

REPRODUCTIVE HEALTH EDUCATION AND SERVICES

AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to reproductive health education and repeals reproductive health services provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ establishes requirements for human health education;
 - ▶ requires the State Instructional Materials Commission to consult with parents and others when evaluating human health curriculum;
 - ▶ repeals certain criminal provisions regarding contraceptive and abortion services;
- and
- ▶ makes technical and conforming corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-1-402.6, as last amended by Laws of Utah 2015, Chapter 415



28 53A-13-101, as last amended by Laws of Utah 2016, Chapter 144

29 76-7-324, as last amended by Laws of Utah 2004, Chapter 271

30 REPEALS:

31 76-7-321, as last amended by Laws of Utah 1995, Chapter 20

32 76-7-322, as last amended by Laws of Utah 1988, Chapter 50

33 76-7-323, as last amended by Laws of Utah 1988, Chapter 50

34 76-7-325, as enacted by Laws of Utah 1983, Chapter 94



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

37 Section 1. Section 53A-1-402.6 is amended to read:

38 **53A-1-402.6. Core standards for Utah public schools.**

39 (1) (a) In establishing minimum standards related to curriculum and instruction
40 requirements under Section 53A-1-402, the State Board of Education shall, in consultation
41 with local school boards, school superintendents, teachers, employers, and parents implement
42 core standards for Utah public schools that will enable students to, among other objectives:

- 43 (i) communicate effectively, both verbally and through written communication;
- 44 (ii) apply mathematics; and
- 45 (iii) access, analyze, and apply information.

46 (b) Except as provided in this title, the State Board of Education may recommend but
47 may not require a local school board or charter school governing board to use:

- 48 (i) a particular curriculum or instructional material; or
- 49 (ii) a model curriculum or instructional material.

50 (2) The board shall, in establishing the core standards for Utah public schools:

51 (a) identify the basic knowledge, skills, and competencies each student is expected to
52 acquire or master as the student advances through the public education system; and

53 (b) align the core standards for Utah public schools and tests administered under the
54 Utah Performance Assessment System for Students (U-PASS) with each other.

55 (3) The basic knowledge, skills, and competencies identified pursuant to Subsection
56 (2)(a) shall increase in depth and complexity from year to year and focus on consistent and
57 continual progress within and between grade levels and courses in the basic academic areas of:

- 58 (a) English, including explicit phonics, spelling, grammar, reading, writing,

59 vocabulary, speech, and listening; and

60 (b) mathematics, including basic computational skills.

61 (4) Before adopting core standards for Utah public schools, the State Board of
62 Education shall:

63 (a) publicize draft core standards for Utah public schools on the State Board of
64 Education's website and the Utah Public Notice website created under Section 63F-1-701;

65 (b) invite public comment on the draft core standards for Utah public schools for a
66 period of not less than 90 days; and

67 (c) conduct three public hearings that are held in different regions of the state on the
68 draft core standards for Utah public schools.

69 (5) Local school boards shall design their school programs, that are supported by
70 generally accepted scientific standards of evidence, to focus on the core standards for Utah
71 public schools with the expectation that each program will enhance or help achieve mastery of
72 the core standards for Utah public schools.

73 (6) [~~Except as provided in Section 53A-13-101, each~~] Each school may select
74 instructional materials and methods of teaching, that are supported by generally accepted
75 scientific standards of evidence, that it considers most appropriate to meet the core standards
76 for Utah public schools.

77 (7) The state may exit any agreement, contract, memorandum of understanding, or
78 consortium that cedes control of the core standards for Utah public schools to any other entity,
79 including a federal agency or consortium, for any reason, including:

80 (a) the cost of developing or implementing the core standards for Utah public schools;

81 (b) the proposed core standards for Utah public schools are inconsistent with
82 community values; or

83 (c) the agreement, contract, memorandum of understanding, or consortium:

84 (i) was entered into in violation of Part 9, Implementing Federal or National Education
85 Programs Act, or Title 63J, Chapter 5, Federal Funds Procedures Act;

86 (ii) conflicts with Utah law;

87 (iii) requires Utah student data to be included in a national or multi-state database;

88 (iv) requires records of teacher performance to be included in a national or multi-state
89 database; or

90 (v) imposes curriculum, assessment, or data tracking requirements on home school or
91 private school students.

92 (8) The State Board of Education shall annually report to the Education Interim
93 Committee on the development and implementation of the core standards for Utah public
94 schools, including the time line established for the review of the core standards for Utah public
95 schools by a standards review committee and the recommendations of a standards review
96 committee established under Section 53A-1-402.8.

97 Section 2. Section 53A-13-101 is amended to read:

98 **53A-13-101. Instruction in health -- Parental consent requirements -- Conduct**
99 **and speech of school employees and volunteers -- Political and religious doctrine**
100 **prohibited.**

101 (1) As used in this section:

102 (a) "Age appropriate" means topics, messages, and teaching methods suitable to a
103 particular age or age group based on developing cognitive, emotional, and behavioral capacity
104 typical for the age or age group.

105 (b) "Board" means the State Board of Education.

