

Representative Brian S. King proposes the following substitute bill:

REPRODUCTIVE HEALTH EDUCATION AND SERVICES

AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to reproductive health education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes requirements for human health education;
- ▶ requires the State Instructional Materials Commission to consult with parents and others when evaluating human health curriculum;
- ▶ enacts human sexuality instruction notice provisions;
- ▶ exempts certain persons from prosecution under certain abortion and contraceptive provisions; and
- ▶ makes technical and conforming corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **53A-1-402.6**, as last amended by Laws of Utah 2015, Chapter 415

28 **53A-13-101**, as last amended by Laws of Utah 2016, Chapter 144

29 **53A-13-101.2**, as last amended by Laws of Utah 2015, Chapter 91

30 ENACTS:

31 **53A-13-101.7**, Utah Code Annotated 1953



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

34 Section 1. Section **53A-1-402.6** is amended to read:

35 **53A-1-402.6. Core standards for Utah public schools.**

36 (1) (a) In establishing minimum standards related to curriculum and instruction
37 requirements under Section **53A-1-402**, the State Board of Education shall, in consultation
38 with local school boards, school superintendents, teachers, employers, and parents implement
39 core standards for Utah public schools that will enable students to, among other objectives:

- 40 (i) communicate effectively, both verbally and through written communication;
- 41 (ii) apply mathematics; and
- 42 (iii) access, analyze, and apply information.

43 (b) Except as provided in this title, the State Board of Education may recommend but
44 may not require a local school board or charter school governing board to use:

- 45 (i) a particular curriculum or instructional material; or
- 46 (ii) a model curriculum or instructional material.

47 (2) The board shall, in establishing the core standards for Utah public schools:

- 48 (a) identify the basic knowledge, skills, and competencies each student is expected to
49 acquire or master as the student advances through the public education system; and
- 50 (b) align the core standards for Utah public schools and tests administered under the
51 Utah Performance Assessment System for Students (U-PASS) with each other.

52 (3) The basic knowledge, skills, and competencies identified pursuant to Subsection
53 (2)(a) shall increase in depth and complexity from year to year and focus on consistent and
54 continual progress within and between grade levels and courses in the basic academic areas of:

- 55 (a) English, including explicit phonics, spelling, grammar, reading, writing,
56 vocabulary, speech, and listening; and

- 57 (b) mathematics, including basic computational skills.
- 58 (4) Before adopting core standards for Utah public schools, the State Board of
59 Education shall:
- 60 (a) publicize draft core standards for Utah public schools on the State Board of
61 Education's website and the Utah Public Notice website created under Section [63F-1-701](#);
- 62 (b) invite public comment on the draft core standards for Utah public schools for a
63 period of not less than 90 days; and
- 64 (c) conduct three public hearings that are held in different regions of the state on the
65 draft core standards for Utah public schools.
- 66 (5) Local school boards shall design their school programs, that are supported by
67 generally accepted scientific standards of evidence, to focus on the core standards for Utah
68 public schools with the expectation that each program will enhance or help achieve mastery of
69 the core standards for Utah public schools.
- 70 (6) Except as provided in [~~Section~~] [Sections 53A-13-101](#) and [53A-13-101.7](#), each
71 school may select instructional materials and methods of teaching, that are supported by
72 generally accepted scientific standards of evidence, that it considers most appropriate to meet
73 the core standards for Utah public schools.
- 74 (7) The state may exit any agreement, contract, memorandum of understanding, or
75 consortium that cedes control of the core standards for Utah public schools to any other entity,
76 including a federal agency or consortium, for any reason, including:
- 77 (a) the cost of developing or implementing the core standards for Utah public schools;
- 78 (b) the proposed core standards for Utah public schools are inconsistent with
79 community values; or
- 80 (c) the agreement, contract, memorandum of understanding, or consortium:
- 81 (i) was entered into in violation of Part 9, Implementing Federal or National Education
82 Programs Act, or Title 63J, Chapter 5, Federal Funds Procedures Act;
- 83 (ii) conflicts with Utah law;
- 84 (iii) requires Utah student data to be included in a national or multi-state database;
- 85 (iv) requires records of teacher performance to be included in a national or multi-state
86 database; or
- 87 (v) imposes curriculum, assessment, or data tracking requirements on home school or

88 private school students.

