

Representative Melissa G. Ballard proposes the following substitute bill:

PUBLIC SCHOOL INSTRUCTIONAL MATERIAL

REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Melissa G. Ballard

LONG TITLE

General Description:

This bill addresses requirements related to the approval of materials for classroom use and certain policies.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a process for a local school board or charter school governing board to follow if the board chooses to adopt or approve instructional materials for classroom use across the school district or charter school;
- ▶ requires local school boards and charter school governing boards to adopt policies to provide guidance to educators on the use of certain learning materials that have not been adopted or approved under the open process;
- ▶ requires that contracts for online or digital learning materials include a requirement for notice if the provider changes the content of the materials; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53G-4-402**, as last amended by Laws of Utah 2021, Chapters 84, 262, 324, and 345

31 **53G-5-404**, as last amended by Laws of Utah 2021, Chapter 324

32

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

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

35 **53G-4-402. Powers and duties generally.**

36 (1) A local school board shall:

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

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

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

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

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

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

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

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

55 (g) implement training programs for school administrators, including basic
56 management training, best practices in instructional methods, budget training, staff

57 management, managing for learning results and continuous improvement, and how to help
58 every child achieve optimal learning in basic academic subjects; and

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

61 (2) Local school boards shall spend Minimum School Program funds for programs and
62 activities for which the state board has established minimum standards or rules under Section
63 53E-3-501.

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

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

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

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

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

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

74 (iii) be filed with the state board.

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

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

80 (7) A local school board may establish and support school libraries.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

118 (i) the schools within the district;

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

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

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

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

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

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

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

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

166 (c) The plan may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

200 (i) indicate the:

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

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

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

204 (A) published[;]

205 [(+)] in a newspaper of general circulation in the area[;] and

206 [(#)] on the Utah Public Notice Website created in Section 63A-16-601; and

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

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

211 (22) A local school board may implement a facility energy efficiency program

212 established under Title 11, Chapter 44, Performance Efficiency Act.

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

217 (24) (a) As used in this Subsection (24):

218 (i) "Learning material" means any learning material or resource used to deliver or
219 support a student's learning, including textbooks, reading materials, videos, digital materials,
220 websites, and other online applications.

221 (ii) (A) "Instructional material" means learning material that a local school board
222 adopts and approves for use within the LEA.

223 (B) "Instructional material" does not include learning material used in a concurrent
224 enrollment, advanced placement, or international baccalaureate program or class or another
225 class with required instructional material that is not subject to selection by the local school
226 board.

227 (iii) "Supplemental material" means learning material that:

228 (A) an educator selects for classroom use; and

229 (B) a local school board has not considered and adopted, approved, or prohibited for
230 classroom use within the LEA.

231 (b) A local school board shall:

232 ~~[(a)]~~ (i) make ~~[curriculum]~~ instructional material that the school district uses readily
233 accessible and available for a parent to view;

234 ~~[(b)]~~ (ii) annually notify a parent of a student enrolled in the school district of how to
235 access the information described in Subsection ~~[(24)(a)]~~ (24)(b)(i); and

236 ~~[(c)]~~ (iii) include on the school district's website information about how to access the
237 information described in Subsection ~~[(24)(a)]~~ (24)(b)(i).

238 (c) In selecting and approving instructional materials for use in the classroom, a local
239 school board shall:

240 (i) establish an open process, involving educators and parents of students enrolled in
241 the LEA, to review and recommend instructional materials for board approval; and

242 (ii) ensure that under the process described in Subsection (24)(c)(i), the board:

243 (A) before the meetings described in Subsection (24)(c)(ii)(B), posts the recommended
244 learning material online to allow for public review or, for copyrighted material, make the
245 recommended learning material available at the LEA for public review;

246 (B) before adopting or approving the recommended instructional materials, holds at
247 least two public meetings on the recommendation that provides an opportunity for educators
248 whom the LEA employs and parents of students enrolled in the LEA to express views and
249 opinions on the recommendation; and

250 (C) adopts or approves the recommended instructional materials in an open and regular
251 board meeting.

252 (d) A local school board shall adopt a supplemental materials policy that provides
253 flexible guidance to educators on the selection of supplemental materials or resources that an
254 educator reviews and selects for classroom use using the educator's professional judgment,
255 including whether any process or permission is required before classroom use of the materials
256 or resources.

