
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 2601 **Hearing Date:** June 20, 2018
Author: Weber
Version: February 15, 2018
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Pupil instruction: sexual health education: charter schools.

SUMMARY

This bill would require charter schools to provide comprehensive sexual health education and HIV prevention education at least once in junior high or middle school and at least once in high school.

BACKGROUND

Existing law:

- 1) Requires schools operated by school districts, county boards of education, county superintendents of schools, and the California Schools for the Deaf and for the Blind, to provide comprehensive sexual health and HIV prevention instruction to all students in grades 7 to 12, at least once in middle school and once in high school. (Education Code § 51934)
- 2) Requires that this instruction include:
 - a) The nature, and transmission of HIV and other sexually transmitted infections (STIs), and the risk of infection according to specific behaviors, including sexual activities and injection drug use.
 - b) Abstinence from sexual activity and injection drug use as the only certain way to prevent HIV and other STIs, and abstinence from sexual intercourse as the only certain way to prevent unintended pregnancy.
 - c) The effectiveness of all Food and Drug Administration approved methods of preventing or reducing the risk of contracting HIV and other STIs.
 - d) Information about the effectiveness and safety of reducing the risk of HIV transmission as a result of injection drug use by decreasing needle use and needle sharing, and information about the treatment of HIV and other STIs.
 - e) Discussion about social views on HIV and AIDS.
 - f) Information about local resources, how to access local resources, and pupils' legal rights to access local resources for sexual and reproductive health care such as testing and medical care for HIV and other sexually

transmitted infections and pregnancy prevention and care, as well as local resources for assistance with sexual assault and intimate partner violence.

- g) Information about the effectiveness and safety of all Federal Food and Drug Administration (FDA)-approved contraceptive methods in preventing pregnancy. Requires instruction on pregnancy to include an objective discussion of all legally available pregnancy outcomes.
 - h) Information on the law on surrendering physical custody of a minor child 72 hours of age or younger.
 - i) Information on the importance of prenatal care.
 - j) Information about sexual harassment, sexual assault, adolescent relationship abuse, intimate partner violence, and sex trafficking. (EC § 51934)
- 3) Requires that this instruction, and related instructional materials:
- a) Be age appropriate.
 - b) Medically accurate and objective.
 - c) Appropriate for use with pupils of all races, genders, sexual orientations, and ethnic and cultural backgrounds, pupils with disabilities, and English learners.
 - d) Be made available on an equal basis to a pupil who is an English learner, consistent with the existing curriculum and alternative options for an English learner pupil.
 - e) Accessible to pupils with disabilities.
 - f) Not reflect or promote bias against any person on the basis of any protected category.
 - g) Affirmatively recognize that people have different sexual orientations and inclusive of same-sex relationships.
 - h) Pupils about gender, gender expression, gender identity, and explore the harm of negative gender stereotypes.
 - i) Encourage a pupil to communicate with his or her parents, guardians, and other trusted adults about human sexuality and provide the knowledge and skills necessary to do so.
 - j) Teach the value of and prepare pupils to have and maintain committed relationships such as marriage.

- k) Provide pupils with knowledge and skills they need to form healthy relationships that are based on mutual respect and affection, and are free from violence, coercion, and intimidation.
 - l) Pupils with knowledge and skills for making and implementing healthy decisions about sexuality, including negotiation and refusal skills to assist pupils in overcoming peer pressure and using effective decision-making skills to avoid high-risk activities.
 - m) Not teach or promote religious doctrine. (EC § 51934)
- 4) Requires that this instruction be provided by trained instructors, and requires instructors to undergo periodic continuation instruction to ensure that they are aware of the most recent findings relevant to sexual health education. (EC § 51934)
 - 5) Requires that parents or guardians be given the right to excuse their child from all or part of comprehensive sexual health and HIV prevention instruction. (EC § 51938)

ANALYSIS

This bill would require charter schools to provide comprehensive sexual health education and HIV prevention education at least once in junior high or middle school and at least once in high school.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, this bill “will amend the California Healthy Youth Act (CHYA) to define “school districts” to include charter schools (Education Code 51930). This will ensure students enrolled in California charter schools also receive instruction in comprehensive sexual health and HIV prevention education.

Existing law requires school districts—defined as “county boards of education, county superintendents of schools, the California School for the Deaf, and the California School for the Blind”—to provide comprehensive sexual health and HIV prevention education to all pupils at least once in middle school and once in high school, commencing in seventh grade. It also authorizes age-appropriate instruction below grade 7.

CHYA does not currently reach California’s significant and growing charter school student population. According to the California Department of Education (CDE), the number of California charter school students grew by 5.88% between 2013 and 2015. AB 2601 would benefit approximately 300,000 charter public school students.”

- 2) ***Study of sexual health education in charter schools in San Diego.*** A 2017 study of sexual health education in 20 San Diego charter schools (Walsh-Buhi, 2017) found that, according to principals of those schools, 85 percent had offered

sexuality education in the previous two years, but some of the content required to be taught under the California Healthy Youth Act was poorly covered. 53 percent provided instruction on birth control, 35% provided information on sexual orientation, and 29 percent provided students instruction on talking with parents about sex and relationships.

- 2) ***Sexual harassment prevalent among adolescent girls; sexual health instruction is the only mandated instruction on this topic.*** As noted in the Assembly Education Committee's analysis, "Research suggests that adolescent girls frequently experience sexual harassment. One study of adolescent girls in California and Georgia (Leaper, 2008) found that 90% of girls report experiencing sexual harassment, among other forms of abuse, and that likelihood increases with age."

