

Senator Daniel McCay proposes the following substitute bill:

SCHOOL EMPLOYEE CONDUCT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill enacts provisions regarding certain conduct by school employees in displaying flags on or in a public school.

Highlighted Provisions:

This bill:

- ▶ prohibits the display of certain flags on or in a public school by a school official or employee;
- ▶ establishes standing for certain parents to file a civil action in relation to the display of certain flags within a public school; 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-10-202, as last amended by Laws of Utah 2023, Chapter 294



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

27 Section 1. Section **53G-10-202** is amended to read:

28 **53G-10-202. Maintaining constitutional freedom in the public schools.**

29 (1) Except as provided in this section and Section **53G-10-206**, any instructional
30 activity, performance, or display which includes examination of or presentations about religion,
31 political or religious thought or expression, or the influence thereof on music, art, literature,
32 law, politics, history, or any other element of the curriculum, including the comparative study
33 of religions, which is designed to achieve academic educational objectives included within the
34 context of a course or activity and conducted in accordance with applicable rules or policies of
35 the state and LEA governing boards, may be undertaken in the public schools.

36 (2) No aspect of cultural heritage, political theory, moral theory, or societal value shall
37 be included within or excluded from public school curricula for the primary reason that it
38 affirms, ignores, or denies religious belief, religious doctrine, a religious sect, or the existence
39 of a spiritual realm or supreme being.

40 (3) Public schools may not sponsor or deny the practice of prayer or religious
41 devotionals.

42 (4) (a) As used in this Subsection (4), "display" means to exhibit or place anywhere
43 students may see the object.

44 (b) School officials and employees may not:

45 (i) use their positions to endorse, promote, or disparage a particular religious,
46 denominational, sectarian, agnostic, or atheistic belief or viewpoint[-]; or

47 (ii) display a flag other than the following on or in a public school:

48 (A) the United States flag;

49 (B) the state flag described in Section **63G-1-501** or the historic state flag described in

50 Section **63G-1-503**;

51 (C) the POW/MIA flag described in Section **63G-1-702**;

52 (D) a flag that represents an Indian tribe, as defined in 25 U.S.C. Sec. 5304;

53 (E) a flag that represents a municipality, county, or other political subdivision of the
54 state;

55 (F) a flag that represents any unit, branch, or other division of the armed forces,
56 including an ROTC program;

57 (G) the current, official flag of another country or a political subdivision of another
58 country;

59 (H) a flag representing a college or university that the college or university officially
60 licenses;

61 (I) a flag representing a professional sports league or team that the professional sports
62 league or team officially licenses;

63 (J) a flag that is displayed temporarily as part of a course curriculum that the LEA
64 approves and that complies with curriculum standards that the state board adopts;

65 (K) an official school flag; or

66 (L) the flag of an organization duly authorized to use a public school building only at
67 the time and place that the organization is authorized to use school property.

68 (c) (i) This Subsection (4) applies only to the extent that Utah Constitution, Article I,
69 Sec. 15, and the First Amendment to the United States Constitution permit.

70 (ii) The provisions of this Subsection (4) are severable.

71 (iii) The severing of any provision in this Subsection (4) that a court holds to violate
72 the constitutional provisions described in Subsection (4)(c)(i) has no affect on the remaining
73 provisions of this Subsection (4).

74 (d) A parent of a student who is enrolled in an LEA, or of a child who is eligible to
75 enroll in an LEA, has standing to file a civil action against the LEA to enforce this Subsection
76 (4) if the parent first:

77 (i) provides written notice of the alleged violation of this Subsection (4) to the LEA;
78 and

79 (ii) allows the LEA 10 school days to remedy the alleged violation.

80 **Section 2. Effective date.**

81 This bill takes effect on July 1, 2024.