

By: Hughes, et al.
(Dutton)

S.B. No. 442

A BILL TO BE ENTITLED

AN ACT

relating to local school health advisory councils and health education provided by public schools, including requirements regarding human sexuality instruction.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 28.004, Education Code, is amended by amending Subsections (d-1), (h), (i), (i-1), and (j) and adding Subsections (d-2), (e-1), (e-2), (e-3), (j-1), and (p) to read as follows:

(d-1) The local school health advisory council shall meet at least four times each year. For each meeting, the council shall:

(1) at least 72 hours before the meeting:

(A) post notice of the date, hour, place, and subject of the meeting on a bulletin board in the central administrative office of each campus in the school district; and

(B) ensure that the notice required under Paragraph (A) is posted on the district's Internet website, if the district has an Internet website;

(2) allow the public to attend the meeting and provide an opportunity for public comment;

(3) prepare and maintain minutes of the meeting that state the subject and content of each deliberation and each vote, order, decision, or other action taken by the council during the meeting;

1 (4) make an audio or video recording of the meeting;
2 and

3 (5) not later than the 10th day after the meeting,
4 submit the minutes and audio or video recording of the meeting to
5 the district.

6 (d-2) As soon as practicable after receipt of the minutes
7 and audio or video recording under Subsection (d-1)(5), the school
8 district shall post the minutes and audio or video recording on the
9 district's Internet website, if the district has an Internet
10 website.

11 (e-1) The board of trustees shall adopt a policy
12 establishing a process for the adoption of curriculum materials for
13 the school district's human sexuality instruction. The policy must
14 require:

15 (1) the board to adopt a resolution convening the
16 local school health advisory council for the purpose of making
17 recommendations regarding the curriculum materials;

18 (2) the local school health advisory council to:

19 (A) after the board's adoption of the resolution
20 under Subdivision (1), hold at least two public meetings, at which
21 an opportunity for public comment is provided, on the curriculum
22 materials before adopting recommendations; and

23 (B) provide the recommendations adopted under
24 Paragraph (A) to the board at a public meeting of the board, at
25 which an opportunity for public comment is provided; and

26 (3) the board, after receipt of the local school
27 health advisory council's recommendations under Subdivision (2),

1 to take action on the adoption of the recommendations by a record
2 vote at a public meeting.

3 (e-2) Curriculum materials proposed to be adopted for the
4 school district's human sexuality instruction must be made
5 available as provided by Subsection (j)(1) or (2)(A) or (C), as
6 applicable.

7 (e-3) Before adopting curriculum materials for the school
8 district's human sexuality instruction, the board of trustees shall
9 ensure that the curriculum materials are:

10 (1) based on the advice of the local school health
11 advisory council;

12 (2) suitable for the subject and grade level for which
13 the curriculum materials are intended; and

14 (3) reviewed by academic experts in the subject and
15 grade level for which the curriculum materials are intended.

16 (h) The board of trustees shall determine the specific
17 content of the district's instruction in human sexuality, in
18 accordance with this section [~~Subsections (e), (f), and (g)~~].

19 (i) Before each school year, a school district shall provide
20 written notice to a parent of each student enrolled in the district
21 of the board of trustees' decision regarding whether the district
22 will provide human sexuality instruction to district students. If
23 instruction will be provided, the notice must include:

24 (1) a [~~summary of the basic content of the district's~~
25 ~~human sexuality instruction to be provided to the student,~~
26 ~~including a~~] statement informing the parent of the human sexuality
27 instruction [~~instructional~~] requirements under state law;

1 (2) a detailed description of the content of the
2 district's human sexuality instruction and a general schedule on
3 which the instruction will be provided;

4 (3) a statement of the parent's right to:

5 (A) at the parent's discretion, review or
6 purchase a copy of curriculum materials as provided by Subsection
7 (j); ~~and~~

8 (B) remove the student from any part of the
9 district's human sexuality instruction without subjecting the
10 student to any disciplinary action, academic penalty, or other
11 sanction imposed by the district or the student's school; and

12 (C) use the grievance procedure as provided by
13 Subsection (i-1) or the appeals process under Section 7.057
14 concerning a complaint of a violation of this section;

15 (4) a statement that any curriculum materials in the
16 public domain used for the district's human sexuality instruction
17 must be posted on the district's Internet website, if the district
18 has an Internet website, and the Internet website address at which
19 the curriculum materials are located; and

20 (5) ~~(3)~~ information describing the opportunities
21 for parental involvement in the development of the curriculum to be
22 used in human sexuality instruction, including information
23 regarding the local school health advisory council established
24 under Subsection (a).

25 (i-1) A parent may use the grievance procedure adopted under
26 Section 26.011 concerning a complaint of a violation of this
27 section ~~[Subsection (i)]~~.

