

CSBA Sample Board Policy

Instruction

BP 6142.1(a)

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION

Note: The following policy and accompanying administrative regulation are **optional**. Education Code 51934 requires districts to provide HIV/AIDS prevention instruction to students in grades 7-12. Pursuant to Education Code 51933, districts are not required to provide comprehensive sexual health education; however, if such instruction is provided, it must satisfy all of the criteria listed in Education Code 51933. See the accompanying administrative regulation.

During the Categorical Program Monitoring (CPM) review, California Department of Education (CDE) staff will review the district's policies and procedures regarding HIV/AIDS instruction. The following paragraph reflects the purposes of the law as stated in Education Code 51930, as well as the desired outcomes of the CPM review.

The Governing Board recognizes that the purpose of the district's sexual health and HIV/AIDS prevention instruction is to provide students with the knowledge and skills necessary to protect them from unintended pregnancy and sexually transmitted diseases and to encourage students to develop healthy attitudes concerning adolescent growth and development, body image, gender roles, sexual orientation, dating, marriage, and family. The Board therefore desires to provide a well-planned sequence of instruction on comprehensive sexual health and HIV/AIDS prevention.

(cf. 5030 - Student Wellness)

(cf. 6142.8 - Comprehensive Health Education)

Note: In 2008, the State Board of Education adopted voluntary content standards for health education as required by Education Code 51210.8. One of the six content areas is growth, development, and sexual health. See BP/AR 6142.8 - Comprehensive Health Education.

The district's curriculum shall be aligned with the state's content standards, based on medically accurate and factual information, and designed to teach students to make healthy choices and reduce high-risk behaviors. The district's program shall comply with the requirements of law, Board policy, and administrative regulation and shall respect the rights of parents/guardians to supervise their children's education on these subjects and to impart values regarding human sexuality to their children.

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.25 - Availability of Condoms)

(cf. 5146 - Married/Pregnant/Parenting Students)

(cf. 6143 - Courses of Study)

Note: The following paragraph is **optional** and should be revised to reflect district practice.

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

The Superintendent or designee may appoint a coordinator and/or an advisory committee regarding the district's comprehensive sexual health program. The advisory committee shall represent a divergence of viewpoints and may participate in planning, implementing, and evaluating the district's comprehensive sexual health education program. The Board shall consider the advisory committee's recommendations when approving the district's program.

(cf. 1220 - Citizen Advisory Committees)

Parent/Guardian Consent

Note: Prior to providing instruction in sexual health or HIV/AIDS prevention, Education Code 51938 requires districts to notify parents/guardians of the instruction and of the opportunity to request that their child not receive the instruction. See the accompanying administrative regulation for details of the required notice.

According to the CDE, Education Code 51938 requires districts to use a "passive consent" or "opt-out" model regarding HIV/AIDS prevention instruction, whereby the student receives the instruction unless the parent/guardian otherwise notifies the district. However, according to the CDE, districts may choose to use an "active consent" or "opt-in" model regarding comprehensive sexual health instruction, whereby the parent/guardian must first give affirmative consent before his/her child receives sexual health instruction. Districts that wish to adopt an active consent/opt-in model for sexual health instruction should modify the following paragraph accordingly.

A parent/guardian may request in writing that his/her child be excused from participating in HIV/AIDS prevention or sexual health education. Students so excused by their parents/guardians shall be given an alternative educational activity. (Education Code 51240, 51939)

(cf. 5022 - Student and Family Privacy Rights)

A student shall not be subject to disciplinary action, academic penalty, or other sanction if the student's parent/guardian declines to permit the student to receive the instruction. (Education Code 51939)

Note: Pursuant to Education Code 51938 and 51513, the district may administer to students in grades 7-12 an anonymous, voluntary survey regarding sexual behaviors upon providing written parent/guardian notification and allowing parents/guardians to request in writing that the survey not be administered (i.e., "passive consent"). Parents/guardians of students below grade 7 must give permission (i.e., "active consent") before the research instrument is administered to their child. In addition, 20 USC 1232h mandates districts to adopt a policy regarding the district's arrangements to protect student privacy when such a survey is administered. See BP/AR 5022 - Student and Family Privacy Rights for language implementing this requirement.

