

AMENDED IN ASSEMBLY APRIL 13, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 329

Introduced by Assembly Member Weber

February 13, 2015

An act to amend Sections 51930, 51931, 51932, 51933, 51934, 51935, 51936, 51937, 51938, and 51939 of, to amend the heading of Article 2 (commencing with Section 51933) of Chapter 5.6 of, to amend the heading of Chapter 5.6 (commencing with Section 51930) of, to amend and renumber the heading of Article 4 (commencing with Section 51935) and *the heading of* Article 5 (commencing with Section 51937) of Chapter 5.6 of, and to repeal the heading of Article 3 (commencing with Section 51934) of Chapter 5.6 of, Part 28 of Division 4 of Title 2 of, the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

AB 329, as amended, Weber. Pupil instruction: sexual health education.

(1) Existing law, the California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act, authorizes school districts to provide comprehensive sexual health education, consisting of age-appropriate instruction, in any of kindergarten and grades 1 to 12, inclusive, and requires school districts to ensure that all pupils in grades 7 to 12, inclusive, receive HIV/AIDS prevention education, as specified.

This bill would revise and recast these provisions to, among other things, integrate the instruction of comprehensive sexual health education and HIV prevention education. The bill would rename the

California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act the California Healthy Youth Act. The bill would specify additional purposes of the act. The bill would instead require school districts to ensure that all pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education and HIV prevention education, as specified. By imposing additional requirements on school districts, this bill would impose a state-mandated local program.

(2) Existing law provides that these provisions do not apply to instruction or materials that discuss gender, sexual orientation, or family life and do not discuss human reproductive organs and their functions.

This bill would instead provide that these provisions do not apply to instruction, materials, presentations, or programming that discuss gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family and do not discuss human reproductive organs and their functions.

(3) This bill would also make conforming changes.

(4) 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 these statutory provisions.

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. The heading of Chapter 5.6 (commencing with
2 Section 51930) of Part 28 of Division 4 of Title 2 of the Education
3 Code is amended to read:

4

5 CHAPTER 5.6. CALIFORNIA HEALTHY YOUTH ACT

6

7 SEC. 2. Section 51930 of the Education Code is amended to
8 read:

9 51930. (a) This chapter shall be known, and may be cited, as
10 the California Healthy Youth Act.

11 (b) The purposes of this chapter are as follows:

1 (1) To provide pupils with the knowledge and skills necessary
2 to protect their sexual and reproductive health from HIV and other
3 sexually transmitted infections and from unintended pregnancy.

4 (2) To provide pupils with the knowledge and skills they need
5 to develop healthy attitudes concerning adolescent growth and
6 development, body image, gender, sexual orientation, relationships,
7 marriage, and family.

8 (3) To promote understanding of sexuality as a normal part of
9 human development.

10 (4) To ensure pupils receive integrated, comprehensive, accurate,
11 and unbiased sexual health and HIV prevention instruction and
12 provide educators with clear tools and guidance to accomplish that
13 end.

14 (5) To provide pupils with the knowledge and skills necessary
15 to have healthy, positive, and safe relationships and behaviors.

16 SEC. 3. Section 51931 of the Education Code is amended to
17 read:

18 51931. For the purposes of this chapter, the following
19 definitions apply:

20 (a) “Age appropriate” refers to topics, messages, and teaching
21 methods suitable to particular ages or age groups of children and
22 adolescents, based on developing cognitive, emotional, and
23 behavioral capacity typical for the age or age group.

24 (b) “Comprehensive sexual health education” means education
25 regarding human development and sexuality, including education
26 on pregnancy, contraception, and sexually transmitted infections.

27 (c) “English learner” means a pupil as described in subdivision
28 (a) of Section 306.

29 (d) “HIV prevention education” means instruction on the nature
30 of HIV and AIDS, methods of transmission, strategies to reduce
31 the risk of human immunodeficiency virus (HIV) infection, and
32 social and public health issues related to HIV and AIDS.

