

CALIFORNIA HEALTHY YOUTH ACT IMPLEMENTATION TOOLKIT

The enclosed materials are intended for use by parents, teachers, administrators, and advocates to ensure effective implementation of the California Healthy Youth Act, which took effect in January 2016 (CA Education Code sections 51930-51939).

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Short fact sheet with basic information about the law, suitable for distribution at community meetings or for sharing with concerned parents or school district personnel.

Frequently Asked Questions (developed by the CA Sexual Health Education Roundtable)

Basic questions about the law, suitable for sharing with parents, teachers, administrators, or advocates.

Questions & Answers for School Districts

Comprehensive and technical question and answer document detailing specific requirements of the law, including references to the relevant sections of the Education Code, intended mostly for district administrators.

Compliance Evaluation Checklist

Checklist for evaluating curricula against the requirements of the law.

Sample Parent/Guardian Notification Letter

Sample letter that meets the requirements of the law for parental notification and passive consent for participation in comprehensive sexual health and HIV prevention education, which can be modified with additional details to meet the needs of individual districts.

Curricular Materials & Resources

List of materials and resources that may be useful for district administrators. Note that this document will be updated regularly.

FAST FACTS ABOUT THE CALIFORNIA HEALTHY YOUTH ACT

In January 2016, California adopted a new law covering comprehensive sexual health education and HIV prevention education in public schools, Education Code Sections 51930-51939 (AB 329). Here are some facts about the law.

- **Comprehensive sexual health and HIV prevention education is required** at least once in middle school and at least once in high school. Abstinence-only instruction is not permitted.
- **All instruction in all grades must be age-appropriate and medically accurate** (meaning accepted by organizations like the American Academy of Pediatrics) and **may not promote religious doctrine**. All elements of the instruction must be in alignment with each other.
- **Sexual health education must respect and address the needs of students of all genders and sexual orientations**. Instruction must affirmatively recognize different sexual orientations and be inclusive of same-sex relationships when providing examples of couples or relationships. It must also teach about gender, gender expression, and gender identity, and explore the harm of negative gender stereotypes.
- **Beginning in grade 7**, instruction must include information about the safety and effectiveness of all FDA-approved methods of preventing pregnancy and transmission of HIV and other sexually transmitted infections (including condoms, contraceptives, and antiretroviral treatment) and abstinence. It must also include information about HIV, pregnancy, sexual harassment, sexual assault, healthy relationships, and sex trafficking, as well as local resources for accessing care and students' rights to access care.
- **Parents must be notified** that their student will receive sexual health and HIV prevention education and be allowed to view the materials prior to instruction. Parents/guardians may remove their student from the instruction by submitting a request in writing.
- **Teachers or outside speakers must have training in and knowledge of the most recent medically accurate research on the topic**. District must also periodically provide training to all district personnel who provide HIV prevention instruction. Outside organizations or speakers must also follow all laws when they present.
- **Instruction must be appropriate for students with disabilities, English language learners, and students of all races and ethnic and cultural backgrounds**. Schools must make sure that all students can get sexual health education and HIV prevention education in a way that works for them.

California Sexual Health Education ROundtable

California Healthy Youth Act (CA Education Code Sections 51930-51939) Frequently Asked Questions

What is the California Healthy Youth Act?

The California Healthy Youth Act, which took effect in January 2016, requires school districts to provide students with integrated, comprehensive, accurate, and unbiased comprehensive sexual health and HIV prevention education at least once in middle school and once in high school.

The law is intended to ensure that students develop the knowledge and skills necessary to 1) protect their sexual and reproductive health from HIV, other sexually transmitted infections, and unintended pregnancy; 2) develop healthy attitudes concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family; and 3) have healthy, positive, and safe relationships and behaviors. It promotes understanding of sexuality as a normal part of human development.

Wasn't comprehensive sexual health education already required?

Previously, districts were required to provide only HIV prevention education once in middle school and once in high school. Districts that elected to also provide sexual health education were required to do so in a way that was comprehensive, medically accurate, and age appropriate.

What is different about the new law?

In addition to requiring that students receive comprehensive sexual health education at least twice—(at least) once in middle school and (at least) once in high school—the California Healthy Youth Act includes new language about adolescent relationship abuse and sex trafficking and reinforces a focus on healthy attitudes, healthy behaviors, and healthy relationships. It also strengthened previous requirements that instruction and materials be appropriate for students of all sexual orientations and genders and ensures that sexual health education does not promote outdated gender norms. The law also updated the existing HIV prevention education mandate to reflect the developments made in our understanding of and ability to treat and prevent HIV over the last 20 years.

What are the baseline requirements for sexual health education and HIV prevention education?

All instruction in all grades (including elementary) must be age-appropriate, medically accurate, and appropriate for students with disabilities, students who are English language learners, and for students of all races, ethnic and cultural backgrounds, genders, and sexual orientations. Instruction may not promote religious doctrine.

Instruction must affirmatively recognize different sexual orientations, and be inclusive of same-sex relationships when providing examples of couples or relationships. It must also teach about gender, gender expression, gender identity, and explore the harm of negative gender stereotypes.

Comprehensive sexual health education must encourage students to communicate with their parents or other trusted adults, and must provide students with the knowledge and skills to develop healthy relationships and make healthy decisions about sexuality.

What are the additional content requirements for grades 7-12?

Instruction provided in grades 7-12, in addition to meeting the baseline requirements above, must include *all of the following content*:

- Information on the nature and transmission of HIV and other sexually transmitted infections (STIs);
- Information about all FDA-approved methods of reducing the risk of transmission of HIV and other STIs, including antiretroviral treatment, and information about treatment of HIV and STIs;

- Information about reducing the risk of HIV transmission as a result of injection drug use by decreasing needle use and needle sharing;
- Discussion about social views of HIV and AIDS, emphasizing that all people are at some risk of contracting HIV and that the only way to know one's HIV status is by being tested;
- Information about accessing resources for sexual and reproductive health care and assistance with sexual assault and intimate partner violence, as well as students' legal rights to access these resources;
- Information about the effectiveness and safety of all FDA-approved contraceptive methods in preventing pregnancy (including emergency contraception);
- Information that abstinence is the only certain way to prevent unintended pregnancy and HIV and other STIs; information about value of delaying sexual activity must be included and must be accompanied by information about other methods for preventing pregnancy and STIs;
- Information about pregnancy, including 1) the importance of prenatal care; 2) all legally available pregnancy outcomes, including parenting, adoption, and abortion; and 3) California's newborn safe surrender law;
- Information about sexual harassment, sexual assault, adolescent relationship abuse, intimate partner violence, and sex trafficking.

Does the law allow abstinence-only education?

"Abstinence-only" sex education, which offers abstinence as the only option for preventing STIs and unintended pregnancy, is not permitted in California public schools.

What does the law say about parental notification and consent?

Districts must notify parents of the instruction and provide them with opportunities to view the curriculum and other instructional materials. Districts must also allow parents to remove their student from instruction if they so choose, using a passive consent ("opt-out") process in which parents must request in writing that their student not receive the instruction. Districts may not require active consent ("opt-in") by requiring that students return a permission slip in order to receive the instruction.

How can I ensure that my district is complying with the new law?

The California Healthy Youth Act took effect on January 1, 2016, and districts should be taking steps now to ensure compliance. Districts need to ensure that their board policies, parental notification forms, and curricula all comply with the requirements of the law.

The ACLU of California has created additional implementation resources for school districts, including fact sheets, a sample parent notification letter, a curriculum checklist, and information about curricular resources. You can access these materials at www.aclunc.org/sex_ed.

How do districts ensure that teachers are prepared to deliver this instruction?

Districts must provide in-service training for all teachers who provide HIV prevention education and may expand that training to cover the topic of comprehensive sexual health education.

Can my district contract with an outside consultant to provide this instruction?

