

1 **HEALTH EDUCATION AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Raymond P. Ward**

5 Senate Sponsor: Todd Weiler

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions regarding instruction in health.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ provides that health education instruction may include information about the
- 13 medical characteristics, effectiveness, limitations, and risks of contraceptive
- 14 methods or devices;
- 15 ▶ reorganizes provisions related to instruction in health;
- 16 ▶ requires the State Board of Education to make administrative rules; and
- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **53G-10-402**, as last amended by Laws of Utah 2018, Chapter 224 and renumbered and
25 amended by Laws of Utah 2018, Chapter 3

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

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

29 **53G-10-402. Instruction in health -- Parental consent requirements -- Conduct**

30 **and speech of school employees and volunteers -- Political and religious doctrine**
31 **prohibited.**

32 (1) As used in this section:

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

34 [~~(b) "Local school board" means:~~]

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

36 [~~(ii) a charter school governing board, as defined in Section 53G-5-102.;~~]

37 (b) "LEA governing board" means a local school board or charter school governing
38 board.

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

40 (d) "Refusal skills" means instruction:

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

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

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

47 (iv) in sexual harassment; and

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

52 (2) (a) The board shall establish curriculum requirements under Section 53E-3-501 that
53 include instruction in:

54 (i) community and personal health;

55 (ii) physiology;

56 (iii) personal hygiene;

57 (iv) prevention of communicable disease;

58 (v) refusal skills; and
59 (vi) the harmful effects of pornography.
60 ~~[(b)(i) That instruction shall stress:]~~
61 (b) The state board shall make rules that, and instruction shall:
62 ~~[(A)]~~ (i) stress the importance of abstinence from all sexual activity before marriage
63 and fidelity after marriage as methods for preventing certain communicable diseases; ~~[and]~~
64 ~~[(B)]~~ (ii) stress personal skills that encourage individual choice of abstinence and
65 fidelity[-];
66 (iii) prohibit instruction in:
67 (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;
68 (B) the advocacy of premarital or extramarital sexual activity; or
69 (C) the advocacy or encouragement of the use of contraceptive methods or devices; and
70 (iv) except as provided in Subsection (2)(d), allow instruction to include information
71 about contraceptive methods or devices that stresses effectiveness, limitations, risks, and
72 information on state law applicable to minors obtaining contraceptive methods or devices.
73 (c) The state board shall make rules for an LEA governing board that adopts
74 instructional materials under Subsection (2)(g)(ii) that:
75 (i) require the LEA governing board to report on the materials selected and the LEA
76 governing board's compliance with Subsection (2)(h); and
77 (ii) provide for an appeal and review process of the LEA governing board's adoption of
78 instructional materials.
79 (d) The state board may not require an LEA to teach or adopt instructional materials
80 that include information on contraceptive methods or devices.
81 ~~[(ii)(A)]~~ (e) (i) At no time may instruction be provided, including responses to
82 spontaneous questions raised by students, regarding any means or methods that facilitate or
83 encourage the violation of any state or federal criminal law by a minor or an adult.
84 ~~[(B)]~~ (ii) Subsection ~~[(2)(b)(ii)(A)]~~ (2)(e)(i) does not preclude an instructor from
85 responding to a spontaneous question as long as the response is consistent with the provisions

86 of this section.

87 ~~[(e)-(i)]~~ (f) The board shall recommend instructional materials for use in the curricula
 88 required under Subsection (2)(a) after considering evaluations of instructional materials by the
 89 State Instructional Materials Commission.

90 ~~[(ii)]~~ (g) ~~[A local school]~~ An LEA governing board may choose to adopt:

91 ~~[(A)]~~ (i) the instructional materials recommended under Subsection ~~[(2)(e)(i)]~~ (2)(f); or

92 ~~[(B)]~~ (ii) other instructional materials ~~[as provided in board rule]~~ in accordance with
 93 Subsection (2)(h).

