

Utah Legal Compliance Checklist for Educational and Library Materials

The numbers in parentheses, right after the checkbox, refer to the chart at the end of this list. The chart includes both Federal and Utah state code. The code, in the list, has been abbreviated for a more usable checklist.

(29) Materials for minors (any person less than 18) **SHALL NOT** contain any of the following:

- (1, 39, 45) Pornography and obscenity that appeals to
 - prurient interest in sex,**
 - describes sexual conduct in a patently offensive way**
- (2, 28, 30, 39, 42) "Harmful to minors," obscenity, and pornography is defined as patently offensive description or depiction of **nudity**, which is defined as:
 - the showing of the **human male or female genitals, pubic area, or buttocks**, with less than an opaque covering;
 - (b) the showing of a female breast with less than an opaque covering, or any portion of the **female breast below the top of the areola**; or
 - (c) the depiction of covered **male genitals in a discernibly turgid state**.
- (2, 28, 33, 39) "Harmful to minors," obscenity, and pornography is defined as patently offensive description or depiction of **sexual conduct**, which is defined as:
 - (14) "Sexual conduct" means acts of **masturbation, sexual intercourse,** or any **touching of a person's clothed or unclothed genitals, pubic area, buttocks**, or, if the person is a **female, breast**, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.
- (2, 28, 34, 39) "Harmful to minors," obscenity, and pornography is defined as patently offensive description or depiction of **sexual excitement**, which is defined as:
 - (15) "Sexual excitement" means a condition of **human male or female genitals when in a state of sexual stimulation or arousal**, or the **sensual experiences of humans engaging in or witnessing sexual conduct or nudity**.
- (2, 28, 32, 39) "Harmful to minors," obscenity, and pornography is defined as patently offensive description or depiction of **sadomasochistic abuse**, which is defined as:
 - (13) "Sadomasochistic abuse" means:

- (a) flagellation or **torture by or upon a person who is nude or clad in undergarments, a mask, or in a revealing or bizarre costume**; or
 - (b) **the condition of being fettered, bound, or otherwise physically restrained** on the part of a person clothed as described in Subsection (13)(a).
- (2) It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or **excretion**;
- (20, 21) a **minor engaging in sexually explicit conduct**
- (20, 22, 27, 45) is **obscene** which has been defined as “contemporary community standards”
- (23) (a) depicts an image that is, or appears to be, of **a minor engaging in**
 - graphic bestiality**,
 - sadistic or masochistic abuse, or**
 - sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;** and (b) lacks serious literary, artistic, political, or scientific value
- (25) (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that, and instruction shall: (iii) prohibits instruction in... (a) the **intricacies of intercourse, sexual stimulation, or erotic behavior**;
- (35) the sexual exploitation of a minor is **excessively harmful to the minor's physiological, emotional, social, and mental development**;
- (39) ...2) The following attire and conduct on premises or at an event regulated by the commission under this title are considered contrary to the public health, peace, safety, welfare, and morals, and are prohibited:.....(c) encouraging or permitting a person to: (i) **engage in or simulate an act of:**
 - (A) sexual intercourse; (B) masturbation; (C) sodomy; (D) bestiality; (E) oral copulation; (F) flagellation**; or (G) a sexual act that is prohibited by Utah law;
- (40) “Child pornography” a **minor engaging in sexually explicit conduct**
 - 10) "Sexually explicit conduct" means actual or simulated:
 - (a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
 - (b) masturbation;
 - (c) bestiality;
 - (d) sadistic or masochistic activities;

- (e) **lascivious exhibition of the genitals, pubic region, buttocks, or female breast of any person;**
 - (f) **the visual depiction of nudity or partial nudity for the purpose of causing sexual arousal of any person;**
 - (g) **the fondling or touching of the genitals, pubic region, buttocks, or female breast; or**
 - (h) **the explicit representation of the defecation or urination functions.**
- (44) (11) "Simulated sexually explicit conduct" means a **feigned or pretended act of sexually explicit conduct** which duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

