

FINAL BILL REPORT

ESSB 5395

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Synopsis as Enacted

Brief Description: Concerning comprehensive sexual health education.

Sponsors: Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Wilson, C., Randall, Keiser, Saldaña, Takko, Mullet, Wellman, Das, Nguyen, Billig, Pedersen, Rolfes, Darneille, Dhingra, Hasegawa, Hunt and Kuderer; by request of Superintendent of Public Instruction).

Senate Committee on Early Learning & K-12 Education House Committee on Education

Background: Sexual Health Education. Current law requires every public school choosing to offer sexual health education to assure the education is:

- medically and scientifically accurate;
- age-appropriate;
- appropriate for students regardless of gender, race, disability status, or sexual orientation; and
- includes information about abstinence and other methods of preventing unintended pregnancy and sexually transmitted diseases.

2005 Guidelines for Sexual Health Information and Disease Prevention. Sexual health education must be consistent with the 2005 guidelines developed by the Department of Health (DOH) and the Office of the Superintendent of Public Instruction (OSPI).

Health and Physical Education K-12 Learning Standards. In 2016, OSPI adopted revised health and physical education learning standards. The eight learning standards are the required elements of instruction and are worded broadly to allow for local decision-making.

Choosing Sexual Health Education Curricula. OSPI, in consultation with DOH, must develop a list of sexual health education curricula consistent with the 2005 guidelines. This list must serve as a resource, be updated at least annually, and be available online.

Public schools offering sexual health education are encouraged to review their curricula and choose a curriculum from the list. Any public school offering sexual health education may identify, choose, or develop any other curriculum, if the curriculum chosen or developed complies with certain requirements.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Excusal from and Review of Sexual Health Education. Parents or legal guardians may excuse their children from any planned sexual health education instruction by filing a written request with the school district board of directors, school principal, or designees. In addition, parents or legal guardians may review the sexual health education curriculum offered in their child's school by filing a written request.

Comprehensive Sexual Health Education Work Group. In 2019, legislation directed OSPI to convene a work group to:

- review provisions related to sexual health education in the Health and Physical Education K-12 Learning Standards;
- review existing sexual health education curricula to identifying gaps or potential inconsistencies with the Health and Physical Education K-12 Learning Standards;
- consider revisions to sexual health education provisions in statute; and
- consider the merits and challenges associated with requiring all public schools to offer comprehensive sexual health education to students in all grades by September 1, 2022.

According to the report published in December 2019, the work group members agreed all students would benefit from K-12 comprehensive sexual health education. Given concerns from the public about instruction being age-appropriate in the early grades, the work group recommended that any requirement clarifies the expected content of instruction, especially in grades K-3.

Social-Emotional Learning. In 2019, legislation provided that Social-Emotional Learning (SEL) helps students build awareness and skills in managing emotions, setting goals, establishing relationships, and making responsible decisions that support success in school and life. The legislation also directed OSPI to adopt SEL standards and benchmarks and revise as appropriate.

Protected Class Status. State law establishes the right to be free from discrimination because of race; creed; color; national origin; sex; honorably discharged veteran or military status; sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability.

Summary: Comprehensive Sexual Health Education. Every public school must provide comprehensive sexual health education to each student by the 2022-23 school year. This requirement is phased in beginning with all public school students in grades 6-12 in the 2021-22 school year, and then all public school students in the 2022-23 school year.

The provision of comprehensive sexual health education must be provided no less than:

- once to students in grades K-3;
- once to students in grades 4-5;
- twice to students in grades 6-8; and
- twice to students in grades 9-12.

Public school is defined by referencing a definition that includes common schools, charter schools, and other specified schools.

Affirmative Consent. Beginning in the 2020-21 school year, any public school that provides comprehensive sexual health education must ensure that the curriculum, instruction, and materials include information about affirmative consent and bystander training.