89 (8) The State Board of Education shall annually report to the Education Interim
90 Committee on the development and implementation of the core standards for Utah public
91 schools, including the time line established for the review of the core standards for Utah public
92 schools by a standards review committee and the recommendations of a standards review
93 committee established under Section [53A-1-402.8](#).

94 Section 2. Section **53A-13-101** is amended to read:

95 **53A-13-101. Instruction in health -- Parental consent requirements -- Conduct**
96 **and speech of school employees and volunteers -- Political and religious doctrine**
97 **prohibited.**

98 (1) (a) The State Board of Education shall establish curriculum requirements under
99 Section [53A-1-402](#), that include instruction in:

- 100 (i) community and personal health;
101 (ii) physiology;
102 (iii) personal hygiene; and
103 (iv) prevention of communicable disease.

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

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

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

108 (ii) (A) ~~[At]~~ For a student whose parent provides consent as described in Subsection
109 [53A-13-101.2\(6\)\(a\)](#) but not Subsection [53A-13-101.2\(6\)\(b\)](#), at no time may instruction be
110 provided, including responses to spontaneous questions raised by students, regarding any
111 means or methods that facilitate or encourage the violation of any state or federal criminal law
112 by a minor or an adult.

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

115 (c) (i) The board shall recommend instructional materials for use in the curricula
116 required under Subsection (1)(a) after considering evaluations of instructional materials by the
117 State Instructional Materials Commission.

118 (ii) A local school board may choose to adopt:

119 (A) the instructional materials recommended under Subsection (1)(c) (i); or
120 (B) other instructional materials as provided in state board rule.
121 (iii) The state board rule made under Subsection (1)(c)(ii) (B) shall include, at a
122 minimum:
123 (A) that the materials adopted by a local school board under Subsection (1)(c)(ii) (B)
124 shall be based upon recommendations of the school district's Curriculum Materials Review
125 Committee that comply with state law and state board rules emphasizing abstinence before
126 marriage and fidelity after marriage, and prohibiting instruction in:
127 (I) the intricacies of intercourse, sexual stimulation, or erotic behavior;
128 (II) the advocacy of homosexuality;
129 (III) the advocacy or encouragement of the use of contraceptive methods or devices; or
130 (IV) the advocacy of sexual activity outside of marriage;
131 (B) that the adoption of instructional materials shall take place in an open and regular
132 meeting of the local school board for which prior notice is given to parents and guardians of
133 students attending schools in the district and an opportunity for them to express their views and
134 opinions on the materials at the meeting;
135 (C) provision for an appeal and review process of the local school board's decision;
136 and
137 (D) provision for a report by the local school board to the State Board of Education of
138 the action taken and the materials adopted by the local school board under Subsections
139 (1)(c)(ii) (B) and (1)(c)(iii) .
140 (2) (a) Instruction in the courses described in Subsection (1) shall be consistent and
141 systematic in grades eight through 12.
142 (b) At the request of the board, the Department of Health shall cooperate with the
143 board in developing programs to provide instruction in those areas .
144 (3) (a) The board shall adopt rules that:
145 (i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323
146 are complied with; and
147 (ii) require a student's parent or legal guardian to be notified in advance and have an
148 opportunity to review the information for which parental consent is required under Sections
149 76-7-322 and 76-7-323 .

150 (b) The board shall also provide procedures for disciplinary action for violation of
151 Section 76-7-322 or 76-7-323.

152 (4) (a) In keeping with the requirements of Section 53A-13-109, and because school
153 employees and volunteers serve as examples to their students, school employees or volunteers
154 acting in their official capacities may not support or encourage criminal conduct by students,
155 teachers, or volunteers.

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

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

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

163 (c) Neither the State Board of Education nor local school districts may allow training
164 of school employees or volunteers that supports or encourages criminal conduct.

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

166 (e) Nothing in this section limits the ability or authority of the State Board of
167 Education and local school boards to enact and enforce rules or take actions that are otherwise
168 lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing
169 unfitness for duty.

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

172 (6) (a) Local school boards and their employees shall cooperate and share
173 responsibility in carrying out the purposes of this chapter.

174 (b) Each school district shall provide appropriate inservice training for its teachers,
175 counselors, and school administrators to enable them to understand, protect, and properly
176 instruct students in the values and character traits referred to in this section and Sections
177 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and 53A-13-302 and
178 distribute appropriate written materials on the values, character traits, and conduct to each
179 individual receiving the inservice training.