257 (e) If an LEA contracts with another party to provide online or digital materials, the
258 LEA shall include in the contract a requirement that the provider give notice to the LEA any
259 time that the provider makes a material change to the content of the online or digital materials,
260 excluding regular informational updates on current events.

261 (f) Nothing in this Subsection (24) requires a local school board to review all learning
262 materials used within the LEA.

263 Section 2. Section **53G-5-404** is amended to read:

264 **53G-5-404. Requirements for charter schools.**

265 (1) A charter school shall be nonsectarian in its programs, admission policies,
266 employment practices, and operations.

267 (2) A charter school may not charge tuition or fees, except those fees normally charged
268 by other public schools.

269 (3) A charter school shall meet all applicable federal, state, and local health, safety, and
270 civil rights requirements.

271 (4) (a) A charter school shall:

272 (i) make the same annual reports required of other public schools under this public
273 education code, including an annual financial audit report described in Section **53G-4-404**;

- 274 (ii) ensure that the charter school meets the data and reporting standards described in
275 Section 53E-3-501; and
- 276 (iii) use fund and program accounting methods and standardized account codes capable
277 of producing financial reports that comply with:
- 278 (A) generally accepted accounting principles;
- 279 (B) the financial reporting requirements applicable to LEAs established by the state
280 board under Section 53E-3-501; and
- 281 (C) accounting report standards established by the state auditor as described in Section
282 51-2a-301.
- 283 (b) Before, and as a condition for opening a charter school:
- 284 (i) a charter school shall:
- 285 (A) certify to the authorizer that the charter school's accounting methods meet the
286 requirements described in Subsection (4)(a)(iii); or
- 287 (B) if the authorizer requires, conduct a performance demonstration to verify that the
288 charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii);
289 and
- 290 (ii) the authorizer shall certify to the state board that the charter school's accounting
291 methods meet the requirements described in Subsection (4)(a)(iii).
- 292 (c) A charter school shall file the charter school's annual financial audit report with the
293 Office of the State Auditor within six months of the end of the fiscal year.
- 294 (d) For the limited purpose of compliance with federal and state law governing use of
295 public education funds, including restricted funds, and making annual financial audit reports
296 under this section, a charter school is a government entity governed by the public education
297 code.
- 298 (5) (a) A charter school shall be accountable to the charter school's authorizer for
299 performance as provided in the school's charter agreement.
- 300 (b) To measure the performance of a charter school, an authorizer may use data
301 contained in:
- 302 (i) the charter school's annual financial audit report;
- 303 (ii) a report submitted by the charter school as required by statute; or
- 304 (iii) a report submitted by the charter school as required by its charter agreement.

305 (c) A charter school authorizer may not impose performance standards, except as
306 permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully
307 accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise
308 provided in law.

309 (6) A charter school may not advocate unlawful behavior.

310 (7) Except as provided in Section 53G-5-305, a charter school shall be organized and
311 managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its
312 authorization.

313 (8) A charter school shall provide adequate liability and other appropriate insurance,
314 including:

315 (a) general liability, errors and omissions, and directors and officers liability coverage
316 through completion of the closure of a charter school under Section 53G-5-504; and

317 (b) tail coverage or closeout insurance covering at least one year after closure of the
318 charter school.

319 (9) Beginning on July 1, 2014, a charter school, including a charter school that has not
320 yet opened, shall submit any lease, lease-purchase agreement, or other contract or agreement
321 relating to the charter school's facilities or financing of the charter school's facilities to the
322 school's authorizer and an attorney for review and advice before the charter school enters the
323 lease, agreement, or contract.

324 (10) A charter school may not employ an educator whose license is suspended or
325 revoked by the state board under Section 53E-6-604.

326 (11) (a) Each charter school shall register and maintain the charter school's registration
327 as a limited purpose entity, in accordance with Section 67-1a-15.

328 (b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is
329 subject to enforcement by the state auditor, in accordance with Section 67-3-1.

330 (c) If a charter school is an operating charter school with affiliated satellite charter
331 schools, as defined in Section 53G-5-303:

332 (i) the operating charter school shall register as a limited purpose entity as defined in
333 Section 67-1a-15;

334 (ii) each affiliated satellite charter school is not required to register separately from the
335 operating charter school; and

336 (iii) the operating charter school shall:

337 (A) register on behalf of each affiliated satellite charter school; and

338 (B) when submitting entity registry information under Section 67-1a-15 on behalf of
339 each affiliated satellite charter school, identify and distinguish registry information for each
340 affiliated satellite, including the address of each affiliated satellite charter school and the name
341 and contact information of a primary contact for each affiliated satellite charter school.

