Information Sheet – 3/14/17 - Board of Trustees Meeting

TO: Board of Trustees Item: 5.3

FR: Celli Coeville

DATE: March 6, 2017

RE: Policy Update, AR 6142.1 Sexual Health & HIV/AIDS Preventative Education, Second Reading

AR 6142.1 Sexual Health and HIV/AIDS Prevention Instruction –(AR revised) The Administrative Regulation is updated to reflect NEW LAW (AB 329) which requires districts to provide comprehensive sexual health education in grades 7-12 and to integrate such instruction with HIV prevention education. The Administrative Regulation adds a new section on "Definitions" and, pursuant to AB 329, expands program criteria and merges the components of sexual health education and HIV prevention education. We recommend that the Board approve AR 6142.1.

CSBA Sample
Administrative Regulation
Sexual Health And HIV/AIDS Prevention Instruction

AR 6142.1
Instruction

***Note: The following administrative regulation is for use by districts that maintain any of grades 7-12. As amended by AB 329 (Ch. 398, Statutes of 2015), Education Code 51934 requires districts to provide both comprehensive sexual health education and HIV prevention education to students in grades 7-12. ***

***Note: If the district chooses to provide age-appropriate sexual health education prior to grade 7 as authorized by Education Code 51934, as amended by AB 329, it may revise the following administrative regulation accordingly. ***

Definitions

Comprehensive sexual health education means education regarding human development and sexuality, including education on pregnancy, contraception, and sexually transmitted infections. (Education Code 51931)

HIV prevention education means instruction on the nature of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS), methods of transmission, strategies to reduce the risk of HIV infection, and social and public health issues related to HIV and AIDS. (Education Code 51931)

(cf. 6142.8 - Comprehensive Health Education)
(cf. 6143 - Courses of Study)

Age appropriate refers to topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group. (Education Code 51931)

Medically accurate means verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists. (Education Code 51931)

General Criteria for Instruction and Materials

***Note: Education Code 51933 lists criteria for comprehensive sexual health and HIV

prevention instruction and materials. AB 329 (Ch. 398, Statutes of 2015) expanded these criteria to add items #8-13 below. ***

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

1. Are age appropriate

2. Are factually and medically accurate and objective

3. Align with and support the following purposes as specified in Education Code 51930:

a. 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

b. To provide students 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

c. To promote understanding of sexuality as a normal part of human development

d. To ensure students receive integrated, comprehensive, accurate, and unbiased sexual health and HIV prevention instruction and provide educators with clear tools and guidance to accomplish that end

e. To provide students with the knowledge and skills necessary to have healthy, positive, and safe relationships and behaviors

4. Are appropriate for use with students of all races, genders, sexual orientations, and ethnic and cultural backgrounds; students with disabilities; and English learners

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 6174 - Education for English Language Learners)

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

6. Are accessible to students with disabilities, including, but not limited to, the provision of a modified curriculum, materials, and instruction in alternative formats and auxiliary aids

7. Do not reflect or promote bias against any person in protected categories of discrimination pursuant to Education Code 220

8. Affirmatively recognize that people have different sexual orientations and, when discussing or providing examples of relationships and couples, shall be inclusive of same-sex relationships

9. Teach students about gender, gender expression, and gender identity, and explore the harm of negative gender stereotypes

10. Encourage students to communicate with their parents/guardians and other trusted adults about human sexuality and provide the knowledge and skills necessary to do so

11. Teach the value of and prepare students to have and maintain committed relationships such as marriage

12. Provide students with knowledge and skills they need to form healthy relationships that are based on mutual respect and affection and are free from violence, coercion, and intimidation

(cf. 5145. 3 - Nondiscrimination/Harassment)

13. Provide students with knowledge and skills for making and implementing healthy decisions about sexuality, including negotiation and refusal skills to assist students in overcoming peer pressure and using effective decision-making skills to avoid high-risk activities

14. Do not teach or promote religious doctrine

Components of Sexual Health and HIV Prevention Education

***Note: In addition to meeting the requirements listed above in the section "General Criteria for Instruction and Materials," the district's comprehensive sexual health education and HIV prevention instruction must include the components or topics specified in Education Code 51934, as amended by AB 329 (Ch. 398, Statutes of 2015). ***

The district's comprehensive sexual health education and HIV prevention education for students in grades 7-12, in addition to complying with the criteria listed above in the section "General Criteria for Instruction and Materials," shall include all of the following: (Education Code 51934)

1. Information on the nature of HIV and other sexually transmitted infections and their effects on the human body

2. Information on the manner in which HIV and other sexually transmitted infections are and are not transmitted, including information on the relative risk of infection according to specific behaviors, including sexual behaviors and injection drug use

3. Information that abstinence from sexual activity and injection drug use is the only certain way to prevent HIV and other sexually transmitted infections, and that abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy

The 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.