33 (e) “Instructors trained in the appropriate courses” means
34 instructors with knowledge of the most recent medically accurate
35 research on human sexuality, healthy relationships, pregnancy,
36 and HIV and other sexually transmitted infections.

37 (f) “Medically accurate” means verified or supported by research
38 conducted in compliance with scientific methods and published
39 in peer-reviewed journals, where appropriate, and recognized as
40 accurate and objective by professional organizations and agencies

1 with expertise in the relevant field, such as the federal Centers for
2 Disease Control and Prevention, the American Public Health
3 Association, the American Academy of Pediatrics, and the
4 American College of Obstetricians and Gynecologists.

5 (g) “School district” includes county boards of education, county
6 superintendents of schools, the California School for the Deaf, and
7 the California School for the Blind.

8 SEC. 4. Section 51932 of the Education Code is amended to
9 read:

10 51932. (a) This chapter does not apply to description or
11 illustration of human reproductive organs that may appear in a
12 textbook, adopted pursuant to law, on physiology, biology,
13 zoology, general science, personal hygiene, or health.

14 (b) This chapter does not apply to instruction, materials,
15 presentations, or programming that discuss gender, gender identity,
16 gender expression, sexual orientation, discrimination, harassment,
17 bullying, intimidation, relationships, or family and do not discuss
18 human reproductive organs and their functions.

19 SEC. 5. The heading of Article 2 (commencing with Section
20 51933) of Chapter 5.6 of Part 28 of Division 4 of Title 2 of the
21 Education Code is amended to read:

22
23 Article 2. Required Comprehensive Sexual Health Education
24 and HIV Prevention Education
25

26 SEC. 6. Section 51933 of the Education Code is amended to
27 read:

28 51933. All comprehensive sexual health education and HIV
29 prevention education pursuant to Section 51934, whether taught
30 or supplemented by school district personnel or by outside
31 consultants or guest speakers pursuant to Section 51936, shall
32 satisfy all of the following criteria:

33 (a) Instruction and materials shall be age appropriate.

34 (b) All factual information presented shall be medically accurate
35 and objective.

36 (c) All instruction and materials shall align with and support
37 the purposes of this chapter as set forth in paragraphs (1) to (5),
38 inclusive, of subdivision (b) of Section 51930 and may not be in
39 conflict with them.

1 (d) (1) Instruction and materials shall be appropriate for use
2 with pupils of all races, genders, sexual orientations, and ethnic
3 and cultural backgrounds, pupils with disabilities, and English
4 learners.

5 (2) Instruction and materials shall be made available on an equal
6 basis to a pupil who is an English learner, consistent with the
7 existing curriculum and alternative options for an English learner
8 pupil as otherwise provided in this code.

9 (3) Instruction and materials shall be accessible to pupils with
10 disabilities, including, but not limited to, the provision of a
11 modified curriculum, materials and instruction in alternative
12 formats, and auxiliary aids.

13 (4) Instruction and materials shall not reflect or promote bias
14 against any person on the basis of any category protected by
15 Section 220.

16 (5) Instruction and materials shall affirmatively recognize that
17 people have different sexual orientations and, when discussing or
18 providing examples of relationships and couples, shall be inclusive
19 of same-sex relationships.

20 (6) Instruction and materials shall teach pupils about gender,
21 gender expression, gender identity, and explore the harm of
22 negative gender stereotypes.

23 (e) Instruction and materials shall encourage a pupil to
24 communicate with his or her parents, guardians, and other trusted
25 adults about human sexuality and provide the knowledge and skills
26 necessary to do so.

27 (f) Instruction and materials shall teach the value of and prepare
28 pupils to have and maintain committed relationships such as
29 marriage.

30 (g) Instruction and materials shall provide pupils with knowledge
31 and skills they need to form healthy relationships that are based
32 on mutual respect and affection, and are free from violence,
33 coercion, and intimidation.

34 (h) Instruction and materials shall provide pupils with knowledge
35 and skills for making and implementing healthy decisions about
36 sexuality, including negotiation and refusal skills to assist pupils
37 in overcoming peer pressure and using effective decisionmaking
38 skills to avoid high-risk activities.