Legal Reference: (see next page)

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

Legal Reference:

EDUCATION CODE

220 Prohibition of discrimination

48980 Notice at beginning of term

51202 Instruction in personal and public health and safety

51210.8 Health education curriculum

51240 Excuse from instruction due to religious beliefs

51513 Materials containing questions about beliefs or practices

51930-51939 Comprehensive Sexual Health and HIV/AIDS Prevention Education Act

HEALTH AND SAFETY CODE

1255.7 Parents surrendering physical custody of a baby

PENAL CODE

243.4 Sexual battery

261.5 Unlawful sexual intercourse

271.5 Parents voluntarily surrendering custody of a baby

UNITED STATES CODE, TITLE 20

1232h Protection of student rights

7906 Sex education

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Health Education Content Standards for California Public Schools, Kindergarten Through Grade 12, 2008

Health Framework for California Public Schools: Kindergarten through Grade 12, 2003

WEB SITES

CSBA: <http://www.csba.org>

American Academy of Pediatrics: <http://www.aap.org>

American College of Obstetricians and Gynecologists: <http://www.acog.org>

American Public Health Association: <http://www.apha.org>

California Department of Education, Sex Education and HIV/STD Instruction:
<http://www.cde.ca.gov/ls/he/se>

California Department of Public Health: <http://www.cdph.ca.gov>

California Healthy Kids Resource Center: <http://www.californiahealthykids.org>

California Safe Schools Coalition: <http://www.casafeschools.org>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

National Academy of Sciences: <http://www.nationalacademies.org>

U.S. Department of Health and Human Services, Office of the Surgeon General:
<http://www.surgeongeneral.gov>

U.S. Food and Drug Administration: <http://www.fda.gov>

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Policy Reference UPDATE Service

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CSBA Sample Administrative Regulation

Instruction

AR 6142.1(a)

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION

Note: The following administrative regulation is **optional**. Education Code 51934 requires districts to provide HIV/AIDS prevention instruction to students in grades 7-12. Pursuant to Education Code 51933, districts are not required to provide comprehensive sexual health education; however, if such instruction is provided, it must contain all of the components listed in Education Code 51933.

Instruction and Materials

Note: The following section lists the requirements of Education Code 51933 and 51934 that are applicable to both HIV/AIDS prevention and sexual health instruction. Districts that do not offer comprehensive sexual health instruction should delete references to that program. During the Categorical Program Monitoring (CPM) process, California Department of Education (CDE) staff will check to see if the district's HIV/AIDS prevention instruction and materials comply with items #1-7 below.

The Superintendent or designee shall ensure that the district's sexual health and HIV/AIDS prevention instruction and materials are: (Education Code 51933, 51934):

1. Age appropriate

Age appropriate refers to topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.

2. Factually and medically accurate and objective

Medically accurate means verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists.

3. Available on an equal basis to a student who is an English learner, consistent with the existing curriculum and alternative options for an English learner, as otherwise provided in the Education Code

(cf. 6174 - Education for English Language Learners)

4. Appropriate for use with students of all races, genders, sexual orientations, and ethnic and cultural backgrounds, and students with disabilities

(cf. 0410 - Nondiscrimination in District Programs and Activities)

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

(cf. 1312.3 - Uniform Complaint Procedures)

5. Accessible to students with disabilities, including, but not limited to, the provision of a modified curriculum, materials, and instruction in alternative formats and auxiliary aids
6. Not teaching or promoting religious doctrine
7. Not reflecting bias or promoting prejudice against students in protected categories of discrimination pursuant to Education Code 220

(cf. 5145. 3 - Nondiscrimination/Harassment)

Note: Education Code 51931 defines "HIV/AIDS prevention instruction" as instruction on the nature of HIV/AIDS, methods of transmission, strategies to reduce the risk of HIV infection, and social and public health issues related to HIV/AIDS. Education Code 51931 defines "comprehensive sexual health instruction" as education regarding human development and sexuality, including education on pregnancy, family planning, and sexually transmitted diseases. Education Code 51932 specifies that, when human reproductive organs are described in a separate instructional context, such as an illustration in a physiology textbook, this instruction shall not be considered comprehensive sexual health instruction or HIV/AIDS prevention instruction. Similarly, when gender, sexual orientation, and family life are addressed in a separate instructional context, such as social studies, which does not also discuss human reproductive organs and their function, this instruction shall not be considered comprehensive sexual health instruction or HIV/AIDS prevention instruction. Education Code 51930-51939 requirements pertaining to instructional content, teacher training, and parental notification and consent do not apply to instruction that is not sexual health instruction or HIV/AIDS prevention instruction as defined.

