

**HEALTH EDUCATION AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bill Wright**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies requirements for health instruction, including human sexuality instruction.

**Highlighted Provisions:**

This bill:

- ▶ permits a local school board or charter school governing board to provide human sexuality instruction or instructional programs in accordance with state law and State Board of Education rules;
  - ▶ requires human sexuality instruction or instructional programs to teach and stress:
    - the importance of abstinence from all sexual activity before marriage and fidelity after marriage as the only sure methods for preventing certain communicable diseases; and
    - personal skills that encourage individual choice of abstinence and fidelity;
  - ▶ imposes certain restrictions for human sexuality instructional programs;
  - ▶ permits a local school board or charter school governing board to adopt abstinence only instructional materials recommended by:
    - the State Board of Education; or
    - the school district's or charter school's curriculum materials review committee;
- and
- ▶ makes technical changes.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **53A-13-101**, as last amended by Laws of Utah 2004, Chapter 196



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

37 Section 1. Section **53A-13-101** is amended to read:

38 **53A-13-101. Instruction in health -- Parental consent requirements -- Conduct**  
39 **and speech of school employees and volunteers -- Political and religious doctrine**  
40 **prohibited.**

41 (1) As used in this section:

42 (a) "Abstinence only instructional materials" means instructional materials that teach  
43 and stress:

44 (i) the importance of abstinence from all sexual activity before marriage and fidelity  
45 after marriage as the only sure methods for preventing certain communicable diseases; and

46 (ii) personal skills that encourage individual choice of abstinence and fidelity.

47 (b) "Human sexuality instruction or instructional program" means any course, unit,  
48 class, activity, or presentation that provides instruction or information to students about sexual  
49 abstinence, human reproduction, reproductive anatomy, reproductive physiology, marriage,  
50 childbirth, or parenthood.

51 ~~[(+)(a)]~~ (2) The State Board of Education shall establish health curriculum  
52 requirements under Section 53A-1-402, that include instruction in:

53 ~~[(i)]~~ (a) community and personal health;

54 ~~[(ii)]~~ (b) physiology;

55 ~~[(iii)]~~ (c) personal hygiene; and

56 ~~[(iv)]~~ (d) prevention of communicable disease.

57 (3) (a) (i) A local school board or charter school governing board may, but is not  
58 required to, provide human sexuality instruction or instructional programs.

59 (ii) If a local school board or a charter school governing board decides to provide  
 60 human sexuality instruction or instructional programs, the human sexuality instruction or  
 61 instructional programs shall be provided in accordance with this section and State Board of  
 62 Education rules adopted under this section.

63 (b) ~~[(i) That instruction]~~ Human sexuality instruction or instructional programs shall  
 64 teach and stress:

65 ~~[(A)]~~ (i) the importance of abstinence from all sexual activity before marriage and  
 66 fidelity after marriage as the only sure methods for preventing certain communicable diseases;  
 67 and

68 ~~[(B)]~~ (ii) personal skills that encourage individual choice of abstinence and fidelity.

69 (c) Human sexuality instruction or instructional programs may not include instruction  
 70 in, the advocacy of, or the discussion of:

71 (i) the intricacies of intercourse, sexual stimulation, or erotic behavior;

72 (ii) homosexuality;

73 (iii) contraceptive methods or devices; or

74 (iv) sexual activity outside of marriage.

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

78 ~~[(B) Subsection (1)(b) (ii)(A) does not preclude an]~~

79 (ii) An instructor ~~[from responding]~~ may respond to a spontaneous question as long as  
 80 the response is consistent with the provisions of this section.

81 ~~[(e) (i)]~~ (e) (i) (A) The board shall recommend abstinence only instructional materials  
 82 for use in ~~[the curricula required under Subsection (1)(a)]~~ human sexuality instruction or  
 83 instructional programs after considering evaluations of abstinence only instructional materials  
 84 by the State Instructional Materials Commission.

85 (B) The board may not recommend instructional materials other than abstinence only  
 86 instructional materials for use in human sexuality instruction or instructional programs.

87 (ii) A local school board or charter school governing board may choose to adopt:

88 (A) the abstinence only instructional materials recommended under Subsection ~~[(1)(e)]~~

89 (3)(e)(i); or

90 (B) other abstinence only instructional materials as provided in state board rule.