School districts may contract with outside consultants or guest speakers to deliver instruction or to provide training for school district personnel. All outside consultants and guest speakers must 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. Instruction provided by outside consultants or guest speakers meet all of the law's requirements and must be aligned with other instruction.

The California Sexual Health Education Roundtable is convened by:

ACLU of Northern California, California Latinas for Reproductive Justice, and Planned Parenthood Affiliates of California

THE CALIFORNIA HEALTHY YOUTH ACT – EDUCATION CODE §§ 51930-51939
COMPREHENSIVE SEXUAL HEALTH AND HIV PREVENTION EDUCATION

QUESTIONS & ANSWERS FOR SCHOOL DISTRICTS

The California Healthy Youth Act, which took effect January 1, 2016, requires school districts to provide students with integrated, comprehensive, accurate, and inclusive comprehensive sexual health education and HIV prevention education, at least once in high school and once in middle school. The California Healthy Youth Act made other significant changes to previous Education Code requirements for both HIV prevention education and comprehensive sexual health education.

WHAT ARE THE PURPOSES THE CALIFORNIA HEALTHY YOUTH ACT?

The California Healthy Youth Act has several purposes (EC § 51930(b)):

- To provide students with the knowledge and skills necessary to:
 - Protect their sexual and reproductive health from HIV and other sexually transmitted infections and from unintended pregnancy;
 - Develop healthy attitudes concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family;
 - Have healthy, positive, and safe relationships and behaviors;
- To promote understanding of sexuality as a normal part of human development; and
- To ensure pupils receive integrated, comprehensive, accurate, and unbiased sexual health and HIV prevention instruction and provide educators with clear tools and guidance to accomplish that end.

ARE SCHOOLS REQUIRED TO TEACH COMPREHENSIVE SEXUAL HEALTH EDUCATION AND HIV PREVENTION EDUCATION?

Yes. The California Healthy Youth Act requires that that students in grades 7-12 receive comprehensive sexual health education and HIV prevention education at least once in middle school and once in high school. The Education Code defines comprehensive sexual health education as “education regarding human development and sexuality, including education on pregnancy, contraception, and sexually transmitted infections” (EC § 51931(b)) and HIV prevention education as “instruction on the nature of human immunodeficiency virus (HIV) and AIDS, methods of transmission, strategies to reduce the risk of HIV infection, and social and public health issues related to HIV and AIDS” (EC § 51931(d)). HIV prevention education has been mandated since 1992.

DOES THE LAW PERMIT SCHOOLS TO TEACH COMPREHENSIVE SEXUAL HEALTH AND HIV PREVENTION EDUCATION IN ELEMENTARY SCHOOL?

Yes. Comprehensive sexual health and HIV prevention education may be taught in grades K-6, inclusive. All instruction and materials in grades K-6 must meet the baseline requirements listed below. Content that is

required in grades 7-12 may be also be included in an age-appropriate way in earlier grades. (EC §§ 51933, 51934(b).)

WHAT ARE THE BASELINE REQUIREMENTS FOR ALL COMPREHENSIVE SEXUAL HEALTH EDUCATION AND HIV PREVENTION EDUCATION?

According to the Education Code (EC § 51933), all instruction and materials in all grades (including elementary) must:

- Be age-appropriate;
- Be medically accurate and objective;
- Align with and support the purposes of the California Healthy Youth Act, as described above;
- Be appropriate for use with pupils of all races, genders, sexual orientations, ethnic and cultural backgrounds;
- Be appropriate for and equally available to English language learners;
- Be appropriate for and accessible to pupils with disabilities;
- Affirmatively recognize different sexual orientations and be inclusive of same-sex relationships in discussions and examples;
- Teach about gender, gender expression, gender identity, and the harm of negative gender stereotypes;
- Encourage students to communicate with their parents/guardians and other trusted adults about human sexuality, and provide skills for doing so;
- Teach respect and skills for committed relationships such as marriage;
- Provide knowledge and skills for forming healthy relationships that are free from violence; and
- Provide knowledge and skills for making and implementing healthy decisions about sexuality.

In addition, the Education Code (EC § 51933) specifies that instruction and materials in all grades may not:

- Teach or promote religious doctrine; or
- Reflect or promote bias against any person on the basis of actual or perceived disability, gender, gender identity, gender expression, race or ethnicity, nationality, religion, or sexual orientation, or any other category protected by the non-discrimination policy codified in Education Code § 220.

WHAT ADDITIONAL CONTENT IS REQUIRED IN GRADES 7-12?

Instruction provided in grades 7-12, in addition to meeting the baseline requirements above, must include all of the following content (EC § 51934):

- Information on the nature and transmission of HIV and other sexually transmitted infections (STIs);

- Information about all federal Food and Drug Administration (FDA)-approved methods of reducing the risk of transmission of HIV and other STIs, including antiretroviral treatment, and information about treatment of HIV and STIs;
- Information about reducing the risk of HIV transmission as a result of injection drug use by decreasing needle use and needle sharing;
- Discussion about social views of HIV and AIDS, emphasizing that all people are at some risk of contracting HIV and that the only way to know one’s HIV status is by being tested;
- Information about accessing resources for sexual and reproductive health care and assistance with sexual assault and intimate partner violence, as well as students’ legal rights to access these resources;
- Information about the effectiveness and safety of all federal FDA-approved contraceptive methods in preventing pregnancy (including emergency contraception);
- Information that abstinence is the only certain way to prevent unintended pregnancy and HIV and other STIs; information about value of delaying sexual activity must be included and must be accompanied by information about other methods for preventing pregnancy and STIs;
- Information about pregnancy, including 1) the importance of prenatal care; 2) all legally available pregnancy outcomes, including parenting, adoption, and abortion; and 3) California’s newborn safe surrender law; and
- Information about sexual harassment, sexual assault, adolescent relationship abuse, intimate partner violence, and sex trafficking.

See EC § 51934 for the exact language of these requirements.

Any of these content areas may also be covered in an age-appropriate way prior to grade 7.

DOES THE LAW ALLOW ABSTINENCE-ONLY EDUCATION?

No. “Abstinence-only” sex education, which offers abstinence as the only option for preventing STIs and unintended pregnancy, is not permitted in California public schools.

Comprehensive sexual health education in grades 7-12 must include medically accurate, up-to-date information about the effectiveness and safety of all federal FDA-approved methods for preventing HIV, other STIs, and pregnancy. (EC § 51934(a)(9).)

In addition, abstinence may not be discussed in isolation from other methods of preventing HIV, other STIs, and pregnancy. The Education Code requires that instruction and materials include information that abstinence is the only certain way to prevent HIV, other STIs, and unintended pregnancy. However, it also states: “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.” (EC § 51934(a)(3).)

WHY IS THERE A REQUIREMENT FOR INTEGRATED INSTRUCTION, AND WHAT DOES IT MEAN?

In order to ensure that students receive instruction that best supports their need for accurate, comprehensive information, the requirement for integrated instruction means that there must be internal consistency within sexual health education and HIV prevention instruction and materials. All instruction and materials must support and align with the purposes of the California Healthy Youth Act and with each other; they may not be in conflict with or undermine each other or any of the purposes of the law. For example, schools may not use materials that, in promoting abstinence, focus exclusively on the failure rates or perceived disadvantages of condoms or contraception, even if schools attempt to balance these materials with other, objective information. (EC §§ 51930(b)(4), 51933(c).)

HOW DOES THE LAW PROMOTE HEALTHY RELATIONSHIPS FOR YOUTH?

The California Healthy Youth Act has a strong emphasis on healthy relationships, in both the purposes and the required content. Students must be taught knowledge and skills related to recognizing, building, and maintaining healthy relationships that are based on mutual affection and are free from violence, coercion and intimidation. This includes teaching decision-making and communication skills and helping students to understand the value of and prepare for committed relationships, such as marriage. It also includes information about unhealthy behaviors and risks to their health, such as sexual harassment, sexual assault, intimate partner violence, and sex trafficking. (EC §§ 51930(b); 51933(f), (g), (h); 51934(a)(10).)

