

1 **R277. Education, Administration.**

2 **R277-474. School Instruction and Sex Education.**

3 **R277-474-1. Authority and Purpose.**

4 (1) This rule is authorized by:

5 (a) Utah Constitution, Article X, Section 3, which vests general control and
6 supervision over public education in the Board;

7 (b) Subsections 53G-10-402(2), (4) and (5), which direct the Board to adopt rules
8 to allow local boards to adopt sex education materials or programs as described in this Rule
9 R277-474 and provide sex education instruction as provided in Section 53G-10-402; and

10 (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the
11 Board's duties and responsibilities under the Utah Constitution and state law.

12 (2) The purpose of this rule is to provide:

13 (a) requirements for LEAs and individual educators to select instructional materials
14 about sex education and maturation;

15 (b) notice to parents of proposed sex education and maturation discussions and
16 instruction; and

17 (c) direction to public education employees regarding instruction and discussion of
18 maturation and sex education with students.

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20 **R277-474-2. Definitions.**

21 (1) "Curriculum materials review committee" or "committee" means a curriculum
22 materials review committee formed at the school district or charter school level as described
23 in Section R277-474-5.

24 (2) "Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g" or
25 "FERPA" means a federal law designed to protect the privacy of students' education
26 records.

27 (3) "Sex education instruction or instructional programs" means any course, unit,
28 class, activity or presentation that provides instruction or information to students as outlined
29 under Section 53G-10-403(1)(a).

30 (4) "Instructional materials commission" means the advisory commission

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31 authorized under Section 53E-4-402.

32 (5) "LEA" for purposes of this rule, includes the Utah Schools for the Deaf and the
33 Blind.

34 (6) "Maturation education" means instruction and materials used to provide fifth or
35 sixth grade students with age appropriate, medically accurate information regarding the
36 physical and emotional changes associated with puberty, to assist in protecting students
37 from abuse and to promote hygiene and good health practices.

38 (7) "Medically accurate" means verified or supported by a body of research
39 conducted in compliance with scientific methods and published in journals that have
40 received peer-review, and recognized as accurate and objective by professional
41 organizations and agencies with expertise in the relevant field, such as the American
42 Medical Association.

43 (8) "Parental notification form" means a form developed by the Superintendent and
44 used exclusively by LEAs or public schools for parental notification of subject matter
45 identified in this rule.

46 (9) "Professional development" means training in which Utah educators may
47 participate to renew a license, receive information or training in a specific subject area, teach
48 in another subject area or teach at another grade level.

49 (10) "Utah educator" means an individual such as an administrator, teacher,
50 counselor, teacher's assistant, or coach, who is employed by a unit of the Utah public
51 education system and who provides teaching or counseling to students.

52 (11) "Utah Professional Practices Advisory Commission" or "UPPAC" means a
53 Commission established under Section 53E-6-501 and designated to review allegations
54 against educators and recommend action against educators' licenses to the Board.

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56 **R277-474-3. General Provisions.**

57 (1) The following may not be taught in Utah public schools through the use of
58 instructional materials, direct instruction, or online instruction:

59 (a) the intricacies of intercourse, sexual stimulation or erotic behavior;

60 (b) the advocacy of premarital or extramarital sexual activity; or

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61 (c) the advocacy or encouragement of the use of contraceptive methods or devices.

62 (2) A Utah educator may provide instruction consistent with Subsection 53G-10-
63 402(2)(b)(iv);

64 (3) A Utah educator is responsible to teach the values and information identified
65 under Subsection 53G-10-402(2)(a) and (b)(i)-(ii).

66 (4) A Utah educator shall follow all provisions of federal and state law including the
67 parental notification and prior written parental consent requirements described in Sections
68 76-7-322 and 76-7-323 when teaching any aspect of sex education.

69 (5) While sex education instruction and related topics are most likely to take place
70 in such courses as health education, health occupations, human biology, physiology,
71 parenting, adult roles, psychology, sociology, child development, and biology, this Rule
72 R277-474 applies to any course or class in which these topics are the focus of discussion.

73

74 **R277-474-4. State Board of Education Responsibilities.**

75 The Superintendent shall:

76 (1) develop and provide professional development and assistance with training for
77 educators on law and rules specific to sex education instruction and related issues.

78 (2) develop, for Board approval, a parental notification form and timelines for use
79 by LEAs.

80 (3) establish a review process for sex education instructional materials and
81 programs using the instructional materials commission and requiring final Board approval of
82 the instructional materials commission's recommendations.

83 (4) approve only medically accurate sex education instruction programs.

84 (5) receive and track parent and community complaints and comments received
85 from LEAs related to sex education instructional materials and programs.

86

87 **R277-474-5. LEA Responsibilities.**

88 (1) An LEA shall require all newly hired or newly assigned Utah educators with
89 responsibility for any aspect of sex education instruction to attend professional development
90 outlining the sex education curriculum and the criteria for sex education instruction in any

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91 courses offered in the public education system.

92 (2) An LEA governing board shall provide training consistent with Subsection R277-
93 474-5(1) at least once during every three years of employment for Utah educators.

94 (3) An LEA governing board shall form a curriculum materials review committee at
95 the school district or charter school level as described in Subsection (4).

96 (4)(a) An LEA governing board shall annually appoint and review members of the
97 LEA's curriculum materials review committee on or before August 1.