(cf. 5141.25 - Availability of Condoms)
(cf. 5146 - Married/Pregnant/Parenting Students)

4. Information about 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 sexually transmitted infections, including use of antiretroviral medication, consistent with the Centers for Disease Control and Prevention

5. Information about the effectiveness and safety of reducing the risk of HIV transmission as a result of injection drug use by decreasing needle use and needle sharing

6. Information about the treatment of HIV and other sexually transmitted infections, including how antiretroviral therapy can dramatically prolong the lives of many people living with HIV and reduce the likelihood of transmitting HIV to others

7. Discussion about social views on HIV and AIDS, including addressing unfounded stereotypes and myths regarding HIV and AIDS and people living with HIV

This instruction shall emphasize that successfully treated HIV-positive individuals have a normal life expectancy, all people are at some risk of contracting HIV, and that testing is the only way to know if one is HIV-positive

8. Information about local resources, how to access local resources, and students' legal rights to access local resources for sexual and reproductive health care such as testing and medical care for HIV and other sexually transmitted infections and pregnancy prevention and care, as well as local resources for assistance with sexual assault and intimate partner violence

9. Information about the effectiveness and safety of FDA-approved contraceptive methods in preventing pregnancy, including, but not limited to, emergency contraception. Instruction on pregnancy shall include an objective discussion of all legally available pregnancy outcomes, including, but not limited to:

a. Parenting, adoption, and abortion

b. Information on the law on surrendering physical custody of a minor child 72 hours of age or younger, pursuant to Health and Safety Code 1255.7 and Penal Code 271.5

c. The importance of prenatal care

***Note: Education Code 51934, as amended by AB 329 (Ch. 398, Statutes of 2015), requires that comprehensive sexual health education include information about sexual harassment, sexual

assault, adolescent relationship abuse, intimate partner violence, and sex trafficking, as provided in item #10 below. ***

***Note: In addition, pursuant to Education Code 51225.36, as added by SB 695 (Ch. 424, Statutes of 2015), any district that has a health education course requirement for graduation from high school must include instruction in sexual harassment and violence, including, but not limited to, information on the affirmative consent standard pursuant to Education Code 67386. See AR 6146.1 - High School Graduation Requirements. Education Code 51225.36 also requires that teachers delivering health instruction consult information related to sexual harassment and violence in the health curriculum framework. ***

***Note: For further information about adolescent dating abuse, see CSBA's governance brief Promoting Healthy Relationships for Adolescents: Board Policy Considerations. ***

10. Information about sexual harassment, sexual assault, adolescent relationship abuse, intimate partner violence, and sex trafficking

Professional Development

The district's comprehensive sexual health education and HIV prevention education shall be provided by instructors trained in the appropriate courses who are knowledgeable of the most recent medically accurate research on human sexuality, healthy relationships, pregnancy, and HIV and other sexually transmitted infections. (Education Code 51931, 51933, 51934)

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

(cf. 4131 - Staff Development)

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

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

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

Use of Consultants or Guest Speakers

***Note: Pursuant to Education Code 51933, 51934, and 51936, the district's comprehensive sexual health and HIV prevention education may be taught by outside consultants or delivered by guest speakers at an assembly and any such instruction must comply with the same requirements as instruction provided by the district and in accordance with Education Code 51930-51939. If the district elects to use outside consultants or guest speakers, parents/guardians must be provided additional notice about the speaker and his/her organization; see item #4 in the section below entitled "Parent/Guardian Notification." ***

The Superintendent or designee may contract with outside consultants or guest speakers, including those who have developed multilingual curricula or curricula accessible to persons with disabilities, to deliver comprehensive sexual health and HIV prevention education or to provide training for district personnel. All outside consultants and guest speakers shall have expertise in comprehensive sexual health education and HIV prevention education and knowledge of the most recent medically accurate research on the relevant topic(s) covered in the instruction. The Superintendent or designee shall ensure that any instruction provided by an outside speaker or consultant complies with Board policy, administrative regulation, and Education Code 51930-51939. (Education Code 51933, 51934, 51936)

(cf. 6145.8 - Assemblies and Special Events)

Parent/Guardian Notification

***Note: Education Code 51938 requires the district to provide parents/guardians the following notification. A sample notification letter is available on the California Department of Education's web site. ***

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

1. That written and audiovisual educational materials to be used in comprehensive sexual health and HIV prevention education are available for inspection