DOES THE LAW REQUIRE INSTRUCTION ABOUT LOCAL HEALTH RESOURCES?

Yes. The California Healthy Youth Act requires that students learn about local resources for sexual and reproductive health care, sexual assault and intimate partner violence. The law also requires instruction about how students can access those resources and their rights to access them. For example, under California law, minors aged 12 and above have the right to confidentially access and make their own decisions regarding reproductive health care, including birth control, prenatal care, abortion, and prevention of and treatment for HIV and STIs. (Family Code §§ 6925, 6926; *American Academy of Pediatrics v. Lungren*, 16 Cal.4th 307 (1997)). Students also have the right to obtain sensitive services, including reproductive health care, during school hours, and must be allowed to leave campus for the purpose of obtaining these services. (EC § 48205; EC § 46010.1; 87 Ops. Cal. Atty. Gen. 168, 172 (2004)). In these instances, schools are not allowed to require parental consent or notification, and must mark the student's absence as excused and allow the student to make up full credit for assignments or class time missed.

DOES THE LAW REQUIRE INSTRUCTION ON CALIFORNIA'S AFFIRMATIVE CONSENT STANDARD?

Another law, distinct from the California Healthy Youth Act, also took effect in 2016. This law, Education Code § 33544, requires that all school districts that have health education as a graduation requirement must include instruction on California's affirmative consent standard. This standard is defined as follows: "Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the

affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.” (EC § 67386.)

Instruction on the affirmative consent standard is not mandatory for districts that do not require a health education course for graduation. The law also does not require that this instruction be provided within comprehensive sexual health and HIV prevention education. However, the California Healthy Youth Act does require that comprehensive sexual health education and HIV prevention education address healthy relationships and communication, and consent for sexual activity is an important component of this instruction. Therefore, there is natural overlap between the law relating to the affirmative consent standard and the California Healthy Youth Act.

WHAT DETERMINES WHETHER THE FACTS TAUGHT ARE MEDICALLY ACCURATE?

Instruction is medically accurate if it is verified or supported by proper scientific research, published in peer-reviewed journals as appropriate, and recognized as accurate and objective by agencies with expertise in the field, such as the federal Centers for Disease Control and Prevention (CDC), the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists. (EC § 51931(f).)

WHAT DOES THE LAW SAY ABOUT LESBIAN, GAY, BISEXUAL, TRANSGENDER AND QUEER (LGBTQ) STUDENTS, SEXUAL ORIENTATION, AND GENDER/GENDER IDENTITY?

All instruction and materials in grades K-12 must be inclusive of LGBTQ students. Instruction shall affirmatively recognize that people have different sexual orientations and, when discussing or providing examples of relationships and couples, must be inclusive of same-sex relationships. (EC § 51933(d)(5).) It must also teach students about gender, gender expression, gender identity, and explore the harm of negative gender stereotypes. (EC § 51933(d)(6).) This means that schools must teach about sexual orientation and what being transgender means.

The California Healthy Youth Act requires that sexual health education be appropriate for use with students of all genders and sexual orientations and clearly states that part of the intent of the law is “to encourage a pupil to develop healthy attitudes concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family.” (EC § 51930.)

The California Healthy Youth Act also prohibits sexual health education classes from promoting bias against anyone on the basis of any category protected by Education Code § 220, which includes actual or perceived gender and sexual orientation.

WHAT DOES THE LAW SAY ABOUT STUDENTS WITH DISABILITIES?

Instruction and materials must be appropriate for and accessible to students with disabilities. This includes but is not limited to providing a modified curriculum, materials and instruction in alternative formats, and auxiliary aids. (EC § 51933(d)(3).)

WHAT DOES THE LAW SAY ABOUT STUDENTS WHO ARE ENGLISH LEARNERS?

The California Healthy Youth Act requires that instruction be made available on an equal basis to pupils who are English learners, whether they are placed in English immersion classes or alternative bilingual education classes, and must be consistent with the existing sex education curriculum. (EC § 51933(d)(2).) In addition, the law requires that instruction be appropriate for use with students of all races and ethnic and cultural backgrounds. (EC § 51933(d)(1).)

DOES THE LAW PERMIT THE USE OF OUTSIDE SPEAKERS?

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 must 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. (EC § 51936.)

Instruction provided by outside consultants or guest speakers must fulfill the same requirements as instruction provided by employees of the school district. This instruction must be integrated into and may not conflict with other instruction or with the purposes of the law. If schools use outside consultants or guest speakers, they must provide parents with the name of the provider’s organization and the date of instruction at the beginning of the school year or no fewer than 14 days prior to the date of instruction.

HOW DOES THE LAW SUPPORT FAMILY COMMUNICATION ABOUT COMPREHENSIVE SEXUAL HEALTH?

Instruction and materials shall encourage a student “to communicate with his or her parents, guardians, and other trusted adults about human sexuality and provide the knowledge and skills necessary to do so.” (EC § 51933(e).)

WHAT DOES THE LAW SAY ABOUT PARENT/GUARDIAN NOTIFICATION AND CONSENT FOR INSTRUCTION?

Parents or guardians must be notified by the school or district at the beginning of the school year (or at the time of enrollment) about planned comprehensive sexual health and HIV prevention education, and must be given an opportunity to review materials. The school district must also inform parents/guardians about whether the instruction will be provided by district personnel or outside consultants. If instruction will be

provided by outside consultants, the notice must include the name and organizational affiliation of the outside consultant and the date of the instruction. The notice must also inform parents/guardians of their right to request copies of Education Code §§ 51933, 51934, and 51938. If arrangements for guest speakers or outside consultants are made after the initial notification is sent out at the beginning of the year, districts must notify parents at least 14 days prior to the instruction via mail or another commonly used method.

The law allows parents or guardians to remove their child from comprehensive sexual health and HIV prevention education, as defined in the statute (EC §§ 51931(b), (d), 51932.), using a passive consent or “opt-out” process. Schools may not require active consent (“opt-in”) for participation in comprehensive sexual health and HIV prevention education in any grade, including elementary school. (EC § 51938(a).) The notice sent to parents/guardians informing them about planned instruction must additionally inform them that they may remove their child from the instruction and that in order to do so they must state their request in writing to the school district. (EC § 51938(b)(4).) If the parent/guardian does not request in writing that the child be withheld, the child will attend the instruction. Schools may not require parents/guardians to return a signed acknowledgment that they have received the notice in order for their child to participate in the instruction; this serves as de facto active consent and is prohibited under the law.

WHAT DOES THE LAW SAY ABOUT PARENTAL/GUARDIAN CONSENT FOR SURVEYS?

In order to facilitate the collection of data needed by researchers to evaluate the effectiveness of comprehensive sexual health education and other unintended pregnancy prevention efforts, the law permits schools to administer anonymous, voluntary, confidential, age-appropriate surveys or questionnaires in which students are asked about their sexual activities and attitudes in order to measure their health behaviors and risks. Parents/guardian must be notified of any planned surveys or questionnaires, be given the opportunity to review these surveys or questionnaires and, in grades 7-12, be given the opportunity to request in writing that their child not participate. Schools may not adopt an active consent or “opt-in” policy for these surveys or questionnaires for students in grades 7 to 12. Prior to grade 7, parents must give active consent in order for their child to participate. (EC § 51938(c).)

WHAT DOES THE LAW SAY ABOUT ANTI-HARASSMENT, BULLYING PREVENTION OR SAFE SCHOOLS PROGRAMS?

School districts have an affirmative legal obligation to prevent bias-based bullying, harassment and discrimination and to create a safe and welcoming environment for all students. (EC §§ 201, 220.) The California Healthy Youth Act supports these efforts by requiring inclusive instruction and prohibiting biased instruction. The law does not permit parents to remove their children from anti-harassment programs or other instruction that discusses gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family but does not discuss human reproductive organs and their functions. (EC § 51932(b).) This is to ensure that all students feel safe on and off campus knowing that all their peers received the same messages on acceptable and unacceptable behaviors, resulting in a positive school climate.

