religious, or denominational doctrine may not be taught in the public schools.

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

113 (b) Each school district and charter school shall provide appropriate inservice training
114 for its teachers, counselors, and school administrators to enable them to understand, protect,
115 and properly instruct students in the values and character traits referred to in this section and
116 Sections 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and
117 53A-13-302 and distribute appropriate written materials on the values, character traits, and
118 conduct to each individual receiving the inservice training.

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

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

127 (e) In accordance with the provisions of Subsection (4)(c), inservice training may not
128 support or encourage criminal conduct.

129 (7) If any one or more provision, subsection, sentence, clause, phrase, or word of this
130 section, or the application thereof to any person or circumstance, is found to be
131 unconstitutional, the balance of this section shall be given effect without the invalid provision,
132 subsection, sentence, clause, phrase, or word.

133 (8) The State Board of Education shall submit a report, in accordance with Subsection
134 (9) and subject to Subsection (11), if the State Board of Education:

135 (a) revises a curriculum requirement described in Subsection (1)(a);

136 (b) makes a recommendation on instructional material as described in Subsection
137 (1)(c)(i);

138 (c) adopts a rule for other instructional materials as described in Subsection
139 (1)(c)(ii)(B); or

140 (d) revises training or instructional materials described in Subsection
141 53A-13-112(2)(c).

142 (9) If required to submit a report under Subsection (8), the board shall submit the
143 report in writing to the Education Interim Committee no later than 60 days after the day on
144 which the board takes an action described in Subsection (8)(a), (b), (c), or (d).

145 (10) No later than November 30, 2016, the State Board of Education shall report in
146 writing, subject to Subsection (11), to the Education Interim Committee on the training and
147 instructional materials described in Subsection 53A-13-112(2).

148 (11) A report described in Subsection (8) or (10) shall include:

149 (a) a copy of the curriculum, instructional, or training materials and any reference
150 materials used or distributed by the State Board of Education;

151 (b) the name of each individual or entity consulted by the State Board of Education in

152 the creation and development of the curriculum, instructional, or training materials;

153 (c) any source material that the State Board of Education relied on when approving the
154 curriculum, instructional, or training materials;

155 (d) the name of each individual or entity who created a source material described in
156 Subsection (11)(c); and

157 (e) the name of each individual or entity who provided funding for:

158 (i) an individual or entity for purposes of consultation as described in Subsection
159 (11)(b);

160 (ii) the development or publication of source material described in Subsection (11)(c);
161 and

162 (iii) an individual or entity in support of the creation of source material as described in
163 Subsection (11)(d).

164 Section 2. Section **53A-13-101.2** is amended to read:

165 **53A-13-101.2. Waivers of participation -- Required parental consent for human**
166 **sexuality instruction.**

167 (1) As used in this section:

168 (a) [(†)] "Human sexuality instruction" means any course material, unit, class, lesson,
169 activity, or presentation that, as the focus of the discussion, provides instruction or information
170 to a student about:

171 (A) sexual abstinence;

172 (B) human sexuality;

173 (C) human reproduction;

174 (D) reproductive anatomy;

175 (E) physiology;

176 (F) pregnancy;

177 (G) marriage;

178 (H) childbirth;

179 (I) parenthood;

180 (J) contraception;

181 (K) HIV/AIDS; [or]

182 (L) sexually transmitted diseases[-]; or

183 [(i)] (M) [~~"Human sexuality instruction" does not include~~] child sexual abuse
184 prevention instruction described in Section 53A-13-112.

185 (b) "Parent" means a parent or legal guardian.

186 (c) "School" means a public school.

187 (2) If a parent of a student, or a secondary student, determines that the student's
188 participation in a portion of the curriculum or in an activity would require the student to affirm
189 or deny a religious belief or right of conscience, or engage or refrain from engaging in a
190 practice forbidden or required in the exercise of a religious right or right of conscience, the
191 parent or the secondary student may request:

192 (a) a waiver of the requirement to participate; or

193 (b) a reasonable alternative that requires reasonably equivalent performance by the
194 student of the secular objectives of the curriculum or activity in question.

195 (3) The school shall promptly notify a student's parent if the secondary student makes a
196 request under Subsection (2).

197 (4) If a request is made under Subsection (2), the school shall:

198 (a) waive the participation requirement;

199 (b) provide a reasonable alternative to the requirement; or

200 (c) notify the requesting party that participation is required.

201 (5) The school shall ensure that the provisions of Subsection 53A-13-101.3(3) are met
202 in connection with any required participation under Subsection (4)(c).

