

1 **REPRODUCTIVE EDUCATION AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Justin L. Fawson**

5 Senate Sponsor: Todd Weiler

6 <cospons>

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends and enacts provisions related to instruction in health and sex
11 education.

12 **Highlighted Provisions:**

- 13 This bill:
- 14 ▶ defines terms;
 - 15 ▶ modifies instruction in health to include instruction in refusal skills and the harmful
16 effects of pornography;
 - 17 ▶ clarifies ambiguous language, updates outdated terminology, and repeals repetitive
18 language;
 - 19 ▶ amends definitions for required parental consent; and
 - 20 ▶ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **53G-10-402**, as renumbered and amended by Laws of Utah 2018, Chapter 3

28 **53G-10-403**, as enacted by Laws of Utah 2018, Chapter 3

29

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

31 Section 1. Section 53G-10-402 is amended to read:

32 **53G-10-402. Instruction in health -- Parental consent requirements -- Conduct**
33 **and speech of school employees and volunteers -- Political and religious doctrine**
34 **prohibited.**

35 (1) As used in this section:

36 (a) "Board" means the State Board of Education.

37 (b) "Local school board" means:

38 (i) a local board of education elected in accordance with Section 53G-4-201; or

39 (ii) a charter school governing board, as defined in Section 53G-5-102.

40 (c) "Parent" means a parent or legal guardian.

41 (d) "Refusal skills" means instruction:

42 (i) in a student's ability to clearly and expressly refuse sexual advances by a minor or
43 adult;

44 (ii) in a student's obligation to stop the student's sexual advances if refused by another
45 individual;

46 (iii) informing a student of the student's right to report and seek counseling for
47 unwanted sexual advances;

48 (iv) in sexual harassment; and

49 (v) informing a student that a student may not consent to criminally prohibited
50 activities or activities for which the student is legally prohibited from giving consent, including
51 the electronic transmission of sexually explicit images by an individual of the individual or
52 another.

53 [(H)] (2) (a) The [~~State Board of Education~~] board shall establish curriculum
54 requirements under Section 53E-3-501 that include instruction in:

55 (i) community and personal health;

56 (ii) physiology;

- 57 (iii) personal hygiene; [~~and~~]
- 58 (iv) prevention of communicable disease[~~;~~];
- 59 (v) refusal skills; and
- 60 (vi) the harmful effects of pornography.
- 61 (b) (i) That instruction shall stress:
 - 62 (A) the importance of abstinence from all sexual activity before marriage and fidelity
 - 63 after marriage as methods for preventing certain communicable diseases; and
 - 64 (B) personal skills that encourage individual choice of abstinence and fidelity.
- 65 (ii) (A) At no time may instruction be provided, including responses to spontaneous
- 66 questions raised by students, regarding any means or methods that facilitate or encourage the
- 67 violation of any state or federal criminal law by a minor or an adult.
 - 68 (B) Subsection [~~(1)~~] (2)(b)(ii)(A) does not preclude an instructor from responding to a
 - 69 spontaneous question as long as the response is consistent with the provisions of this section.
- 70 (c) (i) The board shall recommend instructional materials for use in the curricula
- 71 required under Subsection [~~(1)~~] (2)(a) after considering evaluations of instructional materials
- 72 by the State Instructional Materials Commission.
 - 73 (ii) A local school board may choose to adopt:
 - 74 (A) the instructional materials recommended under Subsection [~~(1)~~] (2)(c)(i); or
 - 75 (B) other instructional materials as provided in [~~state~~] board rule.
 - 76 (iii) The [~~state~~] board rule made under Subsection [~~(1)~~] (2)(c)(ii)(B) shall include, at a
 - 77 minimum:
 - 78 (A) that the materials adopted by a local school board under Subsection [~~(1)~~]
 - 79 (2)(c)(ii)(B) shall be based upon recommendations of the school district's or charter school's
 - 80 Curriculum Materials Review Committee that comply with state law and [~~state~~] board rules
 - 81 emphasizing abstinence before marriage and fidelity after marriage, and prohibiting instruction
 - 82 in:
 - 83 (I) the intricacies of intercourse, sexual stimulation, or erotic behavior;
 - 84 (II) the advocacy of premarital or extramarital sexual activity; or