Other district courses that may include subject matter related to that which is presented in either HIV/AIDS prevention or comprehensive sexual health instruction, shall not be subject to the requirements of Education Code 51930-51939 pertaining to instructional content, teacher training, and parental notification and consent, if such courses contain: (Education Code 51932)

1. Solely a description or illustration of human reproductive organs that may appear in a textbook adopted pursuant to law on physiology, biology, zoology, general science, personal hygiene, or health

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6142.93 - Science Instruction)

2. Instruction or materials that discuss gender, sexual orientation, or family life and do not discuss human reproductive organs and their function

(cf. 6143 - Courses of Study)

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)**Additional Requirements for HIV/AIDS Prevention Instruction**

HIV/AIDS prevention instruction shall be offered at least once in junior high or middle school and once in high school. (Education Code 51934)

Note: Education Code 51934 requires districts to provide HIV/AIDS prevention instruction to students in grades 7-12. In addition to items #1-7 listed in the section entitled "Instruction and Materials" above, during the CPM process, CDE staff will check to ensure that the district's instruction includes all of the components listed in items #1-7 below.

Instruction shall accurately reflect the latest information and recommendations from the United States Surgeon General, the federal Centers for Disease Control and Prevention, and the National Academy of Sciences. The district's curriculum shall satisfy the criteria listed in items #1-7 in the section entitled "Instruction and Materials" above and shall also include: (Education Code 51931, 51934)

1. Information on the nature of HIV/AIDS and its effects on the human body
2. Information on the manner in which HIV is and is not transmitted, including information on activities that present the highest risk of HIV infection
3. Discussion of methods to reduce the risk of HIV infection, including:
 - a. Emphasis that sexual abstinence, monogamy, the avoidance of multiple sexual partners, and abstinence from intravenous drug use are the most effective means for HIV/AIDS prevention
 - b. Statistics based upon the latest medical information citing the failure and success rates of condoms and other contraceptives in preventing sexually transmitted HIV infection
 - c. Information on other methods that may reduce the risk of HIV transmission from intravenous drug use
4. Discussion of the public health issues associated with HIV/AIDS
5. Information on local resources for HIV testing and medical care
6. Development of refusal skills to assist students in overcoming peer pressure and using effective decision-making skills to avoid high-risk activities
7. Discussion about societal views on HIV/AIDS, including stereotypes and myths

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

regarding persons with HIV/AIDS and emphasizing compassion for persons living with HIV/AIDS

Additional Requirements for Sexual Health Instruction

Note: Education Code 51933 specifies that, if a district elects to provide sexual health instruction, the instruction must comply with all of the criteria specified below as well as items #1-7 in the section entitled "Instruction and Materials" above. The following **optional** section is for use by districts that provide sexual health instruction and should be deleted by districts that do not offer such curriculum.

The district's sexual health education curriculum shall satisfy the criteria listed in items #1-7 in the section entitled "Instruction and Materials" above as well as the following criteria: (Education Code 51931, 51933)

1. Instruction and materials shall encourage a student to communicate with his/her parents/guardians about human sexuality.
2. Instruction and materials shall teach respect for marriage and committed relationships.

Note: Pursuant to Education Code 51933, a district's sexual health education program for students in grades 7-12 must also include the criteria listed in items #3-7 below. At their discretion, districts offering sexual health instruction for students in grades 1-6 may also offer medically accurate and age-appropriate instruction on any of the general topics listed in items #3-7 below.

3. Beginning in grade 7, instruction and materials shall teach that abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy, teach that abstinence from sexual activity is the only certain way to prevent sexually transmitted diseases, and provide information about the value of abstinence while also providing medically accurate information on other methods of preventing pregnancy and sexually transmitted diseases.
4. Beginning in grade 7, instruction and materials shall provide information about sexually transmitted diseases. This instruction shall include how sexually transmitted diseases are and are not transmitted, the effectiveness and safety of all federal Food and Drug Administration (FDA) approved methods of reducing the risk of contracting sexually transmitted diseases, and information on local resources for testing and medical care for sexually transmitted diseases.
5. Beginning in grade 7, instruction and materials shall provide information about the effectiveness and safety of all FDA-approved contraceptive methods in preventing pregnancy, including, but not limited to, emergency contraception.

(cf. 5141.25 - Availability of Condoms)

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

6. Beginning in grade 7, instruction and materials shall provide students with skills for making and implementing responsible decisions about sexual conduct.

(cf. 5146 - Married/Pregnant/Parenting Students)

7. Beginning in grade 7, instruction and materials shall provide students with information on the law concerning surrendering physical custody of a minor child 72 hours or younger, pursuant to Health and Safety Code 1255.7 and Penal Code 271.5.