203 (6) A school shall obtain prior written consent from a student's parent before the school
204 may provide human sexuality instruction to the student.

205 (7) If a student's parent chooses not to have the student participate in human sexuality
206 instruction, a school shall:

207 (a) waive the requirement for the student to participate in the human sexuality
208 instruction; or

209 (b) provide the student with a reasonable alternative to the human sexuality instruction
210 requirement.

211 (8) In cooperation with the student's teacher or school, a parent shall take responsibility
212 for the parent's student's human sexuality instruction if a school:

213 (a) waives the student's human sexuality instruction requirement in Subsection (7)(a);

214 or

215 (b) provides the student with a reasonable alternative to the human sexuality
216 instruction requirement described in Subsection (7)(b).

217 (9) A student's academic or citizenship performance may not be penalized if:

218 (a) the secondary student or the student's parent chooses to exercise a religious right or
219 right of conscience in accordance with the provisions of this section; or

220 (b) the student's parent chooses not to have the student participate in human sexuality
221 instruction as described in Subsection (7).

222 Section 3. Section 53A-13-112 is amended to read:

223 **53A-13-112. Child sexual abuse prevention.**

224 (1) As used in this section, "school personnel" is as defined in Section 53A-11-605.

225 (2) (a) On or before July 1, 2015, the State Board of Education shall approve, in
226 partnership with the Department of Human Services, age-appropriate instructional materials for
227 the training and instruction described in Subsections (3)(a) and (4).

228 (b) After July 1, 2015, the State Board of Education, in partnership with the
229 Department of Human Services, may revise the training or instructional materials approved
230 under Subsection (2)(a).

231 (c) If the State Board of Education revises training or instructional materials as
232 described in this section, the State Board of Education shall submit a report in accordance with
233 Section 53A-13-113.

234 (3) (a) Beginning in the 2016-17 school year, a school district or charter school shall
235 provide training and instruction on child sexual abuse prevention and awareness to:

236 (i) school personnel in elementary and secondary schools on:

237 (A) responding to a disclosure of child sexual abuse in a supportive, appropriate
238 manner; and

239 (B) the mandatory reporting requirements described in Sections 53A-6-502 and
240 62A-4a-403; and

241 (ii) parents or guardians of elementary school students on:

242 (A) recognizing warning signs of a child who is being sexually abused; and

243 (B) effective, age-appropriate methods for discussing the topic of child sexual abuse
244 with a child.

245 (b) A school district or charter school shall use the instructional materials approved by
246 the State Board of Education under Subsection (2) to provide the training and instruction to
247 school personnel and parents or guardians under Subsection (3)(a).

248 (4) (a) In accordance with Subsections (4)(b) and (5), a school district or charter school
249 may provide instruction on child sexual abuse prevention and awareness to elementary school
250 students using age-appropriate curriculum.

251 (b) Beginning in the 2016-17 school year, a school district or charter school that
252 provides the instruction described in Subsection (4)(a) shall use the instructional materials
253 approved by the board under Subsection (2) to provide the instruction.

254 (5) (a) An elementary school student may not be given the instruction described in
255 Subsection (4) unless the parent or guardian of the student:

256 (i) is:

257 [(i)] (A) notified in advance of the~~[-(A)]~~ instruction ~~[and the content of the~~
258 ~~instruction]; [and]~~

259 ~~[(B) parent or guardian's right to have the student excused from the instruction;]~~

260 [(ii)] (B) given an opportunity to review the instructional materials before the
261 instruction occurs; and

262 [(iii)] (C) allowed to be present when the instruction is delivered~~[-];~~ and

263 ~~[(b) Upon the written request of the parent or guardian of an elementary school student,~~
264 ~~the student shall be excused from the instruction described in Subsection (4).]~~

265 (ii) provides prior written consent in accordance with Section [53A-13-101.2](#) for the
266 student to be given the instruction.

267 [(e)] (b) Participation of a student requires compliance with Sections [53A-13-301](#) and
268 [53A-13-302](#).

269 (6) A school district or charter school may determine the mode of delivery for the
270 training and instruction described in Subsections (3) and (4).

271 (7) (a) The State Board of Education shall report to the Education Interim Committee
272 on the progress of the provisions of this section by the committee's November 2017 meeting.

273 (b) Upon request of the State Board of Education, a school district or charter school
274 shall provide to the State Board of Education information that is necessary for the report
275 required under Subsection (7)(a).

Legislative Review Note
Office of Legislative Research and General Counsel