

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  
8 to 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) Section 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  
15 materials 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  
19 of 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,  
29 unit, 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~~

33 ~~refusal 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  
37 the Blind.

38 (6) "Maturation education" means instruction and materials used to provide fifth  
39 or sixth grade students with age appropriate, medically accurate information regarding  
40 the physical and emotional changes associated with puberty, to assist in protecting  
41 students 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  
49 matter 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  
70 information identified under Subsection 53G-10-402(2)(a).

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  
74 education.

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

80

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

82 The Superintendent shall:

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

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

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

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

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

93

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

95 (1) An LEA shall require all newly hired or newly assigned Utah educators with  
96 responsibility for any aspect of sex education instruction to attend professional

97 development outlining the sex education curriculum and the criteria for sex education  
98 instruction in any courses offered in the public education system.

99 (2) An LEA governing board shall provide training consistent with Subsection(1)  
100 at least once during every three years of employment for Utah educators.

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

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

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

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

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

110 (ii) select officers; and

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

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

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

114 (b) designate a chair and procedures; and

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

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

120 (a) approved by the Board;

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

122 (c) approved under Subsections 53G-10-402[(1)(e)(ii)](2)(f) and (g).

123 (7) The district superintendent or charter school administrator shall report  
124 educators who willfully violate the provisions of this rule to UPPAC for investigation and  
125 possible discipline.

126 (8)(a) A [S]student[s] may not participate in sex education instruction, maturation  
127 education, or other instructional programs without prior affirmative parent consent, as  
128 evidenced by a completed parental notification form, on file.

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

132 (9) The parental notification form shall:

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

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

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

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

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

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

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

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

151 (11) If a student is exempted from course material required by the  
152 Board-approved Core Standards consistent with Section 53G-10-205 the school shall:

153 (a) waive the participation requirement; or

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

155

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

158 (1) An LEA governing board may adopt the LEA's instructional materials if the  
159 instructional materials meet the requirements of Subsection 53G-10-402(2).

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

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

162 (b) be medically accurate;

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

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

167 (e) comply with the county data review requirements as outlined in Subsection  
168 53G-10-402(8).

169 (3) An LEA shall comply with the reporting requirements of Section 53G-10-402.

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

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

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

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

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

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

181 (5) An LEA governing board's adoption process for sex education instructional  
182 materials and maturation education materials shall include:

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

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

185

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

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

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

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

193 instructional programs.

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

197

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

199 **Date of Enactment or Last Substantive Amendment: [~~November 7, 2017~~]2019**

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

201 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-10-402;**

202 **53E-3-401**