

1-1 By: Hughes S.B. No. 442
 1-2 (In the Senate - Filed January 26, 2021; March 9, 2021, read
 1-3 first time and referred to Committee on Education; March 29, 2021,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 9, Nays 2; March 29, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Hall	X			
1-11 Hughes	X			
1-12 Menéndez		X		
1-13 Paxton	X			
1-14 Perry	X			
1-15 Powell	X			
1-16 Schwertner	X			
1-17 West		X		

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 442 By: Hughes

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to local school health advisory councils and health
 1-23 education provided by public schools, including requirements
 1-24 regarding human sexuality instruction.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 28.004, Education Code, is amended by
 1-27 amending Subsections (d), (d-1), (h), (i), (i-1), and (j) and
 1-28 adding Subsections (d-2), (e-1), (e-2), (e-3), (j-1), and (p) to
 1-29 read as follows:

1-30 (d) The local school health advisory council must consist of
 1-31 at least five members, with each member appointed by the [The] board
 1-32 of trustees [shall appoint at least five members to the local school
 1-33 health advisory council]. A majority of the members must be persons
 1-34 who are parents of students enrolled in the district and who are not
 1-35 employed by the district. One of those members shall serve as chair
 1-36 or co-chair of the council. The board of trustees also may appoint
 1-37 one or more persons from each of the following groups or a
 1-38 representative from a group other than a group specified under this
 1-39 subsection:

- 1-40 (1) classroom teachers employed by the district;
- 1-41 (2) school counselors certified under Subchapter B,
 1-42 Chapter 21, employed by the district;
- 1-43 (3) school administrators employed by the district;
- 1-44 (4) district students;
- 1-45 (5) health care professionals licensed or certified to
 1-46 practice in this state, including medical or mental health
 1-47 professionals;
- 1-48 (6) the business community;
- 1-49 (7) law enforcement;
- 1-50 (8) senior citizens;
- 1-51 (9) the clergy;
- 1-52 (10) nonprofit health organizations; and
- 1-53 (11) local domestic violence programs.

1-54 (d-1) The local school health advisory council shall meet at
 1-55 least four times each year. For each meeting, the council shall:

- 1-56 (1) at least 72 hours before the meeting:
- 1-57 (A) post notice of the date, hour, place, and
 1-58 subject of the meeting on a bulletin board in the central
 1-59 administrative office of each campus in the school district; and
- 1-60 (B) ensure that the notice required under

2-1 Paragraph (A) is posted on the district's Internet website, if the
2-2 district has an Internet website;
2-3 (2) allow the public to attend the meeting and provide
2-4 an opportunity for public comment;
2-5 (3) prepare and maintain minutes of the meeting that
2-6 state the subject and content of each deliberation and each vote,
2-7 order, decision, or other action taken by the council during the
2-8 meeting;
2-9 (4) make an audio or video recording of the meeting;
2-10 and
2-11 (5) not later than the 10th day after the meeting,
2-12 submit the minutes and audio or video recording of the meeting to
2-13 the district.
2-14 (d-2) As soon as practicable after receipt of the minutes
2-15 and audio or video recording under Subsection (d-1)(5), the school
2-16 district shall post the minutes and audio or video recording on the
2-17 district's Internet website, if the district has an Internet
2-18 website.
2-19 (e-1) The board of trustees shall adopt a policy
2-20 establishing a process for the adoption of curriculum materials for
2-21 the school district's human sexuality instruction. The policy must
2-22 require:
2-23 (1) the board to adopt a resolution convening the
2-24 local school health advisory council for the purpose of making
2-25 recommendations regarding the curriculum materials;
2-26 (2) the local school health advisory council to:
2-27 (A) after the board's adoption of the resolution
2-28 under Subdivision (1), hold at least two public meetings, at which
2-29 an opportunity for public comment is provided, on the curriculum
2-30 materials before adopting recommendations; and
2-31 (B) provide the recommendations adopted under
2-32 Paragraph (A) to the board at a public meeting of the board, at
2-33 which an opportunity for public comment is provided; and
2-34 (3) the board, after receipt of the local school
2-35 health advisory council's recommendations under Subdivision (2),
2-36 to take action on the adoption of the recommendations by a record
2-37 vote at a public meeting.
2-38 (e-2) Curriculum materials proposed to be adopted for the
2-39 school district's human sexuality instruction must be made
2-40 available as provided by Subsection (j)(1) or (2)(A) or (C), as
2-41 applicable.
2-42 (e-3) Before adopting curriculum materials for the school
2-43 district's human sexuality instruction, the board of trustees shall
2-44 ensure that the curriculum materials are:
2-45 (1) free from factual errors;
2-46 (2) suitable for the subject and grade level for which
2-47 the curriculum materials are intended; and
2-48 (3) reviewed by academic experts in the subject and
2-49 grade level for which the curriculum materials are intended.
2-50 (h) The board of trustees shall determine the specific
2-51 content of the district's instruction in human sexuality, in
2-52 accordance with this section [Subsections (e), (f), and (g)].
2-53 (i) Before each school year, a school district shall provide
2-54 written notice to a parent of each student enrolled in the district
2-55 of the board of trustees' decision regarding whether the district
2-56 will provide human sexuality instruction to district students. If
2-57 instruction will be provided, the notice must include:
2-58 (1) a [summary of the basic content of the district's
2-59 human sexuality instruction to be provided to the student,
2-60 including a] statement informing the parent of the human sexuality
2-61 instruction [instructional] requirements under state law;
2-62 (2) a detailed description of the content of the
2-63 district's human sexuality instruction and a general schedule on
2-64 which the instruction will be provided;
2-65 (3) a statement of the parent's right to:
2-66 (A) at the parent's discretion, review or
2-67 purchase a copy of curriculum materials as provided by Subsection
2-68 (j); [and]
2-69 (B) remove the student from any part of the