DOES THE LAW REQUIRE TEACHERS TO BE TRAINED?

Comprehensive sexual health and HIV prevention education must be taught by instructors trained in the appropriate courses. (EC §§ 51934(a), (b).) This means that instructors must have knowledge of the most recent medically accurate research on human sexuality, healthy relationships, pregnancy, and HIV and other sexually transmitted infections. (EC § 51931(e).)

In addition, school districts must provide periodic training to all district personnel who provide HIV prevention education to enable them to learn new developments in the scientific understanding of HIV. Teachers with a demonstrated expertise in the field or who have received training from the California Department of Education, their affiliates or Centers for Disease Control and Prevention need not be additionally trained by the district. School districts may expand the training to include the topic of comprehensive sexual health education.

ARE THE HEALTH FRAMEWORK FOR CALIFORNIA PUBLIC SCHOOLS AND THE CALIFORNIA HEALTH EDUCATION CONTENT STANDARDS CURRENT WITH RESPECT TO LEGAL REQUIREMENTS FOR COMPREHENSIVE SEXUAL HEALTH AND HIV PREVENTION EDUCATION?

No. The Health Framework is extremely outdated and is inconsistent with the California Healthy Youth Act; it should not be used. The California Health Education Content Standards, adopted in 2008, do not in most respects directly conflict with the California Healthy Youth Act but also do not include all required content. Therefore, the health standards should not be independently relied upon for developing or evaluating sexual health curriculum.

THIS RESOURCE WAS DEVELOPED BY THE ACLU OF CALIFORNIA,
A collaboration of the ACLU of Northern California, the ACLU of Southern California, and the ACLU of San Diego & Imperial Counties

For more information, go to http://www.aclunc.org/sex_ed.
If you are concerned that your school is not following the law, contact the ACLU for help.

GRADES 7 – 12: CALIFORNIA HEALTHY YOUTH ACT COMPLIANCE EVALUATION CHECKLIST FOR DISTRICTS

CALIFORNIA EDUCATION CODE §§ 51930 – 51939

DISTRICT NAME: _____

SCHOOL NAME: _____

GRADES IN WHICH SEXUAL HEALTH EDUCATION IS TAUGHT (circle all that apply): K 1 2 3 4 5 6 7 8 9 10 11 12

PROGRAMMATIC & CONTENT REQUIREMENTS

- | | | |
|--------------------------|--------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | 1. INSTRUCTION IN MIDDLE SCHOOL AND HIGH SCHOOL | Comprehensive sexual health education and HIV prevention education are taught at least once in junior high or middle school and at least once in high school. California Education Code (EC) § 51934(a). |
| <input type="checkbox"/> | 2. AGE-APPROPRIATE | Instruction and materials are age-appropriate. EC § 51933(a).

“AGE-APPROPRIATE” is defined in EC § 51931(a) as “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.” |
| <input type="checkbox"/> | 3. MEDICALLY ACCURATE AND OBJECTIVE | All factual information is medically accurate and objective. EC § 51933(b).

“MEDICALLY ACCURATE” is defined in EC § 51931(f) as “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.” |
| | 4. ALIGNS WITH PURPOSE OF CA HEALTHY YOUTH ACT | All components of comprehensive sexual health education align with and support the purpose of the California Healthy Youth Act. EC § 51933(c). Tone and content is consistent across all instruction and materials, even if individual components are provided by different teachers or by guest speakers or outside consultants. |

PURPOSE OF THE CALIFORNIA HEALTHY YOUTH ACT: EC § 51930(b)

- 1) To provide a pupils with the knowledge and skills necessary to protect their sexual and reproductive health from HIV and other STIs and from unintended pregnancy
- 2) To provide pupils with the knowledge and skills they need to develop healthy attitudes concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family
- 3) To promote understanding of sexuality as a normal part of human development
- 4) To ensure pupils receive integrated, comprehensive, accurate, and unbiased sexual health and HIV prevention instruction and provide educators with clear tools and guidance to accomplish that end; and
- 5) To provide pupils with the knowledge and skills necessary to have healthy, positive, and safe relationships and behaviors.

<input type="checkbox"/>	<p>5. KNOWLEDGE AND SKILLS BASED</p>	<p>Instruction and materials include skill-building activities to enable students to:</p> <ul style="list-style-type: none"> • Protect their sexual and reproductive health from HIV and other STIs and from unintended pregnancy; • Develop healthy attitudes concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family; and • Develop healthy, positive, and safe relationships and make healthy decisions. <p>EC §§ 51930(b); 51933(g), (h).</p>
<input type="checkbox"/>	<p>6. ACCESSIBLE TO ENGLISH LEARNERS</p>	<p>Instruction and materials are equally available to students who are English learners. EC § 51933(d)(2).</p> <p>The Education Code allows for the use of alternate curricula to meet the needs of students who are English learners long as the alternate curricula are consistent with existing curriculum requirements and otherwise comply with other requirements in EC §§ 51930-51939.</p>
<input type="checkbox"/>	<p>7. ACCESSIBLE TO STUDENTS WITH DISABILITIES</p>	<p>Instruction and materials are equally accessible to pupils with disabilities. EC § 51933(d)(3).</p> <p>To meet the needs of students with disabilities, instruction may require modified curricula and materials in alternative formats or with auxiliary aids.</p>
<input type="checkbox"/>	<p>8. NOT PROMOTING OF ANY RELIGIOUS DOCTRINE</p>	<p>Instruction and materials do not teach or promote religion. EC § 51933(i).</p>
<input type="checkbox"/>	<p>9. NATURE OF HIV AND OTHER SEXUALLY TRANSMITTED INFECTIONS (STIS)</p>	<p>Covers the nature of HIV, as well as other STIs, and their effects on the human body. EC § 51934(a)(1).</p>

<input type="checkbox"/>	10. TRANSMISSION OF HIV AND OTHER STIS	Covers how HIV and other STIs are and are not transmitted, including relative risks of infection according to specific behaviors. EC §§ 51934(a)(2), (5).
<input type="checkbox"/>	11. HIV AND STI PREVENTION	Provides information on 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 STIs. EC § 51934(a)(4).
<input type="checkbox"/>	12. HIV AND STI TREATMENT	Provides information about the treatment of HIV and other STIs. EC § 51934(6).
<input type="checkbox"/>	13. SOCIAL VIEWS ON HIV AND AIDS	Discusses social views on HIV and AIDS, including stereotypes and myths. Emphasizes that successfully treated HIV-positive individuals have a normal life expectancy, all people are at some risk of contracting HIV, and the only way to know if one is HIV-positive is to get tested. EC § 51934(a)(7). NOTE: Must be medically accurate and unbiased. <i>See items 3 and 17.</i>
<input type="checkbox"/>	14. CONTRACEPTION	Provides information about the effectiveness and safety of all FDA-approved contraceptive methods in preventing pregnancy. EC § 51934(a)(9). FDA-APPROVED CONTRACEPTIVE METHODS INCLUDE, BUT ARE NOT LIMITED TO: Intrauterine devices (IUDs), emergency contraception, the Pill, male and female condoms and other barriers methods, the Ring, the Patch, implants, and the Shot.
<input type="checkbox"/>	15. ABSTINENCE	Provides information that abstinence from sexual activity and injection drug use is the only certain way to prevent HIV and other STIs and abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy. Covers 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. EC § 51934(a)(3).
<input type="checkbox"/>	16. PREGNANCY AND PREGNANCY OUTCOMES	Includes an objective discussion of all legally available pregnancy outcomes, including, but not limited to: <ol style="list-style-type: none"> 1) Parenting, adoption, and abortion; 2) Information about the law on surrendering custody of an infant; and 3) The importance of prenatal care. EC § 51934(a)(9).
<input type="checkbox"/>	17. UNBIASED	Instruction and materials do not reflect or promote bias against any person on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation. EC § 51933(d)(4); <i>see also</i> EC § 220.