106 (c) "Evidence-based information" means information that is evaluated using rigorous
107 research design, including:

108 (i) measuring knowledge, attitude, and behavior;

109 (ii) having an adequate sample size;

110 (iii) using sound research methods and processes;

111 (iv) replicating in different locations and finding similar evaluation results; and

112 (v) publishing results in a peer-reviewed journal.

113 (d) (i) "Human health" or "human health education" means evidence-based information
114 about:

115 (A) human reproduction, reproductive anatomy, and reproductive physiology;

116 (B) all methods to prevent unintended pregnancy and sexually transmitted diseases and
117 infections, including HIV and AIDS; and

118 (C) the link between human papillomavirus and cancer and other types of cancer
119 involving the human reproductive systems, including prostate, testicular, ovarian, and uterine
120 cancer.

121 (ii) "Human health" includes information about the correct and consistent use of sexual
 122 abstinence, contraception, condoms, and other birth control barrier methods.

123 (e) "Positive youth development" means an approach that:

124 (i) is inclusive of all youth, collaborative, and strength-based; and

125 (ii) emphasizes the many positive attributes of young people and focuses on developing
 126 inherent strengths and assets to promote health.

127 (f) "Sexual abstinence" means not engaging in oral, vaginal, or anal intercourse or
 128 genital skin-to-skin contact.

129 ~~[(1)(a)]~~ (2) The ~~[State Board of Education]~~ board shall establish curriculum
 130 requirements under Section 53A-1-402[;] that include health instruction in:

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

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

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

134 ~~[(iv)]~~ (d) prevention of communicable disease[;]; and

135 (e) subject to Subsection (3), human health.

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

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

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

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

143 ~~[(B) Subsection (1)(b)(ii)(A) does not preclude an instructor from responding to a~~
 144 ~~spontaneous question as long as the response is consistent with the provisions of this section.]~~

145 (3) (a) The human health education curriculum established under Subsection (2)(e)
 146 shall:

147 (i) (A) encourage and facilitate parental or guardian involvement and family
 148 communication; and

149 (B) be made available to assist parental, guardian, and family discussion about human
 150 health education;

151 (ii) include instruction to help students develop skills for making responsible and

152 healthy decisions about human sexuality, personal power, boundary setting, developing safe
153 and healthy relationships, and resisting peer pressure, including:

154 (A) not making unwanted verbal, physical, and sexual advances; and

155 (B) not making assumptions about a person's supposed sexual intentions based on that
156 person's appearance;

157 (iii) teach human sexuality as a normal and healthy aspect of human development;

158 (iv) include information about the physical, social, and emotional changes of

159 adolescence and subsequent stages of human maturation, including how pregnancy happens;

160 (v) include evidence-based information shown to be effective in changing behaviors
161 that contribute to pregnancy at a young age and sexually transmitted diseases and infections,
162 including:

163 (A) sexual abstinence and delaying sexual initiation;

164 (B) reducing the frequency of sexual intercourse;

165 (C) reducing the number of sexual partners; and

166 (D) increasing the use of condoms and other contraceptives;

167 (vi) include discussions and information on how to recognize and respond safely and
168 effectively in situations where sexual or physical violence may be occurring or where there
169 may be a risk for these behaviors to occur;

170 (vii) include discussions of how alcohol and drug use impair responsible and healthy
171 decision making;

172 (viii) be comprehensive, age appropriate, rely on evidence-based information, be
173 inclusive of a positive youth development framework, and be medically accurate; and

174 (ix) provide instruction about the health benefits and potential side effects of using
175 contraceptives and barrier methods to prevent pregnancy, including instruction regarding
176 emergency contraception and the availability of contraceptive methods.

177 [(e)] (b) (i) The board shall recommend instructional materials for use in the [curricula]
178 curriculum required under Subsection [(1)(a)] (2) after considering evaluations of instructional
179 materials by the State Instructional Materials Commission.

180 (ii) The State Instructional Materials Commission shall consult with parents, teachers,
181 school nurses, and community members in evaluating instructional materials for a human
182 health education curriculum that complies with this section.

183 [(ii)] (iii) A local school board or charter school governing board may choose to adopt:

184 (A) the instructional materials recommended under Subsection [(1)(c)] (3)(b)(i); or

185 (B) other instructional materials as provided in [state] board rule.

186 [(iii)] (iv) The [state] board rule made under Subsection [(1)(c)(ii)] (3)(b)(iii)(B) shall

187 include, at a minimum:

188 (A) that the materials adopted by a local school board or charter school governing

189 board under Subsection [(1)(c)(ii)] (3)(b)(iii)(B) shall be based upon recommendations of the

190 school district's [~~Curriculum Materials Review Committee~~] or charter school's curriculum

191 review committee that comply with state law and [state] board rules [~~emphasizing abstinence~~

192 ~~before marriage and fidelity after marriage, and prohibiting instruction in:];~~

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

194 [(H) ~~the advocacy of homosexuality;~~]

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

196 ~~or]~~

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

198 (B) that the adoption of instructional materials shall take place in an open and regular

199 meeting of the local school board or charter school governing board for which prior notice is

200 given to parents and guardians of students attending schools in the district and an opportunity

201 for them to express their views and opinions on the materials at the meeting;

202 (C) provision for an appeal and review process of the local school board's or charter

203 school governing board's decision; and

204 (D) provision for a report to the board by the local school board [~~to the State Board of~~

205 ~~Education~~] or charter school governing board of the action taken and the materials adopted by

206 the local school board or charter school governing board under Subsections [(1)(c)(ii)]

207 (3)(b)(iii)(B) and [(1)(c)(iii)] (3)(b)(iv).

