

Representative Raymond P. Ward proposes the following substitute bill:

HEALTH EDUCATION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill amends provisions regarding instruction in health.

Highlighted Provisions:

This bill:

- ▶ provides that health education instruction may include information about the medical characteristics, effectiveness, limitations, and risks of contraceptive methods or devices;
- ▶ reorganizes provisions related to instruction in health;
- ▶ requires the State Board of Education to make administrative rules; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-10-402, as last amended by Laws of Utah 2018, Chapter 224 and renumbered and amended by Laws of Utah 2018, Chapter 3



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

Section 1. Section **53G-10-402** is amended to read:

53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.

(1) As used in this section:

(a) "Board" means the State Board of Education.

~~[(b) "Local school board" means:]~~

~~[(i) a local board of education elected in accordance with Section [53G-4-201](#), or]~~

~~[(ii) a charter school governing board, as defined in Section [53G-5-102](#).]~~

(b) "LEA governing board" means a local school board or charter school governing board.

(c) "Parent" means a parent or legal guardian.

(d) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;

(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or another.

(2) (a) The board shall establish curriculum requirements under Section [53E-3-501](#) that include instruction in:

(i) community and personal health;

(ii) physiology;

(iii) personal hygiene;

- 57 (iv) prevention of communicable disease;
 58 (v) refusal skills; and
 59 (vi) the harmful effects of pornography.

60 [~~(b)~~(i) ~~That instruction shall stress:~~]

61 (b) The state board shall make rules ~~that~~ , ~~and~~ ~~state board~~ ~~instruction~~

61a ~~that~~ [recommended under

62 Subsection (2)(f)] ~~that~~ shall:

63 [~~(A)~~] (i) stress the importance of abstinence from all sexual activity before marriage
 64 and fidelity after marriage as methods for preventing certain communicable diseases; [and]

65 [~~(B)~~] (ii) stress personal skills that encourage individual choice of abstinence and
 66 fidelity[-];

67 (iii) prohibit instruction in:

68 (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

69 (B) the advocacy of premarital or extramarital sexual activity; or

70 (C) the advocacy or encouragement of the use of contraceptive methods or devices; and

71 (iv) ~~that~~ ~~subject to~~ except as provided in ~~that~~ Subsection (2)(d), allow instruction to
 71a include information about

72 contraceptive methods or devices that stresses effectiveness, limitations, risks, and information
 73 on state law applicable to minors obtaining contraceptive methods or devices.

74 (c) The state board shall make rules for an LEA governing board that adopts

75 instructional materials under Subsection (2)(g)(ii) that:

76 (i) require the LEA governing board to report on the materials selected and the LEA
 77 governing board's compliance with Subsection (2)(h); and

78 (ii) provide for an appeal and review process of the LEA governing board's adoption of
 79 instructional materials.

80 (d) The state board may not require an LEA to teach or adopt instructional materials
 81 that include information on contraceptive methods or devices.

82 [~~(ii)~~(A)] (e) (i) At no time may instruction be provided, including responses to
 83 spontaneous questions raised by students, regarding any means or methods that facilitate or
 84 encourage the violation of any state or federal criminal law by a minor or an adult.

85 [~~(B)~~] (ii) Subsection [~~(2)(b)(ii)(A)] (2)(e)(i) does not preclude an instructor from~~
 86 responding to a spontaneous question as long as the response is consistent with the provisions
 87 of this section.

88 ~~[(c)(i)]~~ (f) The board shall recommend instructional materials for use in the curricula
 89 required under Subsection (2)(a) after considering evaluations of instructional materials by the
 90 State Instructional Materials Commission.

91 ~~[(ii)]~~ (g) ~~[A local school]~~ An LEA governing board may choose to adopt:

92 ~~[(A)]~~ (i) the instructional materials recommended under Subsection ~~[(2)(c)(i)]~~ (2)(f); or

93 ~~[(B)]~~ (ii) other instructional materials ~~[as provided in board rule]~~ in accordance with

94 Subsection (2) ~~Ŝ~~ → ~~[(g)]~~ (h) ← ~~Ŝ~~ .

95 ~~[(iii) The board rule made under Subsection (2)(c)(ii)(B) shall include, at a minimum:]~~

96 ~~[(A) that the materials adopted by a local school board under Subsection (2)(c)(ii)(B)~~

97 ~~shall be based upon recommendations of the school district's or charter school's Curriculum~~

98 ~~Materials Review Committee that comply with state law and board rules emphasizing~~

99 ~~abstinence before marriage and fidelity after marriage, and prohibiting instruction in:]~~

100 ~~[(f) the intricacies of intercourse, sexual stimulation, or erotic behavior;]~~

101 ~~[(H) the advocacy of premarital or extramarital sexual activity; or]~~

102 ~~[(III) the advocacy or encouragement of the use of contraceptive methods or devices;]~~

103 (h) An LEA governing board that adopts instructional materials under Subsection

104 (2)(g)(ii) shall:

105 (i) ensure that the materials comply with state law and board rules;

106 (ii) base the adoption of the materials on the recommendations of the LEA governing

107 board's Curriculum Materials Review Committee; and

108 ~~[(B)]~~ (iii) ~~[that the adoption of]~~ adopt the instructional materials ~~[shall take place]~~ in an

109 open and regular meeting of the ~~[local school]~~ LEA governing board for which prior notice is

110 given to parents of students attending the respective schools and an opportunity for parents to

111 express their views and opinions on the materials at the meeting[;].