School district boards of directors of one or more public schools not providing comprehensive sexual health education in either the 2019-20 school year, the 2020-21 school year, or both, must prepare for incorporating information about affirmative consent and bystander training. In satisfying these requirements, school district boards of directors must also, no later than the 2020-21 school year, consult with parents and guardians, local communities, and the Washington State School Directors' Association.

Affirmative consent means a conscious and voluntary agreement to engage in sexual activity as a requirement before sexual activity.

Definition of Comprehensive Sexual Health Education. All references to sexual health education are changed to comprehensive sexual health education. Certain requirements for sexual health education are maintained including that the curriculum, instruction, and materials be medically and scientifically accurate, age-appropriate, inclusive of all students regardless of their protected class status, and include information about abstinence and other methods of preventing unintended pregnancy and sexually transmitted diseases.

Comprehensive sexual health education and the OSPI list of curricula must be consistent with the Health and Physical Education K-12 Learning Standards in addition to the 2005 Guidelines for Sexual Health Information and Disease Prevention.

Comprehensive sexual health education is defined as recurring instruction in human development and reproduction. All curriculum, instruction, and materials must use language and strategies that recognize all members of protected classes.

For students in grades K-3, comprehensive sexual health education must be instruction in SEL that is consistent with learning standards and benchmarks adopted by OSPI.

For students in grades 4-12, comprehensive sexual health education must include information about:

- physiological, psychological, and sociological developmental processes experienced by an individual;
- the development of intrapersonal and interpersonal skills to communicate, respectfully and effectively, to reduce health risks, and choose healthy behaviors and relationships that are based on mutual respect and affection, and are free from violence, coercion, and intimidation;
- health care and prevention resources;
- the development of meaningful relationships and avoidance of exploitative relationships;
- understanding the influences of family, peers, community, and the media throughout life on health sexual relationships; and
- affirmative consent and recognizing and responding safely and effectively when violence, or a risk of violence, is or may be present with strategies that include bystander training.

A statement of legislative intent is included specifying that nothing in these requirements expresses legislative intent to require that comprehensive sexual health education, or components of this education, be integrated into curriculum, materials, or instruction in unrelated subject matters or courses.

Choosing Sexual Health Education Curricula. Public schools retain the authority to choose a curriculum from the OSPI list or to identify, choose, or develop a different curriculum if it complies with applicable requirements. If a public school chooses a curriculum that is not from the OSPI list, the public school or applicable school district, in consultation with OSPI, must conduct a review of the selected or developed curriculum to ensure compliance with the requirements using a comprehensive sexual health education curriculum analysis tool of OSPI. OSPI must provide technical assistance to public schools and school districts that is consistent with the curricula review, selection, and development provisions.

Notification. At the beginning of the 2021-22 school year, each school providing comprehensive sexual health education must notify parents and guardians, in writing or in accordance with the methods the school finds most effective in communicating with parents, that the school will be providing comprehensive sexual health education during the school year. The notice must include, or provide a means for electronic access to, all course materials, by grade, that will be used at the school during instruction.

Excusal from and Review of Sexual Health Education. Provisions allowing parents and guardians to excuse their child from this instruction and to review curriculum are maintained. The person or entity to whom a request is directed must grant a written request to have the student excused from instruction in comprehensive sexual health education.

Training Materials. Subject to appropriations, OSPI must periodically review and revise, as necessary, training materials, which may be in an electronic format, for classroom teachers and principals to implement the applicable requirements. The initial review must be completed by March 1, 2021.

Report. By September 1st, public schools must annually identify to OSPI any curricula used to provide comprehensive sexual health education. Materials provided by schools must also describe how the provided classroom instruction aligns with requirements. After the 2022-23 school year, OSPI must summarize and biennially report the results to the education committees of the Legislature.

Votes on Final Passage:

2019 Regular Session

Senate 28 21

2020 Regular Session

Senate 28 21

House 56 40 (House amended)

Senate 27 21 (Senate concurred)

Effective: June 11, 2020