

PUBLIC SCHOOL LIBRARY TRANSPARENCY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas R. Welton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses transparency regarding materials accessible to students in public school libraries.

Highlighted Provisions:

This bill:

▸ requires local education agencies that provide school libraries to provide an online platform that allows a parent to view information regarding materials the parent's child borrows from the school library;

▸ establishes certain processes and timelines for reviews of materials in public school libraries that are alleged to violate statute;

▸ requires the notification of parents if a student checks out a material that is under review for allegedly violating statute; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-4-402, as last amended by Laws of Utah 2021, Chapters 84, 262, 324, and 345



28 [53G-5-405](#), as last amended by Laws of Utah 2020, Chapter 192

29 [53G-10-103](#), as enacted by Laws of Utah 2022, Chapter 377



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

32 Section 1. Section **53G-4-402** is amended to read:

33 **53G-4-402. Powers and duties generally.**

34 (1) A local school board shall:

35 (a) implement the core standards for Utah public schools using instructional materials
36 that best correlate to the core standards for Utah public schools and graduation requirements;

37 (b) administer tests, required by the state board, which measure the progress of each
38 student, and coordinate with the state superintendent and state board to assess results and create
39 plans to improve the student's progress, which shall be submitted to the state board for
40 approval;

41 (c) use progress-based assessments as part of a plan to identify schools, teachers, and
42 students that need remediation and determine the type and amount of federal, state, and local
43 resources to implement remediation;

44 (d) for each grading period and for each course in which a student is enrolled, issue a
45 grade or performance report to the student:

46 (i) that reflects the student's work, including the student's progress based on mastery,
47 for the grading period; and

48 (ii) in accordance with the local school board's adopted grading or performance
49 standards and criteria;

50 (e) develop early warning systems for students or classes failing to make progress;

51 (f) work with the state board to establish a library of documented best practices,
52 consistent with state and federal regulations, for use by the local districts;

53 (g) implement training programs for school administrators, including basic
54 management training, best practices in instructional methods, budget training, staff
55 management, managing for learning results and continuous improvement, and how to help
56 every child achieve optimal learning in basic academic subjects; and

57 (h) ensure that the local school board meets the data collection and reporting standards
58 described in Section [53E-3-501](#).

59 (2) Local school boards shall spend Minimum School Program funds for programs and
60 activities for which the state board has established minimum standards or rules under Section
61 [53E-3-501](#).

62 (3) (a) A local school board may purchase, sell, and make improvements on school
63 sites, buildings, and equipment and construct, erect, and furnish school buildings.

64 (b) School sites or buildings may only be conveyed or sold on local school board
65 resolution affirmed by at least two-thirds of the members.

66 (4) (a) A local school board may participate in the joint construction or operation of a
67 school attended by children residing within the district and children residing in other districts
68 either within or outside the state.

69 (b) Any agreement for the joint operation or construction of a school shall:

70 (i) be signed by the president of the local school board of each participating district;

71 (ii) include a mutually agreed upon pro rata cost; and

72 (iii) be filed with the state board.

73 (5) A local school board may establish, locate, and maintain elementary, secondary,
74 and applied technology schools.

75 (6) Except as provided in Section [53E-3-905](#), a local school board may enroll children
76 in school who are at least five years old before September 2 of the year in which admission is
77 sought.

78 (7) A local school board:

79 (a) may establish and support school libraries[-]; and

80 (b) shall provide an online platform through which a parent is able to view the title,
81 author, and a description of any material the parent's child borrows from the school library,
82 including a history of borrowed materials, either using an existing online platform that the LEA
83 uses or through a separate platform.

84 (8) A local school board may collect damages for the loss, injury, or destruction of
85 school property.

86 (9) A local school board may authorize guidance and counseling services for children
87 and their parents before, during, or following enrollment of the children in schools.

88 (10) (a) A local school board shall administer and implement federal educational
89 programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National

90 Education Programs.

91 (b) Federal funds are not considered funds within the school district budget under
92 Chapter 7, Part 3, Budgets.

93 (11) (a) A local school board may organize school safety patrols and adopt policies
94 under which the patrols promote student safety.

95 (b) A student appointed to a safety patrol shall be at least 10 years old and have written
96 parental consent for the appointment.

97 (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion
98 of a highway intended for vehicular traffic use.

99 (d) Liability may not attach to a school district, its employees, officers, or agents or to a
100 safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting
101 the program by virtue of the organization, maintenance, or operation of a school safety patrol.

