

**ESSB 5395** - H COMM AMD  
By Committee on Education

**ADOPTED 03/04/2020**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 28A.300.475 and 2007 c 265 s 2 are each amended to  
4 read as follows:

5 (1) (~~By September 1, 2008,~~) (a)(i) In accordance with the  
6 requirements of this section, every public school (~~that offers~~)  
7 shall provide comprehensive sexual health education (~~must assure~~  
8 ~~that~~) to each student by the 2022-23 school year. The curriculum,  
9 instruction, and materials used to provide the comprehensive sexual  
10 health education (~~is~~) must be medically and scientifically  
11 accurate, age-appropriate, (~~appropriate for students regardless of~~  
12 ~~gender, race, disability status, or sexual orientation~~) and  
13 inclusive of all students, regardless of their protected class status  
14 under chapter 49.60 RCW, and must include (~~s~~) information about  
15 abstinence and other methods of preventing unintended pregnancy and  
16 sexually transmitted diseases. (~~All sexual health information,~~  
17 ~~instruction, and materials must be medically and scientifically~~  
18 ~~accurate.~~) Abstinence may not be taught to the exclusion of other  
19 materials and instruction on contraceptives and disease prevention.

20 (ii)(A) Beginning in the 2020-21 school year, any public school  
21 that provides comprehensive sexual health education must ensure that  
22 the curriculum, instruction, and materials include information about  
23 affirmative consent and bystander training.

24 (B) The school district boards of directors of one or more public  
25 schools that are not providing comprehensive sexual health education  
26 in either the 2019-20 school year, the 2020-21 school year, or both,  
27 must prepare for incorporating information about affirmative consent  
28 and bystander training into the comprehensive sexual health education  
29 curriculum, instruction, and materials required by this section. In  
30 satisfying the requirements of this subsection (1)(a)(ii)(B), school  
31 district boards of directors must also, no later than the 2020-21

1 school year, consult with parents and guardians of students, local  
2 communities, and the Washington state school directors' association.

3 (b) A public school may choose to use separate, outside speakers  
4 or prepared curriculum to teach different content areas or units  
5 within ((the)) its comprehensive sexual health education program ((as  
6 long as)) if all speakers, curriculum, and materials used are in  
7 compliance with this section.

8 (c) Comprehensive sexual health education must be consistent with  
9 the Washington state health and physical education K-12 learning  
10 standards and the January 2005 guidelines for sexual health  
11 information and disease prevention developed by the department of  
12 health and the office of the superintendent of public instruction.

13 ~~(2) ((As used in chapter 265, Laws of 2007, "medically and~~  
14 ~~scientifically accurate" means information that is verified or~~  
15 ~~supported by research in compliance with scientific methods, is~~  
16 ~~published in peer-review journals, where appropriate, and is~~  
17 ~~recognized as accurate and objective by professional organizations~~  
18 ~~and agencies with expertise in the field of sexual health including~~  
19 ~~but not limited to the American college of obstetricians and~~  
20 ~~gynecologists, the Washington state department of health, and the~~  
21 ~~federal centers for disease control and prevention.)) (a) Beginning~~  
22 in the 2021-22 school year, comprehensive sexual health education  
23 must be provided to all public school students in grades six through  
24 twelve.

25 (b) Beginning in the 2022-23 school year, comprehensive sexual  
26 health education must be provided to all public school students.

27 (c) The provision of comprehensive sexual health education to  
28 public school students as required by (a) and (b) of this subsection  
29 (2) must be provided no less than:

30 (i) Once to students in kindergarten through grade three;

31 (ii) Once to students in grades four through five;

32 (iii) Twice to students in grades six through eight; and

33 (iv) Twice to students in grades nine through twelve.

34 (3) The office of the superintendent of public instruction and  
35 the department of health shall make the Washington state health and  
36 physical education K-12 learning standards and the January 2005  
37 guidelines for sexual health information and disease prevention  
38 available to public schools ((districts)), teachers, and guest  
39 speakers on their web sites. Within available resources, the office  
40 of the superintendent of public instruction and the department of

1 health shall also, and to the extent permitted by applicable federal  
2 law, make any related information, model policies, curricula, or  
3 other resources available (~~(as well)~~) on their web sites.