208 [(2)] (4) (a) Instruction in the courses described in Subsection [(1)] (2):

209 (i) shall be consistent and systematic in grades [~~eight~~] 8 through 12[~~;~~]; and

210 (ii) may not be taught in kindergarten through grade 3.

211 (b) At the request of the board, the Department of Health shall cooperate with the

212 board in [~~developing programs to provide instruction in those areas~~] establishing curriculum

213 requirements as described in Subsection (2).

214 ~~[(3)(a)]~~ (5) The board shall adopt rules that:

215 ~~[(i)]~~ (a) provide that the parental consent requirements of ~~[Sections 76-7-322 and~~
216 ~~76-7-323]~~ Section 53A-13-101.2 are complied with; and

217 ~~[(ii)]~~ (b) require a student's parent or legal guardian to be notified in advance and have
218 an opportunity to review the information for which parental consent is required under ~~[Sections~~
219 ~~76-7-322 and 76-7-323]~~ Section 53A-13-101.2.

220 ~~[(b) The board shall also provide procedures for disciplinary action for violation of~~
221 ~~Section 76-7-322 or 76-7-323.]~~

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

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

229 ~~[(i) they knew or should have known that their action could result in a material and~~
230 ~~substantial interference or disruption in the normal activities of the school; and]~~

231 ~~[(ii) that action does result in a material and substantial interference or disruption in the~~
232 ~~normal activities of the school.]~~

233 ~~[(c) Neither the State Board of Education nor local school districts may allow training~~
234 ~~of school employees or volunteers that supports or encourages criminal conduct.]~~

235 ~~[(d)]~~ (6) The ~~[State Board of Education]~~ board shall adopt rules implementing this
236 section.

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

241 ~~[(5)]~~ (7) Except as provided in Section 53A-13-101.1, political, atheistic, sectarian,
242 religious, or denominational doctrine may not be taught in the public schools.

243 ~~[(6)]~~ (8) (a) ~~[Local]~~ A local school [boards] board or charter school governing board
244 ~~and [their] that board's~~ employees shall cooperate and share responsibility in carrying out the

245 purposes of this chapter.

246 (b) Each school district and charter school shall provide appropriate inservice training
 247 for its teachers, counselors, and school administrators to enable them to understand, protect,
 248 and properly instruct students in the information, values, and character traits referred to in this
 249 section and Sections [53A-13-101.1](#), [53A-13-101.2](#), [53A-13-101.3](#), [53A-13-109](#), [53A-13-301](#),
 250 and [53A-13-302](#) and distribute appropriate written materials on the information, values,
 251 character traits, and conduct to each individual receiving the inservice training.

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

254 (d) In order to assist school districts in providing the inservice training required under
 255 Subsection ~~[(6)]~~ (8)(b), the ~~[State Board of Education]~~ board shall, as appropriate, contract
 256 with a qualified individual or entity possessing expertise in the areas referred to in Subsection
 257 ~~[(6)]~~ (8)(b) to develop and disseminate model teacher inservice programs ~~[which]~~ that districts
 258 may use to train the individuals referred to in Subsection ~~[(6)]~~ (8)(b) to effectively teach the
 259 values and qualities of character referenced in ~~[that subsection]~~ Subsection (8)(b).

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

262 ~~[(7)]~~ (9) If any one or more provision, subsection, sentence, clause, phrase, or word of
 263 this section, or the application thereof to any person or circumstance, is found to be
 264 unconstitutional, the balance of this section shall be given effect without the invalid provision,
 265 subsection, sentence, clause, phrase, or word.

266 Section 3. Section **76-7-324** is amended to read:

267 **76-7-324. Violation of restrictions on public funds for contraceptive or abortion**
 268 **services as misdemeanor.**

269 Any agent of a state agency or political subdivision, acting alone or in concert with
 270 others, who violates Section ~~[76-7-322, 76-7-323, or]~~ [76-7-331](#) is guilty of a class B
 271 misdemeanor.

272 Section 4. **Repealer.**

273 This bill repeals:

274 Section [76-7-321](#), **Contraceptive and abortion services -- Funds -- Minor --**

275 **Definitions.**

276 Section **76-7-322**, **Public funds for provision of contraceptive or abortion services**
277 **restricted.**

278 Section **76-7-323**, **Public funds for support entities providing contraceptive or**
279 **abortion services restricted.**

280 Section **76-7-325**, **Notice to parent or guardian of minor requesting contraceptive**
281 **-- Definition of contraceptives -- Penalty for violation.**

Legislative Review Note
Office of Legislative Research and General Counsel