

Introduced by Senator Morrell

February 21, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1394, as introduced, Morrell. 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 gives the parent or guardian of a pupil the right to excuse their child from all or part of that education through a passive consent (“opt-out”) process and prohibits a school district from requiring active parental consent (“opt-in”) for that education. 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 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.

This bill instead would authorize a school district to require active parental consent (“opt-in”) with a signature for any sexual health education and HIV prevention education for a pupil in a grade lower than grade 7. The bill would make conforming changes to notification requirements to parents and guardians.

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

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
18 the only certain way to prevent unintended pregnancy. This
19 instruction shall provide information about the value of delaying
20 sexual activity while also providing medically accurate information
21 on other methods of preventing HIV and other sexually transmitted
22 infections and pregnancy.
23 (4) Information about the effectiveness and safety of all federal
24 Food and Drug Administration (FDA) approved methods that
25 prevent or reduce the risk of contracting HIV and other sexually
26 transmitted infections, including use of antiretroviral medication,
27 consistent with the federal Centers for Disease Control and
28 Prevention.

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

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

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

14 (8) Information about local resources, how to access local
15 resources, and pupils' legal rights to access local resources for
16 sexual and reproductive health care such as testing and medical
17 care for HIV and other sexually transmitted infections and
18 pregnancy prevention and care, as well as local resources for
19 assistance with sexual assault and intimate partner violence.

20 (9) Information about the effectiveness and safety of all
21 FDA-approved contraceptive methods in preventing pregnancy,
22 including, but not limited to, emergency contraception. Instruction
23 on pregnancy shall include an objective discussion of all legally
24 available pregnancy outcomes, including, but not limited to, all of
25 the following:

26 (A) Parenting, adoption, and abortion.

27 (B) Information on the law on surrendering physical custody
28 of a minor child 72 hours of age or younger, pursuant to Section
29 1255.7 of the Health and Safety Code and Section 271.5 of the
30 Penal Code.

31 (C) The importance of prenatal care.

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

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

38 (B) Information on how social media and mobile device
39 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~~ *courses, subject to subdivision (a) of Section 51938*. 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 prevention education, and assessments related to that education through a passive consent (“opt-out”) process. ~~A~~

(2) A school district shall not require active parental consent (“opt-in”) for comprehensive sexual health education and HIV prevention ~~education~~ *education for a pupil in any of grades 7 to 12, inclusive*.

(3) A school district may require active parental consent (“opt-in”) with a signature for any sexual health education and HIV prevention education for a pupil in a grade lower than grade 7.

(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

1 education and research on pupil health behaviors and risks planned
2 for the coming year. The notice shall do all of the following:

3 (1) Advise the parent or guardian that written and audiovisual
4 educational materials used in comprehensive sexual health
5 education and HIV prevention education are available for
6 inspection.

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

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

26 (4) Advise the parent or guardian that the parent or guardian
27 has the right to excuse their child from comprehensive sexual
28 health education and HIV prevention education and that in order
29 to excuse their child they must state their request in writing to the
30 school~~-district~~. *district, or, if applicable, advise the parent or*
31 *guardian that their signature is required in order for their child*
32 *to receive comprehensive sexual health education and HIV*
33 *prevention education.*

34 (c) Notwithstanding Section 51513, anonymous, voluntary, and
35 confidential research and evaluation tools to measure pupils' health
36 behaviors and risks, including tests, questionnaires, and surveys
37 containing age-appropriate questions about the pupil's attitudes
38 concerning or practices relating to sex, may be administered to
39 any pupil in grades 7 to 12, inclusive. A parent or guardian has
40 the right to excuse their child from the test, questionnaire, or survey

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

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