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## Education Committee

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### ESSB 5395

**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).

#### Brief Summary of Engrossed Substitute Bill

- Requires every public school to provide comprehensive sexual health education (CSHE) by September 1, 2021.
- Requires public schools to either select a comprehensive sexual health curriculum from a list developed by the Superintendent of Public Instruction (SPI) or to select or develop a curriculum in accordance with online review tools developed by the SPI.
- Specifies that the CSHE must be evidence-informed, medically and scientifically accurate, age-appropriate, and inclusive for all students.
- Specifies that the instruction and materials must be inclusive and use language and strategies that recognize all members of a protected class under Washington law.
- Requires school districts to grant a parent's or legal guardian's written request to have his or her child excused from any planned instruction in CSHE.

**Hearing Date:** 2/20/20

**Staff:** Ethan Moreno (786-7386).

#### **Background:**

##### Health and Physical Education Standards.

In 2016 the Office of the Superintendent of Public Instruction (OSPI) adopted new Health and Physical Education Standards (Health and P.E. Learning Standards) for kindergarten through grade 12. The Health and P.E. Learning Standards are part of the broader state learning standards

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that the OSPI adopts for all public school students. The Health and P.E. Learning Standards took effect in the 2017-18 school year.

School districts do not ratify or formally adopt the state learning standards, and with certain exceptions, curriculum choices are locally determined. Districts, however, are obligated by law to teach three health-related courses: human immunodeficiency virus (HIV) prevention; cardiopulmonary resuscitation instruction; and the use of external defibrillators.

#### Sexual Health Education—General Information.

Public schools may provide sexual health education to their students, but are not required to do so. Public schools that offer sexual health education must assure that the education is medically and scientifically accurate, age-appropriate, and appropriate for students regardless of gender, race, disability status, or sexual orientation. Sexual health education must include information about abstinence and other methods of preventing unintended pregnancy and sexually transmitted diseases.

Sexual health education provided to students must be consistent with the January 2005 guidelines for sexual health information and disease prevention (Sexual Health Information Guidelines) developed by the Department of Health (DOH) and the OSPI. A school may choose to use separate, outside speakers or prepared curriculum to teach different content areas or units within the comprehensive sexual health program if all speakers, curriculum, and materials meet specified statutory requirements.

#### Curriculum Review and School Selection.

The Superintendent of Public Instruction (SPI), in consultation with the DOH, is required to develop a list of sexual health education curricula that are consistent with the Sexual Health Information Guidelines. This list is intended to serve as a resource for schools, teachers, or any other organization or community group, and must be updated no less frequently than annually and made available on the websites of the OSPI and the DOH.

Public schools that offer sexual health education are encouraged to review their sexual health curricula and choose a curriculum from the list developed by the OSPI. The list does not represent the exclusive options, however, as any public school that offers sexual health education may identify, choose, or develop any other curriculum, provided the curriculum chosen or developed complies with applicable statutory requirements.

#### Provisions for Excusing Students from Sexual Health Education and Parental Review.

Any parent or legal guardian who wishes to have his or her child excused from any planned instruction in sexual health education may do so upon filing a written request with the school district board of directors, the principal of the school the child attends, or a designee of those school officials. Additionally, any parent or legal guardian may review the sexual health education curriculum offered in their child's school by filing a written request with the school district board of directors, the principal of the child's school, or the principal's designee.

#### Other Duties of Agencies Relating to Sexual Health Education.

The SPI and the DOH are required to make the Sexual Health Information Guidelines available to school districts, teachers, and guest speakers on their websites. Within available resources, the

SPI and the DOH must make any related information, model policies, curricula, or other resources available as well.

Regarding reporting requirements, the OSPI, through its Washington State School Health Profiles Survey or other existing reporting mechanism, is required to ask public schools to identify any curricula used to provide sexual health education and to report the results of these inquiries to the Legislature on a biennial basis.

#### Comprehensive Sexual Health Education Work Group.

Legislation adopted in 2019 directed the OSPI to convene a work group to:

- review provisions related to sexual health education in the Health and P.E. Learning Standards;
- review existing sexual health education curricula in use in the state for the purpose of identifying gaps or potential inconsistencies with the health and physical education 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 (CSHE) to students in all grades by September 1, 2022.

The OSPI issued a report for the CSHE Work Group, including findings and recommendations, in December 2019.

#### Social-Emotional Learning.

Social-emotional learning (SEL) is the process of developing and applying the skills, attitudes, behavior, and knowledge that afford individuals the opportunity to identify and regulate emotions and behaviors, form meaningful relationships, and make responsible decisions.

Legislation adopted in 2019 directed the OSPI to adopt SEL standards and benchmarks, and revise the SEL standards and benchmarks as appropriate. The 2019 legislation also directed the OSPI to align the programs it oversees with the standards for SEL and integrate the standards where appropriate.

#### Protected Class Status.

Antidiscrimination provisions in Washington law establish the right to be free from discrimination because of race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, or 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 of Bill:**

##### Requirement to Provide Comprehensive Sexual Health Education in all Schools.

By September 1, 2021, every public school must provide CSHE as an integral part of their curriculum. The CSHE must be evidence-informed (a newly defined term), medically and scientifically accurate, age-appropriate, and inclusive for all students regardless of their protected class status under Washington law. It must also include information and skills-based instruction that:

- includes both abstinence and other methods of preventing unintended pregnancy and sexually transmitted diseases;
- encourages healthy relationships that are based on mutual respect and affection and are free from violence, coercion, and intimidation;
- teaches how to identify and respond to attitudes and behaviors that contribute to sexual violence; and
- emphasizes the importance of affirmative consent, meaning conscious and voluntary agreement to engage in sexual activity, as a requirement before sexual activity.

The instruction and materials must be inclusive and use language and strategies that recognize all members of a protected class under specific provisions of Washington law. The CSHE must be consistent with the Health and P.E. Learning Standards and the Sexual Health Information Guidelines.

By September 1, 2020, CSHE must be phased in, beginning with students in grades six through twelve. By September 1, 2021, CSHE must be phased in for students in grades kindergarten through grade five. Full statewide implementation for all public schools and all grade levels must be achieved by September 1, 2021.

#### Provisions for Excusing Students from Comprehensive Sexual Health Education.

Parents and legal guardians may have their children excused from any planned instruction in CSHE with a written request to a specified school official, and school districts must grant a parent's or legal guardian's written request to have his or her child excused from the instruction.

#### Development of Curricula List and Review Tools for Choosing Curricula.

The SPI, in consultation with the DOH, must develop a list of CSHE curricula that is consistent with the Sexual Health Information Guidelines, the Health and P.E. Learning Standards, and other requirements. This list must be updated at least biannually, and made available on the website of the OSPI.

By September 1, 2019, the SPI must develop CSHE instructional materials review tools and make them available on the website of the OSPI. Public schools must choose a curriculum from the list developed by the OSPI or use the review tools to identify, choose, or develop any other curriculum that meets prescribed requirements. Public schools must use the review tools when choosing curricula other than those from the list developed by the OSPI.

#### Other Provisions.

The OSPI is no longer required to publish the Sexual Health Information Guidelines on its website, but is instead expressly directed to make the Health and P.E. Learning Standards available on its website. Additionally, a provision directing the DOH and the OSPI to make any related information, model policies, curricula, or other resources available is modified by removing the reference to the DOH.

Regarding reporting requirements, the OSPI is directed to require school districts to report, on an annual basis, curricula used to provide CSHE. The SPI must report the results of this inquiry to the education committees of the Legislature by November 1, 2021, and biennially thereafter.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.