102 (12) (a) A local school board may on its own behalf, or on behalf of an educational
103 institution for which the local school board is the direct governing body, accept private grants,
104 loans, gifts, endowments, devises, or bequests that are made for educational purposes.

105 (b) These contributions are not subject to appropriation by the Legislature.

106 (13) (a) A local school board may appoint and fix the compensation of a compliance
107 officer to issue citations for violations of Subsection 76-10-105(2)(b).

108 (b) A person may not be appointed to serve as a compliance officer without the
109 person's consent.

110 (c) A teacher or student may not be appointed as a compliance officer.

111 (14) A local school board shall adopt bylaws and policies for the local school board's
112 own procedures.

113 (15) (a) A local school board shall make and enforce policies necessary for the control
114 and management of the district schools.

115 (b) Local school board policies shall be in writing, filed, and referenced for public
116 access.

117 (16) A local school board may hold school on legal holidays other than Sundays.

118 (17) (a) A local school board shall establish for each school year a school traffic safety
119 committee to implement this Subsection (17).

120 (b) The committee shall be composed of one representative of:

- 121 (i) the schools within the district;
- 122 (ii) the Parent Teachers' Association of the schools within the district;
- 123 (iii) the municipality or county;
- 124 (iv) state or local law enforcement; and
- 125 (v) state or local traffic safety engineering.
- 126 (c) The committee shall:
 - 127 (i) receive suggestions from school community councils, parents, teachers, and others
 - 128 and recommend school traffic safety improvements, boundary changes to enhance safety, and
 - 129 school traffic safety program measures;
 - 130 (ii) review and submit annually to the Department of Transportation and affected
 - 131 municipalities and counties a child access routing plan for each elementary, middle, and junior
 - 132 high school within the district;
 - 133 (iii) consult the Utah Safety Council and the Division of Family Health Services and
 - 134 provide training to all school children in kindergarten through grade 6, within the district, on
 - 135 school crossing safety and use; and
 - 136 (iv) help ensure the district's compliance with rules made by the Department of
 - 137 Transportation under Section [41-6a-303](#).
- 138 (d) The committee may establish subcommittees as needed to assist in accomplishing
- 139 the committee's duties under Subsection (17)(c).
- 140 (18) (a) A local school board shall adopt and implement a comprehensive emergency
- 141 response plan to prevent and combat violence in the local school board's public schools, on
- 142 school grounds, on its school vehicles, and in connection with school-related activities or
- 143 events.
 - 144 (b) The plan shall:
 - 145 (i) include prevention, intervention, and response components;
 - 146 (ii) be consistent with the student conduct and discipline policies required for school
 - 147 districts under Chapter 11, Part 2, Miscellaneous Requirements;
 - 148 (iii) require professional learning for all district and school building staff on what their
 - 149 roles are in the emergency response plan;
 - 150 (iv) provide for coordination with local law enforcement and other public safety
 - 151 representatives in preventing, intervening, and responding to violence in the areas and activities

152 referred to in Subsection (18)(a); and

153 (v) include procedures to notify a student, to the extent practicable, who is off campus
154 at the time of a school violence emergency because the student is:

155 (A) participating in a school-related activity; or

156 (B) excused from school for a period of time during the regular school day to
157 participate in religious instruction at the request of the student's parent.

158 (c) The state board, through the state superintendent, shall develop comprehensive
159 emergency response plan models that local school boards may use, where appropriate, to
160 comply with Subsection (18)(a).

161 (d) A local school board shall, by July 1 of each year, certify to the state board that its
162 plan has been practiced at the school level and presented to and reviewed by its teachers,
163 administrators, students, and their parents and local law enforcement and public safety
164 representatives.

165 (19) (a) A local school board may adopt an emergency response plan for the treatment
166 of sports-related injuries that occur during school sports practices and events.

167 (b) The plan may be implemented by each secondary school in the district that has a
168 sports program for students.

169 (c) The plan may:

170 (i) include emergency personnel, emergency communication, and emergency
171 equipment components;

172 (ii) require professional learning on the emergency response plan for school personnel
173 who are involved in sports programs in the district's secondary schools; and

174 (iii) provide for coordination with individuals and agency representatives who:

175 (A) are not employees of the school district; and

176 (B) would be involved in providing emergency services to students injured while
177 participating in sports events.