<input type="checkbox"/>	18. CULTURALLY INCLUSIVE AND APPROPRIATE	Instruction and materials are appropriate for use with pupils of all races, genders, sexual orientations, ethnic and cultural backgrounds. EC § 51933(d)(1).
<input type="checkbox"/>	19. INCLUSIVE OF DIFFERENT SEXUAL ORIENTATIONS	<p>Instruction and materials recognize that people have different sexual orientations. EC § 51933(d)(5).</p> <p>Instruction and materials that affirmatively recognize that people have different sexual orientations requires necessarily includes instruction that teaches students about different sexual orientations.</p> <p>NOTE: Must be unbiased and appropriate for students of all genders and sexual orientations. <i>See items 17, 18, and 20.</i></p>
<input type="checkbox"/>	20. EXAMPLES INCLUDE SAME-SEX RELATIONSHIPS	<p>Examples of relationships also include same-sex relationships. EC § 51933(d)(5).</p> <p>NOTE: Must be unbiased and appropriate for students of all genders and sexual orientations. <i>See items 17 and 18.</i></p>
<input type="checkbox"/>	21. GENDER, GENDER EXPRESSION, GENDER IDENTITY	<p>Includes instruction on gender, gender expression, gender identity, and explores the harm of negative gender stereotypes. EC § 51933(b)(6).</p> <p>NOTE: Must be unbiased and appropriate for students of all genders and sexual orientations. <i>See items 17 and 18.</i></p>
<input type="checkbox"/>	22. RELATIONSHIPS	Teaches the value of and prepares students to form and maintain healthy, committed relationships that are based on mutual respect and affection, and are free from violence, coercion, and intimidation. EC §§ 51933(f), (g).
<input type="checkbox"/>	23. SEXUAL ABUSE AND VIOLENCE	Includes information about sexual assault, adolescent relationship abuse, and intimate partner violence. EC § 51934(a)(10).
<input type="checkbox"/>	24. SEXUAL HARASSMENT	Includes information about sexual harassment. EC § 51934(a)(10).
<input type="checkbox"/>	25. SEX TRAFFICKING	Includes information about sex trafficking. EC § 51934(a)(10).
<input type="checkbox"/>	26. COMMUNICATION WITH PARENTS AND OTHER TRUSTED ADULTS	Instruction and materials encourage pupils to communicate with their parents, guardians, or other trusted adults about human sexuality and provide knowledge and skills necessary for these discussions. EC § 51933(e).
<input type="checkbox"/>	27. LOCAL RESOURCES	Provides information about local resources and student rights to accessing sexual and reproductive health care and assistance with sexual assault and intimate partner violence. EC § 51934(a)(8).

CONFIDENTIAL AND SENSITIVE SERVICES MAY INCLUDE, BUT ARE NOT LIMITED TO: HIV or STI testing, mental health or counseling services, drug or alcohol treatment/ counseling, abortion care, obtaining birth control.

PARENTAL NOTIFICATION & OPT-OUT

- 28. NOTIFICATION PROVIDED AT BEGINNING OF THE YEAR** **Parental notification and opportunity to opt-out is provided at the beginning of the school year. EC § 51938(a).**
- 29. PARENTAL NOTIFICATION** **Parents are notified of instruction and given an opportunity to review curriculum. EC § 51938(b).**

 Requiring a signed note from parents acknowledging receipt of this notification can act as a de facto “opt-in” (active consent) for student participation in instruction. As is reflected in the following requirement, schools may not have an “opt-in” policy for comprehensive sexual health education.
- 30. PARENTAL OPT-OUT** **Parents are notified that they may request in writing that their child be excused from participation. EC §§ 51938(a), (b).**

 EC § 51938 explicitly requires that schools have an “opt-out” (passive consent) policy, which means they notify parents and allow them to withdraw their children. They are not allowed to have an “opt-in” (active consent) policy, which requires parents to sign and return a permission slip for their children to participate.

INSTRUCTORS, OUTSIDE CONSULTANTS, & GUEST SPEAKERS

- 31. TRAINED INSTRUCTORS** **Instructors, including outside consultants or guest speakers, are trained in the appropriate courses. EC § 51934(a).**

 “INSTRUCTORS ARE TRAINED IN THE APPROPRIATE COURSES” is defined in EC § 51931(e) as “instructors with knowledge of the most recent medically accurate research on human sexuality, healthy relationships, pregnancy, and HIV and other sexually transmitted infections.”
- 32. OUTSIDE CONSULTANTS AND GUEST SPEAKERS HAVE EXPERTISE IN COMPREHENSIVE SEXUAL HEALTH EDUCATION** **Outside consultants and guest speakers have expertise in comprehensive sexual health education. EC § 51936. They also have knowledge of the most recent medically accurate research on the relevant topic or topics covered in their instruction.**

 NOTE: All instruction provided by outside consultants and guest speakers must comply with items 1 – 27.

GRADES 7–12: CALIFORNIA HEALTHY YOUTH ACT COMPLIANCE EVALUATION CHECKLIST FOR DISTRICTS
EDUCATION CODE §§ 51930–51939

THIS RESOURCE WAS DEVELOPED BY THE ACLU OF CALIFORNIA,
A collaboration of the ACLU of Northern California, the ACLU of Southern California, and the ACLU of San Diego & Imperial Counties
For more information, go to http://www.aclunc.org/sex_ed. If you are concerned that your school is not following the law, contact the ACLU for help.

THE CALIFORNIA HEALTHY YOUTH ACT – EDUCATION CODE §§ 51930-51939
COMPREHENSIVE SEXUAL HEALTH AND HIV PREVENTION EDUCATION

SAMPLE PARENT/GUARDIAN NOTIFICATION LETTER FOR GRADES 7-12

[Insert Date]

Dear [School Name] Parent/Guardian:

California state law, the California Healthy Youth Act, requires that comprehensive sexual health education and HIV prevention education be provided to students at least once in middle school or junior high school and once in high school, starting in grade 7.

Instruction must encourage students to communicate with parents, guardians or other trusted adults about human sexuality. Instruction must be medically accurate, age-appropriate and inclusive of all students. It must include the following:

- Information about HIV and other sexually transmitted infections (STIs), including transmission, FDA approved methods to prevent HIV and STIs, and treatment
- Information that abstinence is the only certain way to prevent unintended pregnancy and HIV and other STIs, and information about value of delaying sexual activity
- Discussion about social views of HIV and AIDS
- Information about accessing resources for sexual and reproductive health care
- Information about pregnancy, including FDA approved prevention methods, pregnancy outcomes, prenatal care, and the newborn safe surrender law
- Information about sexual orientation and gender, including the harm of negative gender stereotypes
- Information about healthy relationships and avoiding unhealthy behaviors and situations

You can examine written and audiovisual instructional materials at the [School Name/District] main office. If you have questions, please see the teacher or principal. You may request a copy of the California Healthy Youth Act (California Education Code Sections 51930-51939) by contacting [the District].

This instruction will be provided by [name of school district personnel/outside consultants].

State law allows you to remove your student from this instruction. If you do not want your student to participate in comprehensive sexual health or HIV prevention education, please give a written request to _____ [district, principal, teacher, etc.] by [insert date here].

Sincerely,

[Superintendent]

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THE CALIFORNIA HEALTHY YOUTH ACT – EDUCATION CODE §§ 51930-51939
COMPREHENSIVE SEXUAL HEALTH AND HIV PREVENTION EDUCATION

CURRICULAR MATERIALS & RESOURCES

Below is an initial list of curricula that have been updated, or are being updated, with the goal of meeting the requirements of the California Healthy Youth Act, which took effect in January 2016. Some may require additional supplementation to be in full compliance with the new law. Over time we will add more resources to this list. Please check http://www.aclunc.org/sex_ed for the latest version.