Material for minors is encouraged to contain the following:

- (16) Strong moral and social values
- (47) (i) community and personal health;
- (47) (ii) physiology;
- (47) (iii) personal hygiene;
- (47) (iv) prevention of communicable disease;
- (47) (v) refusal skills; and
- (47) (vi) the harmful effects of pornography.
- (48) (i) stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases;
- (49) (ii) stress personal skills that encourage individual choice of abstinence and fidelity;
- (54) (ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.
- (55) (8) An LEA governing board shall review every two years: ... (c) the number of pornography complaints or other instances reported within the jurisdiction of the LEA governing board.

List of Federal and Utah State code:

Some code, such as 32B-1-503, has been included to provide additional definitions and an understanding of community standards, which is used to define obscenity.

Number	Code	Text
1	76-10-1203 . 1 (a) Pornographic material or performance -- Expert testimony not required.	The average person, applying contemporary community standards, finds that, taken as a whole, it appeals to prurient interest in sex;
2	76-10-1203 . 1 (b) Pornographic material or performance -- Expert testimony not required.	It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion;
3	76-10-1203 . 1 (c) Pornographic material or performance -- Expert testimony not required.	Taken as a whole it does not have serious literary, artistic, political or scientific value
4	76-10-1204 1 (a) Distributing pornographic material -- Penalties -- Exemptions for Internet service providers and hosting companies.	1. Person is guilty of distributing pornographic material when the person knowingly: (a)sends or brings any pornographic material into the state with intent to distribute or exhibit it to others;
5	76-10-1204 1 (b) Distributing pornographic material -- Penalties -- Exemptions for Internet service providers and hosting companies.	(b)prepares, publishes, prints, or possesses any pornographic material with intent to distribute or exhibit it to others;
6	76-10-1204 1 (c) Distributing pornographic material -- Penalties -- Exemptions for Internet service	(c)distributes or offers to distribute, or exhibits or offers to exhibit, any pornographic material to others;

	providers and hosting companies.	
7	76-10-1204 1 (d) Distributing pornographic material -- Penalties -- Exemptions for Internet service providers and hosting companies.	(d)writes, creates, or solicits the publication or advertising of pornographic material;
8	76-10-1206 . 1 (a) Dealing in material harmful to a minor -- Penalties -- Exemptions for Internet service providers and hosting companies.	1. A person is guilty of dealing in material harmful to minors when, knowing or believing that an individual is a minor, or having negligently failed to determine the proper age of a minor, the person intentionally: (a)distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or an individual whom the person believes to be a minor, any material harmful to minors;
9	Children's Internet Protection Act (CIPA)	Children's Internet Protection Act (CIPA) was enacted by Congress in 2000 to address concerns about children's access to obscene or harmful content over the Internet. CIPA imposes certain requirements on schools or libraries that receive discounts for Internet access or internal connections through the E-rate program – a program that makes certain communications services and products more affordable for eligible schools and libraries. In early 2001, the FCC issued rules implementing CIPA and provided updates to those rules in 2011. Schools and libraries subject to CIPA are required to adopt and implement an Internet safety policy addressing: Access by minors to inappropriate matter on the E-Rate...As the designated primary provider of Internet access and the Wide Area Network for public education within Utah, the Utah Education Network is the single largest applicant for E-Rate funds in the state. UEN serves as the E-Rate consortium lead in applying for and implementing the E-rate funds received for the services provided to