85 (III) the advocacy or encouragement of the use of contraceptive methods or devices;
86 [~~(IV) the advocacy of sexual activity outside of marriage;~~]

87 (B) that the adoption of instructional materials shall take place in an open and regular
88 meeting of the local school board for which prior notice is given to parents [~~and guardians~~] of
89 students attending the respective schools [~~in the district~~] and an opportunity for [~~them~~] parents
90 to express their views and opinions on the materials at the meeting;

91 (C) provision for an appeal and review process of the local school board's decision; and

92 (D) provision for a report by the local school board to the [~~State Board of Education~~]
93 board of the action taken and the materials adopted by the local school board under Subsections
94 [~~(1)~~] (2)(c)(ii)(B) and [~~(1)~~] (2)(c)(iii).

95 [~~(2)~~] (3) (a) [~~Instruction~~] A student shall receive instruction in the courses described in
96 Subsection [~~(1) shall be consistent and systematic in grades eight through~~] (2) on at least two
97 occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

98 (b) At the request of the board, the Department of Health shall cooperate with the
99 board in developing programs to provide instruction in those areas.

100 [~~(3)~~] (4) (a) The board shall adopt rules that:

101 (i) provide that the parental consent requirements of Sections [76-7-322](#) and [76-7-323](#)
102 are complied with; and

103 (ii) require a student's parent [~~or legal guardian~~] to be notified in advance and have an
104 opportunity to review the information for which parental consent is required under Sections
105 [76-7-322](#) and [76-7-323](#).

106 (b) The board shall also provide procedures for disciplinary action for violation of
107 Section [76-7-322](#) or [76-7-323](#).

108 [~~(4)~~] (5) (a) In keeping with the requirements of Section [53G-10-204](#), and because
109 school employees and volunteers serve as examples to their students, school employees or
110 volunteers acting in their official capacities may not support or encourage criminal conduct by
111 students, teachers, or volunteers.

112 (b) To ensure the effective performance of school personnel, the limitations described

113 in Subsection ~~[(4)]~~ (5)(a) also apply to a school ~~[employees or volunteers acting outside of~~
114 ~~their] employee or volunteer acting outside of the school employee's or volunteer's official~~
115 capacities if:

116 (i) ~~[they] the employee or volunteer~~ knew or should have known that ~~[their] the~~
117 ~~employee's or volunteer's~~ action could result in a material and substantial interference or
118 disruption in the normal activities of the school; and

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

121 ~~[(c) [Neither the State Board of Education nor local school districts may] The board or a~~
122 ~~local school board may not allow training of school employees or volunteers that supports or~~
123 encourages criminal conduct.

124 (d) The ~~[State Board of Education]~~ board shall adopt rules implementing this section.

125 (e) Nothing in this section limits the ability or authority of the ~~[State Board of~~
126 ~~Education and]~~ board or a local school ~~[boards]~~ board to enact and enforce rules or take actions
127 that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or
128 behavior evidencing unfitness for duty.

129 ~~[(5)]~~ (6) Except as provided in Section 53G-10-202, political, atheistic, sectarian,
130 religious, or denominational doctrine may not be taught in the public schools.

131 ~~[(6)]~~ (7) (a) ~~[Local school boards and their]~~ A local school board and a local school
132 board's employees shall cooperate and share responsibility in carrying out the purposes of this
133 chapter.

134 (b) ~~[Each school district]~~ A local school board shall provide appropriate ~~[inservice~~
135 ~~training for its]~~ professional development for the local school board's teachers, counselors, and
136 school administrators to enable them to understand, protect, and properly instruct students in
137 the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203,
138 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written
139 materials on the values, character traits, and conduct to each individual receiving the ~~[inservice~~
140 ~~training]~~ professional development.

141 (c) ~~[The written materials shall also be made]~~ A local school board shall make the
142 written materials described in Subsection (7)(b) available to classified employees, students, and
143 parents ~~[and guardians]~~ of students.