1 (j) A school district shall make all curriculum materials
2 used in the district's human sexuality instruction available by:

3 (1) for curriculum materials in the public domain:

4 (A) providing a copy of the curriculum materials
5 by mail or e-mail to a parent of a student enrolled in the district
6 on the parent's request; and

7 (B) posting the curriculum materials on the
8 district's Internet website, if the district has an Internet
9 website; and

10 (2) for copyrighted curriculum materials, allowing a
11 parent of a student enrolled in the district to:

12 (A) review the curriculum materials at the
13 student's campus at any time during regular business hours;

14 (B) purchase a copy of the curriculum materials
15 from the publisher as provided by the district's purchase agreement
16 for the curriculum materials under Subsection (j-1); or

17 (C) review the curriculum materials online
18 through a secure electronic account in a manner that prevents the
19 curriculum materials from being copied and that otherwise complies
20 with copyright law [~~for reasonable public inspection~~].

21 (j-1) If a school district purchases from a publisher
22 copyrighted curriculum materials for use in the district's human
23 sexuality instruction, the district shall ensure that the purchase
24 agreement provides for a means by which a parent of a student
25 enrolled in the district may purchase a copy of the curriculum
26 materials from the publisher at a price that does not exceed the
27 price per unit paid by the district for the curriculum materials.

1 (p) In this section:

2 (1) "Curriculum materials" includes the curriculum,
3 teacher training materials, and any other materials used in
4 providing instruction.

5 (2) "Human sexuality instruction," "instruction in
6 human sexuality," and "instruction relating to human sexuality"
7 include instruction in reproductive health.

8 SECTION 2. Section 12.104(b), Education Code, as amended by
9 Chapters 262 (H.B. 1597), 464 (S.B. 11), 467 (H.B. 4170), and 943
10 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, is
11 reenacted and amended to read as follows:

12 (b) An open-enrollment charter school is subject to:

13 (1) a provision of this title establishing a criminal
14 offense;

15 (2) the provisions in Chapter 554, Government Code;
16 and

17 (3) a prohibition, restriction, or requirement, as
18 applicable, imposed by this title or a rule adopted under this
19 title, relating to:

20 (A) the Public Education Information Management
21 System (PEIMS) to the extent necessary to monitor compliance with
22 this subchapter as determined by the commissioner;

23 (B) criminal history records under Subchapter C,
24 Chapter 22;

25 (C) reading instruments and accelerated reading
26 instruction programs under Section 28.006;

27 (D) accelerated instruction under Section

- 1 28.0211;
- 2 (E) high school graduation requirements under
- 3 Section 28.025;
- 4 (F) special education programs under Subchapter
- 5 A, Chapter 29;
- 6 (G) bilingual education under Subchapter B,
- 7 Chapter 29;
- 8 (H) prekindergarten programs under Subchapter E
- 9 or E-1, Chapter 29;
- 10 (I) extracurricular activities under Section
- 11 33.081;
- 12 (J) discipline management practices or behavior
- 13 management techniques under Section 37.0021;
- 14 (K) health and safety under Chapter 38;
- 15 (L) public school accountability under
- 16 Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;
- 17 (M) the requirement under Section 21.006 to
- 18 report an educator's misconduct;
- 19 (N) intensive programs of instruction under
- 20 Section 28.0213;
- 21 (O) the right of a school employee to report a
- 22 crime, as provided by Section 37.148;
- 23 (P) bullying prevention policies and procedures
- 24 under Section 37.0832;
- 25 (Q) the right of a school under Section 37.0052
- 26 to place a student who has engaged in certain bullying behavior in a
- 27 disciplinary alternative education program or to expel the student;

1 (R) the right under Section 37.0151 to report to
2 local law enforcement certain conduct constituting assault or
3 harassment;

4 (S) a parent's right to information regarding the
5 provision of assistance for learning difficulties to the parent's
6 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

7 (T) establishment of residency under Section
8 25.001;

9 (U) [~~(T)~~] school safety requirements under
10 Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.115,
11 37.207, and 37.2071;

12 (V) [~~(T)~~] the early childhood literacy and
13 mathematics proficiency plans under Section 11.185; [~~and~~]

14 (W) [~~(U)~~] the college, career, and military
15 readiness plans under Section 11.186; and

16 (X) establishing a local school health advisory
17 council and providing health education instruction under Section
18 28.004.

19 SECTION 3. (a) Except as provided by Subsection (b) of this
20 section, this Act applies beginning with the 2021-2022 school year.

21 (b) Section 28.004(j-1), Education Code, as added by this
22 Act, applies only to a purchase agreement entered into, amended, or
23 renewed on or after September 1, 2021.

24 SECTION 4. To the extent of any conflict, this Act prevails
25 over another Act of the 87th Legislature, Regular Session, 2021,
26 relating to nonsubstantive additions to and corrections in enacted
27 codes.

1 SECTION 5. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2021.