180 (c) The written materials shall also be made available to classified employees, students,

181 and parents and guardians of students.

182 (d) In order to assist school districts in providing the inservice training required under
183 Subsection (6) (b), the State Board of Education shall as appropriate, contract with a qualified
184 individual or entity possessing expertise in the areas referred to in Subsection (6) (b) to develop
185 and disseminate model teacher inservice programs which districts may use to train the
186 individuals referred to in Subsection (6) (b) to effectively teach the values and qualities of
187 character referenced in that subsection .

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

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

194 Section 3. Section **53A-13-101.2** is amended to read:

195 **53A-13-101.2. Waivers of participation -- Required parental consent for human**
196 **sexuality instruction.**

197 (1) As used in this section:

198 (a) (i) "Human sexuality instruction" means any course material, unit, class, lesson,
199 activity, or presentation that, as the focus of the discussion, provides instruction or information
200 to a student about:

- 201 (A) sexual abstinence;
- 202 (B) human sexuality;
- 203 (C) human reproduction;
- 204 (D) reproductive anatomy;
- 205 (E) physiology;
- 206 (F) pregnancy;
- 207 (G) marriage;
- 208 (H) childbirth;
- 209 (I) parenthood;
- 210 (J) contraception;
- 211 (K) HIV/AIDS; or

- 212 (L) sexually transmitted diseases.
- 213 (ii) "Human sexuality instruction" does not include child sexual abuse prevention
214 instruction described in Section [53A-13-112](#).
- 215 (b) "Parent" means a parent or legal guardian.
- 216 (c) "School" means a public school.
- 217 (2) If a parent of a student, or a secondary student, determines that the student's
218 participation in a portion of the curriculum or in an activity would require the student to affirm
219 or deny a religious belief or right of conscience, or engage or refrain from engaging in a
220 practice forbidden or required in the exercise of a religious right or right of conscience, the
221 parent or the secondary student may request:
- 222 (a) a waiver of the requirement to participate; or
- 223 (b) a reasonable alternative that requires reasonably equivalent performance by the
224 student of the secular objectives of the curriculum or activity in question.
- 225 (3) The school shall promptly notify a student's parent if the secondary student makes a
226 request under Subsection (2).
- 227 (4) If a request is made under Subsection (2), the school shall:
- 228 (a) waive the participation requirement;
- 229 (b) provide a reasonable alternative to the requirement; or
- 230 (c) notify the requesting party that participation is required.
- 231 (5) The school shall ensure that the provisions of Subsection [53A-13-101.3](#)(3) are met
232 in connection with any required participation under Subsection (4)(c).
- 233 (6) (a) A school shall obtain prior written consent from a student's parent before the
234 school may provide human sexuality instruction to the student.
- 235 (b) For a student to receive human health education as described in Section
236 [53A-13-101.7](#), a notice to obtain prior written consent shall:
- 237 (i) be printed in 14-point font;
- 238 (ii) include the following statement in the same or substantially similar format:
- 239 "In accordance with state law, this notice is to obtain the written consent of a parent or
240 legal guardian for a student to receive human health instruction. Your student will not receive
241 human health instruction at school without your written consent.
- 242 Human health instruction encourages and facilitates parental or guardian involvement

243 and family communication and is made available to assist parental, guardian, and family
244 discussion about human health education. This instruction helps students develop skills for
245 making responsible and healthy decisions about human sexuality, personal power, boundary
246 setting, developing safe and healthy relationships, and resisting peer pressure, including not
247 making unwanted verbal, physical, and sexual advances, and not making assumptions about a
248 person's supposed sexual intentions based on that person's appearance.

249 Human health instruction teaches human sexuality as a normal and healthy aspect of
250 human development and includes information about the physical, social, and emotional
251 changes of adolescence and subsequent stages of human maturation, including how pregnancy
252 happens. The instruction uses evidence-based information shown to be effective in changing
253 behaviors that contribute to pregnancy at a young age and sexually transmitted diseases and
254 infections, including sexual abstinence and delaying sexual initiation, reducing the frequency
255 of sexual intercourse, reducing the number of sexual partners, and increasing the use of
256 condoms and other contraceptives.