3-1 district's human sexuality instruction without subjecting the
 3-2 student to any disciplinary action, academic penalty, or other
 3-3 sanction imposed by the district or the student's school; and

3-4 (C) use the grievance procedure as provided by
 3-5 Subsection (i-1) or the appeals process under Section 7.057
 3-6 concerning a complaint of a violation of this section;

3-7 (4) a statement that any curriculum materials in the
 3-8 public domain used for the district's human sexuality instruction
 3-9 must be posted on the district's Internet website, if the district
 3-10 has an Internet website, and the Internet website address at which
 3-11 the curriculum materials are located; and

3-12 (5) [~~3~~] information describing the opportunities
 3-13 for parental involvement in the development of the curriculum to be
 3-14 used in human sexuality instruction, including information
 3-15 regarding the local school health advisory council established
 3-16 under Subsection (a).

3-17 (i-1) A parent may use the grievance procedure adopted under
 3-18 Section 26.011 concerning a complaint of a violation of this
 3-19 section [~~Subsection (i)~~].

3-20 (j) A school district shall make all curriculum materials
 3-21 used in the district's human sexuality instruction available by:

3-22 (1) for curriculum materials in the public domain:

3-23 (A) providing a copy of the curriculum materials
 3-24 by mail or e-mail to a parent of a student enrolled in the district
 3-25 on the parent's request; and

3-26 (B) posting the curriculum materials on the
 3-27 district's Internet website, if the district has an Internet
 3-28 website; and

3-29 (2) for copyrighted curriculum materials, allowing a
 3-30 parent of a student enrolled in the district to:

3-31 (A) review the curriculum materials at the
 3-32 student's campus at any time during regular business hours;

3-33 (B) purchase a copy of the curriculum materials
 3-34 from the publisher as provided by the district's purchase agreement
 3-35 for the curriculum materials under Subsection (j-1); or

3-36 (C) review the curriculum materials online
 3-37 through a secure electronic account in a manner that prevents the
 3-38 curriculum materials from being copied and that otherwise complies
 3-39 with copyright law [~~for reasonable public inspection~~].

3-40 (j-1) If a school district purchases from a publisher
 3-41 copyrighted curriculum materials for use in the district's human
 3-42 sexuality instruction, the district shall ensure that the purchase
 3-43 agreement provides for a means by which a parent of a student
 3-44 enrolled in the district may purchase a copy of the curriculum
 3-45 materials from the publisher at a price that does not exceed the
 3-46 price per unit paid by the district for the curriculum materials.

3-47 (p) In this section:

3-48 (1) "Curriculum materials" includes the curriculum,
 3-49 teacher training materials, and any other materials used in
 3-50 providing instruction.