112 ~~[(C) provision for an appeal and review process of the local school board's decision;~~

113 ~~and]~~

114 ~~[(D) provision for a report by the local school board to the board of the action taken~~

115 ~~and the materials adopted by the local school board under Subsections (2)(c)(ii)(B) and~~

116 ~~(2)(c)(iii).]~~

117 (3) (a) A student shall receive instruction in the courses described in Subsection (2) on

118 at least two occasions during the period that begins with the beginning of grade 8 and the end

119 of grade 12.

120 (b) At the request of the board, the Department of Health shall cooperate with the
121 board in developing programs to provide instruction in those areas.

122 (4) (a) The board shall adopt rules that:

123 (i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323
124 are complied with; and

125 (ii) require a student's parent to be notified in advance and have an opportunity to
126 review the information for which parental consent is required under Sections 76-7-322 and
127 76-7-323.

128 (b) The board shall also provide procedures for disciplinary action for violation of
129 Section 76-7-322 or 76-7-323.

130 (5) (a) In keeping with the requirements of Section 53G-10-204, and because school
131 employees and volunteers serve as examples to their students, school employees or volunteers
132 acting in their official capacities may not support or encourage criminal conduct by students,
133 teachers, or volunteers.

134 (b) To ensure the effective performance of school personnel, the limitations described
135 in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school
136 employee's or volunteer's official capacities if:

137 (i) the employee or volunteer knew or should have known that the employee's or
138 volunteer's action could result in a material and substantial interference or disruption in the
139 normal activities of the school; and

140 (ii) that action does result in a material and substantial interference or disruption in the
141 normal activities of the school.

142 (c) The board or [~~a local school~~] an LEA governing board may not allow training of
143 school employees or volunteers that supports or encourages criminal conduct.

144 (d) The board shall adopt rules implementing this section.

145 (e) Nothing in this section limits the ability or authority of the board or [~~a local school~~]
146 an LEA governing board to enact and enforce rules or take actions that are otherwise lawful,
147 regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness
148 for duty.

149 (6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious,

150 or denominational doctrine may not be taught in the public schools.

151 (7) (a) [~~A local school~~] An LEA governing board and [~~a local school~~] an LEA
152 governing board's employees shall cooperate and share responsibility in carrying out the
153 purposes of this chapter.

154 (b) [~~A local school~~] An LEA governing board shall provide appropriate professional
155 development for the [~~local school~~] LEA governing board's teachers, counselors, and school
156 administrators to enable them to understand, protect, and properly instruct students in the
157 values and character traits referred to in this section and Sections [53E-9-202](#), [53E-9-203](#),
158 [53G-10-202](#), [53G-10-203](#), [53G-10-204](#), and [53G-10-205](#), and distribute appropriate written
159 materials on the values, character traits, and conduct to each individual receiving the
160 professional development.

161 (c) [~~A local school~~] An LEA governing board shall make the written materials
162 described in Subsection (7)(b) available to classified employees, students, and parents of
163 students.

164 (d) In order to assist [~~a local school~~] an LEA governing board in providing the
165 professional development required under Subsection (7)(b), the board shall, as appropriate,
166 contract with a qualified individual or entity possessing expertise in the areas referred to in
167 Subsection (7)(b) to develop and disseminate model teacher professional development
168 programs that [~~a local school~~] an LEA governing board may use to train the individuals
169 referred to in Subsection (7)(b) to effectively teach the values and qualities of character
170 referenced in Subsection (7).

171 (e) In accordance with the provisions of Subsection (5)(c), professional development
172 may not support or encourage criminal conduct.

173 (8) [~~A local school~~] An LEA governing board shall review every two years:

174 (a) [~~local school~~] LEA governing board policies on instruction described in this
175 section;

176 (b) for a local board of education of a school district, data for each county that the
177 school district is located in, or, for a charter school governing board, data for the county in
178 which the charter school is located, on the following:

- 179 (i) teen pregnancy;
- 180 (ii) child sexual abuse; and

181 (iii) sexually transmitted diseases and sexually transmitted infections; and
182 (c) the number of pornography complaints or other instances reported within the
183 jurisdiction of the [~~local school~~] LEA governing board.
184 (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this
185 section, or the application thereof to any person or circumstance, is found to be
186 unconstitutional, the balance of this section shall be given effect without the invalid provision,
187 subsection, sentence, clause, phrase, or word.