4 (4) The office of the superintendent of public instruction, in  
5 consultation with the department of health, shall develop a list of  
6 comprehensive sexual health education curricula that are consistent  
7 with the 2005 guidelines for sexual health information and disease  
8 prevention, the Washington state health and physical education K-12  
9 learning standards, and this section. This list (~~(shall be intended~~  
10 ~~to)), which may serve as a resource for schools, teachers, or any  
11 other organization or community group, (~~(and shall)~~) must be updated  
12 (~~(no less frequently than)~~) at least annually, and must be made  
13 available on the web sites of the office of the superintendent of  
14 public instruction and the department of health.~~

15 (5) Subject to the availability of amounts appropriated for this  
16 specific purpose, the office of the superintendent of public  
17 instruction shall periodically review and revise, as necessary,  
18 training materials, which may be in an electronic format, for  
19 classroom teachers and principals to implement the applicable  
20 requirements of this section. The initial review required by this  
21 subsection (5) must be completed by March 1, 2021.

22 (6)(a) Public schools (~~(that offer sexual health education)~~) are  
23 encouraged to review their comprehensive sexual health education  
24 curricula and choose a curriculum from the list developed under  
25 subsection (4) of this section. Any public school (~~(that offers~~  
26 ~~sexual health education)~~) may identify, choose, or develop any other  
27 curriculum(~~(r)~~) if (~~(the curriculum chosen or developed)~~) it complies  
28 with the requirements of this section.

29 (b) If a public school chooses a curriculum that is not from the  
30 list developed under subsection (4) of this section, the public  
31 school or applicable school district, in consultation with the office  
32 of the superintendent of public instruction, must conduct a review of  
33 the selected or developed curriculum to ensure compliance with the  
34 requirements of this section using a comprehensive sexual health  
35 education curriculum analysis tool of the office of the  
36 superintendent of public instruction.

37 (c) The office of the superintendent of public instruction shall  
38 provide technical assistance to public schools and school districts  
39 that is consistent with the curricula review, selection, and  
40 development provisions in (a) and (b) of this subsection (6).

1       ~~((6))~~ (7)(a) Any parent or legal guardian who wishes to have  
2 his or her child excused from any planned instruction in  
3 comprehensive sexual health education may do so upon filing a written  
4 request with the school district board of directors or its designee,  
5 or the principal of the school his or her child attends, or the  
6 principal's designee. The person or entity to whom the request is  
7 directed must grant the written request to have the student excused  
8 from this instruction in accordance with this subsection. In  
9 addition, any parent or legal guardian may review the comprehensive  
10 sexual health education curriculum ~~((offered))~~ provided in his or her  
11 child's school by filing a written request with the school district  
12 board of directors, the principal of the school his or her child  
13 attends, or the principal's designee.

14       ~~((7) The office of the superintendent of public instruction~~  
15 ~~shall, through its Washington state school health profiles survey or~~  
16 ~~other existing reporting mechanism, ask public))~~ (b) At the beginning  
17 of the 2021-22 school year, each school providing comprehensive  
18 sexual health education must notify parents and guardians, in writing  
19 or in accordance with the methods the school finds most effective in  
20 communicating with parents, that the school will be providing  
21 comprehensive sexual health education during the school year. The  
22 notice must include, or provide a means for electronic access to, all  
23 course materials, by grade, that will be used at the school during  
24 the instruction.

25       (8)(a) Public schools ~~((to))~~ shall annually, by September 1st,  
26 identify to the office of the superintendent of public instruction  
27 any curricula used by the school to provide comprehensive sexual  
28 health education ~~((, and shall report the results of this inquiry to~~  
29 ~~the legislature on a biennial basis, beginning with the 2008-09~~  
30 ~~school year))~~ as required by this section. Materials provided by  
31 schools under this subsection (8)(a) must also describe how the  
32 provided classroom instruction aligns with the requirements of this  
33 section.

34       (b) The office of the superintendent of public instruction shall  
35 summarize and, in accordance with RCW 43.01.036, report the results  
36 provided under (a) of this subsection (8) to the education committees  
37 of the house of representatives and the senate biennially, beginning  
38 after the 2022-23 school year.

39       ~~((8) The requirement))~~ (9) RCW 28A.600.480(2), which encourages  
40 school employees, students, and volunteers to report harassment,

1 intimidation, or bullying (~~under RCW 28A.600.480(2)~~), applies to  
2 this section.