2. That parents/guardians have a right to excuse their child from comprehensive sexual health or HIV prevention education, or research on student health behaviors and risks, provided they submit their request in writing to the district

3. That parents/guardians have a right to request a copy of Education Code 51930-51939

4. Whether the comprehensive sexual health or HIV prevention education will be taught by district personnel or outside consultants

If the district chooses to use outside consultants or to hold an assembly with guest speakers to deliver comprehensive sexual health or HIV prevention education, the notification shall include:

(Education Code 51938)

a. The date of the instruction

b. The name of the organization or affiliation of each guest speaker

c. Information stating the right of the parent/guardian to request a copy of Education Code 51933, 51934, and 51938

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

(cf. 5145.6 - Parental Notifications)

Nonapplicability to Certain Instruction or Materials

***Note: Pursuant to Education Code 51932, Education Code 51930-51939 requirements pertaining to instructional content, teacher training, and parental notification and consent do not apply to instruction that is not sexual health instruction or HIV prevention education as defined. When gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family are addressed in a separate instructional context, such as social studies, which does not also discuss human reproductive organs and their function, this instruction shall not be considered comprehensive sexual health instruction or HIV prevention education. ***

The requirements of Education Code 51930-51939 pertaining to instructional content, teacher training, and parental notification and consent shall not apply to the following: (Education Code 51932)

1. A description or illustration of human reproductive organs that may appear in a textbook, adopted pursuant to law, if the textbook does not include other elements of comprehensive sexual health education or HIV prevention education

(cf. 6142.93 - Science Instruction)

2. Instruction or materials that discuss gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family and do not discuss human reproductive organs and their functions

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION

Course Material/Instruction

The Superintendent or designee shall ensure in all sexual health and HIV/AIDS prevention instruction course material and instruction shall: (Education Code 51553)

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

2. Present factual and medically accurate information, including but not limited to medical, psychiatric, psychological, empirical and statistical statements.

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

3. Be available on an equal basis to a student who is an English learner.

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

5. Be accessible to student with disabilities, including, but not limited to, the provisions of a modified curriculum, materials, and instruction in alternative formats and auxiliary aids.

6. Not teach or promote religious doctrine.

7. Emphasize that abstinence from sexual intercourse is the only protection that is 100% effective against unwanted teenage pregnancy, sexually transmitted diseases and acquired immune deficiency syndrome (AIDS) when transmitted sexually.

8. When discussing contraception, stress that abstinence is the only contraceptive method which is 100% effective, and that all other methods of contraception carry a risk of failure in preventing unwanted teenage pregnancy. Statistics based on the latest medical information shall be provided to

students citing the failure and success rate of condoms and other contraceptives in preventing pregnancy.

9. Stress that sexually transmitted diseases are serious possible hazards of sexual intercourse. Students shall be provided with statistics based on the latest medical information citing the failure and success rates of condoms in preventing AIDS and other sexually transmitted diseases.

10. Include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual intercourse outside of marriage and the consequences of unwanted adolescent pregnancy.

11. Stress that students should abstain from sexual intercourse until they are ready for marriage.

12. Teach respect for marriage and committed relationships.

13. Encourage a student to communicate with his/her parents/guardians about human sexuality.

14. Advise students of the laws pertaining to their financial responsibility to children born in and out of wedlock.

15. Provide information about the nature of HIV/AIDS and its effects on the human body.

16. Provide information on the manner in which HIV is and is not transmitted, including information activities that present the highest risk of HIV infection.

17. Discuss the methods to reduce the risk of HIV infection, including:

    a. Emphasis that sexual abstinence, monogamy, the avoidance of multiple sexual partners, and abstinence for intravenous drug use are the most effective means for HIV/AIDS prevention.

    b. Statistics based upon the latest medical information citing the failure and success rates of condoms and other contraceptives in preventing sexually transmitted HIV infection.

    c. Information on other methods that may reduce the risk of HIV transmission from intravenous drug use.

18. Discuss and share the public health issues associated with HIV/AIDS (local resources for HIV testing and medical care).

19. Develop refusal skills to assist students in overcoming peer pressure and using effective decision-making skills to avoid high risk activities.

20. Discuss societal views on HIV/AIDS, including stereotypes and myths regarding persons with HIV/AIDS and emphasizing compassion for persons living with HIV/AIDS.

21. Advise students that it is unlawful pursuant to Penal Code 261.5 for males or females of any age to have sexual intercourse with males or females under the age of 18 to whom they are not married.

