

HB0465S01 compared with HB0465

~~{deleted text}~~ shows text that was in HB0465 but was deleted in HB0465S01.

inserted text shows text that was not in HB0465 but was inserted into HB0465S01.

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Representative Douglas R. Welton proposes the following substitute bill:

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

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- ▶ 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

53G-5-405, as last amended by Laws of Utah 2020, Chapter 192

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

~~}~~

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

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

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

(1) A local school board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) be filed with the state board.

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

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

(7) A local school board:

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

(b) shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any

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material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the LEA uses or through a separate platform; and

(ii) (A) for a school district with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a school district with fewer than 1,000 enrolled students, no later than August 1, 2026.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing

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the committee's duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

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

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

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

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

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

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

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

(c) The plan may:

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

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

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

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

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

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

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

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

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

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

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

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

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

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

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of

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the public hearing as described in Subsection (21)(b).

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

(i) indicate the:

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

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

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

(A) published:

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

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

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

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

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

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

(24) A local school board shall:

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

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

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

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

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

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

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

- (i) school libraries;
- (ii) required school administrative and supervisory services; and
- (iii) required expenditures for instructional supplies.

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

(c) If a charter school provides access to a school library, the charter school governing board shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the charter school uses or through a separate platform; and

(ii) (A) for a charter school with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a charter school with fewer than 1,000 enrolled students, no later than August 1, 2026.

(3) The following provisions of this public education code, and rules adopted under those provisions, do not apply to a charter school:

- (a) Section 53E-4-408, requiring an independent evaluation of instructional materials;
 - (b) Section 53G-4-409, requiring the use of activity disclosure statements;
 - (c) Sections 53G-7-304 and 53G-7-306, pertaining to fiscal procedures of school districts and local school boards;
 - (d) Section 53G-7-606, requiring notification of intent to dispose of textbooks;
 - (e) Section 53G-7-1202, requiring the establishment of a school community council;
- and

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

(4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in Section 63G-6a-103.

(5) Each charter school shall be subject to:

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

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

(6) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53G-5-404.

(7) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the state board for consideration.

(ii) The state board shall consider the recommendations of the State Charter School Board and respond within 60 days.

~~{ Section 3. Section **53G-10-103** is amended to read:~~

~~Section **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~~

~~(iii) for the Utah Schools for the Deaf and the Blind, the state board.~~

~~(c) "Material" means the same as that term is defined in Section 76-10-1201.~~

~~(d) "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:~~

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- ~~—— (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) (i) "Sensitive material" means an 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.~~
- ~~—— (3) An LEA shall:~~
- ~~—— (a) upon receipt of a notice that complies with an LEA's policies for challenging sensitive materials and that alleges that an instructional material constitutes or contains sensitive material under this section:~~
- ~~—— (i) the relevant school or LEA shall:~~
- ~~—— (A) for the first notice regarding a given material or a subsequent notice regarding a previously challenged material that presents new information or allegations, immediately review the notice and the relevant instructional material to make an initial determination of~~

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~~whether there is reasonable cause to believe that the material constitutes or contains sensitive material; and~~

~~—— (B) for a subsequent notice regarding a previously challenged material that does not present new information or allegations, notify the individual who made the subsequent notice of the previous challenge and the outcome of the previous challenge;~~

~~—— (ii) if the result of the initial determination described in Subsection (3)(a)(i) is that there is reasonable cause to believe that the instructional material in question constitutes or contains sensitive material, the relevant school or LEA shall:~~

~~—— (A) immediately remove the material from the library, classroom, or other location where students may access the material until the LEA completes the review and makes the determination described in this Subsection (3)(a)(ii); and~~

~~—— (B) no later than 60 days after the day on which the LEA receives the notice triggering the review, review the allegations and take any action that is necessary or prudent under this section and the LEA's policies;~~

~~—— (b) include parents who are reflective of the members of the school's community when [determining if an instructional material is sensitive material.] making the reviews and determinations described in Subsection (3)(a); and~~

~~—— (c) notify a student's parent if the student checks out, receives, or otherwise accesses an instructional material that is the subject of a review under this section;~~

~~—— (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:~~

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~~—— (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.~~

~~‡~~