178 (d) The local school board, in collaboration with the schools referred to in Subsection
179 (19)(b), may review the plan each year and make revisions when required to improve or
180 enhance the plan.

181 (e) The state board, through the state superintendent, shall provide local school boards
182 with an emergency plan response model that local school boards may use to comply with the

183 requirements of this Subsection (19).

184 (20) A local school board shall do all other things necessary for the maintenance,
185 prosperity, and success of the schools and the promotion of education.

186 (21) (a) Before closing a school or changing the boundaries of a school, a local school
187 board shall:

188 (i) at least 120 days before approving the school closure or school boundary change,
189 provide notice to the following that the local school board is considering the closure or
190 boundary change:

191 (A) parents of students enrolled in the school, using the same form of communication
192 the local school board regularly uses to communicate with parents;

193 (B) parents of students enrolled in other schools within the school district that may be
194 affected by the closure or boundary change, using the same form of communication the local
195 school board regularly uses to communicate with parents; and

196 (C) the governing council and the mayor of the municipality in which the school is
197 located;

198 (ii) provide an opportunity for public comment on the proposed school closure or
199 school boundary change during at least two public local school board meetings; and

200 (iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of
201 the public hearing as described in Subsection (21)(b).

202 (b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

203 (i) indicate the:

204 (A) school or schools under consideration for closure or boundary change; and

205 (B) the date, time, and location of the public hearing;

206 (ii) at least 10 days before the public hearing, be:

207 (A) published:

208 (I) in a newspaper of general circulation in the area; and

209 (II) on the Utah Public Notice Website created in Section 63A-16-601; and

210 (B) posted in at least three public locations within the municipality in which the school
211 is located on the school district's official website, and prominently at the school; and

212 (iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be
213 provided as described in Subsections (21)(a)(i)(A), (B), and (C).

214 (22) A local school board may implement a facility energy efficiency program
215 established under Title 11, Chapter 44, Performance Efficiency Act.

216 (23) A local school board may establish or partner with a certified youth court in
217 accordance with Section 80-6-902 or establish or partner with a comparable restorative justice
218 program, in coordination with schools in that district. A school may refer a student to a youth
219 court or a comparable restorative justice program in accordance with Section 53G-8-211.

220 (24) A local school board shall:

221 (a) make curriculum that the school district uses readily accessible and available for a
222 parent to view;

223 (b) annually notify a parent of a student enrolled in the school district of how to access
224 the information described in Subsection (24)(a); and

225 (c) include on the school district's website information about how to access the
226 information described in Subsection (24)(a).

227 Section 2. Section 53G-5-405 is amended to read:

228 **53G-5-405. Application of statutes and rules to charter schools.**

229 (1) A charter school shall operate in accordance with its charter agreement and is
230 subject to this public education code and other state laws applicable to public schools, except
231 as otherwise provided in this chapter and other related provisions.

232 (2) (a) Except as provided in ~~[Subsection]~~ Subsections (2)(b) and (2)(c), state board
233 rules governing the following do not apply to a charter school:

234 (i) school libraries;

235 (ii) required school administrative and supervisory services; and

236 (iii) required expenditures for instructional supplies.

237 (b) A charter school shall comply with rules implementing statutes that prescribe how
238 state appropriations may be spent.

239 (c) If a charter school provides access to a school library, the charter school governing
240 board shall provide an online platform through which a parent is able to view the title, author,
241 and a description of any material the parent's child borrows from the school library, including a
242 history of borrowed materials, either using an existing online platform that the charter school
243 uses or through a separate platform.

244 (3) The following provisions of this public education code, and rules adopted under

245 those provisions, do not apply to a charter school:

246 (a) Section 53E-4-408, requiring an independent evaluation of instructional materials;

247 (b) Section 53G-4-409, requiring the use of activity disclosure statements;

248 (c) Sections 53G-7-304 and 53G-7-306, pertaining to fiscal procedures of school

249 districts and local school boards;

250 (d) Section 53G-7-606, requiring notification of intent to dispose of textbooks;

251 (e) Section 53G-7-1202, requiring the establishment of a school community council;

252 and

253 (f) Section 53G-10-404, requiring annual presentations on adoption.

254 (4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter

255 school is considered an educational procurement unit as defined in Section 63G-6a-103.

256 (5) Each charter school shall be subject to:

257 (a) Title 52, Chapter 4, Open and Public Meetings Act; and

258 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

259 (6) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports

260 of certain nonprofit corporations. A charter school is subject to the requirements of Section

261 53G-5-404.

