
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: SB 695
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Urgency: No
Consultant: Lynn Lorber
Hearing Date: April 15, 2015
Fiscal: Yes

Subject: School curriculum: health education: sexual assault and violence instruction

NOTE: This bill has been referred to the Committees on Education and Appropriations.
A "do pass" motion should include referral to the Committee on Appropriations.

SUMMARY

This bill requires school districts that require completion of a course in health education as a condition of high school graduation to include instruction in sexual assault and violence, and requires the Instructional Quality Commission, during the next revision of the Health framework, to consider including a distinct category for grades 9-12 on sexual harassment and violence.

BACKGROUND

Current law:

Sexual harassment

1. States that it is the policy of the State of California that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the educational institutions of the state. (Education Code § 231.5)
2. Requires each educational institution in the State of California to have a written policy on sexual harassment. (EC § 231.5)
3. Defines "sexual harassment" as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:
 - A. Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.
 - B. Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
 - C. The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

- D. Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution. (EC § 212.5)

Instruction

4. Requires school districts to ensure that all students in grades 7-12 receive HIV/AIDS prevention education, as specified, from instructors trained in the appropriate courses. Each student must receive this instruction at least once in junior high or middle school and at least once in high school. (EC § 51934)
5. Authorizes school districts to provide comprehensive sexual health education, as specified, consisting of age-appropriate instruction, in any grade, using instructors trained in the appropriate courses. (EC § 51933)
6. Authorizes school districts to provide sexual abuse and sex trafficking prevention education, including instruction on the prevalence and nature of sexual abuse and sex trafficking, strategies to reduce their risk, techniques to set healthy boundaries, and how to safely report an incident. (EC § 51950)
7. Provides that parents have the right to excuse their child from all or part of comprehensive sexual health education, HIV/AIDS prevention education, sexual abuse and sex trafficking prevention education, and assessment related to that education. Current law requires school districts to notify the parent of each student about instruction in sexual health and HIV/AIDS prevention and research on student health behaviors and risks planned for the coming year. (EC § 51938)

Curriculum

8. Requires the Instructional Quality Commission, during the next revision of the Health curricular framework, to consider including content that includes healthy boundaries for relationships, how to recognize potentially harmful and abusive relationships, and refusal skills to overcome peer pressure and to avoid high-risk activities. (EC § 33545)

Affirmative consent

9. Requires the governing board of California's public and private postsecondary institutions to adopt a policy concerning sexual assault, domestic violence, dating violence, and stalking involving a student, both on and off campus. Current law requires the policy to include, among other things, an affirmative consent standard in the determination of whether consent was given by both parties to sexual activity. (EC § 67386)
10. Defines "affirmative consent" as affirmative, conscious, and voluntary agreement to engage in sexual activity. (EC § 67386)

High school graduation requirements

11. Requires a student to pass both the English language arts and mathematics portions of the California High School Exit Exam and complete the following courses as a condition of graduating from high school:
 - A. Three years of English.
 - B. Two years of mathematics, one year of which must be Algebra I.
 - C. Two years of science, including biological and physical sciences.
 - D. Three years of social studies, including United States history and geography; world history, culture, and geography; one semester of American government and civics, and one semester of economics.
 - E. One year of visual or performing arts, foreign language, or until July 1, 2017, career technical education.
 - F. Two years of physical education.
(Education Code § 60851, § 51225.3, and § 51224.5)
12. Authorizes school districts to impose additional coursework requirements as a condition of graduation from high school.
(Education Code § 51225.3 and § 51224.5)

ANALYSIS

This bill requires school districts that require completion of a course in health education as a condition of high school graduation to include instruction in sexual assault and violence, and requires the Instructional Quality Commission, during the next revision of the Health framework, to consider including a distinct category for grades 9-12 on sexual harassment and violence. Specifically, this bill:

1. Requires the governing board of a school district, if the district requires a course in health education for graduation from high school, to include instruction in sexual assault and violence, including but not limited to, information on the affirmative consent standard.
2. Requires the governing board to ensure that teachers consult information related to sexual harassment and violence in the Health framework when delivering health instruction.
3. Requires the Instructional Quality Commission (IQC), when next reviewing the Health framework, to consider including a distinct category for grades 9-12 on sexual harassment and violence that includes but is not limited to all of the following:
 - A. Information on different forms of sexual harassment and violence, including instances that occur among peers and in a dating relationship; a

- discussion of prevention strategies; how students report sexual harassment and violence; and potential resources victims can access.
- B. Discussion of the affirmative consent standards and skills students use to establish boundaries in peer and dating relationships.
 - C. Discussion of legal aspects of sexual harassment and violence under state and federal law.
4. Requires the Instructional Quality Commission (IQC), if it includes a sexual harassment and violence category in the Health framework, to comply with both of the following:
- A. Ensure information included in the framework is research-based and appropriate for students of all races, genders, sexual orientations, gender identities, and ethnic and cultural backgrounds. This may include but not be limited to reviewing other state curriculum.
 - B. Consult with secondary health teachers and experts in sexual harassment and violence curriculum.

