

**Introduced by Senators Dahle and Morrell
(Principal coauthor: Senator Chang)**

February 21, 2020

An act to amend Sections 51934 and 51938 of the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

SB 1265, as introduced, Dahle. Comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education.

The California Healthy Youth Act requires school districts, defined to include county boards of education, county superintendents of schools, the California School for the Deaf, the California School for the Blind, and, commencing with the 2019–20 school year, charter schools, to ensure that all pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education, as specified. The act authorizes a school district to provide that education earlier than grade 7 with age-appropriate and medically accurate information. The act requires each school district to notify parents and guardians of pupils about its plan to provide sexual health education and HIV prevention instruction for the upcoming school year and to inform them, among other things, that the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education are available for inspection.

This bill would require the above-described notice to parents and guardians of pupils and the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education to be translated if certain conditions are met, as specified.

The bill would require the governing board of a school district to adopt a policy at a publicly noticed meeting specifying how parents and guardians of pupils may inspect the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education, including that the materials, including applicable translations and updates or changes to the materials, are made available, within prescribed timeframes, at each schoolsite and, except as provided, publicly posted on the school district’s internet website or, if applicable, on a school district’s parent or guardian portal, as specified. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51934 of the Education Code is amended
2 to read:
3 51934. (a) Each school district shall ensure that all pupils in
4 grades 7 to 12, inclusive, receive comprehensive sexual health
5 education and HIV prevention education from instructors trained
6 in the appropriate courses. Each pupil shall receive this instruction
7 at least once in junior high or middle school and at least once in
8 high school. This instruction shall include all of the following:
9 (1) Information on the nature of HIV, as well as other sexually
10 transmitted infections, and their effects on the human body.
11 (2) Information on the manner in which HIV and other sexually
12 transmitted infections are and are not transmitted, including
13 information on the relative risk of infection according to specific
14 behaviors, including sexual activities and injection drug use.
15 (3) Information that abstinence from sexual activity and injection
16 drug use is the only certain way to prevent HIV and other sexually
17 transmitted infections and abstinence from sexual intercourse is

1 the only certain way to prevent unintended pregnancy. This
2 instruction shall provide information about the value of delaying
3 sexual activity while also providing medically accurate information
4 on other methods of preventing HIV and other sexually transmitted
5 infections and pregnancy.

6 (4) Information about the effectiveness and safety of all federal
7 Food and Drug Administration (FDA) approved methods that
8 prevent or reduce the risk of contracting HIV and other sexually
9 transmitted infections, including use of antiretroviral medication,
10 consistent with the federal Centers for Disease Control and
11 Prevention.

12 (5) Information about the effectiveness and safety of reducing
13 the risk of HIV transmission as a result of injection drug use by
14 decreasing needle use and needle sharing.

15 (6) Information about the treatment of HIV and other sexually
16 transmitted infections, including how antiretroviral therapy can
17 dramatically prolong the lives of many people living with HIV
18 and reduce the likelihood of transmitting HIV to others.

19 (7) Discussion about social views on HIV and AIDS, including
20 addressing unfounded stereotypes and myths regarding HIV and
21 AIDS and people living with HIV. This instruction shall emphasize
22 that successfully treated HIV-positive individuals have a normal
23 life expectancy, all people are at some risk of contracting HIV,
24 and the only way to know if one is HIV-positive is to get tested.

25 (8) Information about local resources, how to access local
26 resources, and pupils' legal rights to access local resources for
27 sexual and reproductive health care such as testing and medical
28 care for HIV and other sexually transmitted infections and
29 pregnancy prevention and care, as well as local resources for
30 assistance with sexual assault and intimate partner violence.

31 (9) Information about the effectiveness and safety of all
32 FDA-approved contraceptive methods in preventing pregnancy,
33 including, but not limited to, emergency contraception. Instruction
34 on pregnancy shall include an objective discussion of all legally
35 available pregnancy outcomes, including, but not limited to, all of
36 the following:

37 (A) Parenting, adoption, and abortion.