PUBLISHED CURRICULA

The publishers of the curricula listed below also provide training for educators.

Positive Prevention PLUS

POSITIVE PREVENTION PLUS

<http://www.positivepreventionplus.com/>

Positive Prevention PLUS is a comprehensive curriculum for grades 7-12 (middle school and high school editions), including lessons with marginal notes, pre-post tests, family home assignments, a CD with PowerPoint and images, and other features. Written specifically for use in California, this curriculum involves 13 lessons of 45 minutes each, and is available in both English and Spanish; there is also a version for Special Education students.

Teen Talk

HEALTH CONNECTED

<http://www.health-connected.org/#!our-curricula/czks>

Teen Talk Middle School (grades 7-8) and *Teen Talk High School* (grade 9) each include 14 lessons, taught over 10 hours, typically across two weeks. *Teen Talk* was developed for use in California schools and was designed to be inclusive of diverse racial, ethnic, religious, and sexual identities, for mixed-gender classrooms. *Puberty Talk* is also available for grades 5 and 6. All activities are available in English and Spanish.

Rights, Respect, Responsibility

ADVOCATES FOR YOUTH

<http://advocatesforyouth.org/3rs-curriculum>

Rights, Respect, Responsibility (2015), is a K-12 evidence-informed curriculum written to meet the [National Sexuality Education Standards](#). As a national curriculum, it does not have all of the specific content required by California (such as information about California's newborn safe surrender law), but its comprehensive approach, focus on healthy relationships and challenging negative gender stereotypes, LGBT inclusiveness, and other elements are aligned with the California Healthy Youth

Act. It consists of free lesson plans—40 minutes each for K-5 and 50 minutes for grades 6-12— that can be used individually or to form a complete curriculum.

CURRICULA BY CALIFORNIA SCHOOL DISTRICTS

The following districts have designed their own curricula to meet California law and health standards and the needs of their students. They have generously offered to make themselves available as a resource for others.

Be Real. Be Ready.

SAN FRANCISCO UNIFIED SCHOOL DISTRICT | CHRISTOPHER PEPPER, pepperc@sfusd.edu
<http://sfusdhealtheducation.org/be-real-be-ready/>

Be Real. Be Ready. (high school) is taught by certified health educators in the context of required health classes in grade 9. This comprehensive curriculum involves 24 lessons and includes a pre-post test, implementation tools for each lesson, and many resources, all available for free online. While this curriculum was designed to meet all California Education Code requirements, there may be some newly required content areas under the California Healthy Youth Act that require supplementation, namely sex trafficking. Contact Christopher Pepper for more information on *Be Real. Be Ready.*

Healthy Oakland Teens

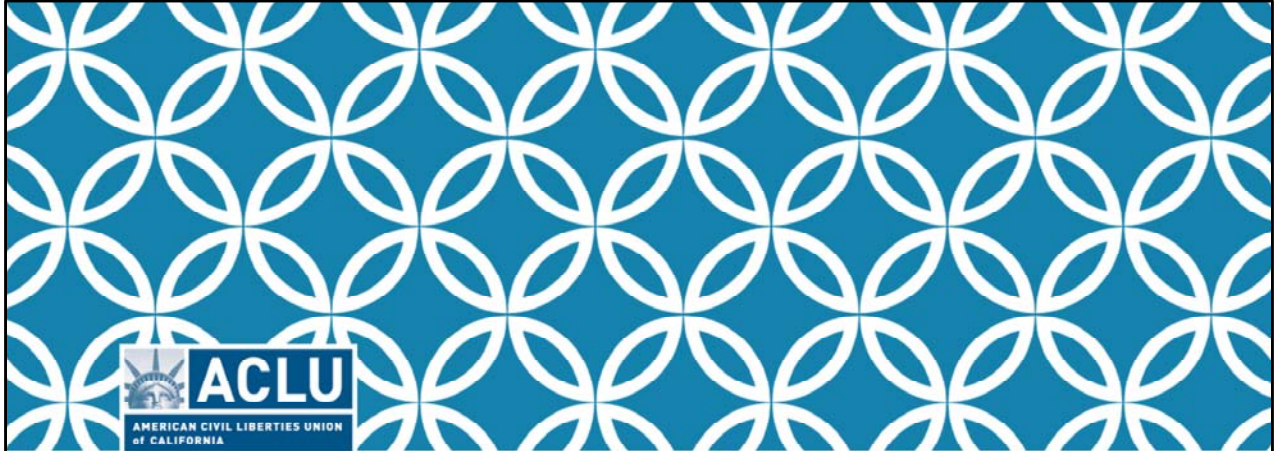
OAKLAND UNIFIED SCHOOL DISTRICT | ISLA BERTOLINI, ilsa.bertolini@ousd.org

Healthy Oakland Teens (high school) is newly designed and has been in use in Oakland Unified schools since spring 2015. As this district does not require health classes for graduation, its curriculum was designed to be taught by science and English/language arts teachers in tandem - each providing 5 lessons for a total of 10 lessons during grade 9. These teachers also received comprehensive training prior to delivering the curriculum, which was critical to their success. Contact Ilsa Bertolini for more information about this curriculum.

**THE CALIFORNIA HEALTHY YOUTH ACT: EDUCATION CODE §§ 51930–51939
CURRICULAR MATERIALS & RESOURCES**

THIS RESOURCE WAS DEVELOPED BY THE ACLU OF CALIFORNIA,
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If you are concerned that your school is not following the law, contact the ACLU for help.



CALIFORNIA HEALTHY YOUTH ACT

BACKGROUND

- Broad coalition of supporters, including CA School Boards Association, CA Teachers Association, and CA State Parent-Teacher Association.
- Author of bill was Assemblymember Shirley Weber; sponsors were ACLU of CA, California Latinas for Reproductive Justice, Equality California, Forward Together, and Planned Parenthood Affiliates of CA.
- Since the last legal reform in 2004, a number of gaps surfaced in what students were learning in classrooms—the CA Healthy Youth Act was an effort to *address those missing pieces and streamline existing law*.
- Signed into law October 1, 2015. *Effective as of January 1, 2016.*



WHAT'S DIFFERENT AS OF JANUARY 1, 2016?

- All districts required to provide *both comprehensive sexual health education and HIV prevention education* to students *at least twice*—once in middle school and once in high school.
- Reinforces a focus on healthy attitudes, healthy behaviors, and healthy relationships.
- Some new requirements and required topics (e.g., adolescent relationship abuse and sex trafficking).
- Expands and strengthens existing requirements that instruction and materials be appropriate for students of all sexual orientations and genders.



Specific requirements of the CA Healthy Youth Act are covered in the remaining slides. New or substantially different requirements will be flagged.

DEFINITIONS

EDUCATION CODE 51931

Sexual health education: Education regarding human development and sexuality, including education on pregnancy, contraception, and sexually transmitted infections.

HIV prevention education: Instruction on the nature of human immunodeficiency virus (HIV) and AIDS, methods of transmission, strategies to reduce the risk of HIV infection, and social and public health issues related to HIV and AIDS.

DOES NOT INCLUDE: Anti-harassment programs or other instruction that discusses gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family but does not discuss human reproductive organs and their functions.



The distinction between sexual health and HIV prevention education and other programs of instruction is particularly important because, as you will see from later slides, parents are permitted to opt their child out of sexual health and HIV prevention education. They are not, however, allowed to opt their student out of other educational programs, including anti-harassment programs or other instruction that discusses gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family but does not discuss human reproductive organs and their functions.

This ensures that all students feel safe on and off campus knowing that all their peers received the same messages on acceptable and unacceptable behaviors, resulting in a positive school climate.

PURPOSE

EDUCATION CODE 51930

To provide students with integrated, comprehensive, accurate, and unbiased comprehensive sexual health and HIV prevention education at least once in middle school and once in high school.

To ensure that students develop the knowledge and skills necessary to:

- Protect their sexual and reproductive health from HIV/STIs and unintended pregnancy
- Develop healthy attitudes concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family; and
- Have healthy, positive, and safe relationships and behaviors.

