

**REPRODUCTIVE EDUCATION AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Justin L. Fawson**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill amends and enacts provisions related to instruction in child sexual abuse prevention and reproductive health.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions related to instruction in child sexual abuse prevention;
- ▶ repeals outdated language;
- ▶ defines terms related to reproductive health instruction;
- ▶ requires the State Board of Education (board) to establish reproductive health instruction standards;
- ▶ requires that reproductive health instruction standards emphasize abstinence and prohibit certain instruction;
- ▶ gives the board rulemaking authority;
- ▶ requires the board to enter into a contract with one or more providers to provide technology-based reproductive health instruction;
- ▶ permits a local school board to adopt reproductive health instruction provided under a contract with the board or other instruction materials;
- ▶ requires a local school board to review certain information every two years;
- ▶ clarifies language about school employees' and volunteers' involvement with reproductive health instruction;



- 28           ▶ amends definitions for required parental consent for reproductive health instruction;
- 29           ▶ requires the board to establish a reproductive health instruction review committee
- 30 (committee);
- 31           ▶ establishes the membership and duties of the committee; and
- 32           ▶ makes technical and conforming changes.

33 **Money Appropriated in this Bill:**

34           None

35 **Other Special Clauses:**

36           None

37 **Utah Code Sections Affected:**

38 AMENDS:

39           **53G-9-207**, as renumbered and amended by Laws of Utah 2018, Chapter 3

40           **53G-10-402**, as renumbered and amended by Laws of Utah 2018, Chapter 3

41           **53G-10-403**, as enacted by Laws of Utah 2018, Chapter 3

42 ENACTS:

43           **53G-10-407**, Utah Code Annotated 1953



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

46           Section 1. Section **53G-9-207** is amended to read:

47           **53G-9-207. Child sexual abuse prevention.**

48           (1) As used in this section, "school personnel" [~~is as~~] means the same as that term is

49 defined in Section **53G-9-203**.

50           (2) [~~On or before July 1, 2015, the~~] The State Board of Education shall:

51           (a) approve, in partnership with the Department of Human Services, age-appropriate

52 technology-based instructional materials for the training and instruction described in

53 Subsections (3)(a) and (4)[-]; and

54           (b) issue a request for proposals and enter into a contract for the technology-based

55 instructional materials in accordance with Section **53G-10-402**.

56           (3) (a) [~~Beginning in the 2016-17 school year, a~~] A school district or charter school

57 shall provide training and instruction on child sexual abuse prevention and awareness to:

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

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

61 (B) the mandatory reporting requirements described in Sections 53E-6-701 and  
62 62A-4a-403; and

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

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

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

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

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

73 (b) [~~Beginning in the 2016-17 school year, a~~] A school district or charter school that  
74 provides the instruction described in Subsection (4)(a) shall use the instructional materials  
75 approved by the board under Subsection (2) to provide the instruction.

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

78 (i) notified in advance of the:

79 (A) instruction and the content of the instruction; and

80 (B) parent or guardian's right to have the student excused from the instruction;

81 (ii) given an opportunity to review the instructional materials before the instruction  
82 occurs; and

83 (iii) allowed to be present when the instruction is delivered.

84 (b) Upon the written request of the parent or guardian of an elementary school student,  
85 the student shall be excused from the instruction described in Subsection (4).

86 (c) Participation of a student requires compliance with Sections 53E-9-202 and  
87 53E-9-203.

88 (6) A school district or charter school may determine the mode of delivery for the  
89 training [~~and instruction~~] described in [~~Subsections (3) and (4)~~] Subsection (3).