38 (B) Information on the law on surrendering physical custody
39 of a minor child 72 hours of age or younger, pursuant to Section

1 1255.7 of the Health and Safety Code and Section 271.5 of the
2 Penal Code.

3 (C) The importance of prenatal care.

4 (10) Information about sexual harassment, sexual assault, sexual
5 abuse, and human trafficking. Information on human trafficking
6 shall include both of the following:

7 (A) Information on the prevalence, nature, and strategies to
8 reduce the risk of human trafficking, techniques to set healthy
9 boundaries, and how to safely seek assistance.

10 (B) Information on how social media and mobile device
11 applications are used for human trafficking.

12 (11) Information about adolescent relationship abuse and
13 intimate partner violence, including the early warning signs thereof.

14 (b) A school district may provide optional instruction, as part
15 of comprehensive sexual health education and HIV prevention
16 education, regarding the potential risks and consequences of
17 creating and sharing sexually suggestive or sexually explicit
18 materials through cellular telephones, social networking-Internet
19 Web sites, internet websites, computer networks, or other digital
20 media.

21 (c) A school district may provide comprehensive sexual health
22 education or HIV prevention education consisting of
23 age-appropriate instruction earlier than grade 7 using instructors
24 trained in the appropriate courses. A school district that elects to
25 offer comprehensive sexual health education or HIV prevention
26 education earlier than grade 7 ~~may shall provide age appropriate~~
27 ~~age-appropriate~~ and medically accurate information on any of the
28 general topics contained in paragraphs (1) to (11), inclusive, of
29 subdivision ~~(a)~~: *(a) that it chooses.*

30 SEC. 2. Section 51938 of the Education Code is amended to
31 read:

32 51938. (a) (1) A parent or guardian of a pupil has the right
33 to excuse their child from all or part of comprehensive sexual
34 health education, HIV prevention education, and assessments
35 related to that education through a passive consent (“opt-out”)
36 process. A school district shall not require active parental consent
37 (“opt-in”) for comprehensive sexual health education and HIV
38 prevention education.

39 (2) *The governing board of a school district shall adopt a policy*
40 *at a publicly noticed meeting specifying how parents and guardians*

1 of pupils may inspect the written and audiovisual educational
2 materials used in comprehensive sexual health education and HIV
3 prevention education that is consistent with all of the following:

4 (A) The materials, including applicable translations, shall be
5 made available at each schoolsite and publicly posted on the school
6 district's internet website, if the school district maintains an
7 internet website or upon establishing an internet website. If the
8 school district is not authorized to post the materials on its publicly
9 available internet website due to copyright protections, the material
10 shall be made available through a parent or guardian portal if the
11 school district already maintains a portal or upon establishing a
12 portal.

13 (B) The materials, including applicable translations, shall be
14 made available at each schoolsite and publicly posted on the school
15 district's internet website, and, if applicable, through a parent or
16 guardian portal, pursuant to subparagraph (A), within 30 days of
17 adoption of the policy, but in no event later than 14 days before
18 the instruction is given.

19 (C) Updates or changes to the materials, including applicable
20 translations, shall be made available at each schoolsite and
21 publicly posted on the school district's internet website, and, if
22 applicable, through a parent or guardian portal pursuant to
23 subparagraph (A), within 30 days of adoption of the updates or
24 changes to the materials, but in no event later than 14 days before
25 the instruction is given.

26 (D) (i) Except as provided in clause (ii), if a school district
27 contracts with outside consultants or guest speakers pursuant to
28 Section 51936, materials, including applicable translations, to be
29 used by the outside consultants or guest speakers shall be made
30 available at each schoolsite and publicly posted on the school
31 district's internet website, and, if applicable, through a parent or
32 guardian portal, pursuant to subparagraph (A), within 30 days of
33 contracting with the outside consultants or guest speakers, but in
34 no event later than 14 days before the instruction is given.

