

By: Hughes

S.B. No. 1072

A BILL TO BE ENTITLED

AN ACT

relating to local school health advisory councils and human sexuality instruction provided by public schools.

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

SECTION 1. Section 12.104(b), Education Code, as amended by Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B. 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular Session, 2021, is reenacted and amended to read as follows:

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

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

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

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

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

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

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

(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, except class size limits for prekindergarten
- 10 classes imposed under Section 25.112, which do not apply;
- 11 (I) extracurricular activities under Section
- 12 33.081;
- 13 (J) discipline management practices or behavior
- 14 management techniques under Section 37.0021;
- 15 (K) health and safety under Chapter 38;
- 16 (L) the provisions of Subchapter A, Chapter 39;
- 17 (M) public school accountability and special
- 18 investigations under Subchapters A, B, C, D, F, G, and J, Chapter
- 19 39, and Chapter 39A;
- 20 (N) the requirement under Section 21.006 to
- 21 report an educator's misconduct;
- 22 (O) intensive programs of instruction under
- 23 Section 28.0213;
- 24 (P) the right of a school employee to report a
- 25 crime, as provided by Section 37.148;
- 26 (Q) bullying prevention policies and procedures
- 27 under Section 37.0832;

1 (R) the right of a school under Section 37.0052  
2 to place a student who has engaged in certain bullying behavior in a  
3 disciplinary alternative education program or to expel the student;

4 (S) the right under Section 37.0151 to report to  
5 local law enforcement certain conduct constituting assault or  
6 harassment;

7 (T) a parent's right to information regarding the  
8 provision of assistance for learning difficulties to the parent's  
9 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

10 (U) establishment of residency under Section  
11 [25.001](#);

12 (V) school safety requirements under Sections  
13 [37.108](#), [37.1081](#), [37.1082](#), [37.109](#), [37.113](#), [37.114](#), [37.1141](#), [37.115](#),  
14 [37.207](#), and [37.2071](#);

15 (W) the early childhood literacy and mathematics  
16 proficiency plans under Section [11.185](#);

17 (X) the college, career, and military readiness  
18 plans under Section [11.186](#); ~~and~~

19 (Y) ~~(X)~~ parental options to retain a student  
20 under Section [28.02124](#); and

21 (Z) establishing a local school health advisory  
22 council in which members are appointed by the governing body of the  
23 school and health education instruction complies with Section  
24 [28.004](#).

25 SECTION 2. Section [28.004](#), Education Code, is amended by  
26 amending Subsection (c) and adding Subsections (r), (s), (t), (u),  
27 and (v) to read as follows:

1 (c) The local school health advisory council's duties  
2 include recommending:

3 (1) the number of hours of instruction to be provided  
4 in:

5 (A) health education in kindergarten through  
6 grade eight; and

7 (B) if the school district requires health  
8 education for high school graduation, health education, including  
9 physical health education and mental health education, in grades 9  
10 through 12;

11 (2) policies, procedures, strategies, and curriculum  
12 appropriate for specific grade levels designed to prevent physical  
13 health concerns, including obesity, cardiovascular disease, Type 2  
14 diabetes, and mental health concerns, including suicide, through  
15 coordination of:

16 (A) health education, which must address  
17 physical health concerns and mental health concerns to ensure the  
18 integration of physical health education and mental health  
19 education;

20 (B) physical education and physical activity;

21 (C) nutrition services;

22 (D) parental involvement;

23 (E) instruction on substance abuse prevention;

24 (F) school health services, including mental  
25 health services;

26 (G) a comprehensive school counseling program  
27 under Section [33.005](#);

1 (H) a safe and healthy school environment; and

2 (I) school employee wellness;

3 (3) appropriate grade levels and methods of  
4 instruction for human sexuality instruction;

5 (4) strategies for integrating the curriculum  
6 components specified by Subdivision (2) with the following elements  
7 in a coordinated school health program for the district:

8 (A) school health services, including physical  
9 health services and mental health services, if provided at a campus  
10 by the district or by a third party under a contract with the  
11 district;

12 (B) a comprehensive school counseling program  
13 under Section [33.005](#);

14 (C) a safe and healthy school environment; and

15 (D) school employee wellness;

16 (5) if feasible, joint use agreements or strategies  
17 for collaboration between the school district and community  
18 organizations or agencies;

19 (6) strategies to increase parental awareness  
20 regarding:

21 (A) risky behaviors and early warning signs of  
22 suicide risks and behavioral health concerns, including mental  
23 health disorders and substance use disorders; and

24 (B) available community programs and services  
25 that address risky behaviors, suicide risks, and behavioral health  
26 concerns;

27 (7) appropriate grade levels and curriculum for

1 instruction regarding opioid addiction and abuse and methods of  
2 administering an opioid antagonist, as defined by Section 483.101,  
3 Health and Safety Code; ~~and~~

4 (8) appropriate grade levels and curriculum for  
5 instruction regarding child abuse, family violence, dating  
6 violence, and sex trafficking, including likely warning signs that  
7 a child may be at risk for sex trafficking, provided that the local  
8 school health advisory council's recommendations under this  
9 subdivision do not conflict with the essential knowledge and skills  
10 developed by the State Board of Education under this subchapter;  
11 and

12 (9) if approved by the board of trustees, the  
13 policies, procedures, and circumstances in which:

14 (A) a school district employee may discuss  
15 matters of human sexuality with students; and

16 (B) a campus may host an extracurricular event  
17 related to human sexuality.

18 (r) The board of trustees may adopt a policy allowing the  
19 local school health advisory council to determine the circumstances  
20 in which:

21 (1) a school district employee may discuss matters of  
22 human sexuality with students; and

23 (2) a campus may host an extracurricular event related  
24 to human sexuality.

25 (s) If the board adopts a policy under Subsection (r), the  
26 board must notify each parent of a child enrolled in the district of  
27 the adoption of the policy before the beginning of each school year.

1       (t) Except as provided by Subsection (r), a school district  
2 employee may not discuss matters of human sexuality with a student  
3 in any class or interaction with a student other than a class  
4 designed and approved by the board of trustees to provide human  
5 sexuality instruction. If the board adopts a policy under  
6 Subsection (r) to allow discussion with students regarding human  
7 sexuality, a school district employee may discuss matters of human  
8 sexuality with a student only in accordance with that policy.

9       (u) Except as provided by Subsection (r), a campus may not  
10 host an extracurricular activity related to human sexuality. If the  
11 board of trustees adopts a policy under Subsection (r) specifying  
12 the circumstances in which a campus may host an extracurricular  
13 activity related to human sexuality, the campus may host the  
14 extracurricular activity only in accordance with that policy.

15       (v) If the attorney general or an appropriate district or  
16 county attorney believes that a school district has violated or is  
17 violating the provisions of this section, the attorney general or  
18 district or county attorney may bring a cause of action on behalf of  
19 the state to enjoin the district from violating the provisions of  
20 this section. The action may be brought in a district court in  
21 Travis County or a county in which any part of the violation or  
22 threatened violation occurred. The court may grant any prohibitory  
23 or mandatory relief warranted by the facts, including a temporary  
24 restraining order, temporary injunction, or permanent injunction.

25       SECTION 3. Section 28.004, Education Code, as amended by  
26 this Act, applies only to a cause of action that accrues on or after  
27 the effective date of this Act.

1           SECTION 4. To the extent of any conflict, this Act prevails  
2 over another Act of the 88th Legislature, Regular Session, 2023,  
3 relating to nonsubstantive additions to and corrections in enacted  
4 codes.

5           SECTION 5. This Act takes effect immediately if it receives  
6 a vote of two-thirds of all the members elected to each house, as  
7 provided by Section 39, Article III, Texas Constitution. If this  
8 Act does not receive the vote necessary for immediate effect, this  
9 Act takes effect September 1, 2023.