22. Emphasize that students have the power to control personal behavior. Students shall be encouraged to base their actions on reasoning, self-discipline, sense of responsibility, self-control, and ethical considerations such as respect for one's self and others.

23. Teach students to not make unwanted physical and verbal sexual advances and how to say "no" to unwanted sexual advances. Provide information about verbal, physical and visual sexual assault, including but not limited to nonconsensual sexual advances, nonconsensual physical sexual contact, and rape by an acquaintance, commonly referred to as "date rape." This course material and instruction shall contain methods of preventing sexual assault by an acquaintance, including exercising good judgment and avoiding behavior that impairs good judgment, and shall also encourage youth to resist negative peer pressure. This course material and instruction also shall inform students of the potential legal consequences of sexual assault by an acquaintance. Specifically, students shall be advised that it is unlawful to touch an intimate part of another person, as specified Penal Code 243.4(d).

24. Be free of racial, ethnic and gender biases.

25. Teach students that it is wrong to take advantage of, or to exploit, another person.

Professional Development

The Superintendent or designee shall cooperatively plan and conduct in-service training for all district personnel who provide HIV/Aids prevention education, through regional planning, joint powers of agreements, or contracted services.

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

1. At the secondary level, the family life/sex education program shall be placed in a course that is required for all students. Teachers who provide instruction in family life/sex education shall have professional preparation, either pre-service or in-service, in the subject area.

Evaluation

The Superintendent or designee shall ensure that Sexual Health and HIV/AIDS Prevention materials and instruction are continuously evaluated in light of information received from students, parents/guardians, and teachers or when new information pertinent to items #25 above becomes available. Such information may indicate what students learned, whether the program was workable for the teachers, and how the program could be improved.

Parent/Guardian Notification

At the beginning of the school year, or at the time of a student's enrollment, parents/guardians shall be notified about the instruction in comprehensive sexual health education and HIV/AIDS prevention education. In addition, before any instruction on family life, human sexuality, AIDS or sexually transmitted diseases is given, the parent/guardian shall be provided with written notice explaining that the instruction will be given and information stating the parents/guardian's right to request a copy of Education Code 51201.5 and 51553. This notification shall inform parents/guardians that they may request in writing that their child not attend the class. No student shall attend such instruction if the school receives this request. (Education Code 48980, 51201.5, 51550, 51555)

(cf. 5145.6 - Parental Notifications)

The parent/guardian may request in writing that their child not receive comprehensive sexual health and HIV/AIDS prevention education. Any student may be excused from any part of family life/sex education instruction. (Education Code 51240)

Parents/guardians have a right to request a copy of Education Code 51930-51939.

Written and audiovisual educational materials to be used in comprehensive sexual health and HIV/AIDS prevention education are available for inspection.

The Superintendent or designee shall keep on file Education Code 51201.5, 51553, 51554, and 51555. (Education Code 51201.5, 51554, 51555)

At the beginning of the school year, or at the time of a student's enrollment, the Superintendent or designee shall notify parents/ guardians of any outside organization or guest speaker brought into the district to provide instruction on family life, human sexuality, AIDS or sexually transmitted diseases. This notification shall include the date of the instruction, the name of the organization or affiliation of each guest speaker and information regarding the parent/guardian's right to request a copy of Education Code 51201.5 and 51553. (Education Code 51554)

(cf. 6142.2 - AIDS Prevention Instruction)

If arrangements for this instruction are made after the beginning of the school year, the parents/guardians shall be notified no fewer than 10, and no more than 15, days before the instruction is delivered. (Education Code 51554)

This notification is required whether the guest speakers are brought in by the district to lecture, distribute information, show a videotape, act out, conduct an activity involving student participation or provide audio material in either a classroom or assembly. (Education Code 51554)

Parents/guardians shall also be notified in the manner described above prior to any instruction on family life, human sexuality, AIDS or sexually transmitted diseases at an assembly conducted by a district employee. (Education Code 51554)

(cf. 6144 - Controversial Issues)

If notice is sent home with the students, parents/guardians shall be asked to sign and return to the school a slip indicating that they have read the notification. If slips are not returned, parental approval shall be confirmed by telephone.

All materials used for the above instruction shall be available for inspection by parents/guardians at reasonable times and places prior to the onset of instruction. The above notification shall inform parents/guardians of their right to inspect these materials. (Education Code 51550, 51820)

During the period of time that instruction described above is being delivered, the district shall make available an alternative educational activity to those students whose parents/guardians have requested that they not receive the instruction. (Education Code 51554)

A student shall not be subject to disciplinary action, academic penalty or other sanction if the student's parent/guardian declines to permit the student to receive the instruction. (Education Code 51554)