35 (ii) Materials, including applicable translations, to be used by
36 outside consultants or guest speakers that were contracted for
37 before January 1, 2021, pursuant to Section 51936 shall be made
38 available at each schoolsite and publicly posted on the school
39 district's internet website, and, if applicable, through a parent or
40 guardian portal, pursuant to subparagraph (A), within 30 days of

1 *adoption of the policy, but in no event later than 14 days before*
2 *the instruction is given.*

3 *(E) The requirements of subparagraphs (A) to (C), inclusive,*
4 *also apply to materials adopted by the governing board of the*
5 *school district before January 1, 2021.*

6 *(3) All written and audiovisual educational materials used in*
7 *comprehensive sexual health education and HIV prevention*
8 *education shall be translated pursuant to Section 48985.*

9 (b) At the beginning of each school year, or, for a pupil who
10 enrolls in a school after the beginning of the school year, at the
11 time of that pupil's enrollment, each school district shall notify
12 the parent or guardian of each pupil about instruction in
13 comprehensive sexual health education and HIV prevention
14 education and research on pupil health behaviors and risks planned
15 for the coming year. The notice shall *be translated pursuant to*
16 *Section 48985 and shall do all of the following:*

17 (1) Advise the parent or guardian that written and audiovisual
18 educational materials used in comprehensive sexual health
19 education and HIV prevention education are available for
20 ~~inspection~~ *inspection pursuant to the policy adopted by the school*
21 *district pursuant to subdivision (a).*

22 (2) Advise the parent or guardian whether the comprehensive
23 sexual health education or HIV prevention education will be taught
24 by school district personnel or by outside consultants. A school
25 district may provide comprehensive sexual health education or
26 HIV prevention education, to be taught by outside consultants,
27 and may hold an assembly to deliver comprehensive sexual health
28 education or HIV prevention education by guest speakers, but if
29 ~~it~~ *the school district* elects to provide comprehensive sexual health
30 education or HIV prevention education in either of these manners,
31 the notice shall include the date of the instruction, the name of the
32 organization or affiliation of each guest speaker, and information
33 stating the right of the parent or guardian to request a copy of this
34 section, Section 51933, and Section 51934. If arrangements for
35 this instruction are made after the beginning of the school year,
36 notice shall be made by mail or another commonly used method
37 of notification, no fewer than 14 days before the instruction is
38 delivered.

39 (3) Include information explaining the parent's or guardian's
40 right to request a copy of this chapter.

1 (4) Advise the parent or guardian that the parent or guardian
2 has the right to excuse their child from comprehensive sexual
3 health education and HIV prevention education and that in order
4 to excuse their child they must state their request in writing to the
5 school district.

6 (c) Notwithstanding Section 51513, anonymous, voluntary, and
7 confidential research and evaluation tools to measure pupils' health
8 behaviors and risks, including tests, questionnaires, and surveys
9 containing age-appropriate questions about the pupil's attitudes
10 concerning or practices relating to sex, may be administered to
11 any pupil in grades 7 to 12, inclusive. A parent or guardian has
12 the right to excuse their child from the test, questionnaire, or survey
13 through a passive consent ("opt-out") process. A school district
14 shall not require active parental consent ("opt-in") for these tests,
15 questionnaires, or surveys in grades 7 to 12, inclusive. Parents or
16 guardians shall be notified in writing that this test, questionnaire,
17 or survey is to be administered, given the opportunity to review
18 the test, questionnaire, or survey if they wish, notified of their right
19 to excuse their child from the test, questionnaire, or survey, and
20 informed that in order to excuse their child they must state their
21 request in writing to the school district.

22 (d) The use of outside consultants or guest speakers as described
23 in paragraph (2) of subdivision (b) is within the discretion of the
24 school district.

25 SEC. 3. If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.