To ensure that students understand sexuality as a normal part of human development.



Points to highlight:

- This is an expansion of the purpose that was previously in place;
- It now reflects a reinforced focus on healthy behaviors, attitudes, and relationships; and
- Places greater emphasis on the development of both knowledge *and skills*.

REQUIREMENTS

- ✓ At least once in **junior high/middle school** and at least once in **high school**, starting in grade 7. May be provided in age-appropriate way before grade 7.

EDUCATION CODE 51934(a)

- ✓ Age-appropriate.

EDUCATION CODE 51933(a)

- ✓ Medically accurate and objective.

EDUCATION CODE 51933(b)

Medically accurate: "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." EDUCATION CODE 51931



[NEW**] Comprehensive sexual health education must be taught in addition to HIV prevention education at least once in junior high/middle school and at least once in high school:**

Again, this is one of the key changes under the CA Healthy Youth Act. Previously, only HIV prevention education was required.

To clarify, this requirement means that students must receive comprehensive sexual health and HIV prevention education at least twice over the course of grades 7-12. *It does not mean that it will be taught every year from grades 7-12.*

REQUIREMENTS

ALL GRADES, INCLUDING ELEMENTARY

- ✓ All components align with and support the purpose of the California Healthy Youth Act.

EDUCATION CODE 51933(C)

- ✓ Tone and content consistent across all instruction and materials.
- ✓ Regardless of who provides each component.



NOTE: Going forward, each slide distinguishes between baseline requirements for sexual health instruction taught in any grade and additional requirements that are specific to grades 7-12. Required content areas for grades 7-12 may also be covered in an age-appropriate way prior to grade 7.

[NEW**] All components align with and support the purpose of the California Healthy Youth Act.**

As a reminder, the purpose of the CA Healthy Youth Act is enumerated at Education Code 51930.

In order to ensure that students receive instruction that best supports their need for accurate, comprehensive information, this new requirement for integrated instruction means that there must be internal consistency within sexual health education and HIV prevention instruction and materials.

All instruction and materials, including those by outside speakers, must support and align with the purposes of the California Healthy Youth Act and with each other; they may not be in conflict with or undermine each other or any of the purposes of the law. For example, schools may not use materials or presentations that, in promoting abstinence, focus

exclusively on the failure rates or perceived disadvantages of condoms or contraception, even if schools attempt to balance these materials with other, objective information.

REQUIREMENTS

ALL GRADES, INCLUDING ELEMENTARY

- ✓ **Knowledge and skills based.**
EDUCATION CODE 51930(b), 51933(g), (h)
- ✓ **Not promoting of any religious doctrine.**
EDUCATION CODE 51933(i)
- ✓ **Accessible to:**
 - ✓ English learners, and
 - ✓ Students with disabilities.EDUCATION CODE 51933(d)(2), (3)



Accessible to English learners and students with disabilities:

Education Code 51933(d)(2), (3) goes on to explain that to meet this requirement, schools may adopt alternate or modified curricula, curricula in alternative formats, or auxiliary aids. However, any alternative or modified curricula made available under this requirement must still meet all other requirements of the CA Healthy Youth Act.

REQUIREMENTS

ALL GRADES, INCLUDING ELEMENTARY

- ✓ Do not reflect or promote **bias** against any person on the basis of:

- ✓ Disability
- ✓ Gender
- ✓ Gender identity
- ✓ Gender expression
- ✓ Nationality, race, or ethnicity
- ✓ Religion
- ✓ Sexual orientation

EDUCATION CODE 51933(d)(4); see also EDUCATION CODE 220

- ✓ Culturally **inclusive** and **appropriate** students of all:

- ✓ Races
- ✓ Genders
- ✓ Sexual orientations; and
- ✓ Ethnic and cultural backgrounds

EDUCATION CODE 51933(d)(1)



Essentially these requirements require that instruction and materials not make any assumptions about how people identify in any of these categories or any assumptions about how the people in any of these categories act, think, or believe.

These are not new requirements, but the requirements listed in the next slide are new and meant to strengthen and provide more guidance for the requirements you see here.

REQUIREMENTS

ALL GRADES, INCLUDING ELEMENTARY

- ✓ Recognize that people have different sexual orientations and examples of relationships also include same-sex relationships.

EDUCATION CODE 51933(d)(5)

- ✓ Include instruction on:

- ✓ Gender
- ✓ Gender expression
- ✓ Gender identity; and
- ✓ The harms of negative gender stereotypes.

EDUCATION CODE 51933(b)(6)



[NEW**]**

These new requirements are straightforward, however, some definitions for clarity--

Sexual Orientation: A person's romantic or sexual attraction to people of the other and/or same gender. (Education Code 212.6) Common terms used to describe sexual orientation include, but are not limited to, heterosexual, lesbian, gay, and bisexual. Sexual orientation and gender identity are different. Transgender students may identify as gay, lesbian, bisexual, or heterosexual.

Transgender: A person whose assigned sex at birth is different from who they know they are on the inside. Put another way, a person whose gender identity is different than their sex assigned at birth.

Gender: Socially determined characteristics, roles, behaviors, and attributes a society expects from and considers appropriate for males and females; these characteristics are often referred to as "feminine" and "masculine." Under California law, "gender" is defined to include a person's gender identity. (Education Code 210.7)

Gender expression: The way a person shows gender, such as through clothing, hairstyles,

or mannerisms. A person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. (Education Code 210.7)

Gender Identity: A person's internal, deeply-rooted identification as male or female, both, neither, or something different. All people have a gender identity, not just transgender people.

Sex: Something assigned at birth and printed on a birth certificate, based on physical characteristics such as hormones, chromosomes, genitals, etc.

REQUIREMENTS

ALL GRADES, INCLUDING ELEMENTARY

- ✓ Encourages students to communicate with parents, guardians, or other trusted adults and provides knowledge and skills necessary for these discussions.

EDUCATION CODE 51933(e)

- ✓ Teaches the value of and prepares students to form and maintain healthy, committed relationships based on mutual respect and affection, and are free from violence, coercion, and intimidation.

EDUCATION CODE 51933(f), (g)



Encourage students to communicate with parents, guardians, or other trusted adults and provides knowledge and skills necessary for these discussions:

This is not a new requirement, but it has been expanded to encourage students to communicate with *other trusted adults* as well as parents and guardians. This adjustment was made to recognize the fact that, unfortunately, not all students are able to safely turn to their parents and guardians with sensitive questions and information about their lives.

[MOSTLY NEW**] Teaches the value of and prepares students to form and maintain healthy, committed relationships based on mutual respect and affection, and are free from violence, coercion, and intimidation:**

The CA Healthy Youth Act teaches students the value of committed relationships, including but not limited to marriage, and it stimulates students to think about the elements of a healthy relationship at all relationship stages.

This requirement also underscores the importance of *skills*, in addition to just knowledge. The CA Healthy Youth Act requires that students be prepared with actionable knowledge and skills for making and implementing healthy decisions about sexuality, including negotiation and refusal skills for overcoming peer pressure and using effective decision

making to avoid high-risk activities.

REQUIREMENTS

GRADES 7-12

- ✓ **Nature and transmission of HIV and other STIs.**
EDUCATION CODE 51934(a)(1), (2), (5)
- ✓ **HIV and STI prevention and treatment.**
EDUCATION CODE 51934(a)(4), (6)
- ✓ **Social views on HIV and AIDS, including stereotypes and myths, and emphasizing:**
 - ✓ Successfully treated HIV-positive individuals have a normal life expectancy;
 - ✓ All people are at some risk of contracting HIV; and
 - ✓ The only way to know if one is HIV-positive is to get tested.

EDUCATION CODE 51934(a)(7)



NOTE: This slide and the following three slides address additional content requirements for instruction in grades 7-12. Age-appropriate information on these topics may also be provided in instruction prior to grade 7.

