

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~~[(1) and (3)]~~(2), (4) and (5), which direct the Board to
8 adopt rules to allow local boards to adopt sex education materials or programs as
9 described in this Rule R277-474 and provide sex education instruction as provided in
10 Section 53G-10-402; and

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

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

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

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

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

20

21 **R277-474-2. Definitions.**

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

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

28 (3) "Sex education instruction or instructional programs" means any course, unit,
29 class, activity or presentation that provides instruction or information to students as
30 outlined under Section 53G-10-403(1)~~[(b)]~~(a) ~~[about sexual abstinence, human sexuality,~~
31 ~~human reproduction, reproductive anatomy, physiology, pregnancy, marriage, childbirth,~~
32 ~~parenthood, contraception, or HIV/AIDS, other sexually transmitted diseases, and refusal~~

33 skills].

34 (4) "Instructional materials commission" means the advisory commission
35 authorized under Section 53E-4-402.

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

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

42 (7) "Medically accurate" means verified or supported by a body of research
43 conducted in compliance with scientific methods and published in journals that have
44 received peer-review, ~~[where appropriate,]~~ and recognized as accurate and objective by
45 professional organizations and agencies with expertise in the relevant field, such as the
46 American Medical Association.

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

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

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

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

59

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

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

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

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

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

67 (2) A Utah educator may provide instruction consistent with Subsection
68 53G-10-402(2)(b)(iv);

69 ~~[(2)](3)~~ A Utah ~~[E]educator[s-are]is~~ responsible to teach the values and information
70 identified under Subsection 53G-10-402(1)(b) and (b)(i)-(ii).

71 ~~[(3)](4)~~ A Utah educator[s] shall follow all provisions of federal and state law
72 including the parental notification and prior written parental consent requirements
73 described in Sections 76-7-322 and 76-7-323 when teaching any aspect of sex education.

74 ~~[(4)](5)~~ While sex education instruction and related topics are most likely to take
75 place in such courses as health education, health occupations, human biology, physiology,
76 parenting, adult roles, psychology, sociology, child development, and biology, this
77 R277-474 applies to any course or class in which these topics are the focus of discussion.

78

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

80 The Superintendent shall:

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

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

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

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

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

91

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

93 (1) An LEA shall require all newly hired or newly assigned Utah educators with
94 responsibility for any aspect of sex education instruction to attend professional
95 development outlining the sex education curriculum and the criteria for sex education
96 instruction in any courses offered in the public education system.

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

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

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

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

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

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

108 (ii) select officers; and

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

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

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

112 (b) designate a chair and procedures; and

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

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

118 (a) approved by the Board;

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

120 (c) approved under Subsection 53G-10-402~~(1)(e)(ii)~~(2)(f) and (g).

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

124 (8)(a) Students may not participate in sex education instruction, maturation
125 education, or other instructional programs without prior affirmative parent consent, as
126 evidenced by a completed parental notification form, on file.

127 (b) An LEA shall obtain parental consent from a student's parent using the
128 common parental notification form or a form that satisfies all criteria of the law and Board

129 rules and comply with timelines approved by the Board.

130 (9) The parental notification form shall:

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

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

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

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

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

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

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

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

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

151 (a) waive the participation requirement; or

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

153

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

156 (1) An LEA governing board may adopt the LEA's instructional materials if the
157 instructional materials meet the requirements of Subsection 53G-10-402.

158 (2) Instructional materials adopted as described in Subsection (1) shall:

159 (a) comply with the criteria of Subsection 53G-10-402~~[(1)(c)(iii)]~~(2)(h) and:

160 (b) be medically accurate;

161 (c) be approved by a majority vote of the LEA governing board present at a public
162 meeting of the LEA governing board;

163 (d) be available for reasonable review opportunities to residents of the school
164 district or parents of charter school students prior to consideration for adoption; and

165 (e) comply with the county data review requirements as outlined in Subsection
166 53G-10-402(8).

167 (3) An LEA shall comply with the reporting requirements of Subsection
168 53G-10-402(1)(c)(iii)(D).

169 (4) A report to the Board shall include:

170 (a) a copy of sex education instructional materials or maturation education
171 materials not approved by the Instructional Materials Commission that the local board or
172 local charter board seeks to adopt;

173 (b) documentation of the materials' adoption in a public board meeting;

174 (c) documentation that the materials or program meets the medically accurate
175 criteria as defined in Subsection R277-474-2(7);

176 (d) documentation of the recommendation of the materials by the committee; and

177 (e) a statement of the local board's or local charter board's rationale for selecting
178 materials not approved by the instructional materials commission.

179 (5) An LEA governing board's adoption process for sex education instructional
180 materials and maturation education materials shall include a process for annual review of
181 the LEA governing board's decision.

182 (a) an appeals process for the adopted materials; and

183 (b) a process for annual review of the LEA governing board's decision.

184

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

186 (1) A Utah educator[s] shall participate in training provided under Subsections
187 R277-474-5(1) and (2).

188 (2) A Utah educator[s] shall use the common parental notification form or a form
189 approved by the Utah educator's LEA, and follow timelines approved by the Board.

190 (3) A Utah educator[s] shall individually record parent and community complaints,
191 comments, and the Utah educators' responses regarding sex education instructional
192 programs.

193 (4) A Utah educator[s] may respond to spontaneous student questions for the
194 purposes of providing accurate data or correcting inaccurate or misleading information or
195 comments made by students in class regarding sex education.

196

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

198 **Date of Enactment or Last Substantive Amendment: November 7, 2018**

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

200 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-10-402(1) and**
201 **(3); 53E-3-401(4)**

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