3-51 (2) "Human sexuality instruction," "instruction in
 3-52 human sexuality," and "instruction relating to human sexuality"
 3-53 include instruction in reproductive health.

3-54 SECTION 2. Section 12.104(b), Education Code, as amended by
 3-55 Chapters 262 (H.B. 1597), 464 (S.B. 11), 467 (H.B. 4170), and 943
 3-56 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, is
 3-57 reenacted and amended to read as follows:

3-58 (b) An open-enrollment charter school is subject to:

3-59 (1) a provision of this title establishing a criminal
 3-60 offense;

3-61 (2) the provisions in Chapter 554, Government Code;
 3-62 and

3-63 (3) a prohibition, restriction, or requirement, as
 3-64 applicable, imposed by this title or a rule adopted under this
 3-65 title, relating to:

3-66 (A) the Public Education Information Management
 3-67 System (PEIMS) to the extent necessary to monitor compliance with
 3-68 this subchapter as determined by the commissioner;

3-69 (B) criminal history records under Subchapter C,

4-1 Chapter 22;
 4-2 (C) reading instruments and accelerated reading
 4-3 instruction programs under Section 28.006;
 4-4 (D) accelerated instruction under Section
 4-5 28.0211;
 4-6 (E) high school graduation requirements under
 4-7 Section 28.025;
 4-8 (F) special education programs under Subchapter
 4-9 A, Chapter 29;
 4-10 (G) bilingual education under Subchapter B,
 4-11 Chapter 29;
 4-12 (H) prekindergarten programs under Subchapter E
 4-13 or E-1, Chapter 29;
 4-14 (I) extracurricular activities under Section
 4-15 33.081;
 4-16 (J) discipline management practices or behavior
 4-17 management techniques under Section 37.0021;
 4-18 (K) health and safety under Chapter 38;
 4-19 (L) public school accountability under
 4-20 Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;
 4-21 (M) the requirement under Section 21.006 to
 4-22 report an educator's misconduct;
 4-23 (N) intensive programs of instruction under
 4-24 Section 28.0213;
 4-25 (O) the right of a school employee to report a
 4-26 crime, as provided by Section 37.148;
 4-27 (P) bullying prevention policies and procedures
 4-28 under Section 37.0832;
 4-29 (Q) the right of a school under Section 37.0052
 4-30 to place a student who has engaged in certain bullying behavior in a
 4-31 disciplinary alternative education program or to expel the student;
 4-32 (R) the right under Section 37.0151 to report to
 4-33 local law enforcement certain conduct constituting assault or
 4-34 harassment;
 4-35 (S) a parent's right to information regarding the
 4-36 provision of assistance for learning difficulties to the parent's
 4-37 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);
 4-38 (T) establishment of residency under Section
 4-39 25.001;
 4-40 (U) [~~(T)~~] school safety requirements under
 4-41 Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.115,
 4-42 37.207, and 37.2071;
 4-43 (V) [~~(T)~~] the early childhood literacy and
 4-44 mathematics proficiency plans under Section 11.185; [~~and~~]
 4-45 (W) [~~(U)~~] the college, career, and military
 4-46 readiness plans under Section 11.186; and
 4-47 (X) establishing a local school health advisory
 4-48 council and providing health education instruction under Section
 4-49 28.004.

4-50 SECTION 3. (a) Except as provided by Subsection (b) of this
 4-51 section, this Act applies beginning with the 2021-2022 school year.
 4-52 (b) Section 28.004(j-1), Education Code, as added by this
 4-53 Act, applies only to a purchase agreement entered into, amended, or
 4-54 renewed on or after September 1, 2021.

4-55 SECTION 4. To the extent of any conflict, this Act prevails
 4-56 over another Act of the 87th Legislature, Regular Session, 2021,
 4-57 relating to nonsubstantive additions to and corrections in enacted
 4-58 codes.

4-59 SECTION 5. This Act takes effect immediately if it receives
 4-60 a vote of two-thirds of all the members elected to each house, as
 4-61 provided by Section 39, Article III, Texas Constitution. If this
 4-62 Act does not receive the vote necessary for immediate effect, this
 4-63 Act takes effect September 1, 2021.

4-64 * * * * *