342 (12) (a) As used in this Subsection (12), "contracting entity" means a person with
343 which a charter school contracts.

344 (b) A charter school shall provide to the charter school's authorizer any information or
345 documents requested by the authorizer, including documents held by a subsidiary of the charter
346 school or a contracting entity:

347 (i) to confirm the charter school's compliance with state or federal law governing the
348 charter school's finances or governance; or

349 (ii) to carry out the authorizer's statutory obligations, including liquidation and
350 assignment of assets, and payment of debt in accordance with state board rule, as described in
351 Section 53G-5-504.

352 (c) A charter school shall comply with a request described in Subsection (12)(b),
353 including after an authorizer recommends closure of the charter school or terminates the charter
354 school's contract.

355 (d) Documents held by a contracting entity or subsidiary of a charter school that are
356 necessary to demonstrate the charter school's compliance with state or federal law are the
357 property of the charter school.

358 (e) A charter school shall include in an agreement with a subsidiary of the charter
359 school or a contracting entity a provision that stipulates that documents held by the subsidiary
360 or a contracting entity, that are necessary to demonstrate the charter school's financial
361 compliance with federal or state law, are the property of the charter school.

362 (13) For each grading period and for each course in which a student is enrolled, a
363 charter school shall issue a grade or performance report to the student:

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

366 (b) in accordance with the charter school's adopted grading or performance standards

367 and criteria.

368 (14) (a) As used in this Subsection (14):

369 (i) "Learning material" means any learning material or resource used to deliver or
370 support a student's learning, including textbooks, reading materials, videos, digital materials,
371 websites, and other online applications.

372 (ii) (A) "Instructional material" means learning material that a charter school governing
373 board adopts and approves for use within the charter school.

374 (B) "Instructional material" does not include learning material used in a concurrent
375 enrollment, advanced placement, or international baccalaureate program or class or another
376 class with required instructional material that is not subject to selection by the charter school
377 governing board.

378 (iii) "Supplemental material" means learning material that:

379 (A) an educator selects for classroom use; and

380 (B) a charter school governing board has not considered and adopted, approved, or
381 prohibited for classroom use within the charter school.

382 (b) A charter school shall:

383 ~~[(a)]~~ (i) make [curriculum] instructional material that the charter school uses readily
384 accessible and available for a parent to view;

385 ~~[(b)]~~ (ii) annually notify a parent of a student enrolled in the charter school of how to
386 access the information described in Subsection ~~[(14)(a)]~~ (14)(b)(i); and

387 ~~[(c)]~~ (iii) include on the charter school's website information about how to access the
388 information described in Subsection ~~[(14)(a)]~~ (14)(b)(i).

389 (c) In selecting and approving instructional materials for use in the classroom, a charter
390 school governing board shall:

391 (i) establish an open process, involving educators and parents of students enrolled in
392 the charter school, to review and recommend instructional materials for board approval; and

393 (ii) ensure that under the process described in Subsection (14)(c)(i), the charter school
394 governing board:

395 (A) before the public meetings described in Subsection (14)(c)(ii)(B), posts the
396 recommended learning materials online to allow for public review or, for copyrighted material,
397 make the recommended learning material available at the charter school for public review;

398 (B) before adopting or approving the recommended instructional materials, holds at
399 least two public meetings on the recommendation that provide an opportunity for educators
400 whom the charter school employs and parents of students enrolled in the charter school to
401 express views and opinions on the recommendation; and

402 (C) adopts or approves the recommended instructional materials in an open and regular
403 board meeting.

404 (d) A charter school governing board shall adopt a supplemental materials policy that
405 provides flexible guidance to educators on the selection of supplemental materials or resources
406 that an educator reviews and selects for classroom use using the educator's professional
407 judgment, including whether any process or permission is required before classroom use of the
408 materials or resources.

409 (e) If a charter school contracts with another party to provide online or digital
410 materials, the charter school shall include in the contract a requirement that the provider give
411 notice to the charter school any time that the provider makes a material change to the content of
412 the online or digital materials, excluding regular informational updates on current events.

413 (f) Nothing in this Subsection (14) requires a charter school governing board to review
414 all learning materials used within the charter school.