

Representative Karen Kwan proposes the following substitute bill:

SENSITIVE MATERIALS IN SCHOOLS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

This bill prohibits certain sensitive instructional materials in public schools.

Highlighted Provisions:

This bill:

- ▶ defines certain instructional materials as sensitive materials;
- ▶ prohibits sensitive materials in a public school;
- ▶ requires the State Board of Education (state board) to, in consultation with the Office of the Attorney General, provide guidance and training to public schools on identifying sensitive materials;
- ▶ requires a local education agency to include parents who are reflective of a school's community when determining whether an instructional material is sensitive material
- ▶ requires the state board to report to the Education Interim Committee and the Government Operations Interim Committee on:
 - implementation and compliance with the certain provisions; and
 - complaints a local education agency or the state board receives regarding a violation of provisions in this bill;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53E-4-202**, as last amended by Laws of Utah 2021, Chapters 84 and 345

33 **53E-4-403**, as last amended by Laws of Utah 2019, Chapter 186

34 ENACTS:

35 **53G-10-103**, Utah Code Annotated 1953



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

38 Section 1. Section **53E-4-202** is amended to read:

39 **53E-4-202. Core standards for Utah public schools.**

40 (1) (a) In establishing minimum standards related to curriculum and instruction
41 requirements under Section **53E-3-501**, the state board shall, in consultation with local school
42 boards, school superintendents, teachers, employers, and parents implement core standards for
43 Utah public schools that will enable students to, among other objectives:

- 44 (i) communicate effectively, both verbally and through written communication;
- 45 (ii) apply mathematics; and
- 46 (iii) access, analyze, and apply information.

47 (b) Except as provided in this public education code, the state board may recommend
48 but may not require a local school board or charter school governing board to use:

- 49 (i) a particular curriculum or instructional material; or
- 50 (ii) a model curriculum or instructional material.

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

- 52 (a) identify the basic knowledge, skills, and competencies each student is expected to
53 acquire or master as the student advances through the public education system; and
- 54 (b) align with each other the core standards for Utah public schools and the
55 assessments described in Section **53E-4-303**.

56 (3) The basic knowledge, skills, and competencies identified pursuant to Subsection

57 (2)(a) shall increase in depth and complexity from year to year and focus on consistent and
58 continual progress within and between grade levels and courses in the basic academic areas of:

59 (a) English, including explicit phonics, spelling, grammar, reading, writing,
60 vocabulary, speech, and listening; and

61 (b) mathematics, including basic computational skills.

62 (4) Before adopting core standards for Utah public schools, the state board shall:

63 (a) publicize draft core standards for Utah public schools on the state board's website
64 and the Utah Public Notice website created under Section [63A-16-601](#);

65 (b) invite public comment on the draft core standards for Utah public schools for a
66 period of not less than 90 days; and

67 (c) conduct three public hearings that are held in different regions of the state on the
68 draft core standards for Utah public schools.

69 (5) LEA governing boards shall design their school programs, that are supported by
70 generally accepted scientific standards of evidence, to focus on the core standards for Utah
71 public schools with the expectation that each program will enhance or help achieve mastery of
72 the core standards for Utah public schools.

73 (6) Except as provided in [~~Section~~] [Sections 53G-10-103 and 53G-10-402](#), each school
74 may select instructional materials and methods of teaching, that are supported by generally
75 accepted scientific standards of evidence, that the school considers most appropriate to meet
76 the core standards for Utah public schools.

77 (7) The state may exit any agreement, contract, memorandum of understanding, or
78 consortium that cedes control of the core standards for Utah public schools to any other entity,
79 including a federal agency or consortium, for any reason, including:

80 (a) the cost of developing or implementing the core standards for Utah public schools;

81 (b) the proposed core standards for Utah public schools are inconsistent with
82 community values; or

83 (c) the agreement, contract, memorandum of understanding, or consortium:

84 (i) was entered into in violation of Chapter 3, Part 8, Implementing Federal or National
85 Education Programs, or Title 63J, Chapter 5, Federal Funds Procedures Act;

86 (ii) conflicts with Utah law;

87 (iii) requires Utah student data to be included in a national or multi-state database;

88 (iv) requires records of teacher performance to be included in a national or multi-state
89 database; or

90 (v) imposes curriculum, assessment, or data tracking requirements on home school or
91 private school students.