98 (b) An LEA's curriculum materials review committee shall include parents, health
99 professionals, school health educators, and administrators, with at least as many parents
100 as school employees.

101 (c) The members of an LEA's committee shall:

102 (i) meet on a regular basis, as determined by the membership;

103 (ii) select officers; and

104 (iii) comply with Title 52, Chapter 4, Open and Public Meetings Act.

105 (5) An LEA's curriculum materials review committee shall:

106 (a) be organized consistent with Subsection R277-474-2(1);

107 (b) designate a chair and procedures; and

108 (c) review and approve all guest speakers and guest presenters and their
109 respective materials relating to sex education instruction in any course and maturation
110 education prior to their presentation.

111 (6) The committee may not authorize the use of any sex education instructional
112 program or maturation education program not previously:

113 (a) approved by the Board;

114 (b) approved consistent with R277-474-6; or

115 (c) approved under Subsections 53G-10-402(2)(f) and (g).

116 (7) The district superintendent or charter school administrator shall report educators
117 who willfully violate the provisions of this rule to the Utah Professional Practices Advisory
118 Commission (UPPAC) for investigation and possible discipline.

119 (8)(a) A student may not participate in sex education instruction, maturation
120 education, or other instructional programs without prior affirmative parent consent, as

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121 evidenced by a completed parental notification form, on file.

122 (b) An LEA shall obtain parental consent from a student's parent using the common
123 parental notification form or a form that satisfies all criteria of the law and Board rules and
124 comply with timelines approved by the Board.

125 (9) The parental notification form shall:

126 (a) explain a parent's right to review proposed curriculum materials in a timely
127 manner;

128 (b) request the parent's permission to instruct the parent's student in identified
129 course material related to sex education or maturation education;

130 (c) allow the parent to exempt the parent's student from attendance for a class
131 period where identified course material related to sex education instruction or maturation
132 education is presented and discussed;

133 (d) be specific enough to give parents fair notice of topics to be covered;

134 (e) include a brief explanation of the topics and materials to be presented and
135 provide a time, place and contact person for review of the identified curricular materials;

136 (f) be retained on file with affirmative parental consent for each student prior to the
137 student's participation in discussion of issues protected under Section 53G-10-402; and

138 (g) be maintained at the student's school for a reasonable period of time.

139 (10) An LEA shall develop a logging and tracking system of parental and community
140 complaints and comments resulting from student participation in sex education instruction,
141 to include the disposition of the complaints, and provide that information to the
142 Superintendent upon request.

143 (11) If a student is exempted from course material required by the Board-approved
144 Core Standards consistent with Section 53G-10-205(1), (2), and (3), the school shall:

145 (a) waive the participation requirement; or

146 (b) provide a reasonable alternative to the requirement.

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148 **R277-474-6. Local School Board or Charter School Governing Board Adoption of**
149 **Sex Education and Maturation Education Instructional Materials.**

150 (1) An LEA governing board may adopt the LEA's instructional materials if the

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- 151 instructional materials meet the requirements of Subsection 53G-10-402(2).
- 152 (2) Instructional materials adopted as described in Subsection (1) shall:
- 153 (a) comply with the criteria of Subsection 53G-10-402(2)(h) and:
- 154 (b) be medically accurate;
- 155 (c) be approved by a majority vote of the LEA governing board present at a public
- 156 meeting of the LEA governing board;
- 157 (d) be available for reasonable review opportunities to residents of the school district
- 158 or parents of charter school students prior to consideration for adoption; and
- 159 (e) comply with the county data review requirements as outlined in Subsection 53G-
- 160 10-402(8).
- 161 (3) An LEA shall comply with the reporting requirements of Section 53G-10-402.
- 162 (4) A report to the Board shall include:
- 163 (a) a copy of sex education instructional materials or maturation education materials
- 164 not approved by the Instructional Materials Commission that the local board or local charter
- 165 board seeks to adopt;
- 166 (b) documentation of the materials' adoption in a public board meeting;
- 167 (c) documentation that the materials or program meets the medically accurate
- 168 criteria as defined in Subsection R277-474-2(7);
- 169 (d) documentation of the recommendation of the materials by the committee; and
- 170 (e) a statement of the local board's or local charter board's rationale for selecting
- 171 materials not approved by the instructional materials commission.
- 172 (5) An LEA governing board's adoption process for sex education instructional
- 173 materials and maturation education materials shall include:
- 174 (a) an appeals process for the adopted materials; and
- 175 (b) a process for annual review of the LEA governing board's decision.

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177 **R277-474-7. Utah Educator Responsibilities.**

178 (1) A Utah educator shall participate in training provided under Subsections R277-

179 474-5(1) and (2).

180 (2) A Utah educator shall use the common parental notification form or a form

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181 approved by the Utah educator's LEA, and follow timelines approved by the Board.

182 (3) A Utah educator shall individually record parent and community complaints,
183 comments, and the Utah educators' responses regarding sex education instructional
184 programs.

185 (4) A Utah educator may respond to spontaneous student questions for the
186 purposes of providing accurate data or correcting inaccurate or misleading information or
187 comments made by students in class regarding sex education.

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189 **KEY: health education, sex education, schools**

190 **Date of Enactment or Last Substantive Amendment: October 8, 2019**

191 **Notice of Continuation: September 13, 2017**

192 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-10-402(1) and**
193 **(3); 53E-3-401(4)**

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