257 Your student's class discussions and information will focus on how to recognize and
258 respond safely and effectively in situations where sexual or physical violence may be occurring
259 or where there may be a risk for these behaviors to occur and discussions of how alcohol and
260 drug use impair responsible and healthy decision making. Classroom discussions will provide
261 instruction about the health benefits and potential side effects of using contraceptives and
262 barrier methods to prevent pregnancy, including instruction regarding emergency contraception
263 and the availability of contraceptive methods.

264 Human health instruction is meant to be comprehensive, age appropriate, reliant on
265 evidence-based information, inclusive of a positive youth development framework, and to
266 provide medically accurate information.";

267 (iii) include information on, if the parent does not provide consent, whether the school
268 will waive the requirement or provide a reasonable alternative as described in this section;

269 (iv) include any other information necessary to assist a parent in making an informed
270 decision about a student's participation in human sexuality instruction; and

271 (v) provide for the date and signature of the parent.

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

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

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

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

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

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

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

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

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

289 Section 4. Section **53A-13-101.7** is enacted to read:

290 **53A-13-101.7. Human health education -- Parental consent requirements --**

291 **Conduct and speech of school employees and volunteers -- Political and religious doctrine**
292 **prohibited.**

293 (1) As used in this section:

294 (a) "Age appropriate" means topics, messages, and teaching methods suitable to a
295 particular age or age group based on developing cognitive, emotional, and behavioral capacity
296 typical for the age or age group.

297 (b) "Board" means the State Board of Education.

298 (c) "Evidence-based information" means information that is evaluated using rigorous
299 research design, including:

300 (i) measuring knowledge, attitude, and behavior;

301 (ii) having an adequate sample size;

302 (iii) using sound research methods and processes;

303 (iv) replicating in different locations and finding similar evaluation results; and

304 (v) publishing results in a peer-reviewed journal.

305 (d) (i) "Human health" or "human health education" means evidence-based information
306 about:

307 (A) human reproduction, reproductive anatomy, and reproductive physiology;

308 (B) all methods to prevent unintended pregnancy and sexually transmitted diseases and
309 infections, including HIV and AIDS; and

310 (C) the link between human papillomavirus and cancer and other types of cancer
311 involving the human reproductive systems, including prostate, testicular, ovarian, and uterine
312 cancer.

313 (ii) "Human health" includes information about the correct and consistent use of sexual
314 abstinence, contraception, condoms, and other birth control barrier methods.

315 (e) "Positive youth development" means an approach that:

316 (i) is inclusive of all youth, collaborative, and strength-based; and

317 (ii) emphasizes the many positive attributes of young people and focuses on developing
318 inherent strengths and assets to promote health.

319 (f) "Sexual abstinence" means not engaging in oral, vaginal, or anal intercourse or
320 genital skin-to-skin contact.

321 (2) The board shall establish curriculum requirements under Section [53A-1-402](#) that
322 include health instruction in human health.

323 (3) (a) The human health education curriculum established under Subsection (2) shall:

324 (i) (A) encourage and facilitate parental or guardian involvement and family
325 communication; and

326 (B) be made available to assist parental, guardian, and family discussion about human
327 health education;

328 (ii) include instruction to help students develop skills for making responsible and
329 healthy decisions about human sexuality, personal power, boundary setting, developing safe
330 and healthy relationships, and resisting peer pressure, including:

331 (A) not making unwanted verbal, physical, and sexual advances; and

332 (B) not making assumptions about a person's supposed sexual intentions based on that
333 person's appearance;

334 (iii) teach human sexuality as a normal and healthy aspect of human development;

335 (iv) include information about the physical, social, and emotional changes of

336 adolescence and subsequent stages of human maturation, including how pregnancy happens;

337 (v) include evidence-based information shown to be effective in changing behaviors

338 that contribute to pregnancy at a young age and sexually transmitted diseases and infections,

339 including:

340 (A) sexual abstinence and delaying sexual initiation;

341 (B) reducing the frequency of sexual intercourse;

342 (C) reducing the number of sexual partners; and

343 (D) increasing the use of condoms and other contraceptives;

344 (vi) include discussions and information on how to recognize and respond safely and

345 effectively in situations where sexual or physical violence may be occurring or where there

346 may be a risk for these behaviors to occur;

347 (vii) include discussions of how alcohol and drug use impair responsible and healthy

348 decision making;

349 (viii) be comprehensive, age appropriate, rely on evidence-based information, be

350 inclusive of a positive youth development framework, and be medically accurate; and

351 (ix) provide instruction about the health benefits and potential side effects of using

352 contraceptives and barrier methods to prevent pregnancy, including instruction regarding

353 emergency contraception and the availability of contraceptive methods.