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

92           ~~[(b) Upon request of the State Board of Education, a school district or charter school~~  
93 ~~shall provide to the State Board of Education information that is necessary for the report~~  
94 ~~required under Subsection (7)(a).]~~

95           Section 2. Section **53G-10-402** is amended to read:

96           **53G-10-402. Instruction in reproductive health -- Parental consent requirements**  
97 **-- Technology-based instruction contract -- Conduct and speech of school employees and**  
98 **volunteers -- Political and religious doctrine prohibited.**

99           ~~[(1) (a) The State Board of Education shall establish curriculum requirements under~~  
100 ~~Section **53E-3-501** that include instruction in:]~~

101           ~~[(i) community and personal health;]~~

102           ~~[(ii) physiology;]~~

103           ~~[(iii) personal hygiene; and]~~

104           ~~[(iv) prevention of communicable disease.]~~

105           ~~[(b) (i) That instruction shall stress:]~~

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

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

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

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

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

117           ~~[(ii) A local school board may choose to adopt:]~~

118           ~~[(A) the instructional materials recommended under Subsection (1)(c)(i); or]~~

119           ~~[(B) other instructional materials as provided in state board rule.]~~

120           ~~[(iii) The state board rule made under Subsection (1)(c)(ii)(B) shall include, at a~~

121 ~~minimum.;~~

122 ~~[(A) that the materials adopted by a local school board under Subsection (1)(c)(ii)(B)~~  
123 ~~shall be based upon recommendations of the school district's Curriculum Materials Review~~  
124 ~~Committee that comply with state law and state board rules emphasizing abstinence before~~  
125 ~~marriage and fidelity after marriage, and prohibiting instruction in:]~~

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

127 ~~[(H) the advocacy of premarital or extramarital sexual activity; or]~~

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

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

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

134 ~~[(C) provision for an appeal and review process of the local school board's decision;~~  
135 ~~and]~~

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

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

141 ~~[(b) At the request of the board, the Department of Health shall cooperate with the~~  
142 ~~board in developing programs to provide instruction in those areas.]~~

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

144 ~~[(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323~~  
145 ~~are complied with; and]~~

146 ~~[(ii) require a student's parent or legal guardian to be notified in advance and have an~~  
147 ~~opportunity to review the information for which parental consent is required under Sections~~  
148 ~~76-7-322 and 76-7-323.]~~

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

151 (1) As used in this section:

- 152           (a) "Board" means the State Board of Education.
- 153           (b) "Consent" means a communication from one individual to another regarding the
- 154 individuals' sexual relationship that is:
- 155           (i) clear and express;
- 156           (ii) made by an individual who has capacity to make a rational decision at the time of
- 157 the communication;
- 158           (iii) delivered absent psychological or emotional manipulation or threat; and
- 159           (iv) in agreement or refusal by an individual to engage in a specific sexual activity.
- 160           (c) "Local school board" means:
- 161           (i) a local board of education elected in accordance with Section [53G-4-201](#); or
- 162           (ii) a charter school governing board as defined in Section [53G-5-102](#).
- 163           (d) "Parent" means a parent or legal guardian.
- 164           (e) "Reproductive health instruction" means instruction in the subjects listed in
- 165 Subsection (2).
- 166           (f) "Reproductive health instruction review committee" means the committee created
- 167 under Section [53G-10-407](#).
- 168           (2) The board shall establish reproductive health instruction standards under Section
- 169 [53E-3-501](#) for instruction in the following subjects:
- 170           (a) contraception;
- 171           (b) human reproduction;
- 172           (c) human anatomy and health;
- 173           (d) consent;
- 174           (e) sexually transmitted diseases and sexually transmitted infections; and
- 175           (f) the harmful effects of pornography.
- 176           (3) The standards established under Subsection (2) shall:
- 177           (a) emphasize:
- 178           (i) the importance of abstinence from all sexual activity before marriage and fidelity
- 179 after marriage as methods for preventing certain communicable diseases; and
- 180           (ii) personal skills that encourage individual choice of abstinence and marriage fidelity;
- 181 and
- 182           (b) prohibit instruction in:

- 183 (i) the intricacies of intercourse, sexual stimulation, or erotic behavior;  
184 (ii) the advocacy of premarital or extramarital sexual activity;  
185 (iii) the advocacy or encouragement of the use of contraceptive methods or devices; or  
186 (iv) the advocacy of sexual activity outside of marriage.

