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**HEALTHY LIFESTYLE AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kathleen A. Riebe**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to sex education instruction.

**Highlighted Provisions:**

This bill:

- ▶ amends a provision related to instruction about abstinence from sexual activity;
- ▶ permits a local education agency to provide certain additional content in sex education instruction with written parental consent;
- ▶ defines terms; 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 2020, Chapters 354 and 408

**53G-10-403**, as last amended by Laws of Utah 2019, Chapter 293

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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:



28           **53G-10-402. Instruction in health -- Parental consent requirements -- Conduct**  
29 **and speech of school employees and volunteers -- Political and religious doctrine**  
30 **prohibited.**

31           (1) As used in this section:

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

34           (b) "Refusal skills" means instruction:

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

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

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

41           (iv) in sexual harassment; and

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

46           (2) (a) The state board shall establish curriculum requirements under Section  
47 [53E-3-501](#) that include instruction in:

48           (i) community and personal health;

49           (ii) physiology;

50           (iii) personal hygiene;

51           (iv) prevention of communicable disease;

52           (v) refusal skills; and

53           (vi) the harmful effects of pornography.

54           (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
55 state board shall make rules that, and instruction shall:

56           (i) stress the importance of abstinence from all sexual activity [~~before marriage and~~  
57 ~~fidelity after marriage as methods~~] as a method for preventing certain [~~communicable~~  
58 infectious diseases];

59 (ii) stress personal skills that encourage individual choice of abstinence and fidelity;  
60 (iii) prohibit instruction in:  
61 (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;  
62 (B) the advocacy of premarital or extramarital sexual activity; or  
63 (C) except as provided in Subsection 53G-10-403(3), the advocacy or encouragement  
64 of the use of contraceptive methods or devices; and

65 (iv) except as provided in Subsection (2)(d), allow instruction to include information  
66 about contraceptive methods or devices that stresses effectiveness, limitations, risks, and  
67 information on state law applicable to minors obtaining contraceptive methods or devices.

68 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
69 state board shall make rules for an LEA governing board that adopts instructional materials  
70 under Subsection (2)(g)(ii) that:

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

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

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

77 (e) (i) At no time may instruction be provided, including responses to spontaneous  
78 questions raised by students, regarding any means or methods that facilitate or encourage the  
79 violation of any state or federal criminal law by a minor or an adult.

80 (ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a  
81 spontaneous question as long as the response is consistent with the provisions of this section.

82 (f) The state board shall recommend instructional materials for use in the curricula  
83 required under Subsection (2)(a) after considering evaluations of instructional materials by the  
84 State Instructional Materials Commission.

85 (g) An LEA governing board may choose to adopt:

86 (i) the instructional materials recommended under Subsection (2)(f); or

87 (ii) other instructional materials in accordance with Subsection (2)(h).

88 (h) An LEA governing board that adopts instructional materials under Subsection  
89 (2)(g)(ii) shall:

- 90 (i) ensure that the materials comply with state law and board rules;
- 91 (ii) base the adoption of the materials on the recommendations of the LEA governing
- 92 board's Curriculum Materials Review Committee; and
- 93 (iii) adopt the instructional materials in an open and regular meeting of the LEA
- 94 governing board for which prior notice is given to parents of students attending the respective
- 95 schools and an opportunity for parents to express their views and opinions on the materials at
- 96 the meeting.

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

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

99 of grade 12.

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

101 state board in developing programs to provide instruction in those areas.

102 (4) (a) The state board shall adopt rules that:

103 (i) provide that the parental consent requirements of Sections [76-7-322](#) and [76-7-323](#)

104 are complied with; and

105 (ii) require a student's parent to be notified in advance and have an opportunity to

106 review the information for which parental consent is required under Sections [76-7-322](#) and

107 [76-7-323](#).

108 (b) The state board shall also provide procedures for disciplinary action for violation of

109 Section [76-7-322](#) or [76-7-323](#).

110 (5) (a) In keeping with the requirements of Section [53G-10-204](#), and because school

111 employees and volunteers serve as examples to their students, school employees or volunteers

112 acting in their official capacities may not support or encourage criminal conduct by students,

113 teachers, or volunteers.

114 (b) To ensure the effective performance of school personnel, the limitations described

115 in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school

116 employee's or volunteer's official capacities if:

117 (i) the employee or volunteer knew or should have known that the employee's or

118 volunteer's action could result in a material and substantial interference or disruption in the

119 normal activities of the school; and

120 (ii) that action does result in a material and substantial interference or disruption in the

121 normal activities of the school.

122 (c) The state board or an LEA governing board may not allow training of school  
123 employees or volunteers that supports or encourages criminal conduct.

124 (d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah  
125 Administrative Rulemaking Act, rules implementing this section.

126 (e) Nothing in this section limits the ability or authority of the state board or an LEA  
127 governing board to enact and enforce rules or take actions that are otherwise lawful, regarding  
128 educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

129 (6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious,  
130 or denominational doctrine may not be taught in the public schools.

