

HEALTHY LIFESTYLES REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kathleen Riebe

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to instruction in health.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ repeals a provision prohibiting encouragement of the use of contraceptive methods or devices;
- ▶ requires a local education agency to report to the state board on the percentage of students who receive written parental consent to participate in sex education instruction; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-10-402, as last amended by Laws of Utah 2019, Chapters 196 and 293

53G-10-403, as last amended by Laws of Utah 2019, Chapter 293



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

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

30 **53G-10-402. Instruction in health -- Parental consent requirements -- Conduct**
31 **and speech of school employees and volunteers -- Political and religious doctrine**
32 **prohibited.**

33 (1) As used in this section:

34 (a) "LEA governing board" means a local school board or charter school governing
35 board.

36 (b) "Refusal skills" means instruction:

37 (i) in a student's ability to clearly and expressly refuse sexual advances by a minor or
38 adult at any time, regardless of whether the student has previously expressed acceptance of a
39 sexual advance by the minor or adult;

40 (ii) in a student's obligation to stop the student's sexual advances if refused by another
41 individual at any time, regardless of whether the other individual has previously expressed
42 acceptance of the student's sexual advances;

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

45 (iv) in sexual harassment; and

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

50 (2) (a) The state board shall establish curriculum requirements under Section
51 **53E-3-501** that include instruction in:

52 (i) community and personal health;

53 (ii) physiology;

54 (iii) personal hygiene;

55 (iv) prevention of [~~communicable~~] infectious disease;

56 (v) refusal skills; [~~and~~]

57 (vi) the harmful effects of pornography[~~]; and~~

58 (vii) healthy relationships, including recognizing sexual assault.

- 59 (b) The state board shall make rules that, and instruction shall:
- 60 (i) stress the importance of abstinence from all sexual activity [~~before marriage and~~
61 ~~fidelity after marriage as methods~~] as a method for preventing certain [~~communicable~~
62 infectious diseases;
- 63 (ii) stress personal skills that encourage individual choice of abstinence and fidelity for
64 sexual health;
- 65 (iii) prohibit instruction in:
- 66 (A) the intricacies of intercourse, sexual stimulation, or erotic behavior; or
- 67 (B) the advocacy of premarital or extramarital sexual activity; [~~or~~] and
- 68 [~~(C) the advocacy or encouragement of the use of contraceptive methods or devices;~~
69 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 (e) (i) At no time may instruction be provided, including responses to spontaneous
82 questions raised by students, regarding any means or methods that facilitate or encourage the
83 violation of any state or federal criminal law by a minor or an adult.
- 84 (ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a
85 spontaneous question as long as the response is consistent with the provisions of this section.
- 86 (f) The state board shall recommend instructional materials for use in the curricula
87 required under Subsection (2)(a) after considering evaluations of instructional materials by the
88 State Instructional Materials Commission.
- 89 (g) An LEA governing board may choose to adopt:

90 (i) the instructional materials recommended under Subsection (2)(f); or
91 (ii) other instructional materials in accordance with Subsection (2)(h).

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

94 (i) ensure that the materials comply with state law and board rules;
95 (ii) base the adoption of the materials on the recommendations of the LEA governing
96 board's Curriculum Materials Review Committee; and

97 (iii) adopt the instructional materials in an open and regular meeting of the LEA
98 governing board for which prior notice is given to parents of students attending the respective
99 schools and an opportunity for parents to express their views and opinions on the materials at
100 the meeting.

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

104 (b) At the request of the state board, the Department of Health shall cooperate with the
105 state board in developing programs to provide [~~instruction in those areas~~] the instruction
106 described in Subsection (3)(a).

107 (4) (a) The state board shall adopt rules that:

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

110 (ii) require a student's parent to be notified in advance and have an opportunity to
111 review the information for which parental consent is required under Sections 76-7-322 and
112 76-7-323.

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

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

119 (b) To ensure the effective performance of school personnel, the limitations described
120 in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school

121 employee's or volunteer's official capacities if:

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

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

127 (c) The state board or an LEA governing board may not allow training of school
128 employees or volunteers that supports or encourages criminal conduct.

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

130 (e) Nothing in this section limits the ability or authority of the state board or an LEA
131 governing board to enact and enforce rules or take actions that are otherwise lawful, regarding
132 educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

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

135 (7) (a) An LEA governing board and an LEA governing board's employees shall
136 cooperate and share responsibility in carrying out the purposes of this chapter.

137 (b) An LEA governing board shall provide appropriate professional development for
138 the LEA governing board's teachers, counselors, and school administrators to enable them to
139 understand, protect, and properly instruct students in the values and character traits referred to
140 in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204,
141 and 53G-10-205, and distribute appropriate written materials on the values, character traits, and
142 conduct to each individual receiving the professional development.

143 (c) An LEA governing board shall make the written materials described in Subsection
144 (7)(b) available to classified employees, students, and parents of students.

145 (d) In order to assist an LEA governing board in providing the professional
146 development required under Subsection (7)(b), the state board shall, as appropriate, contract
147 with a qualified individual or entity possessing expertise in the areas referred to in Subsection
148 (7)(b) to develop and disseminate model teacher professional development programs that an
149 LEA governing board may use to train the individuals referred to in Subsection (7)(b) to
150 effectively teach the values and qualities of character referenced in Subsection (7).

151 (e) In accordance with the provisions of Subsection (5)(c), professional development

152 may not support or encourage criminal conduct.

153 (8) An LEA governing board shall review every two years:

154 (a) LEA governing board policies on instruction described in this section;

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

163 (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this
164 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 -- Reporting**
169 **requirement.**

170 (1) As used in this section:

171 (a) (i) "Sex education instruction" means any course material, unit, class, lesson,
172 activity, or presentation that, as the focus of the discussion, provides instruction or information
173 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;

185 (L) sexually transmitted diseases; [or]

186 (M) refusal skills, as defined in Section 53G-10-402[-]; or

187 (N) healthy relationships.

188 (ii) "Sex education instruction" does not include child sexual abuse prevention

189 instruction described in Section 53G-9-207.

190 (b) "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 sex education instruction to the student.

193 (3) If a student's parent chooses not to have the student participate in sex education
194 instruction, a school shall:

195 (a) waive the requirement for the student to participate in the sex education instruction;
196 or

197 (b) provide the student with a reasonable alternative to the sex education instruction
198 requirement.

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

201 (a) waives the student's sex education instruction requirement in Subsection (3)(a); or

202 (b) provides the student with a reasonable alternative to the sex education instruction
203 requirement described in Subsection (3)(b).

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

207 (6) An LEA shall annually report to the state board, for each grade in which the LEA
208 provides sex education instruction, the percentage of students in the grade that provide the
209 written consent described in Subsection (2).