92 (8) The state board shall submit a report in accordance with Section 53E-1-203 on the
93 development and implementation of the core standards for Utah public schools, including the
94 time line established for the review of the core standards for Utah public schools by a standards
95 review committee and the recommendations of a standards review committee established under
96 Section 53E-4-203.

97 Section 2. Section 53E-4-403 is amended to read:

98 **53E-4-403. Commission's evaluation of instructional materials --**
99 **Recommendation by the state board.**

100 (1) Semi-annually after reviewing the evaluations of the commission, the state board
101 shall recommend instructional materials for use in the public schools.

102 (2) The standard period of time instructional materials shall remain on the list of
103 recommended instructional materials shall be five years.

104 (3) Unsatisfactory instructional materials may be removed from the list of
105 recommended instructional materials at any time within the period applicable to the
106 instructional materials.

107 (4) Except as provided in [Section] Sections 53G-10-103 and 53G-10-402, each school
108 shall have discretion to select instructional materials for use by the school. A school may
109 select:

110 (a) instructional materials recommended by the state board as provided in this section;
111 or

112 (b) other instructional materials the school considers appropriate to teach the core
113 standards for Utah public schools.

114 Section 3. Section 53G-10-103 is enacted to read:

115 **53G-10-103. Sensitive instructional materials.**

116 (1) As used in this section:

117 (a) (i) "Instructional material" means a material, regardless of format, used:

118 (A) as or in place of textbooks to deliver curriculum within the state curriculum

- 119 framework for courses of study by students; or
- 120 (B) to support a student's learning in the school setting.
- 121 (ii) "Instructional material" includes reading materials, handouts, videos, digital
- 122 materials, websites, online applications, and live presentations.
- 123 (b) "LEA governing board" means:
- 124 (i) for a school district, the local school board;
- 125 (ii) for a charter school, the charter school governing board; or
- 126 (iii) for the Utah Schools for the Deaf and the Blind, the state board.
- 127 (c) "Material" means the same as that term is defined in Section [76-10-1201](#).
- 128 (d) "Minor" means any person less than 18 years old.
- 129 (e) "Public school" means:
- 130 (i) a district school;
- 131 (ii) a charter school; or
- 132 (iii) the Utah Schools for the Deaf and the Blind.
- 133 (f) (i) "School setting" means, for a public school:
- 134 (A) in a classroom;
- 135 (B) in a school library; or
- 136 (C) on school property.
- 137 (ii) "School setting" includes the following activities that an organization or individual
- 138 or organization outside of a public school conducts, if a public school or an LEA sponsors or
- 139 requires the activity:
- 140 (A) an assembly;
- 141 (B) a guest lecture;
- 142 (C) a live presentation; or
- 143 (D) an event.
- 144 (g) (i) "Sensitive material" means an instructional material that is pornographic or
- 145 indecent material as that term is defined in Section [76-10-1235](#).
- 146 (ii) "Sensitive material" does not include an instructional material:
- 147 (A) that an LEA selects under Section [53G-10-402](#);
- 148 (B) for medical courses;
- 149 (C) for family and consumer science courses; or

150 (D) for another course the state board exempts in state board rule.
151 (2) (a) Sensitive materials are prohibited in the school setting.
152 (b) A public school may not:
153 (i) adopt, use, distribute, provide a student access to, or maintain in the school setting,
154 sensitive materials; or
155 (ii) permit a speaker or presenter in the school setting to display or distribute sensitive
156 materials.
157 (3) An LEA shall include parents who are reflective of the members of the school's
158 community when determining if an instructional material is sensitive material.
159 (4) The state board shall:
160 (a) in consultation with the Office of the Attorney General, provide guidance and
161 training to support public schools in identifying instructional materials that meet the definition
162 of sensitive materials under this section; and
163 (b) report to the Education Interim Committee and the Government Operations Interim
164 Committee, at or before the November 2022 interim meeting, on implementation and
165 compliance with this section, including:
166 (i) any policy the state board or an LEA adopts to implement or comply with this
167 section;
168 (ii) any rule the state board makes to implement or comply with this section; and
169 (iii) any complaints an LEA or the state board receives regarding a violation of this
170 section, including:
171 (A) action taken in response to a complaint described in this Subsection (4)(b)(iii); and
172 (B) if an LEA retains an instructional material for which the LEA or the state board
173 receives a complaint, the LEA's rationale for retaining the instructional material.