

Representative R. Neil Walter proposes the following substitute bill:

SENSITIVE MATERIAL REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends requirements and prohibitions regarding sensitive material within the public school system.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a local education agency (LEA) to:
 - complete the LEA's review of instructional material that is alleged to violate state law within a certain time period; and
 - report instructional material that violates state law to the State Board of Education (state board);
- ▶ requires the state board to engage in a review in certain circumstances involving statewide curriculum or program materials;
- ▶ provides for the the termination of contracts with vendors for instructional material if the material includes sensitive material; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53G-10-103**, as enacted by Laws of Utah 2022, Chapter 377

31 REPEALS:

32 **53G-10-101**, as enacted by Laws of Utah 2018, Chapter 3

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

35 Section 1. Section **53G-10-103** is amended to read:

36 **53G-10-103. Sensitive instructional materials.**

37 (1) As used in this section:

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

39 (A) as or in place of textbooks to deliver curriculum within the state curriculum
40 framework for courses of study by students; or

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

42 (ii) "Instructional material" includes reading materials, handouts, videos, digital
43 materials, websites, online applications, and live presentations.

44 (b) "LEA governing board" means:

45 (i) for a school district, the local school board;

46 (ii) for a charter school, the charter school governing board; or

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

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

49 (d) "Minor" means any person less than 18 years old.

50 (e) "Public school" means:

51 (i) a district school;

52 (ii) a charter school; or

53 (iii) the Utah Schools for the Deaf and the Blind.

54 (f) (i) "School setting" means, for a public school:

55 (A) in a classroom;

56 (B) in a school library; or

- 57 (C) on school property.
- 58 (ii) "School setting" includes the following activities that an organization or individual
59 or organization outside of a public school conducts, if a public school or an LEA sponsors or
60 requires the activity:
- 61 (A) an assembly;
 - 62 (B) a guest lecture;
 - 63 (C) a live presentation; or
 - 64 (D) an event.
- 65 (g) (i) "Sensitive material" means an instructional material that is pornographic or
66 indecent material as that term is defined in Section [76-10-1235](#).
- 67 (ii) "Sensitive material" does not include an instructional material:
- 68 (A) that an LEA selects under Section [53G-10-402](#);
 - 69 (B) for a concurrent enrollment course for which a parent receives advance notice of
70 the material;
 - 71 [~~(B)~~] (C) for medical courses;
 - 72 [~~(C)~~] (D) for family and consumer science courses; or
 - 73 [~~(D)~~] (E) for another course the state board exempts in state board rule.
- 74 (h) "Vendor" means an entity with which the state board or an LEA contracts to
75 provide instructional material to students.
- 76 (2) (a) Sensitive materials are prohibited in the school setting.
- 77 (b) A public school may not:
- 78 (i) adopt, use, distribute, provide a student access to, or maintain in the school setting,
79 sensitive materials; or
 - 80 (ii) permit a speaker or presenter in the school setting to display or distribute sensitive
81 materials.
- 82 (3) (a) A student, a student's parent, or an LEA employee may notify the relevant LEA
83 regarding any content in instructional material that the individual:
- 84 (i) encounters through the LEA's curriculum or otherwise through the LEA; and
 - 85 (ii) alleges to be sensitive material.
- 86 (b) No later than 60 days after the day on which an LEA receives notice that an
87 instructional material includes or constitutes sensitive material, the LEA shall:

88 (i) complete the LEA's sensitive material review process in accordance with the LEA's
89 policies and this section;

90 (ii) if the material constitutes sensitive material:

91 (A) eliminate the chapter or section of the instructional material containing the
92 sensitive material from the LEA's curriculum or take other measures to mitigate the
93 accessibility and impact of the sensitive material;

94 (B) provide notice to any relevant vendor that the material violates state law; and

95 (C) report to the state board regarding the notice that triggered the LEA's review and
96 the LEA's actions under this Subsection (3)(b); and

97 (iii) communicate to the individual who made the notice that triggered the LEA's
98 review, either directly or through the relevant principal, the outcome of the LEA's review,
99 including an explanation of the LEA's determination that the material does not constitute
100 sensitive material if the LEA chooses to maintain the availability of the material.

101 (c) No later than 60 days after the day on which the state board receives an LEA report
102 described in Subsection (3)(b), if the material that is the subject of the report is part of state
103 curriculum or a program that the state board provides or oversees, the state board shall:

104 (i) complete a sensitive material review process in accordance with the state board's
105 policies and this section;

106 (ii) if the material constitutes sensitive material:

107 (A) eliminate the chapter or section of the instructional material containing the
108 sensitive material from the curriculum or program or take other measures to mitigate the
109 accessibility and impact of the sensitive material;

110 (B) provide notice to any relevant vendor that the material violates state law; and

111 (C) provide notice to LEAs regarding the sensitive material and the state board's
112 actions under this Subsection (3)(c); and

113 (iii) communicate to the individual who made the notice that triggered the underlying
114 LEA review, either directly or through the relevant LEA, the outcome of the state board's
115 review, including an explanation of the state board's determination that the material does not
116 constitute sensitive material if the state board chooses to maintain the availability of the
117 material.

118 ~~(3)~~ (4) An LEA shall include parents who are reflective of the members of the

119 school's community when determining if an instructional material is sensitive material unless
120 the violation constitutes a description or depiction of illicit sex or immorality that has no
121 serious value for minors as described in Section [76-10-1227](#).

122 [~~4~~] (5) The state board shall:

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

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

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

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

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

134 (A) action taken in response to a complaint described in this Subsection [~~(4)(b)(iii)~~]
135 (5)(b)(iii); and

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

138 (6) The state board may make rules, in accordance with Title 63G, Chapter 3, Utah
139 Administrative Rulemaking Act, to establish procedures for the reporting of sensitive material
140 violations under Subsections (3)(b) and (c).

141 (7) (a) The state board or an LEA may, without any penalty or any further financial
142 obligation, rescind or otherwise terminate a contract for a vendor to provide instructional
143 material into which the LEA or the state board enters on or after July 1, 2023, if the state board
144 or LEA governing board determines that the version of the instructional material that is the
145 subject of the notice described in Subsection (3)(a) is or contains sensitive material.

146 (b) In any contract for a vendor to provide instructional material for which the parties
147 negotiate terms and into which the state board or an LEA enters after July 1, 2023, the state
148 board or relevant LEA shall provide notice regarding the requirements and prohibitions
149 regarding sensitive material in this section.

150 (c) An LEA or the state board may remove a chapter or section of digital instructional
151 material that is found, through the processes described in this section, to contain sensitive
152 material from the relevant curriculum.

153 Section 2. **Repealer.**

154 This bill repeals:

155 Section **53G-10-101**, Title.

156 Section 3. **Effective date.**

157 This bill takes effect on July 1, 2023.