

1 **HEALTH EDUCATION AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Bill Wright**

5 Senate Sponsor: Margaret Dayton

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ permits a local school board or charter school governing board to provide human
14 sexuality instruction or instructional programs in accordance with state law and
15 State Board of Education rules;
 - 16 ▶ requires human sexuality instruction or instructional programs to teach and stress:
 - 17 • the importance of abstinence from all sexual activity before marriage and
18 fidelity after marriage as the only sure methods for preventing certain
19 communicable diseases; and
 - 20 • personal skills that encourage individual choice of abstinence and fidelity;
 - 21 ▶ imposes certain restrictions for human sexuality instructional programs;
 - 22 ▶ permits a local school board or charter school governing board to adopt abstinence
23 only instructional materials recommended by:
 - 24 • the State Board of Education; or
 - 25 • the school district's or charter school's curriculum materials review committee;
- 26 and
- 27 ▶ 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 -- Human sexuality instruction -- Parental**
39 **consent requirements -- Conduct and speech of school employees and volunteers --**
40 **Political and religious doctrine 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 ~~[(1)(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 supporting State
62 Board of Education rules adopted under this section and consistent with 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, or the advocacy of:

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

72 (ii) homosexuality;

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

85 (B) Abstinence only instructional materials recommended under Subsection

86 (3)(e)(i)(A) may include abstinence only instructional materials developed by the State Board
87 of Education in consultation with parents or abstinence only instructional materials evaluated
88 by the State Instructional Materials Commission.

89 (C) Instructional materials recommended under Subsection (3)(e)(i)(A) shall include a
90 parent education component in which instruction or instructional materials are made available
91 to parents to assist parents in providing human sexuality instruction to their children.

92 (D) The board may not recommend instructional materials other than abstinence only
93 instructional materials for use in human sexuality instruction or instructional programs.

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

95 (A) the abstinence only instructional materials recommended under Subsection [~~(1)(e)~~]
96 (3)(e)(i); or

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

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

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

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

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

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

110 or]

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

112 (B) that parents or guardians of children enrolled in the school district or charter school
113 shall be the majority of members of a curriculum materials review committee;

114 (C) that a school district or charter school, in consultation with parents, may develop
115 abstinence only curriculum materials;

116 (D) that abstinence only instructional materials adopted under Subsection (3)(e)(ii)(B)
117 shall include a parent education component in which instruction or instructional materials are
118 made available to parents to assist parents in providing human sexuality instruction to their
119 children.

120 [~~B~~] (E) that the adoption of abstinence only instructional materials shall take place in
121 an open and regular meeting of the local school board or charter school governing board for
122 which prior notice is given to parents and guardians of students attending schools in the district
123 and an opportunity for them to express their views and opinions on the materials at the
124 meeting;

125 [~~C~~] (F) provision for an appeal and review process of the local school board's or
126 charter school governing board's decision; and

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

131 [~~2~~] (4) (a) Instruction in the courses described in Subsection [~~1~~] (2) shall be
132 consistent and systematic in grades eight through 12.

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

135 [~~3~~] (5) (a) The [~~board~~] State Board of Education shall adopt rules that:

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

138 (ii) require a student's parent or legal guardian to be notified in advance and have an
139 opportunity to review the information for which parental consent is required under Sections
140 76-7-322 and 76-7-323.

141 (b) The [~~board~~] State Board of Education shall also provide procedures for disciplinary

142 action for violation of Section 76-7-322 or 76-7-323.

143 ~~[(4)]~~ (6) (a) In keeping with the requirements of Section 53A-13-109, and because
144 school employees and volunteers serve as examples to their students, school employees or
145 volunteers acting in their official capacities may not support or encourage criminal conduct by
146 students, teachers, or volunteers.

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

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

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

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

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

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

162 ~~[(5)]~~ (7) Except as provided in Section 53A-13-101.1, political, atheistic, sectarian,
163 religious, or denominational doctrine may not be taught in the public schools.

164 ~~[(6)]~~ (8) (a) Local school boards, charter school governing boards, and their employees
165 shall cooperate and share responsibility in carrying out the purposes of this chapter.

166 (b) Each school district and charter school shall provide appropriate inservice training
167 for its teachers, counselors, and school administrators to enable them to understand, protect,
168 and properly instruct students in the values and character traits referred to in this section and
169 Sections 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and

170 53A-13-302 and distribute appropriate written materials on the values, character traits, and
171 conduct to each individual receiving the inservice training.

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

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

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

182 [~~(7)~~] (9) If any one or more provision, subsection, sentence, clause, phrase, or word of
183 this section, or the application thereof to any person or circumstance, is found to be
184 unconstitutional, the balance of this section shall be given effect without the invalid provision,
185 subsection, sentence, clause, phrase, or word.