

Overview of SB 71

California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act

Senate Bill 71 was signed into law October 1, 2003 and becomes effective January 1, 2004. This legislation unifies sex education and HIV/AIDS prevention statutes by replacing 11 separate laws scattered throughout the *Education Code* relating to sex education and HIV/AIDS prevention with one new chapter that covers all requirements relating to both. The following provides an overview of the new laws, which can be accessed directly by going to <http://www.leginfo.ca.gov>.

Chapter 5.6 CALIFORNIA COMPREHENSIVE SEXUAL HEALTH AND HIV/AIDS PREVENTION EDUCATION ACT

Article 1. *Education Code* sections 51930, 51931, 51932

Explains the purposes of this chapter as follows:

1. To provide a pupil with the knowledge and skills necessary to protect his or her sexual and reproductive health from unintended pregnancy and sexually transmitted diseases.
2. To encourage a pupil to develop healthy attitudes concerning adolescent growth and development, body image, gender roles, sexual orientation, dating, marriage, and family.

Also gives definitions for:

- age appropriate
- comprehensive sexual health education
- English learner
- HIV/AIDS prevention education
- trained instructors
- medically accurate
- school district

Article 2. *Education Code* Section 51933—Comprehensive Sexual Health Education

The provision of sex education is still optional. Much of the language from prior education codes is retained. If a district chooses to provide sex education, it must commence by 7th grade and must be age appropriate, factual, medically accurate, and objective. Instruction shall also:

- be available to English learners
- be appropriate to pupils of all races, genders, sexual orientations, ethnic and cultural backgrounds, and pupils with disabilities
- encourage pupils to communicate with parents/guardians about human sexuality
- teach respect for marriage and committed relationships
- stress abstinence and provide information on the value of abstinence while also providing information on other methods of preventing pregnancy and STDs

- provide information on sexually transmitted diseases including FDA-approved methods of reducing the risk and local resources for testing and medical care
- provide information on the effectiveness and safety of all FDA-approved contraceptive methods in preventing pregnancy, including emergency contraception
- provide pupils with skills for making and implementing responsible decisions
- provide information on the law on surrendering physical custody of a minor child 72 hours or younger
- not teach or promote religious doctrine
- not reflect or promote bias against any person

This section eliminates:

- materials and instruction on the possible emotional and psychological consequences of sex outside of marriage and consequences of unwanted pregnancy
- materials and instruction that stress abstinence until marriage
- materials and instruction on laws pertaining to financial responsibility for children born out of wedlock
- materials and instruction that advise students about unlawful sexual relations with males or females under 18 to whom they are not married
- materials and instruction that emphasize control of personal behavior
- materials and instruction on how to avoid unwanted physical and verbal sexual advances and how to say “no”

Article 3. *Education Code* Section 51934—HIV/AIDS Prevention Education

The provision of HIV/AIDS instruction is still required. This section retains most of the language in prior *Education Code* Section 51201.5. Most importantly, it clarifies that HIV/AIDS instruction must align with *Education Code* Section 51933—Comprehensive Sexual Health Education—criteria 1 through 6 in part (b) and criteria 1 and 2 in part (d).

This section eliminates:

- requirements to notify parents when providing HIV/AIDS instruction and when guest speakers are used in the classroom. Parent notification language is moved to Article 5.

Article 4. *Education Code* sections 51935, 51936—In-Service Training

School districts are still required to provide in-service training for all school district personnel delivering HIV/AIDS instruction. Although the new section does not specifically require that school districts plan and conduct in-service training with county offices of education, the Department of Education highly encourages this collaboration.

Although not required, this *Education Code* section allows for the expansion of HIV/AIDS instruction to include training for comprehensive sexual health education.

Education Code Section 51936 also specifically allows for contracting with outside consultants with expertise in comprehensive sexual health and/or HIV/AIDS, including

those who have developed multilingual curricula or curricula accessible to persons with disabilities to deliver instruction or provide training to school district personnel.

Article 5. *Education Code* sections 51937, 51938—Notice and Parental Excuse

Many of the parent notification requirements from the prior sex education and HIV/AIDS instruction codes have been retained and moved to this section. *Education Code* Section 51938 retains a parent's right to excuse their child from all or part of comprehensive sexual health education or HIV/AIDS instruction and any assessments related to that education. Parents are to be notified:

- about instruction that is planned for the coming year in comprehensive sexual health education, HIV/AIDS prevention education, and research on pupil health behaviors and risks. This notification is to be at the beginning of the school year or at the time of enrollment for a new student.
- that written and audiovisual materials are available for inspection
- if instruction will be taught by school district personnel or outside consultants
- of their right to request a copy of this chapter
- that they may request in writing that their child not receive comprehensive sexual health education or HIV/AIDS instruction

This section eliminates:

- requirements to notify parents no less than 10 days and no more than 15 days prior to having guest speakers present or deliver instruction on HIV/AIDS

Education Code Section 51938 (b) adds new language that allows ". . . 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 concerning or practices relating to sex [and] may be administered to any pupil in grades 7 – 12 inclusive, if the parent is notified in writing..." Parents must be given an opportunity to review the test, questionnaire, or survey and to request in writing that his or her child not participate.

The California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act **repeals:**

Part 28. General Instructional Programs
Chapter 4. Prohibited Instruction
Article 6. Sex Education Courses
Education Code sections 51550-51555

Part 28. General Instructional Programs
Chapter 5. Authorized Classes and Courses of Instruction
Article 11. Venereal Disease Education Classes
Education Code Section 51820