

Introduced by Senator Dahle

February 17, 2022

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1222, 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 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

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~~ *human immunodeficiency virus (HIV)*
6 prevention education from instructors trained in the appropriate
7 courses. Each pupil shall receive this instruction at least once in
8 junior high or middle school and at least once in high school. This
9 instruction shall include all of the following:
10 (1) Information on the nature of HIV, as well as other sexually
11 transmitted infections, and their effects on the human body.
12 (2) Information on the manner in which HIV and other sexually
13 transmitted infections are and are not transmitted, including
14 information on the relative risk of infection according to specific
15 behaviors, including sexual activities and injection drug use.
16 (3) Information that abstinence from sexual activity and injection
17 drug use is the only certain way to prevent HIV and other sexually
18 transmitted infections and abstinence from sexual intercourse is
19 the only certain way to prevent unintended pregnancy. This
20 instruction shall provide information about the value of delaying
21 sexual activity while also providing medically accurate information

1 on other methods of preventing HIV and other sexually transmitted
2 infections and pregnancy.

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

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

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

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

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

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

35 (A) Parenting, adoption, and abortion.

36 (B) Information on the law on surrendering physical custody
37 of a minor child 72 hours of age or younger, pursuant to Section
38 1255.7 of the Health and Safety Code and Section 271.5 of the
39 Penal Code.

40 (C) The importance of prenatal care.

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

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

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

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

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

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

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

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

(2) *The governing board of a school district shall adopt a policy at a publicly noticed meeting specifying how parents and guardians of pupils may inspect the written and audiovisual educational*

1 *materials used in comprehensive sexual health education and HIV*
2 *prevention education that is consistent with all of the following:*

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

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

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

22 *(D) (i) Except as provided in clause (ii), if a school contracts*
23 *with outside consultants or guest speakers pursuant to Section*
24 *51936, materials to be used by the outside consultants or guest*
25 *speakers shall be made available at each schoolsite and publicly*
26 *posted on the school district's internet website, and, if applicable,*
27 *through a parent or guardian portal, pursuant to subparagraph*
28 *(A), within 30 days of contracting with the outside consultants or*
29 *guest speakers, but in no event later than 14 days before the*
30 *instruction is given.*

31 *(ii) Materials to be used by outside consultants or guest speakers*
32 *that were contracted for before January 1, 2023, pursuant to*
33 *Section 51936 shall be made available at each schoolsite and*
34 *publicly posted on the school district's internet website, and, if*
35 *applicable, through a parent or guardian portal, pursuant to*
36 *subparagraph (A), within 30 days of adoption of the policy, but in*
37 *no event later than 14 days before the instruction is given.*

38 *(E) The requirements of subparagraphs (A) to (C), inclusive,*
39 *also apply to materials adopted by the governing board of the*
40 *school district before January 1, 2023.*

(b) At the beginning of each school year, or, for a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment, each school district shall notify the parent or guardian of each pupil about instruction in comprehensive sexual health education and HIV prevention education and research on pupil health behaviors and risks planned for the coming year. The notice shall do all of the following:

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

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

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

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

(c) Notwithstanding Section 51513, anonymous, voluntary, and confidential research and evaluation tools to measure pupils' health behaviors and risks, including tests, questionnaires, and surveys containing age-appropriate questions about the pupil's attitudes

1 concerning or practices relating to sex, may be administered to
2 any pupil in grades 7 to 12, inclusive. A parent or guardian has
3 the right to excuse their child from the test, questionnaire, or survey
4 through a passive consent (“opt-out”) process. A school district
5 shall not require active parental consent (“opt-in”) for these tests,
6 questionnaires, or surveys in grades 7 to 12, inclusive. Parents or
7 guardians shall be notified in writing that this test, questionnaire,
8 or survey is to be administered, given the opportunity to review
9 the test, questionnaire, or survey if they wish, notified of their right
10 to excuse their child from the test, questionnaire, or survey, and
11 informed that in order to excuse their child they must state their
12 request in writing to the school district.

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

16 SEC. 3. If the Commission on State Mandates determines that
17 this act contains costs mandated by the state, reimbursement to
18 local agencies and school districts for those costs shall be made
19 pursuant to Part 7 (commencing with Section 17500) of Division
20 4 of Title 2 of the Government Code.