131 (7) (a) An LEA governing board and an LEA governing board's employees shall  
132 cooperate and share responsibility in carrying out the purposes of this chapter.

133 (b) An LEA governing board shall provide appropriate professional development for  
134 the LEA governing board's teachers, counselors, and school administrators to enable them to  
135 understand, protect, and properly instruct students in the values and character traits referred to  
136 in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204,  
137 and 53G-10-205, and distribute appropriate written materials on the values, character traits, and  
138 conduct to each individual receiving the professional development.

139 (c) An LEA governing board shall make the written materials described in Subsection  
140 (7)(b) available to classified employees, students, and parents of students.

141 (d) In order to assist an LEA governing board in providing the professional  
142 development required under Subsection (7)(b), the state board shall, as appropriate, contract  
143 with a qualified individual or entity possessing expertise in the areas referred to in Subsection  
144 (7)(b) to develop and disseminate model teacher professional development programs that an  
145 LEA governing board may use to train the individuals referred to in Subsection (7)(b) to  
146 effectively teach the values and qualities of character referenced in Subsection (7).

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

149 (8) An LEA governing board shall review every two years:

150 (a) LEA governing board policies on instruction described in this section;

151 (b) for a local school board, data for each county that the school district is located in,

152 or, for a charter school governing board, data for the county in which the charter school is  
153 located, on the following:

- 154 (i) teen pregnancy;
- 155 (ii) child sexual abuse; and
- 156 (iii) sexually transmitted diseases and sexually transmitted infections; and
- 157 (c) the number of pornography complaints or other instances reported within the  
158 jurisdiction of the LEA governing board.

159 (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this  
160 section, or the application thereof to any person or circumstance, is found to be  
161 unconstitutional, the balance of this section shall be given effect without the invalid provision,  
162 subsection, sentence, clause, phrase, or word.

163 Section 2. Section **53G-10-403** is amended to read:

164 **53G-10-403. Required parental consent for sex education instruction.**

165 (1) As used in this section:

166 (a) "Expanded sex education instruction" means additional sex education instruction  
167 content, as determined by an LEA in accordance with this section.

168 [~~(a)~~] (b) (i) "Sex education instruction" means any course material, unit, class, lesson,  
169 activity, or presentation that, as the focus of the discussion, provides instruction or information  
170 to a student about:

- 171 (A) sexual abstinence;
- 172 (B) human sexuality;
- 173 (C) human reproduction;
- 174 (D) reproductive anatomy;
- 175 (E) physiology;
- 176 (F) pregnancy;
- 177 (G) marriage;
- 178 (H) childbirth;
- 179 (I) parenthood;
- 180 (J) contraception;
- 181 (K) HIV/AIDS;
- 182 (L) sexually transmitted diseases; or

- 183 (M) refusal skills, as defined in Section [53G-10-402](#).
- 184 (ii) "Sex education instruction" does not include child sexual abuse prevention  
185 instruction described in Section [53G-9-207](#).
- 186 ~~[(b)]~~ (c) "School" means the same as that term is defined in Section [53G-10-205](#).
- 187 (2) A school shall obtain prior written consent from a student's parent before the school  
188 may provide:
- 189 (a) sex education instruction to the student~~[-];~~ or  
190 (b) expanded sex education instruction.
- 191 (3) (a) Expanded sex education instruction:
- 192 (i) may include instruction otherwise prohibited under Subsection  
193 [53G-10-402\(2\)\(b\)\(iii\)\(C\)](#); and  
194 (ii) may not include instruction prohibited under Subsections [53G-10-402\(2\)\(b\)\(iii\)\(A\)](#)  
195 and (B).
- 196 (b) An LEA's parental consent form for expanded sex education instruction shall  
197 include:
- 198 (i) a description of the expanded sex education instruction; and  
199 (ii) an explanation of how the expanded sex education instruction is different from sex  
200 education instruction.
- 201 ~~[(3)]~~ (4) If a student's parent chooses not to have the student participate in sex  
202 education instruction or expanded sex education instruction, a school shall:
- 203 (a) waive the requirement for the student to participate in the sex education instruction  
204 or expanded sex education instruction; or
- 205 (b) provide the student with a reasonable alternative to the sex education instruction or  
206 expanded sex education requirement.
- 207 ~~[(4)]~~ (5) In cooperation with the student's teacher or school, a parent shall take  
208 responsibility for the parent's student's sex education instruction if a school:
- 209 (a) waives the student's sex education instruction or expanded sex education instruction  
210 requirement in Subsection ~~[(3)]~~ (4)(a); or
- 211 (b) provides the student with a reasonable alternative to the sex education instruction  
212 or expanded sex education instruction requirement described in Subsection ~~[(3)]~~ (4)(b).
- 213 ~~[(5)]~~ (6) A student's academic or citizenship performance may not be penalized if the

214 student's parent chooses not to have the student participate in sex education instruction or  
215 expanded sex education instruction as described in Subsection [(3)] (4).