STAFF COMMENTS

1. ***Need for the bill.*** According to the author, “Given the statistics regarding the victimization of women between the ages of 18-24, high school students are the most vulnerable population and the importance of educating them early on these issues is paramount to reducing the number of incidents. Many California high schools require health education as a condition of graduation. As part of this education, students in grades 9-12 learn about the importance of healthy relationships, how interpersonal communication affects relationships, decision-making skills to extract oneself from an unhealthy situation, and an understanding of issues related to bullying, sexual harassment and violence. The next step in expanding these education efforts is to discuss the issue of rape and sexual violence with all high school students – male and female.”
2. ***Instruction.*** This bill requires, if a school district requires a course in health education for high school graduation, to include instruction in sexual harassment and violence. Current law authorizes sexual abuse and sex trafficking prevention education, but current law is silent with regard to instruction in sexual harassment and violence.
3. ***Health standards and framework.*** The Health standards currently include limited references to sexual harassment and sexual violence but do not reference the affirmative consent standard. The Health framework does not appear to include any references to either sexual harassment or sexual violence.

This bill requires the Instructional Quality Commission, during the next revision of the Health framework, to consider including a distinct category for grades 9-12 on sexual harassment and violence. The creation of a distinct category within a framework is consistent with current law relative to the development of a distinct

category on mental health instruction, and a category on sex abuse and sex trafficking within the Health framework.

The State Board of Education adopted the Health framework in 2003, and adopted the Health content standards in March of 2008. The Health framework was scheduled for review in 2011 but the entire process to revise the frameworks and adopt instructional materials was suspended beginning July 28, 2009. There does not appear to be a specific plan for the resumption of the process of reviewing and updating the Health framework.

4. ***Parental opt-out.*** Current law authorizes school districts to provide comprehensive sexual health education, and requires school districts to ensure that all students receive HIV/AIDS prevention education at least once in junior high or middle school and at least once in high school. Current law provides for parental opt-out of all of parts of HIV/AIDS prevention, sexual health, and sexual abuse and sex trafficking prevention education. Existing parental opt-out provisions are specific to instruction that references reproductive organs. Current law does not require options for parental opt-out for violence prevention instruction. This bill does not provide for a parental opt-out, nor does it address instruction regarding reproductive organs.
5. ***Clarifying and technical amendments.*** This bill includes several references to “sexual harassment” and one reference to “sexual assault,” including the requirement that health courses required for high school graduation include instruction in sexual assault and violence. All references should be to “sexual harassment.”
 - A. On page 3, line 2, strike “assault” and insert “harassment.”
 - B. On page 2, line 25, strike “state” and insert “states’.”
6. ***Related and prior legislation***

RELATED LEGISLATION

SB 592 (Leyva) requires school districts to provide educational programs that promote healthy relationships and prevent adolescent relationship abuse to students in grades 6-12, requires the Superintendent of Public Instruction to provide information for use by schools, and requires school safety plans to include procedures and policies to prevent and respond to adolescent relationship abuse. SB 592 is scheduled to be heard by this Committee on April 15.

AB 329 (Weber, 2015) requires school districts to provide comprehensive sexual health education to students in grades 7-12. AB 329 is pending in the Assembly Education Committee.

AB 517 (Gallagher, 2015) places the condition of active parental consent on the current authority for school districts to provide comprehensive sexual health or

HIV/AIDS prevention education. AB 517 failed passage in the Assembly Education Committee on April 8.

PRIOR LEGISLATION

SB 967 (De Leon, Ch. 748, 2014) requires the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of independent postsecondary institutions to adopt a policy concerning campus sexual violence, domestic violence, dating violence and stalking that includes specified components, including the affirmative consent standard.

AB 1857 (Fong, 2012) authorized school districts to provide education programs to promote healthy relationships and prevent teen dating abuse to pupils in grades 7-12, and required the Superintendent of Public Instruction (SPI) to provide model curriculum. AB 1857 was held in the Assembly Appropriations Committee.

AB 1880 (Lara, 2012) required middle and high school safety plans to include policies and procedures to prevent and respond to teen dating abuse in grades 6-12. AB 1880 was held in the Assembly Appropriations Committee.

AB 1373 (Fong, 2011) authorized school districts or the county office of education to provide education programs to promote healthy relationships and prevent teen dating violence to pupils in grades 7-12, and required the SPI to provide information to schools about model programs. SB 1373 was held in the Assembly Appropriations Committee.

SB 13 (Correa, 2011) and SB 1300 (Correa, 2010) would have required schools that elect to provide teen dating violence prevention education to ensure that the instruction meets certain criteria, and requires the State Board of Education to incorporate teen dating violence and sexual violence curriculum into the health curriculum framework. This instruction would have included components about, inappropriate sexual behavior, sexual harassment, sexual violence, and sexual assault. Both bills included parental notification and opt-out provisions. Concerns were raised about blending violence prevention education with sexual health education, and the ability of parents to opt-out of violence prevention education. SB 13 failed passage in this Committee, and SB 1300 failed passage in the Assembly Education Committee.

SUPPORT

None received.

OPPOSITION

California Right to Life Committee