39 (i) Instruction and materials may not teach or promote religious
40 doctrine.

SEC. 7. The heading of Article 3 (commencing with Section 51934) of Chapter 5.6 of Part 28 of Division 4 of Title 2 of the Education Code is repealed.

SEC. 8. Section 51934 of the Education Code is amended to read:

51934. (a) Each school district shall ensure that all pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education and HIV prevention education from instructors trained in the appropriate courses. Each pupil shall receive this instruction at least once in junior high or middle school and at least once in high school. This instruction shall include all of the following:

(1) Information on the nature of HIV, as well as other sexually transmitted infections, and their effects on the human body.

(2) Information on the manner in which HIV and other sexually transmitted infections are and are not transmitted, including information on the relative risk of infection according to specific behaviors, including sexual activities and injection drug use.

(3) Information that abstinence from sexual activity and injection drug use is the only certain way to prevent HIV and other sexually transmitted infections and abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy. Instruction shall provide information about the value of delaying sexual activity while also providing medically accurate information on other methods of preventing HIV and other sexually transmitted infections and pregnancy.

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

(5) 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.

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

(7) Discussion about social views on HIV and AIDS, including addressing unfounded stereotypes and myths regarding HIV and

1 AIDS and people living with HIV. This instruction shall emphasize
2 that successfully treated HIV-positive individuals have a normal
3 life expectancy, all people are at some risk of contracting HIV,
4 and the only way to know if one is HIV-positive is to get tested.

5 (8) Information about local resources, how to access local
6 resources, and pupils' legal rights to access local resources for
7 sexual and reproductive health care such as testing and medical
8 care for HIV and other sexually transmitted infections and
9 pregnancy prevention and care, as well as local resources for
10 assistance with sexual assault and intimate partner violence.

11 (9) Information about the effectiveness and safety of all
12 FDA-approved contraceptive methods in preventing pregnancy,
13 including, but not limited to, emergency contraception. Instruction
14 on pregnancy shall include an objective discussion of all legally
15 available pregnancy outcomes, including, but not limited to, all of
16 the following:

17 (A) Parenting, adoption, and abortion.

18 (B) Information on the law on surrendering physical custody
19 of a minor child 72 hours of age or younger, pursuant to Section
20 1255.7 of the Health and Safety Code and Section 271.5 of the
21 Penal Code.

22 (C) The importance of prenatal care.

23 (10) Information about sexual harassment, sexual assault,
24 adolescent relationship abuse, intimate partner violence, and sex
25 trafficking.

26 (b) A school district may provide comprehensive sexual health
27 education or HIV prevention education consisting of
28 age-appropriate instruction earlier than grade ~~7, inclusive, 7~~ using
29 instructors trained in the appropriate courses. A school district that
30 elects to offer comprehensive sexual health education or HIV
31 prevention education earlier than grade 7 may provide age
32 appropriate and medically accurate information on any of the
33 general topics contained in paragraphs (1) to (10), inclusive, of
34 subdivision (a).

35 SEC. 9. The heading of Article 4 (commencing with Section
36 51935) of Chapter 5.6 of Part 28 of Division 4 of Title 2 of the
37 Education Code is amended and renumbered to read:

38
39 Article 3. In-Service Training
40

SEC. 10. Section 51935 of the Education Code is amended to read:

51935. (a) A school district shall cooperatively plan and conduct in-service training for all school district personnel that provide comprehensive sexual health education and HIV prevention education, through regional planning, joint powers agreements, or contract services.

(b) In developing and providing in-service training, a school district shall cooperate and collaborate with the teachers of the district who provide comprehensive sexual health education and HIV prevention education and with the department.

(c) In-service training shall be conducted periodically to enable school district personnel to learn new developments in the scientific understanding of sexual health, HIV, and other sexually transmitted infections. In-service training shall be voluntary for school district personnel who have demonstrated expertise or received in-service training from the department or federal Centers for Disease Control and Prevention.

