

**Senator Kathleen A. Riebe** proposes the following substitute bill:

**HEALTHY LIFESTYLE AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kathleen A. Riebe**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill amends provisions related to health education instruction.

**Highlighted Provisions:**

This bill:

- ▶ amends a provision related to instruction about abstinence from sexual activity;
- ▶ permits a local education agency to provide certain additional content in health education instruction with written parental consent;
- ▶ defines terms; and
- ▶ makes technical and conforming 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 2020, Chapters 354 and 408

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



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

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

28 **53G-10-402. Instruction in health -- Parental consent requirements -- Conduct**  
29 **and speech of school employees and volunteers -- Political and religious doctrine**  
30 **prohibited.**

31 (1) As used in this section:

32 (a) "LEA governing board" means a local school board or charter school governing  
33 board.

34 (b) "Refusal skills" means instruction:

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

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

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

41 (iv) in sexual harassment; and

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

46 (2) (a) The state board shall establish curriculum requirements under Section  
47 [53E-3-501](#) that include instruction in:

48 (i) community and personal health;

49 (ii) physiology;

50 (iii) personal hygiene;

51 (iv) prevention of communicable disease;

52 (v) refusal skills; and

53 (vi) the harmful effects of pornography.

54 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
55 state board shall make rules that, and instruction shall:

56 (i) stress the importance of abstinence from all sexual activity before marriage and

57 fidelity after marriage as ~~[methods]~~ one method for preventing certain communicable diseases;

58 (ii) stress personal skills that encourage individual choice of abstinence and fidelity;

59 (iii) prohibit instruction in:

60 (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

61 (B) the advocacy of premarital or extramarital sexual activity; or

62 (C) except as provided in Subsection 53G-10-403(3), the advocacy or encouragement  
63 of the use of contraceptive methods or devices; and

64 (iv) except as provided in Subsection (2)(d), allow instruction to include information  
65 about contraceptive methods or devices that stresses effectiveness, limitations, risks, and  
66 information on state law applicable to minors obtaining contraceptive methods or devices.

67 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
68 state board shall make rules for an LEA governing board that adopts instructional materials  
69 under Subsection (2)(g)(ii) that:

70 (i) require the LEA governing board to report on the materials selected and the LEA  
71 governing board's compliance with Subsection (2)(h); and

72 (ii) provide for an appeal and review process of the LEA governing board's adoption of  
73 instructional materials.

74 (d) The state board may not require an LEA to teach or adopt instructional materials  
75 that include information on contraceptive methods or devices.

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

79 (ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a  
80 spontaneous question as long as the response is consistent with the provisions of this section.

81 (f) The state board shall recommend instructional materials for use in the curricula  
82 required under Subsection (2)(a) after considering evaluations of instructional materials by the  
83 State Instructional Materials Commission.

84 (g) An LEA governing board may choose to adopt:

85 (i) the instructional materials recommended under Subsection (2)(f); or

86 (ii) other instructional materials in accordance with Subsection (2)(h).

87 (h) An LEA governing board that adopts instructional materials under Subsection

88 (2)(g)(ii) shall:

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

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

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

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

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

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

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

104 (ii) require a student's parent to be notified in advance and have an opportunity to  
105 review the information for which parental consent is required under Sections 76-7-322 and  
106 76-7-323.

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

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

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

116 (i) the employee or volunteer knew or should have known that the employee's or  
117 volunteer's action could result in a material and substantial interference or disruption in the  
118 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) The state board or an LEA governing board may not allow training of school  
122 employees or volunteers that supports or encourages criminal conduct.

123 (d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah  
124 Administrative Rulemaking Act, rules implementing this section.

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

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

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

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

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

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

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

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

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

150 (b) for a local school board, data for each county that the school district is located in,  
151 or, for a charter school governing board, data for the county in which the charter school is  
152 located, on the following:

- 153 (i) teen pregnancy;
- 154 (ii) child sexual abuse; and
- 155 (iii) sexually transmitted diseases and sexually transmitted infections; and
- 156 (c) the number of pornography complaints or other instances reported within the  
157 jurisdiction of the LEA governing board.

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

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

163 **53G-10-403. Required parental consent for sex education instruction.**

164 (1) As used in this section:

165 (a) "Extended health education instruction" means additional sex education instruction  
166 content, as determined by an LEA in accordance with this section.

167 ~~(a)~~ (b) (i) "Sex education instruction" means any course material, unit, class, lesson,  
168 activity, or presentation that, as the focus of the discussion, provides instruction or information  
169 to a student about:

- 170 (A) sexual abstinence;
- 171 (B) human sexuality;
- 172 (C) human reproduction;
- 173 (D) reproductive anatomy;
- 174 (E) physiology;
- 175 (F) pregnancy;
- 176 (G) marriage;
- 177 (H) childbirth;
- 178 (I) parenthood;
- 179 (J) contraception;
- 180 (K) HIV/AIDS;

181 (L) sexually transmitted [~~diseases~~] infections; or

182 (M) refusal skills, as defined in Section [53G-10-402](#).

183 (ii) "Sex education instruction" does not include child sexual abuse prevention  
184 instruction described in Section [53G-9-207](#).

185 [~~(b)~~] (c) "School" means the same as that term is defined in Section [53G-10-205](#).

186 (2) A school shall obtain prior written consent from a student's parent before the school  
187 may provide:

188 (a) sex education instruction to the student[-]; or

189 (b) extended health education instruction.

190 (3) (a) Extended health education instruction:

191 (i) may include instruction otherwise prohibited under Subsection  
192 [53G-10-402\(2\)\(b\)\(iii\)\(C\)](#); and

193 (ii) may not include instruction prohibited under Subsections [53G-10-402\(2\)\(b\)\(iii\)\(A\)](#)  
194 and (B).

195 (b) An LEA's parental consent form for extended health education instruction shall  
196 include:

197 (i) a description of the extended health education instruction; and

198 (ii) an explanation of how the extended health education instruction is different from  
199 sex education instruction.

200 [~~(3)~~] (4) If a student's parent chooses not to have the student participate in sex  
201 education instruction or extended health education instruction, a school shall:

202 (a) waive the requirement for the student to participate in the sex education instruction  
203 or extended health education instruction; or

204 (b) provide the student with a reasonable alternative to the sex education instruction or  
205 extended health education instruction requirement.

206 [~~(4)~~] (5) In cooperation with the student's teacher or school, a parent shall take  
207 responsibility for the parent's student's sex education instruction if a school:

208 (a) waives the student's sex education instruction or extended health education  
209 instruction requirement in Subsection [~~(3)~~] (4)(a); or

210 (b) provides the student with a reasonable alternative to the sex education instruction  
211 or extended health education instruction requirement described in Subsection [~~(3)~~] (4)(b).

212            [~~5~~] (6) A student's academic or citizenship performance may not be penalized if the  
213 student's parent chooses not to have the student participate in sex education instruction or  
214 extended health education instruction as described in Subsection [~~3~~] (4).