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

190 (b) Subsection (4)(a) does not preclude an instructor from responding to a spontaneous  
191 question as long as the response is consistent with the provisions of this section.

192 (5) A student shall receive reproductive health instruction on at least two occasions  
193 during the period that begins with the beginning of grade 7 and the end of grade 12.

194 (6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
195 the board shall make rules for providing reproductive health instruction.

196 (b) The board rules shall:

197 (i) require:

198 (A) that reproductive health instruction materials adopted by a local school board under  
199 Subsection (9)(a)(ii) be based upon recommendations of the school district's or charter school's  
200 Curriculum Materials Review Committee and comply with state law and state board rule; and

201 (B) that a local school board's adoption of reproductive health instruction materials  
202 take place in an open and regular meeting of the local school board for which prior notice is  
203 given to parents of students attending the respective schools and an opportunity for parents to  
204 express their views and opinions on the materials at the meeting;

205 (ii) provide for an appeal and review process of the local school board's decision;

206 (iii) provide for a report to the board by the local school board of the action taken and  
207 the materials adopted by the local school board under Subsection (9)(a)(ii);

208 (iv) provide that the parental consent requirements of Sections [76-7-322](#) and [76-7-323](#)  
209 are complied with; and

210 (v) require a student's parent to be notified in advance of and have an opportunity to  
211 review the information for which parental consent is required under Sections [76-7-322](#) and  
212 [76-7-323](#).

213 (7) (a) The board shall, in accordance with Title 63G, Chapter 6a, Utah Procurement

214 Code:

215 (i) issue a request for information from one or more providers for the delivery of  
216 technology-based reproductive health instruction in each of the subjects listed in Subsection (2)  
217 as stand alone modules;

218 (ii) take into consideration the comments and recommendations of the reproductive  
219 health instruction review committee regarding a request for information response;

220 (iii) issue a request for proposals from one or more providers for the delivery of  
221 technology-based reproductive health instruction in each of the subjects listed in Subsection (2)  
222 as stand alone modules; and

223 (iv) enter into a contract with one or more providers to provide technology-based  
224 reproductive health instruction in each of the subjects listed in Subsection (2) as stand alone  
225 modules.

226 (b) The board shall include in a request for proposals described in Subsection (7)(a)(iii)  
227 technology-based instruction materials on child sexual abuse prevention and awareness, as  
228 approved under Section 53G-9-207, and enter into a contract described in Subsection (7)(a)(iv)  
229 for the child sexual abuse prevention and awareness technology-based instruction.

230 (8) The instruction provided under a contract:

231 (a) described in Subsection (7)(a) shall comply with state law and standards set by the  
232 board under this section; and

233 (b) described in Subsection (7)(a) or (7)(b) shall be available online for educators and  
234 for use by parents at home.

235 (9) (a) A local school board may choose to adopt:

236 (i) the technology-based reproductive health instruction provided through a contract  
237 with the board as described in Subsection (7)(a); or

238 (ii) other reproductive health instruction materials as provided in state board rule.

239 (b) A local school board shall review every two years:

240 (i) local school board policies on reproductive health instruction;

241 (ii) for a local board of education of a school district, data for each county that the  
242 school district is located in, or, for a charter school governing board, data for the county in  
243 which the charter school is located, on the following:

244 (A) teen pregnancy;



245 (B) child sexual abuse; and  
 246 (C) sexually transmitted diseases and sexually transmitted infections; and  
 247 (iii) the number of pornography complaints or other instances reported within the  
 248 jurisdiction of the local school board.

249 ~~[(4)]~~ (10) (a) In keeping with the requirements of Section 53G-10-204, and because  
 250 school employees and volunteers serve as examples to their students, school employees or  
 251 volunteers acting in their official capacities may not support or encourage criminal conduct by  
 252 students, teachers, or volunteers.