144 (d) In order to assist ~~[school districts]~~ a local school board in providing the ~~[inservice~~
145 ~~training]~~ professional development required under Subsection ~~[(6)]~~ (7)(b), the ~~[State Board of~~
146 ~~Education]~~ board shall, as appropriate, contract with a qualified individual or entity possessing
147 expertise in the areas referred to in Subsection ~~[(6)]~~ (7)(b) to develop and disseminate model
148 teacher ~~[inservice programs which districts]~~ professional development programs that a local
149 school board may use to train the individuals referred to in Subsection ~~[(6)]~~ (7)(b) to effectively
150 teach the values and qualities of character referenced in ~~[that subsection]~~ Subsection (7).

151 (e) In accordance with the provisions of Subsection ~~[(4)]~~ (5)(c), ~~[inservice training]~~
152 professional development may not support or encourage criminal conduct.

153 (8) A local school board shall review every two years:

154 (a) local school board policies on instruction described in this section;

155 (b) for a local board of education of a school district, data for each county that the
156 school district is located in, or, for a charter school governing board, data for the county in
157 which the charter school is located, on the following:

158 (i) teen pregnancy;

159 (ii) child sexual abuse; and

160 (iii) sexually transmitted diseases and sexually transmitted infections; and

161 (c) the number of pornography complaints or other instances reported within the
162 jurisdiction of the local school board.

163 ~~[(7)]~~ (9) If any one or more provision, subsection, sentence, clause, phrase, or word of
164 this section, or the application thereof to any person or circumstance, is found to be
165 unconstitutional, the balance of this section shall be given effect without the invalid provision,
166 subsection, sentence, clause, phrase, or word.

167 Section 2. Section **53G-10-403** is amended to read:

168 **53G-10-403. Required parental consent for sex education instruction.**

- 169 (1) As used in this section:
- 170 (a) "Parent" means the same as that term is defined in Section [53G-10-205](#).
- 171 ~~[(a)]~~ (b) (i) "~~Human sexuality~~ Sex education instruction" means any course material,
- 172 unit, class, lesson, activity, or presentation that, as the focus of the discussion, provides
- 173 instruction or information to a student about:
- 174 (A) sexual abstinence;
 - 175 (B) human sexuality;
 - 176 (C) human reproduction;
 - 177 (D) reproductive anatomy;
 - 178 (E) physiology;
 - 179 (F) pregnancy;
 - 180 (G) marriage;
 - 181 (H) childbirth;
 - 182 (I) parenthood;
 - 183 (J) contraception;
 - 184 (K) HIV/AIDS; ~~[or]~~
 - 185 (L) sexually transmitted diseases~~[-];~~ or
 - 186 (M) refusal skills, as defined in Section [53G-10-402](#).
- 187 (ii) "~~Human sexuality~~ Sex education instruction" does not include child sexual abuse
- 188 prevention instruction described in Section [53G-9-207](#).
- 189 ~~[(b) "Parent" means the same as that term is defined in Section [53G-10-205](#).]~~
- 190 (c) "School" means the same as that term is defined in Section [53G-10-205](#).
- 191 (2) A school shall obtain prior written consent from a student's parent before the school
- 192 may provide ~~[human sexuality]~~ sex education instruction to the student.
- 193 (3) If a student's parent chooses not to have the student participate in ~~[human sexuality]~~
- 194 sex education instruction, a school shall:
- 195 (a) waive the requirement for the student to participate in the ~~[human sexuality]~~ sex
 - 196 education instruction; or

197 (b) provide the student with a reasonable alternative to the [~~human sexuality~~] sex
198 education instruction requirement.

199 (4) In cooperation with the student's teacher or school, a parent shall take responsibility
200 for the parent's student's [~~human sexuality~~] sex education instruction if a school:

201 (a) waives the student's [~~human sexuality~~] sex education instruction requirement in
202 Subsection (3)(a); or

203 (b) provides the student with a reasonable alternative to the [~~human sexuality~~] sex
204 education instruction requirement described in Subsection (3)(b).

205 (5) A student's academic or citizenship performance may not be penalized if the
206 student's parent chooses not to have the student participate in [~~human sexuality~~] sex education
207 instruction as described in Subsection (3).