91 (iii) The state board rule made under Subsection [~~(1)(c)~~] (3)(e)(ii)(B) shall include, at a  
92 minimum:

93 (A) that the abstinence only instructional materials adopted by a local school board or  
94 charter school governing board under Subsection [~~(1)(c)~~] (3)(e)(ii)(B) shall be based upon  
95 recommendations of the school district's or charter school's curriculum materials review  
96 committee that comply with [~~state law and state board rules emphasizing abstinence before~~  
97 ~~marriage and fidelity after marriage, and prohibiting instruction in:~~] the requirements and  
98 restrictions applicable to human sexuality instruction or instructional programs specified in  
99 Subsections (3)(b) and (c);

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

101 [~~(II) the advocacy of homosexuality;~~]

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

104 [~~(IV) the advocacy of sexual activity outside of marriage;~~]

105 (B) that the adoption of abstinence only instructional materials shall take place in an  
106 open and regular meeting of the local school board or charter school governing board for which  
107 prior notice is given to parents and guardians of students attending schools in the district and an  
108 opportunity for them to express their views and opinions on the materials at the meeting;

109 (C) provision for an appeal and review process of the local school board's or charter  
110 school governing board's decision; and

111 (D) provision for a report by the local school board or charter school governing board  
112 to the State Board of Education of the action taken and the abstinence only instructional  
113 materials adopted by the local school board or charter school governing board under  
114 Subsections [~~(1)(c)~~] (3)(e)(ii)(B) and [~~(1)(c)~~] (3)(e)(iii).

115 [~~(2)~~] (4) (a) Instruction in the courses described in Subsection [~~(1)~~] (2) shall be  
116 consistent and systematic in grades eight through 12.

117 (b) At the request of the [~~board~~] State Board of Education, the Department of Health  
118 shall cooperate with the board in developing programs to provide instruction in those areas.

119 [~~(3)~~] (5) (a) The [~~board~~] State Board of Education shall adopt rules that:

120 (i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323

121 are complied with; and

122 (ii) require a student's parent or legal guardian to be notified in advance and have an  
123 opportunity to review the information for which parental consent is required under Sections  
124 76-7-322 and 76-7-323.

125 (b) The ~~[board]~~ State Board of Education shall also provide procedures for disciplinary  
126 action for violation of Section 76-7-322 or 76-7-323.

127 ~~[(4)]~~ (6) (a) In keeping with the requirements of Section 53A-13-109, and because  
128 school employees and volunteers serve as examples to their students, school employees or  
129 volunteers acting in their official capacities may not support or encourage criminal conduct by  
130 students, teachers, or volunteers.

131 (b) To ensure the effective performance of school personnel, the limitations described  
132 in Subsection ~~[(4)]~~ (6)(a) also apply to school employees or volunteers acting outside of their  
133 official capacities if:

134 (i) they knew or should have known that their action could result in a material and  
135 substantial interference or disruption in the normal activities of the school; and

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

138 (c) Neither the State Office of Education ~~[nor]~~, local school districts, nor charter  
139 schools may provide training of school employees or volunteers that supports or encourages  
140 criminal conduct.

141 (d) The State Board of Education shall adopt rules implementing this section.

142 (e) Nothing in this section limits the ability or authority of the State Board of  
143 Education ~~[and]~~, local school boards, or charter school governing boards to enact and enforce  
144 rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers'  
145 qualifications or behavior evidencing unfitness for duty.

146 ~~[(5)]~~ (7) Except as provided in Section 53A-13-101.1, political, atheistic, sectarian,  
147 religious, or denominational doctrine may not be taught in the public schools.

148 ~~[(6)]~~ (8) (a) Local school boards, charter school governing boards, and their employees  
149 shall cooperate and share responsibility in carrying out the purposes of this chapter.

150 (b) Each school district and charter school shall provide appropriate inservice training  
151 for its teachers, counselors, and school administrators to enable them to understand, protect,

152 and properly instruct students in the values and character traits referred to in this section and  
153 Sections 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and  
154 53A-13-302 and distribute appropriate written materials on the values, character traits, and  
155 conduct to each individual receiving the inservice training.

156 (c) The written materials shall also be made available to classified employees, students,  
157 and parents and guardians of students.

158 (d) In order to assist school districts in providing the inservice training required under  
159 Subsection [~~(6)~~] (8)(b), the State Board of Education [~~shall~~] may as appropriate, contract with a  
160 qualified individual or entity possessing expertise in the areas referred to in Subsection [~~(6)~~]  
161 (8)(b) to develop and disseminate model teacher inservice programs which districts may use to  
162 train the individuals referred to in Subsection [~~(6)~~] (8)(b) to effectively teach the values and  
163 qualities of character referenced in that subsection.

164 (e) In accordance with the provisions of Subsection [~~(4)~~] (6)(c), inservice training may  
165 not support or encourage criminal conduct.

166 [~~(7)~~] (9) If any one or more provision, subsection, sentence, clause, phrase, or word of  
167 this section, or the application thereof to any person or circumstance, is found to be  
168 unconstitutional, the balance of this section shall be given effect without the invalid provision,  
169 subsection, sentence, clause, phrase, or word.

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**Legislative Review Note**  
**as of 2-7-12 8:45 AM**

**Office of Legislative Research and General Counsel**