262 (7) (a) The State Charter School Board shall, in concert with the charter schools, study

263 existing state law and administrative rules for the purpose of determining from which laws and

264 rules charter schools should be exempt.

265 (b) (i) The State Charter School Board shall present recommendations for exemption to

266 the state board for consideration.

267 (ii) The state board shall consider the recommendations of the State Charter School

268 Board and respond within 60 days.

269 Section 3. Section 53G-10-103 is amended to read:

270 **53G-10-103. Sensitive instructional materials.**

271 (1) As used in this section:

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

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

274 framework for courses of study by students; or

275 (B) to support a student's learning in the school setting.

- 276 (ii) "Instructional material" includes reading materials, handouts, videos, digital
- 277 materials, websites, online applications, and live presentations.
- 278 (b) "LEA governing board" means:
- 279 (i) for a school district, the local school board;
- 280 (ii) for a charter school, the charter school governing board; or
- 281 (iii) for the Utah Schools for the Deaf and the Blind, the state board.
- 282 (c) "Material" means the same as that term is defined in Section [76-10-1201](#).
- 283 (d) "Minor" means any person less than 18 years old.
- 284 (e) "Public school" means:
- 285 (i) a district school;
- 286 (ii) a charter school; or
- 287 (iii) the Utah Schools for the Deaf and the Blind.
- 288 (f) (i) "School setting" means, for a public school:
- 289 (A) in a classroom;
- 290 (B) in a school library; or
- 291 (C) on school property.
- 292 (ii) "School setting" includes the following activities that an organization or individual
- 293 or organization outside of a public school conducts, if a public school or an LEA sponsors or
- 294 requires the activity:
- 295 (A) an assembly;
- 296 (B) a guest lecture;
- 297 (C) a live presentation; or
- 298 (D) an event.
- 299 (g) (i) "Sensitive material" means an instructional material that is pornographic or
- 300 indecent material as that term is defined in Section [76-10-1235](#).
- 301 (ii) "Sensitive material" does not include an instructional material:
- 302 (A) that an LEA selects under Section [53G-10-402](#);
- 303 (B) for medical courses;
- 304 (C) for family and consumer science courses; or
- 305 (D) for another course the state board exempts in state board rule.
- 306 (2) (a) Sensitive materials are prohibited in the school setting.

- 307 (b) A public school may not:
- 308 (i) adopt, use, distribute, provide a student access to, or maintain in the school setting,
- 309 sensitive materials; or
- 310 (ii) permit a speaker or presenter in the school setting to display or distribute sensitive
- 311 materials.
- 312 (3) An LEA shall:
- 313 (a) upon receipt of a notice that complies with an LEA's policies for challenging
- 314 sensitive materials and that alleges that an instructional material constitutes or contains
- 315 sensitive material under this section:
- 316 (i) the relevant school or LEA shall:
- 317 (A) for the first notice regarding a given material or a subsequent notice regarding a
- 318 previously challenged material that presents new information or allegations, immediately
- 319 review the notice and the relevant instructional material to make an initial determination of
- 320 whether there is reasonable cause to believe that the material constitutes or contains sensitive
- 321 material; and
- 322 (B) for a subsequent notice regarding a previously challenged material that does not
- 323 present new information or allegations, notify the individual who made the subsequent notice
- 324 of the previous challenge and the outcome of the previous challenge;
- 325 (ii) if the result of the initial determination described in Subsection (3)(a)(i) is that
- 326 there is reasonable cause to believe that the instructional material in question constitutes or
- 327 contains sensitive material, the relevant school or LEA shall:
- 328 (A) immediately remove the material from the library, classroom, or other location
- 329 where students may access the material until the LEA completes the review and makes the
- 330 determination described in this Subsection (3)(a)(ii); and
- 331 (B) no later than 60 days after the day on which the LEA receives the notice triggering
- 332 the review, review the allegations and take any action that is necessary or prudent under this
- 333 section and the LEA's policies;
- 334 (b) include parents who are reflective of the members of the school's community when
- 335 [determining if an instructional material is sensitive material:] making the reviews and
- 336 determinations described in Subsection (3)(a); and
- 337 (c) notify a student's parent if the student checks out, receives, or otherwise accesses an

338 instructional material that is the subject of a review under this section.

339 (4) The state board shall:

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

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

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

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

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

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

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