Nature and transmission of HIV and other STIs:

Including the relative risks of infection associated with specific behaviors (e.g., sexual activities and injection drug use).

HIV and STI prevention and treatment:

The statute requires that information be provided about the effectiveness and safety of all federal FDA-approved methods that prevent or reduce the risk of contracting HIV and other STIs. This means that instruction and materials must not focus solely on failure rates of these methods. As detailed in the next slide, the statute also requires information that abstinence from sexual activity and injection drug use is the only certain way to prevent HIV and STIs and requires discussion of the benefits of delaying sexual activity while also providing information about other prevention methods.

Information about treatment must include information about how antiretroviral therapy

can dramatically prolong the lives of many people living with HIV and reduce the likelihood of transmitting HIV to others.

Social views on HIV and AIDS:

This is not a new requirement, but the specific emphases have been updated to reflect improved understanding of HIV and AIDS as well as advances in treatment since the original HIV/AIDS prevention education mandate was passed in 1992.

Any information provided during discussions about social views on HIV and AIDS must still be medically accurate and unbiased, as required under other parts of the CA Healthy Youth Act.

REQUIREMENTS

GRADES 7-12

- ✓ **Effectiveness and safety of all FDA-approved contraceptive methods.**
EDUCATION CODE 51934(a)(9)
- ✓ **Abstinence as the only certain way to prevent HIV, STIs, and unintended pregnancy.**
EDUCATION CODE 51934(a)(4), (6)
- ✓ **Value of delaying sexual activity, while mentioning other methods of preventing HIV, STIs, and unintended pregnancy.**
EDUCATION CODE 51934(a)(7)

**ABSTINENCE-ONLY EDUCATION IN CALIFORNIA
HAS BEEN STRICTLY PROHIBITED SINCE 2004.**



Effectiveness and safety of all FDA-approved contraceptive methods:

Again, this requires discussion above and beyond the existence of various FDA-approved contraceptive methods and must include information about effectiveness and safety of each method. Focus only on failure rates of contraceptive methods is not allowed.

Value of delaying sexual activity, while mentioning other methods of preventing HIV, STIs, and unintended pregnancy.

Understanding the value in delaying sexual activity is a critical part of developing healthy behaviors and attitudes around sexual activity but this information must be provided *in addition to* information about all other methods of preventing HIV, STIs, and unintended pregnancy.

As a reminder, sexual health instruction that only covers abstinence has been strictly prohibited under California law since 2004.

REQUIREMENTS

GRADES 7-12

- ✓ Includes information about pregnancy, including:
 - ✓ The importance of prenatal care;
 - ✓ Objective discussion of all legally available pregnancy outcomes, including parenting, adoption, and abortion; and
 - ✓ Information about the CA newborn safe-surrender law.

EDUCATION CODE 51934(a)(9)



[MOSTLY NEW**]**

Previously, the statute only required information about the law on surrendering physical custody of a minor child 72 hours of age or younger, pursuant to Section 1255.7 of the Health and Safety Code and Section 271.5 of the Penal Code.

Again, any information provided under this section must be medically accurate, unbiased, and not promoting of any religious doctrine.

REQUIREMENTS

GRADES 7-12

- ✓ Sexual assault, adolescent relationship abuse, and intimate partner violence.

EDUCATION CODE 51934(a)(10)

- ✓ Sexual harassment.

EDUCATION CODE 51934(a)(10)

- ✓ Sex trafficking.

EDUCATION CODE 51934(a)(10)

- ✓ Local resources and student rights about:

- ✓ Accessing sexual and reproductive health care; and
- ✓ Assistance with sexual assault and intimate partner violence.

EDUCATION CODE 51934(a)(6)



[NEW**] Sexual assault, adolescent relationship abuse, and intimate partner violence.**

[NEW**] Sexual harassment.**

[NEW**] Sex trafficking.**

Students should learn how to recognize, prevent, and address instances of sexual assault, adolescent relationship abuse, intimate partner violence, sexual harassment, and sex trafficking.

[EXPANDED**] Local resources and student rights about accessing sexual and reproductive health care; and assistance with sexual assault and intimate partner violence:**

Again, this goes to the underlying purpose of enabling students to develop healthy behaviors and attitudes with regard to their sexual health. This requirement gives students *community-specific* information they need to use the decisionmaking skills they learn.

Information about student rights provided in this section should cover issues of confidentiality and consent, as well as a student's right to leave campus during school

hours to obtain confidential and sensitive medical services without parental notification or consent.

PARENTAL NOTIFICATION & OPT-OUT

EDUCATION CODE 51938

At the beginning of the school year...*

Notice: Districts must notify parents of the instruction and provide them with opportunities to view the curriculum and other instructional materials.

Opt-out: Districts must also allow parents to remove their student from instruction if they so choose, using a passive consent (“opt-out”) process in which parents must request in writing that their student not receive the instruction.

Districts may not require active consent (“opt-in”) by requiring that students return a permission slip in order to receive the instruction.

This applies to all grades, including elementary.

* Or at time of enrollment, for students enrolling late



These requirements are not new, but due to some misinterpretation of the previous law, requirements around parental notification and opt-out were clarified by the CA Healthy Youth Act.

The passive consent (“opt-out”) requirement and prohibition against active consent (“opt-in”) applies to all instruction, including in elementary school.

Schools may also not require parents/guardians to return a signed acknowledgment that they have received the notice in order for their child to participate in the instruction; this serves as de facto active consent and is prohibited under the law.

SURVEYS

EDUCATION CODE 51938

Schools may administer **anonymous, voluntary, confidential, age-appropriate** surveys or questionnaires in which students are asked about their **sexual activities** and **attitudes** in order to measure their health behaviors and risks.

GRADES K-6

- Parental notification
- Opportunity to review
- Opt-in only

GRADES 7-12

- Parental notification
- Opportunity to review
- Opt-out only



These are not new requirements; they were clarified by the CA Healthy Youth Act.

Different parental notification and consent requirements apply to surveys about health behaviors and risks, based on what grades they are being administered in.

INSTRUCTORS, OUTSIDE CONSULTANTS, & GUEST SPEAKERS

ALL INSTRUCTORS

EDUCATION CODE 51931(e), 51934(a)

Knowledge: Most recent medically accurate research on human sexuality, healthy relationships, pregnancy, and HIV and other sexually transmitted infections.

OUTSIDE CONSULTANTS & GUEST SPEAKERS

EDUCATION CODE 51936

Expertise: Comprehensive sexual health education.

Knowledge: Most recent medically accurate research on the relevant topic or topics covered in their instruction.



These are not new requirements; they were clarified by the CA Healthy Youth Act.

In short—

All instructors: Must have the knowledge to provide students with the most updated information possible about sexual health.

Outside consultants and guest speakers: Must have expertise in comprehensive sexual health education broadly regardless of the topic they are addressing in the classroom. They must know the most updated medically accurate information on the topic they are addressing.

IN-SERVICE TRAINING

EDUCATION CODE 51935

HIV prevention education: Periodic training to all district personnel providing instruction to learn new developments in the scientific understanding of HIV.

Comprehensive sexual health education: School districts may expand the training to include the topic of comprehensive sexual health education.

NOTE: In-service training is voluntary for teachers with a demonstrated expertise in the field or who have received training from the California Department of Education, their affiliates or Centers for Disease Control and Prevention.



ADDITIONAL RESOURCES

Text of the CA Healthy Youth Act:

http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=EDC&division=4.&title=2.&part=28.&chapter=5.6.&article=

CA Department of Education: <http://www.cde.ca.gov/ls/he/se/>

CA School Boards Association: <https://www.csba.org/ProductsAndServices/AllServices/Gamut.aspx>

American Civil Liberties Union (ACLU) of California: http://www.aclunc.org/sex_ed



[NOTE: As of February 24, 2016, the CDE has not yet updated its website to reflect the CA Healthy Youth Act, but we have been informed that this update is in progress.]