SEC. 11. Section 51936 of the Education Code is amended to read:

51936. School districts may contract with outside consultants or guest speakers, including those who have developed multilingual curricula or curricula accessible to persons with disabilities, to deliver comprehensive sexual health education and HIV prevention education or to provide training for school district personnel. All outside consultants and guest speakers shall have expertise in comprehensive sexual health education and HIV prevention education and have knowledge of the most recent medically accurate research on the relevant topic or topics covered in their instruction.

SEC. 12. The heading of Article 5 (commencing with Section 51937) of Chapter 5.6 of Part 28 of Division 4 of Title 2 of the Education Code is amended and renumbered to read:

Article 4. Notice and Parental Excuse

SEC. 13. Section 51937 of the Education Code is amended to read:

51937. It is the intent of the Legislature to encourage pupils to communicate with their parents or guardians about human

1 sexuality and HIV and to respect the rights of parents or guardians
2 to supervise their children's education on these subjects. The
3 Legislature intends to create a streamlined process to make it easier
4 for parents and guardians to review materials and evaluation tools
5 related to comprehensive sexual health education and HIV
6 prevention education, and, if they wish, to excuse their children
7 from participation in all or part of that instruction or evaluation.
8 The Legislature recognizes that while parents and guardians
9 overwhelmingly support medically accurate, comprehensive sex
10 education, parents and guardians have the ultimate responsibility
11 for imparting values regarding human sexuality to their children.

12 SEC. 14. Section 51938 of the Education Code is amended to
13 read:

14 51938. (a) A parent or guardian of a pupil has the right to
15 excuse their child from all or part of comprehensive sexual health
16 education, HIV prevention education, and assessments related to
17 that education through a passive consent ("opt-out") process. A
18 school district shall not require active parental consent ("opt-in")
19 for ~~HIV prevention education and comprehensive sexual health~~
20 ~~education.~~ *education and HIV prevention education.*

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

28 (1) Advise the parent or guardian that written and audiovisual
29 educational materials used in comprehensive sexual health
30 education and HIV prevention education are available for
31 inspection.

32 (2) Advise the parent or guardian whether the comprehensive
33 sexual health education or HIV prevention education will be taught
34 by school district personnel or by outside consultants. A school
35 district may provide comprehensive sexual health education or
36 HIV prevention education, to be taught by outside consultants,
37 and may hold an assembly to deliver comprehensive sexual health
38 education or HIV prevention education by guest speakers, but if
39 it elects to provide comprehensive sexual health education or HIV
40 prevention education in either of these manners, the notice shall

1 include the date of the instruction, the name of the organization
2 or affiliation of each guest speaker, and information stating the
3 right of the parent or guardian to request a copy of this section,
4 Section 51933, and Section 51934. If arrangements for this
5 instruction are made after the beginning of the school year, notice
6 shall be made by mail or another commonly used method of
7 notification, no fewer than 14 days before the instruction is
8 delivered.

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

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

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

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

35 SEC. 15. Section 51939 of the Education Code is amended to
36 read:

37 51939. (a) A pupil may not attend any class in comprehensive
38 sexual health education or HIV prevention education, or participate
39 in any anonymous, voluntary, and confidential test, questionnaire,
40 or survey on pupil health behaviors and risks, if the school has

1 received a written request from the pupil's parent or guardian
2 excusing the pupil from participation.

3 (b) A pupil may not be subject to disciplinary action, academic
4 penalty, or other sanction if the pupil's parent or guardian declines
5 to permit the pupil to receive comprehensive sexual health
6 education or HIV prevention education or to participate in
7 anonymous, voluntary, and confidential tests, questionnaires, or
8 surveys on pupil health behaviors and risks.

9 (c) While comprehensive sexual health education, HIV
10 prevention education, or anonymous, voluntary, and confidential
11 test, questionnaire, or survey on pupil health behaviors and risks
12 is being administered, an alternative educational activity shall be
13 made available to pupils whose parents or guardians have requested
14 that they not receive the instruction or participate in the test,
15 questionnaire, or survey.

16 SEC. 16. If the Commission on State Mandates determines
17 that this act contains costs mandated by the state, reimbursement
18 to 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.