

HB0138S02 compared with HB0138

~~{deleted text}~~ shows text that was in HB0138 but was deleted in HB0138S02.

inserted text shows text that was not in HB0138 but was inserted into HB0138S02.

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Representative Melissa G. Ballard proposes the following substitute bill:

DIGITAL ~~{SCHOOL CURRICULUM}~~ INSTRUCTIONAL MATERIAL REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: ~~{~~ Lincoln Fillmore

LONG TITLE

General Description:

This bill ~~{requires certain provisions in a contract between a state and local education agencies and a vendor in a contract for}~~ establishes a process for notification and reporting of digital instructional material and associated vendors that allegedly violate state law.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ ~~{requires provisions in a contract between}~~ establishes a process for a student, parent, or employee of a local education agency (LEA) to notify a school principal

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of digital instructional material that allegedly violates state law;

▶ requires the relevant principal to review the material and communicate the notice to the local governing board;

▶ requires the local governing board to:

- make a determination regarding the material; and
- report digital instructional material that violates state law to the State Board of Education (state board) ~~{ or a local education agency (LEA) and a vendor in a contract }~~;

▶ requires the state board to maintain a central public list of digital instructional material and associated vendors that are reported to violate state law; and

▶ requires certain notice provisions in contracts with vendors for digital instructional material ~~{ that:~~

- ~~requires notice of changes to the digital instructional material; and~~
- ~~allows the relevant state board or LEA to reject the changes or terminate the contract in certain circumstances; and~~
- ~~makes technical and conforming changes}~~.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

~~{AMENDS:~~

~~53G-10-102, as enacted by Laws of Utah 2018, Chapter 3~~

~~53G-10-103, as enacted by Laws of Utah 2022, Chapter 377~~

~~{ENACTS:~~

53G-10-104, Utah Code Annotated 1953

REPEALS:

53G-10-101, as enacted by Laws of Utah 2018, Chapter 3

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

Section 1. Section ~~{53G-10-102}~~ 53G-10-104 is ~~{amended}~~ enacted to read:

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~~{53G-10-102}~~53G-10-104. ~~Definitions:~~

~~[Reserved] As used in this chapter:~~

~~(1) "Instructional material" means the same as that term is defined in Section 53E-4-401.~~

~~(2) "Public school" means:~~

~~(a) a district school;~~

~~(b) a charter school; or~~

~~(c) the Utah Schools for the Deaf and the Blind.~~

~~(3) (a) "School setting" means, for a public school:~~

~~(i) in a classroom;~~

~~(ii) in a school library; or~~

~~(iii) on school property.~~

~~(b) "School setting" includes the following activities that an organization or individual conducts outside of a public school, if a public school or an LEA sponsors or requires the activity:~~

~~(i) an assembly;~~

~~(ii) a guest lecture;~~

~~(iii) a live presentation; or~~

~~(iv) an event.~~

~~Section 2. Section 53G-10-103 is amended to read:~~

~~53G-10-103. Sensitive instructional materials:~~

~~(1) As used in this section:~~

~~[(a) (i) "Instructional material" means a material, regardless of format, used:]~~

~~[(A) as or in place of textbooks to deliver curriculum within the state curriculum framework for courses of study by students; or]~~

~~[(B) to support a student's learning in the school setting.]~~

~~[(ii) "Instructional material" includes reading materials, handouts, videos, digital materials, websites, online applications, and live presentations.]~~

~~[(b) "LEA governing board" means:]~~

~~[(i) for a school district, the local school board;]~~

~~[(ii) for a charter school, the charter school governing board; or]~~

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- ~~— [(iii) for the Utah Schools for the Deaf and the Blind, the state board.]~~
- ~~— [(c) (a) "Material" means the same as that term is defined in Section 76-10-1201.~~
- ~~— [(d) (b) "Minor" means any person less than 18 years old.~~
- ~~— [(e) "Public school" means:]~~
 - ~~— [(i) a district school;]~~
 - ~~— [(ii) a charter school; or]~~
 - ~~— [(iii) the Utah Schools for the Deaf and the Blind.]~~
- ~~— [(f) (i) "School setting" means, for a public school:]~~
 - ~~— [(A) in a classroom;]~~
 - ~~— [(B) in a school library; or]~~
 - ~~— [(C) on school property;]~~
 - ~~— [(ii) "School setting" includes the following activities that an organization or individual or organization outside of a public school conducts, if a public school or an LEA sponsors or requires the activity:]~~
 - ~~— [(A) an assembly;]~~
 - ~~— [(B) a guest lecture;]~~
 - ~~— [(C) a live presentation; or]~~
 - ~~— [(D) an event.]~~
- ~~— [(g) (c) (i) "Sensitive material" means an} **Digital** instructional material {that is pornographic or indecent material as that term is defined in Section 76-10-1235.~~
- ~~— (ii) "Sensitive material" does not include an instructional material:~~
 - ~~— (A) that an LEA selects under Section 53G-10-402;~~
 - ~~— (B) for medical courses;~~
 - ~~— (C) for family and consumer science courses; or~~
 - ~~— (D) for another course the state board exempts in state board rule.~~
- ~~— (2) (a) Sensitive materials are prohibited in the school setting.~~
- ~~— (b) A public school may not:~~
 - ~~— (i) adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive materials; or~~
 - ~~— (ii) permit a speaker or presenter in the school setting to display or distribute sensitive materials.~~