(cf. 6143 - Courses of Study)

Professional Development

The district's instruction shall be provided by instructors trained in the appropriate courses who are knowledgeable of the most recent medically accurate research on human sexuality, pregnancy, and sexually transmitted diseases. (Education Code 51932, 51933, 51934)

Note: During the CPM process, CDE staff will check to ensure that the district has provided professional development in accordance with the requirements of Education Code 51935 as specified below.

The Superintendent or designee shall cooperatively plan and conduct in-service training for all district personnel who provide HIV/AIDS prevention education, through regional planning, joint powers agreements, or contract services. (Education Code 51935)

(cf. 4131 - Staff Development)

In developing and providing in-service training, the Superintendent or designee shall cooperate and collaborate with the teachers who provide HIV/AIDS prevention education and with the California Department of Education (CDE). (Education Code 51935)

The district shall periodically conduct in-service training to enable district personnel to learn new developments in the scientific understanding of HIV/AIDS. In-service training shall be voluntary for district personnel who have demonstrated expertise or received in-service training from the CDE or federal Centers for Disease Control and Prevention. (Education Code 51935)

Note: The following **optional** paragraph is for use by districts that choose to offer in-service training for instructors of sexual health education.

The Superintendent or designee may expand HIV/AIDS in-service training to cover the topic of comprehensive sexual health education for district personnel teaching sexual health education to learn new developments in the scientific understanding of sexual health. (Education Code 51935)

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

Use of Consultants or Guest Speakers

Note: Pursuant to Education Code 51933 and 51934, the district's HIV/AIDS prevention or sexual health instruction may be taught by outside consultants or delivered by guest speakers at an assembly and any such instruction must comply with the same requirements as instruction provided by the district and in accordance with Education Code 51930-51939.

If the district elects to use guest speakers, parents/guardians must be provided additional notice about the speaker and his/her organization; see item #4 in the section below entitled "Parent/Guardian Notification."

The Superintendent or designee may contract with outside consultants with expertise in comprehensive sexual health or HIV/AIDS prevention education, including those who have developed multilingual curricula or curricula accessible to persons with disabilities, to deliver the instruction or to provide training for district personnel. The Superintendent or designee shall ensure that any instruction provided by an outside speaker or consultant complies with Board policy, administrative regulation, and Education Code 51930-51939. (Education Code 51933, 51934, 51936)

(cf. 6145.8 - Assemblies and Special Events)

Parent/Guardian Notification

Note: Education Code 51938 requires the district to provide parents/guardians the following notification. During the CPM review, the CDE will check to ensure that the notification was provided and contains the information required by Education Code 51938, as listed in items #1-4 below. A sample notification letter is available on the CDE's web site. Districts that do not offer curriculum in sexual health education should delete references to that program.

At the beginning of each school year, or at the time of a student's enrollment, parents/guardians shall be notified about instruction in comprehensive sexual health education and HIV/AIDS prevention education, as well as research on student health behaviors and risks, planned for the coming year. The notice shall advise parents/guardians: (Education Code 48980, 51938)

1. That written and audiovisual educational materials to be used in comprehensive sexual health and HIV/AIDS prevention education are available for inspection
2. That parents/guardians may request in writing that their child not receive comprehensive sexual health or HIV/AIDS prevention education
3. That parents/guardians have a right to request a copy of Education Code 51930-51939
4. Whether the comprehensive sexual health or HIV/AIDS prevention education will be taught by district personnel or outside consultants

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

If the district chooses to use outside consultants or to hold an assembly with guest speakers to teach the comprehensive sexual health or HIV/AIDS prevention education, the notification shall include: (Education Code 51938)

- a. The date of the instruction
- b. The name of the organization or affiliation of each guest speaker
- c. Information stating the right of the parent/guardian to request a copy of Education Code 51933-51934

If the arrangements for instruction by outside consultants or guest speakers are made after the beginning of the school year, the district shall notify parents/guardians by mail or another commonly used method of notification no fewer than 14 days before the instruction is given. (Education Code 51938)

(cf. 5145.6 - Parental Notifications)

Note: The following paragraph is **optional** and should be modified to reflect district practice. For information regarding parent/guardian consent for the instruction, see the section entitled "Parent/Guardian Consent" in the accompanying Board policy.

Parents/guardians shall be asked to sign and return to the school an acknowledgment that they have received the notification. If a parent/guardian wishes to excuse his/her child from instruction, he/she must provide a separate written request, as specified in Board policy.

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