		schools under UEN’s purview. UEN also provides E-rate Program Coordination at the state level for all eligible E-rate Program participant
10	53G-7-1002 . Internet and online access policy required.	State funds may not be provided to any local school board that provides access to the Internet or an online service unless the local school board adopts and enforces a policy to restrict access to Internet or online sites that contain obscene material.
11	53G-7-1002 1 (a)	1."Policy", as used in this section means the elementary and secondary school online access policy adopted by a local school board to meet the requirements of Section 53G-7-1002. (a)Each policy shall be developed under the direction of the local school board, adopted in an open meeting, and have an effective date. The local school board shall review the policy at least every three years, and a footnote shall be added to the policy indicating the effective date of the last review.
12	53G-7-1002 1 (b)	(b)Notice of the availability of the policy shall be posted in a conspicuous place within each school. The local school board may issue any other public notice it considers appropriate.
13	53G-7-1002 3 (a)	3.The policy shall: (a)state that it restricts access to Internet or online sites that contain obscene material and shall state how the local school board intends to meet the requirements of Section 53G-7-1002;
14	53G-7-1002 3 (b)	(b)inform the public that administrative procedures and guidelines for the staff to follow in enforcing the policy have been adopted and are available for review at the school; and
15	53G-7-1002 3 (c)	(c)inform the public that procedures to handle complaints about the policy, its enforcement, or about observed behavior have been adopted and are available for review at the school.
16	53E-2-301 . 1 (c) Public education's vision and mission.	1.The Legislature envisions an educated citizenry that encompasses the following foundational principles:

		(c) Strong moral and social values
17	53E-2-301 . 3 (a) Public education's vision and mission.	3.The Legislature: (a)recognizes that parents are a child's first teachers and are responsible for the education of their children;
18	53E-2-301 . 3 (b) Public education's vision and mission.	(b)encourages family engagement and adequate preparation so that students enter the public education system ready to learn; and
19	53E-2-301 . 3 (c) Public education's vision and mission.	(c)intends that the mission detailed in Subsection (2) be carried out through a responsive educational system that guarantees local school communities autonomy, flexibility, and client choice, while holding them accountable for results.
20	US Code - Title 18 Crimes and Criminal Procedure Chapter 71 - Obscenity §1466A . Obscene visual representations of the sexual abuse of children	(a) In General.-Any person who, in a circumstance described in subsection (d), knowingly produces, distributes, receives, or possesses with intent to distribute, a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that-
21	§1466A 1 (a)	(a) depicts a minor engaging in sexually explicit conduct;
22	§1466A 1 (b)	(b) is obscene;
23	§1466A 2 (a)	(a) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and
24	§1466A 2 (b)	(b) lacks serious literary, artistic, political, or scientific value
25	53G-10-402 . 2 (b) Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and	(b)In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that, and instruction shall: (iii)prohibits instruction in (a)the intricacies of intercourse, sexual stimulation, or erotic behavior;

	volunteers -- Political and religious doctrine prohibited.	
26	53G-10-402 . 2 (h-i) Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.	(h)An LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) shall: (i)ensure that the materials comply with state law and board rules;
27	76-10-1201 . (2) Definitions.	(2) "Contemporary community standards" means those current standards in the vicinage where an offense alleged under this part has occurred, is occurring, or will occur.
28	76-10-1201 . 5 (a) Definitions.	(5) (a) "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it: (i) taken as a whole, appeals to the prurient interest in sex of minors; (ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and (iii) taken as a whole, does not have serious value for minors. (b) Serious value includes only serious literary, artistic, political or scientific value for minors.
29	76-10-1201 . 8 Definitions.	(8) "Minor" means any person less than 18 years of age.
30	76-10-1201 . 10 Definitions.	(10) "Nudity" means: (a) the showing of the human male or female genitals, pubic area, or buttocks, with less than an opaque covering; (b) the showing of a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or (c) the depiction of covered male genitals in a