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~~(3) An LEA shall include parents who are reflective of the members of the school's community when determining if an instructional material is sensitive material.~~

~~(4) The state board shall:~~

~~(a) in consultation with the Office of the Attorney General, provide guidance and training to support public schools in identifying instructional materials that meet the definition of sensitive materials under this section; and~~

~~(b) report to the Education Interim Committee and the Government Operations Interim Committee, at or before the November 2022 interim meeting, on implementation and compliance with this section, including:~~

~~(i) any policy the state board or an LEA adopts to implement or comply with this section;~~

~~(ii) any rule the state board makes to implement or comply with this section; and~~

~~(iii) any complaints an LEA or the state board receives regarding a violation of this section, including:~~

~~(A) action taken in response to a complaint described in this Subsection (4)(b)(iii); and~~

~~(B) if an LEA retains an instructional material for which the LEA or the state board receives a complaint, the LEA's rationale for retaining the instructional material.~~

~~Section 3. Section 53G-10-104 is enacted to read:~~

~~53G-10-104. Contract requirements for digital instructional material.~~

reviews -- Reporting.

(1) As used in this section:

(a) "Digital instructional material" means any instructional material, as that term is defined in Section 53E-4-401, that is digital, including instructional software programs, online or local applications, ~~websites,~~ and other electronic material.

(b) "Sensitive material" means the same as that term is defined in Section 53G-10-103.

~~(b)~~(c) "Vendor" means an entity with which the state board or an LEA contracts to provide digital instructional material to students.

~~(2) Neither the state board nor an LEA may enter into a contract with a vendor for~~(a) A student, a student's parent, or an LEA employee may notify the principal of the relevant school with a course through which the student, parent, or employee encounters digital

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instructional ~~materials unless the contract includes provisions that:~~

~~— (a) require the vendor to notify the relevant state board or LEA;~~ material that the student, parent, or employee alleges to constitute or contain sensitive material.

(b) No later than 10 days after the day on which the principal receives a notice described in Subsection (2)(a), the principal shall:

(i) review the alleged sensitive material;

(ii) advise the relevant educator regarding the use of the material; and

(iii) communicate the notice and the principal's review of the material to the LEA.

(3) No later than 30 days after the day on which the LEA receives a communication from a principal described in Subsection (2)(b), the local governing board ~~of any update, modification, or addition to~~ shall:

(a) evaluate the relevant digital instructional material ~~;~~

~~— (b) ensure that the relevant state board or LEA governing board has a sufficient period of time to review the new version;~~ to determine whether the material constitutes sensitive material;

(b) make a determination as to whether the material constitutes sensitive material;

(c) if the material constitutes sensitive material:

(i) (A) eliminate the chapter or section of the digital instructional material ~~that is the subject of~~ containing the sensitive material from the LEA's curriculum; or

(B) take other measures to mitigate the accessibility and impact of the material;

(ii) provide the notice to the vendor that the material violates state law; and

(iii) report to the state board regarding:

(A) the notice described in Subsection (2)~~(a)~~; and

~~(c) (B) ~~if~~ the ~~relevant state board or LEA~~ local governing ~~board determines that the new version of the digital instructional material that is the subject of the~~ board's~~

determination described in Subsection (3)(b); and

(d) communicate, either directly or through the relevant principal, the local governing board's determination described in Subsection (3)(b) to the individual who made the initial notice described in Subsection (2)~~(a) contains~~.

(4) The state board:

(a) shall compile and maintain a dynamic centralized list of reported violations and

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associated vendors as LEAs report under Subsection (3)(c) that the state board makes available to LEAs and the public to assist in maintaining state curriculum standards; and

(b) may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for the reporting of sensitive material, as that term is defined in Section 53G-10-103, allow the LEA to:

(i) reject the update, modification, or addition to the digital instructional material, requiring the vendor to provide the violations under Subsection (3)(c).

(5) In any contract for digital instructional material in the original form for which the parties contracted; or

(ii) terminate the contract without any penalty related to the termination or any further financial obligation;

(3) (a) Except as provided in Subsection (3)(b), this section does not apply to contracts in effect on July 1, 2023;

(b) Neither into which the state board nor or an LEA may modify an existing contract, including a renewal or extension, unless the relevant enters with a vendor on or after January 1, 2024, the state board or LEA complies with Subsection (2);

Section 4 shall ensure that the contract contains notice provisions regarding this section and state law regarding sensitive material.

Section 2. Repealer.

This bill repeals:

Section 53G-10-101, Title.

Section ~~5~~3. Effective date.

This bill takes effect on July 1, 2023.