94 ~~[(iii) The board rule made under Subsection (2)(c)(ii)(B) shall include, at a minimum:]~~

95 ~~[(A) that the materials adopted by a local school board under Subsection (2)(c)(ii)(B)~~
 96 ~~shall be based upon recommendations of the school district's or charter school's Curriculum~~
 97 ~~Materials Review Committee that comply with state law and board rules emphasizing~~
 98 ~~abstinence before marriage and fidelity after marriage, and prohibiting instruction in:]~~

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

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

101 ~~[(H) the advocacy or encouragement of the use of contraceptive methods or devices;]~~

102 (h) An LEA governing board that adopts instructional materials under Subsection
 103 (2)(g)(ii) shall:

104 (i) ensure that the materials comply with state law and board rules;

105 (ii) base the adoption of the materials on the recommendations of the LEA governing
 106 board's Curriculum Materials Review Committee; and

107 ~~[(B)]~~ (iii) ~~[that the adoption of]~~ adopt the instructional materials ~~[shall take place]~~ in an
 108 open and regular meeting of the ~~[local school]~~ LEA governing board for which prior notice is
 109 given to parents of students attending the respective schools and an opportunity for parents to
 110 express their views and opinions on the materials at the meeting[;].

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

113 ~~[(D) provision for a report by the local school board to the board of the action taken~~

114 ~~and the materials adopted by the local school board under Subsections (2)(c)(ii)(B) and~~
115 ~~(2)(c)(iii).]~~

116 (3) (a) A student shall receive instruction in the courses described in Subsection (2) on
117 at least two occasions during the period that begins with the beginning of grade 8 and the end
118 of grade 12.

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

121 (4) (a) The board shall adopt rules that:

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

124 (ii) require a student's parent to be notified in advance and have an opportunity to
125 review the information for which parental consent is required under Sections 76-7-322 and
126 76-7-323.

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

129 (5) (a) In keeping with the requirements of Section 53G-10-204, and because school
130 employees and volunteers serve as examples to their students, school employees or volunteers
131 acting in their official capacities may not support or encourage criminal conduct by students,
132 teachers, or volunteers.

133 (b) To ensure the effective performance of school personnel, the limitations described
134 in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school
135 employee's or volunteer's official capacities if:

136 (i) the employee or volunteer knew or should have known that the employee's or
137 volunteer's action could result in a material and substantial interference or disruption in the
138 normal activities of the school; and

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

141 (c) The board or ~~[a local school]~~ an LEA governing board may not allow training of

142 school employees or volunteers that supports or encourages criminal conduct.

143 (d) The board shall adopt rules implementing this section.

144 (e) Nothing in this section limits the ability or authority of the board or [~~a local school~~]
145 an LEA governing board to enact and enforce rules or take actions that are otherwise lawful,
146 regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness
147 for duty.

148 (6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious,
149 or denominational doctrine may not be taught in the public schools.

150 (7) (a) [~~A local school~~] An LEA governing board and [~~a local school~~] an LEA
151 governing board's employees shall cooperate and share responsibility in carrying out the
152 purposes of this chapter.

153 (b) [~~A local school~~] An LEA governing board shall provide appropriate professional
154 development for the [~~local school~~] LEA governing board's teachers, counselors, and school
155 administrators to enable them to understand, protect, and properly instruct students in the
156 values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203,
157 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written
158 materials on the values, character traits, and conduct to each individual receiving the
159 professional development.

160 (c) [~~A local school~~] An LEA governing board shall make the written materials
161 described in Subsection (7)(b) available to classified employees, students, and parents of
162 students.

163 (d) In order to assist [~~a local school~~] an LEA governing board in providing the
164 professional development required under Subsection (7)(b), the board shall, as appropriate,
165 contract with a qualified individual or entity possessing expertise in the areas referred to in
166 Subsection (7)(b) to develop and disseminate model teacher professional development
167 programs that [~~a local school~~] an LEA governing board may use to train the individuals
168 referred to in Subsection (7)(b) to effectively teach the values and qualities of character
169 referenced in Subsection (7).

170 (e) In accordance with the provisions of Subsection (5)(c), professional development
171 may not support or encourage criminal conduct.

172 (8) ~~[A local school]~~ An LEA governing board shall review every two years:

173 (a) ~~[local school]~~ LEA governing board policies on instruction described in this
174 section;

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

178 (i) teen pregnancy;

179 (ii) child sexual abuse; and

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

181 (c) the number of pornography complaints or other instances reported within the
182 jurisdiction of the ~~[local school]~~ LEA governing board.

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