354 (b) (i) The board shall recommend instructional materials for use in the curriculum

355 required under Subsection (2) after considering evaluations of instructional materials by the

356 State Instructional Materials Commission.

357 (ii) The State Instructional Materials Commission shall consult with parents, teachers,

358 school nurses, and community members in evaluating instructional materials for a human

359 health education curriculum that complies with this section.

360 (iii) A local school board or charter school governing board may choose to adopt:

361 (A) the instructional materials recommended under Subsection (3)(b)(i); or

362 (B) other instructional materials as provided in board rule.

363 (iv) The board rule made under Subsection (3)(b)(iii)(B) shall include, at a minimum:

364 (A) that the materials adopted by a local school board or charter school governing

365 board under Subsection (3)(b)(iii)(B) shall be based upon recommendations of the school

366 district's or charter school's curriculum review committee that comply with state law and board

367 rules;

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

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

374 (D) provision for a report to the board by the local school board or charter school
375 governing board of the action taken and the materials adopted by the local school board or
376 charter school governing board under Subsections (3)(b)(iii)(B) and this (3)(b)(iv).

377 (4) (a) Instruction in the courses described in Subsection (2):

378 (i) shall be consistent and systematic in grades 8 through 12; and

379 (ii) may not be taught in kindergarten through grade 3.

380 (b) At the request of the board, the Department of Health shall cooperate with the
381 board in establishing curriculum requirements as described in Subsection (2).

382 (5) The board shall adopt rules that:

383 (a) provide that the parental consent requirements of Section [53A-13-101.2](#) are
384 complied with; and

385 (b) require a student's parent or legal guardian to be notified in advance and have an
386 opportunity to review the information for which parental consent is required under Section
387 [53A-13-101.2](#).

388 (6) The board shall adopt rules implementing this section.

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

391 (8) (a) A local school board or charter school governing board and that board's
392 employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

393 (b) Each school district and charter school shall provide appropriate inservice training
394 for its teachers, counselors, and school administrators to enable them to understand, protect,
395 and properly instruct students in the information, values, and character traits referred to in this
396 section and Sections [53A-13-101.1](#), [53A-13-101.2](#), [53A-13-101.3](#), [53A-13-109](#), [53A-13-301](#),
397 and [53A-13-302](#), and distribute appropriate written materials on the information, values,

398 character traits, and conduct to each individual receiving the inservice training.

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

401 (d) In order to assist school districts in providing the inservice training required under
402 Subsection (8)(b), the board shall, as appropriate, contract with a qualified individual or entity
403 possessing expertise in the areas referred to in Subsection (8)(b) to develop and disseminate
404 model teacher inservice programs that districts may use to train the individuals referred to in
405 Subsection (8)(b) to effectively teach the values and qualities of character referenced in
406 Subsection (8)(b).

407 (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this
408 section, or the application thereof to any person or circumstance, is found to be
409 unconstitutional, the balance of this section shall be given effect without the invalid provision,
410 subsection, sentence, clause, phrase, or word.

411 (10) (a) As used in this section, "person" means:

412 (i) a school employee;

413 (ii) a school;

414 (iii) a charter school;

415 (iv) a charter school governing board;

416 (v) a school district;

417 (vi) a local school board;

418 (vii) a school district's or charter school's curriculum review committee;

419 (viii) the State Instructional Materials Commission;

420 (ix) the Department of Health; or

421 (x) the State Board of Education.

422 (b) If a person provides human health education in the person's official capacity in
423 accordance with this section to a student whose parent has provided consent to receive human
424 health education under Section [53A-13-101.2](#), the person is not in violation of and may not be
425 prosecuted under:

426 (i) Section [76-7-321](#);

427 (ii) Section [76-7-322](#);

428 (iii) Section [76-7-323](#);

429 (iv) Section [76-7-324](#); or

430 (v) Section [76-7-325](#).