253 (b) To ensure the effective performance of school personnel, the limitations described  
 254 in Subsection ~~[(4)]~~ (10)(a) also apply to a school ~~[employees or volunteers]~~ employee or  
 255 volunteer acting outside of ~~[their]~~ the school employee's or volunteer's official capacities if:

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

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

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

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

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

269 ~~[(5)]~~ (11) Except as provided in Section 53G-10-202, political, atheistic, sectarian,  
 270 religious, or denominational doctrine may not be taught in the public schools.

271 ~~[(6) (a) Local school boards and their employees]~~

272 (12) (a) A local school board's employee shall cooperate and share responsibility in  
 273 carrying out the purposes of this chapter.

274 (b) ~~[Each school district]~~ A local school board shall provide appropriate ~~[inservice~~  
 275 ~~training for its]~~ professional development for the local school board's teachers, counselors, and

276 school administrators to enable them to understand, protect, and properly instruct students in  
 277 the values and character traits referred to in this section and Sections [53E-9-202](#), [53E-9-203](#),  
 278 [53G-10-202](#), [53G-10-203](#), [53G-10-204](#), and [53G-10-205](#), and distribute appropriate written  
 279 materials on the values, character traits, and conduct to each individual receiving the [~~inservice~~  
 280 ~~training~~] professional development.

281 (c) [~~The written materials shall also be made available~~] A local school board shall  
 282 make the written materials described in Subsection (12)(b) available to classified employees,  
 283 students, and parents [~~and guardians~~] of students.

284 (d) In order to assist [~~school districts~~] a local school board in providing the [~~inservice~~  
 285 ~~training~~] professional development required under Subsection [~~(6)~~] (12)(b), the [~~State Board of~~  
 286 ~~Education~~] board shall, as appropriate, contract with a qualified individual or entity possessing  
 287 expertise in the areas referred to in Subsection [~~(6)~~] (12)(b) to develop and disseminate model  
 288 teacher [~~inservice programs which districts~~] professional development programs that a local  
 289 school board may use to train the individuals referred to in Subsection [~~(6)~~] (12)(b) to  
 290 effectively teach the values and qualities of character referenced in [~~that subsection~~] Subsection  
 291 (12)(b).

292 (e) In accordance with the provisions of Subsection [~~(4)~~] (10)(c), [~~inservice training~~]  
 293 professional development may not support or encourage criminal conduct.

294 (f) The board shall provide procedures for disciplinary action against a school  
 295 employee for violation of Section [76-7-322](#) or [76-7-323](#).

296 [~~(7)~~] (13) If any one or more provision, subsection, sentence, clause, phrase, or word of  
 297 this section, or the application thereof to any person or circumstance, is found to be  
 298 unconstitutional, the balance of this section shall be given effect without the invalid provision,  
 299 subsection, sentence, clause, phrase, or word.

300 Section 3. Section **53G-10-403** is amended to read:

301 **53G-10-403. Required parental consent for reproductive health instruction.**

302 (1) As used in this section:

303 (a) "Parent" means the same as that term is defined in Section [53G-10-205](#).

304 [~~(a)~~] (b) (i) [~~"Human sexuality~~] "Reproductive health instruction" means any course  
 305 material, unit, class, lesson, activity, or presentation that, as the focus of the discussion,  
 306 provides instruction or information to a student about:

- 307 (A) sexual abstinence;
- 308 [~~(B)~~ human sexuality;]
- 309 [~~(C)~~ human reproduction;]
- 310 [~~(D)~~ (B) reproductive anatomy;
- 311 [~~(E)~~ (C) physiology;
- 312 [~~(F)~~ (D) pregnancy;
- 313 [~~(G)~~ (E) marriage;
- 314 [~~(H)~~ (F) childbirth;
- 315 [~~(I)~~ (G) parenthood; or
- 316 [~~(J)~~ contraception;]
- 317 [~~(K)~~ HIV/AIDS; or
- 318 [~~(L)~~ sexually transmitted diseases.]
- 319 (H) a subject listed in Subsection [53G-10-402\(2\)](#).
- 320 (ii) "[~~Human sexuality~~] "Reproductive health" instruction" does not include child sexual
- 321 abuse prevention instruction described in Section [53G-9-207](#).
- 322 [~~(b) "Parent" means the same as that term is defined in Section [53G-10-205](#);~~]
- 323 (c) "School" means the same as that term is defined in Section [53G-10-205](#).
- 324 (2) A school shall obtain prior written consent from a student's parent before the school
- 325 may provide [~~human sexuality~~] reproductive health instruction to the student.
- 326 (3) If a student's parent chooses not to have the student participate in [~~human sexuality~~]
- 327 reproductive health instruction, a school shall:
- 328 (a) waive the requirement for the student to participate in the [~~human sexuality~~]
- 329 reproductive health instruction; or
- 330 (b) provide the student with a reasonable alternative to the [~~human sexuality~~]
- 331 reproductive health instruction requirement.
- 332 (4) In cooperation with the student's teacher or school, a parent shall take responsibility
- 333 for the parent's student's [~~human sexuality~~] reproductive health instruction if a school:
- 334 (a) waives the student's [~~human sexuality~~] reproductive health instruction requirement
- 335 in Subsection (3)(a); or
- 336 (b) provides the student with a reasonable alternative to the [~~human sexuality~~]
- 337 reproductive health instruction requirement described in Subsection (3)(b).

338 (5) A student's academic or citizenship performance may not be penalized if the  
339 student's parent chooses not to have the student participate in [~~human sexuality~~] reproductive  
340 health instruction as described in Subsection (3).

341 Section 4. Section **53G-10-407** is enacted to read:

342 **53G-10-407. Reproductive health instruction review committee -- Membership**  
343 **and duties.**

344 (1) As used in this section:

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

346 (b) "Committee" means the reproductive health instruction review committee  
347 established by the board under this section.

348 (c) "Reproductive health instruction" means technology-based reproductive health  
349 instruction information and materials provided in response to a request for information issued  
350 by the board in accordance with Section [53G-10-402](#).

351 (2) (a) The board shall establish a reproductive health instruction review committee to  
352 review and recommend to the board reproductive health instruction.

353 (b) No later than 10 business days after the day on which the board issues a request for  
354 information in accordance with Section [53G-10-402](#), the board shall establish a committee as  
355 required by Subsection (2)(a).

356 (3) The board shall provide:

357 (a) each response to the request for information to the committee; and

358 (b) space for the committee to meet and staff support as necessary.

359 (4) A member of the committee may not receive compensation or benefits for the  
360 member's service on the committee.

361 (5) The membership of the committee shall consist of the following:

362 (a) four individuals appointed by the board chair with expertise in the subject of  
363 reproductive health instruction, including teachers, members of the health community, faculty  
364 of higher education institutions in Utah, and others as determined by the board chair;

365 (b) three parents or guardians of public education students appointed by the speaker of  
366 the House of Representatives;

367 (c) three parents or legal guardians of public education students appointed by the  
368 president of the Senate; and

- 369           (d) one individual who:  
370           (i) has expertise in the subject of reproductive health instruction;  
371           (ii) is an employee of the Department of Health created in Section [26-1-4](#); and  
372           (iii) is appointed by the executive director of the Department of Health.  
373           (6) Among the criteria the committee shall consider when reviewing reproductive  
374 health instruction is whether the instruction complies with:  
375           (a) Section [53G-10-402](#) and other applicable state law; and  
376           (b) board rule.  
377           (7) The committee shall submit, to the board, comments and recommendations for  
378 reproductive health instruction within a reasonable timeline set by the board.  
379           (8) The board shall take into consideration the comments and recommendations of the  
380 committee in issuing a request for proposals under Section [53G-10-402](#).
- 
- 

**Legislative Review Note**  
**Office of Legislative Research and General Counsel**