		discernibly turgid state.
31	76-10-1201 . 12 Definitions.	(12) "Public place" includes a place to which admission is gained by payment of a membership or admission fee, however designated, notwithstanding its being designated a private club or by words of like import.
32	76-10-1201 . 13 Definitions.	(13) "Sodomasochistic abuse" means: (a) flagellation or torture by or upon a person who is nude or clad in undergarments, a mask, or in a revealing or bizarre costume; or (b) the condition of being fettered, bound, or otherwise physically restrained on the part of a person clothed as described in Subsection (13)(a).
33	76-10-1201 . 14 Definitions.	(14) "Sexual conduct" means acts of masturbation, sexual intercourse, or any touching of a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.
34	76-10-1201 . 15 Definitions.	(15) "Sexual excitement" means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.
35	76-5b-102 1 (a) Sexual Exploitation Act	the sexual exploitation of a minor is excessively harmful to the minor's physiological, emotional, social, and mental development;
36	76-5b-102 1 (c) Sexual Exploitation Act	a minor cannot intelligently and knowingly consent to sexual exploitation;
37	76-5b-102 1 (d) Sexual Exploitation Act	regardless of whether it is classified as legally obscene, material that sexually exploits a minor, or a vulnerable adult who does not have the capacity to consent to sexual exploitation, is not protected by the First Amendment of the United States Constitution or by the First or Fifteenth sections of Article I of the Utah Constitution and may be prohibited; and

38	76-5b-102 2 Sexual Exploitation Act	(2)It is the purpose of this chapter to prohibit the production, possession, possession with intent to distribute, and distribution of materials that sexually exploit a minor, or a vulnerable adult who lacks capacity to consent to sexual exploitation, regardless of whether the materials are classified as legally obscene.
39	32B-1-504	<p>(1) As used in this section, "obscene" means that:</p> <p>(a) the average individual, applying contemporary community standards, would find the conduct or material, taken as a whole, appeals to the prurient interest;</p> <p>(b) the conduct or material depicts or describes sexual conduct in a patently offensive way; and</p> <p>(c) the conduct or material, taken as a whole, lacks serious literary, artistic, political, or scientific value.</p> <p>(2) The following attire and conduct on premises or at an event regulated by the commission under this title are considered contrary to the public health, peace, safety, welfare, and morals, and are prohibited:</p> <p>(a) employing or using a person in the sale, offer for sale, or furnishing of an alcoholic product while the person is in:</p> <p>(i) a state of nudity;</p> <p>(ii) a state of seminudity; or</p> <p>(iii) performance attire or clothing that exposes to view any portion of:</p> <p>(A) the female breast below the top of the areola; or</p> <p>(B) the cleft of the buttocks;</p> <p>(b) employing or using the services of a person to mingle with patrons while the person is in:</p> <p>(i) a state of nudity;</p> <p>(ii) a state of seminudity; or</p> <p>(iii) performance attire or clothing that exposes to view any portion of:</p> <p>(A) the female breast below the top of the areola; or</p>

		<p>(B) the cleft of the buttocks;</p> <p>(c) encouraging or permitting a person to:</p> <p>(i) engage in or simulate an act of:</p> <p>(A) sexual intercourse;</p> <p>(B) masturbation;</p> <p>(C) sodomy;</p> <p>(D) bestiality;</p> <p>(E) oral copulation;</p> <p>(F) flagellation; or</p> <p>(G) a sexual act that is prohibited by Utah law; or</p> <p>(ii) caress or fondle the breast, anus, or genitals of any other person;</p> <p>(d) permitting a person to wear or use a device or covering that:</p> <p>(i) is exposed to view; and</p> <p>(ii) simulates all or any portion of the human genitals, anus, pubic area, or female breast;</p> <p>(e) permitting a person to use an artificial device or inanimate object to depict an act prohibited by this section;</p> <p>(f) permitting a person to remain on premises or at an event who exposes to public view any portion of that person's:</p> <p>(i) genitals, pubic area, or anus; or</p> <p>(ii) in the case of a female, the areola and nipple of the breast; or</p> <p>(g) showing a film, still picture, electronic reproduction, or other visual reproduction depicting conduct or material that is obscene or in violation of other state or federal law regarding pornography or obscenity.</p> <p>(3) Subsection (2) does not apply to artistic expression that:</p> <p>(a) when taken as a whole, has serious literary, artistic, political, or scientific value;</p> <p>(b) is not in violation of state or federal law regarding pornography or obscenity; and</p> <p>(c) occurs on premises or at an event regulated by the commission under this title that is not predominantly used for performances by sexually</p>
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		oriented entertainers.
40	76-5b-103 (1)	<p>(1) "Child pornography" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:</p> <p>(a) the production of the visual depiction involves the use of a minor engaging in sexually explicit conduct;</p> <p>(b) the visual depiction is of a minor engaging in sexually explicit conduct; or</p> <p>(c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.</p>
41	76-5b-103 (3)	<p>(3) "Identifiable minor" means a person:</p> <p>(a)</p> <p>(i) who was a minor at the time the visual depiction was created, adapted, or modified; or</p> <p>(ii) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and</p> <p>(b) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.</p>
42	76-5b-103 (8)	<p>(8) "Nudity or partial nudity" means any state of dress or undress in which the human genitals, pubic region, buttocks, or the female breast, at a point below the top of the areola, is less than completely and opaquely covered.</p>
43	76-5b-103 (8)	<p>(10) "Sexually explicit conduct" means actual or simulated:</p> <p>(a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;</p> <p>(b) masturbation;</p> <p>(c) bestiality;</p> <p>(d) sadistic or masochistic activities;</p>

