

STUDENT ACCESS TO BOOKS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill amends provisions regarding sensitive materials to provide broad access to materials.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ requires that a local education agency:
 - include a member of the local education agency governing board in reviewing instructional materials;
 - review a challenged instructional material in the material's entirety; and
 - maintain student access to a challenged instructional material during the review;
- ▶ enacts provisions regarding the use of resources in school libraries;
- ▶ provides certain legal protection to librarians and other school employees; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



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

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

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

53G-10-103. Sensitive instructional materials.

(1) As used in this section:

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

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

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

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

(b) "LEA governing board" means:

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

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

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

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

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

(e) "Public school" means:

(i) a district school;

(ii) a charter school; or

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

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

(A) in a classroom;

(B) in a school library; or

(C) on school property.

(ii) "School setting" includes the following activities that an organization or individual or organization outside of a public school conducts, if a public school or an LEA sponsors or requires the activity:

(A) an assembly;

(B) a guest lecture;

(C) a live presentation; or

(D) an event.

(g) (i) "Sensitive material" means an instructional material that is:

(A) pornographic [or indecent material as that term is defined in Section 76-10-1235:]
as defined in Section 76-10-1203;

(B) harmful to minors as defined in Section 76-10-1201; or

(C) for instructional material that constitutes a public display, contains material
described in Section 76-10-1227.

(ii) "Sensitive material" does not include an instructional material:

(A) that an LEA selects under Section 53G-10-402;

(B) for medical courses;

(C) for family and consumer science courses; or

(D) for another course the state board exempts in state board rule.

(2) (a) Sensitive materials are prohibited in the school setting.

(b) A public school may not:

(i) adopt, use, distribute, provide a student access to, or maintain in the school setting,
sensitive materials; or

(ii) permit a speaker or presenter in the school setting to display or distribute sensitive
materials.

(3) An LEA shall, when determining if an instructional material is sensitive material:

(a) include parents who are reflective of the members of the school's community [when
determining if an instructional material is sensitive material:] and at least one member of the
LEA governing board; and

(b) to preserve the right to access materials that have been selected in accordance with
local policy, ensure that the relevant LEA or school:

(i) reviews the given instructional material, taken as a whole, rather than through
individual excerpts, to determine whether the material is sensitive material; and

(ii) maintains student access to the given instructional material until the LEA's review
and any subsequent legal challenges conclude.

(4) The state board shall:

(a) in consultation with the Office of the Attorney General, provide guidance and

training to support public schools in identifying instructional materials that meet the definition of sensitive materials under this section; and

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

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

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

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

(A) action taken in response to a complaint described in this Subsection (4)(b)(iii); and

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

(5) To ensure that educators and libraries within LEAs carry out the essential purpose of making available to all students within the public education system a current, balanced collection of instructional materials that reflect the cultural diversity and pluralistic nature of American society, the state shall:

(a) protect the financial resources of libraries and LEAs from being expended in litigation; and

(b) ensure the use of the financial resources of libraries and LEAs to the greatest extent possible for fulfilling the essential purpose of libraries and LEAs.

(6) No individual who is an employee of an LEA or a member of an LEA governing board is liable to civil action or criminal prosecution for providing the function described in Subsection (5) for acts or omissions regarding a material that is claimed to constitute sensitive material while in the individual's capacity as an employee or a board member.

Section 2. Effective date.

This bill takes effect on May 1, 2024.