The California Healthy Youth Act requires that students learn about sexual harassment, sexual assault, adolescent relationship abuse, intimate partner violence, and sex trafficking at least once in junior high school and at least once in high school. Current law also requires that instruction provide students with knowledge and skills they need to form healthy relationships that are based on mutual respect and affection, and are free from violence, coercion, and intimidation, and also requires that instruction provide information about local resources for assistance with sexual assault and intimate partner violence. The California Healthy Youth Act represents the only mandated instruction on these topics.

- 3) ***Status of comprehensive sexual health mandate implementation.*** While the mandate to provide comprehensive sexual health education has been effective since January 1, 2016, instructional materials aligned to the content required by law will not be adopted until after the Health Curriculum Framework is completed and adopted in May 2019.

In the interim, schools are required by law to provide this instruction, and school districts may look to the California Department of Education (CDE) for guidance on how to meet the requirements of the law. Although the CDE website now describes the laws regulating delivery and content for comprehensive sexual health education, the website still incorrectly states that schools are not required to provide comprehensive sexual health education. Although the department website includes a link to "Curriculum Guidance," this ultimately brings users to a now-defunct website for the California Healthy Kids Resource Center, which was once administered by the Alameda County Office of Education.

- 4) ***Timing issues for 8th and 12th graders.*** This bill would take effect January 1, 2019 and requires students to receive the required education at least once in junior high or middle school and at least once in high school. Accordingly, as of January 1, 2019, existing charter schools would be required to provide the required comprehensive sexual health education and HIV prevention education to their graduating 8th and 12th graders that have not received this education or education that meets the standards required by the bill. Such a requirement may be difficult to implement so quickly, especially for graduating 12th graders who may have specific course requirements they need to take for graduation. **Staff**

recommends that the bill be amended to take effect commencing with the 2019-20 school year in order to allow sufficient time for charter schools and students to prepare for this potential additional course.

- 5) ***Related and previous legislation.*** AB 1868 (Cunningham, 2018) expressly authorizes school districts to provide optional instruction, as part of the age-appropriate comprehensive sexual health education and HIV prevention education that school districts are required to provide, regarding the potential risks and consequences of creating and sharing sexually-suggestive or explicit materials through cell phones, social networking sites, computer networks, or other digital media. AB 1868 is pending on the Senate floor.

AB 1861 (Rodriguez, 1861) requires that students receive instruction on how social media and mobile device applications are used in human trafficking, by adding it to the content included in comprehensive sexual health education. AB 1861 is pending in the Senate Appropriations Committee.

AB 1227 (Bonta, Chapter 588, Statutes of 2017) required schools to provide training on human trafficking, and makes changes to the Commercially Sexually Exploited Children Program by, among other things, including educational entities among the groups with whom a county must collaborate.

SB 1435 (Jackson, Chapter 633, Statutes of 2016) required, when the health curriculum framework is next revised after January 1, 2017, the IQC to consider including comprehensive information for kindergarten and grades 1 to 8, inclusive, on the development of healthy relationships, as specified.

AB 329 (Weber, Chapter 398, Statues of 2015) required schools to provide comprehensive sexual health education in grades 7-12, and modified the content of instruction on sexual health education and HIV/AIDS prevention.

SUPPORT

State Superintendent of Public Instruction Tom Torlakson
 Adolescent Health Working Group
 AIDS Healthcare Foundation
 Alliance for Children's Rights
 American Academy of Pediatrics, California
 American Civil Liberties Union of California
 Asian and Pacific Islanders for LGBTQ Equality – LA
 Bay Ares Student Activists
 Black Women for Wellness
 ACT for Women and Girls
 American College of Obstetricians and Gynecologists
 American Medical Women's Association
 American Nurses Association of California
 Black Women for Wellness
 Brighter Beginnings
 Business and Professional Women of Nevada County
 California Association for Health, Physical Education, Recreation and Dance

California Association of School Health Educators
California Employment Lawyers Association
California LGBT Health and Human Services Network
California Latinas for Reproductive Justice
California Medical Association
California School Boards Association
California School Nurses Association
California State PTA
California Teachers Association
California Partnership to end Domestic Violence
California Women's Law Center
Center on Reproductive Rights and Justice at the UC Berkeley, School of Law
Citizens for Choice
Commission on the Status of Women
Common Sense Kids Action
Community Action Fund of Planned Parenthood of Orange & San Bernardino Counties
Equality California
Equal Justice Society
Equal Rights Advocates
Essential Access Health
Feminist Majority
Forward Together
Free Speech Coalition
Fresno Barrios Unidos
Genders and Sexualities Alliance Network
Health Connected
Health Initiatives for Youth
Khmer Girls in Action
LGBTQ Center of Long Beach
Latino Coalition for a Healthy California
Los Angeles LGBT Center
Los Angeles Trust for Children's Health
Mi Familia Vota
More Than Sex-Ed
Mujeres Unidas y Activas
NARAL Pro-Choice California
National Association of Social Workers – California Chapter
National Center for Lesbian Rights
National Center for Youth Law
National Council of Jewish Women, California
North County LGBTQ Resource Center
Orange County Women's Health Project
Our Family Coalition
Physicians for Reproductive Health
Planned Parenthood Advocates Pasadena and San Gabriel Valley
Planned Parenthood Affiliates of California
Public Counsel
Public Health Justice Collective
San Diego LGBT Community Center
San Francisco Community Health Center

San Francisco Lesbian Gay Bisexual Transgender Community Center
Services, Immigrant Rights, and Education Network
South Asian Network
The Stronger California Advocates Network
Trans Family Support Services
Women's Foundation California
Women Lawyers of Sacramento
Several Individuals

OPPOSITION

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