		<p>(e) lascivious exhibition of the genitals, pubic region, buttocks, or female breast of any person;</p> <p>(f) the visual depiction of nudity or partial nudity for the purpose of causing sexual arousal of any person;</p> <p>(g) the fondling or touching of the genitals, pubic region, buttocks, or female breast; or</p> <p>(h) the explicit representation of the defecation or urination functions.</p>
44	76-5b-103 (11)	(11) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct which duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.
45	20 USC § 9101(8)	(8) Obscene The term "obscene" means, with respect to a project, that— (A) the average person, applying contemporary community standards, would find that such project, when taken as a whole, appeals to the prurient interest; (B) such project depicts or describes sexual conduct in a patently offensive way; and (C) such project, when taken as a whole, lacks serious literary, artistic, political, or scientific value.
47	53G-10-402 2 (a)	<p>(2) (a) The state board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:</p> <p>(i) community and personal health;</p> <p>(ii) physiology;</p> <p>(iii) personal hygiene;</p> <p>(iv) prevention of communicable disease;</p> <p>(v) refusal skills; and</p> <p>(vi) the harmful effects of pornography.</p>
48	53G-10-402 2 (b)	<p>(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that, and instruction shall:</p> <p>(i) stress the importance of abstinence from all sexual activity before marriage and fidelity after</p>

		marriage as methods for preventing certain communicable diseases;
49	53G-10-402 2 (b)	(ii) stress personal skills that encourage individual choice of abstinence and fidelity;
50	53G-10-402 2 (b)	(iii) prohibit instruction in: (A) the intricacies of intercourse, sexual stimulation, or erotic behavior; (B) the advocacy of premarital or extramarital sexual activity; or (C) the advocacy or encouragement of the use of contraceptive methods or devices; and
51	53G-10-402 2 (b)	(iv) except as provided in Subsection (2)(d), allow instruction to include information about contraceptive methods or devices that stresses effectiveness, limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices.
52	53G-10-402 2 (c)	(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for an LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) that: (i) require the LEA governing board to report on the materials selected and the LEA governing board's compliance with Subsection (2)(h); and (ii) provide for an appeal and review process of the LEA governing board's adoption of instructional materials.
53	53G-10-402 2 (d)	(d) The state board may not require an LEA to teach or adopt instructional materials that include information on contraceptive methods or devices.
54	53G-10-402 4 (a)	(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and (ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

55	53G-10-402 8 (c)	<p>(8) An LEA governing board shall review every two years:</p> <ul style="list-style-type: none">(a) LEA governing board policies on instruction described in this section;(b) for a local school board, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:<ul style="list-style-type: none">(i) teen pregnancy;(ii) child sexual abuse; and(iii) sexually transmitted diseases and sexually transmitted infections; and(c) the number of pornography complaints or other instances reported within the jurisdiction of the LEA governing board.
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