3 (10) Nothing in this section expresses legislative intent to  
4 require that comprehensive sexual health education, or components of  
5 comprehensive sexual health education, be integrated into curriculum,  
6 materials, or instruction in unrelated subject matters or courses.

7 (11) For the purposes of this section:

8 (a) "Affirmative consent" means a conscious and voluntary  
9 agreement to engage in sexual activity as a requirement before sexual  
10 activity;

11 (b) "Comprehensive sexual health education" means recurring  
12 instruction in human development and reproduction that is age-  
13 appropriate and inclusive of all students, regardless of their  
14 protected class status under chapter 49.60 RCW. All curriculum,  
15 instruction, and materials used in providing comprehensive sexual  
16 health education must be medically and scientifically accurate and  
17 must use language and strategies that recognize all members of  
18 protected classes under chapter 49.60 RCW. Comprehensive sexual  
19 health education for students in kindergarten through grade three  
20 must be instruction in social-emotional learning that is consistent  
21 with learning standards and benchmarks adopted by the office of the  
22 superintendent of public instruction under RCW 28A.300.478.  
23 Comprehensive sexual health education for students in grades four  
24 through twelve must include information about:

25 (i) The physiological, psychological, and sociological  
26 developmental processes experienced by an individual;

27 (ii) The development of intrapersonal and interpersonal skills to  
28 communicate, respectfully and effectively, to reduce health risks,  
29 and choose healthy behaviors and relationships that are based on  
30 mutual respect and affection, and are free from violence, coercion,  
31 and intimidation;

32 (iii) Health care and prevention resources;

33 (iv) The development of meaningful relationships and avoidance of  
34 exploitative relationships;

35 (v) Understanding the influences of family, peers, community, and  
36 the media throughout life on healthy sexual relationships; and

37 (vi) Affirmative consent and recognizing and responding safely  
38 and effectively when violence, or a risk of violence, is or may be  
39 present with strategies that include bystander training;

1       (c) "Medically and scientifically accurate" means information  
2 that is verified or supported by research in compliance with  
3 scientific methods, is published in peer-reviewed journals, where  
4 appropriate, and is recognized as accurate and objective by  
5 professional organizations and agencies with expertise in the field  
6 of sexual health including but not limited to the American college of  
7 obstetricians and gynecologists, the Washington state department of  
8 health, and the federal centers for disease control and prevention;  
9 and  
10       (d) "Public schools" has the same meaning as in RCW 28A.150.010."

11       Correct the title.

EFFECT: The striking amendment makes the following changes to the underlying Senate bill:

(1) Requires every public school to provide comprehensive sexual health education (CSHE) to each student by the 2022-23 school year, instead of requiring every public school to provide CSHE by September 1, 2021, and makes corresponding changes to the two-year phase-in process, with CSHE provided to students in grades 6 through 12 in the 2021-22 school year and to all students in the 2022-23 school year;

(2) Defines "comprehensive sexual health education" and establishes differentiated instructional requirements for students in kindergarten through grade 3 and students in grades 4 through 12;

(3) Specifies, in the definition of CSHE, that CSHE instruction for students in kindergarten through grade 3 must be instruction in social-emotional learning that is consistent with social-emotional learning standards and benchmarks adopted by the Office of the Superintendent of Public Instruction (OSPI);

(4) Establishes specific CSHE content requirements for students in grades 4 through 12;

(5) Specifies that CSHE must be provided no less than: Once to students in kindergarten through grade 3; once to students in grades 4 through 5; twice to students in grades 6 through 8; and twice to students in grades 9 through 12;

(6) Removes provisions requiring the provided CSHE to include skills-based instruction that: Encourages healthy relationships based on mutual respect and affection; teaches how to identify and respond to attitudes and behaviors that contribute to sexual violence; and emphasizes the importance of affirmative consent, a defined term;

(7) Removes provisions requiring the CSHE curriculum to be evidence-informed, a defined term;

(8) Modifies technical support and curriculum selection provisions for schools by requiring the OSPI to provide technical assistance to schools and school districts that is consistent with: The authority of schools and districts to review, select, and develop CSHE curricula; and, if applicable, the requirement to use a CSHE curriculum analysis tool;

(9) Modifies provisions requiring public schools to use a curriculum review tool developed by the OSPI when choosing CSHE curricula that is not from the list developed by the OSPI by requiring the schools or applicable districts to use a CSHE curriculum analysis tool, and by obligating schools or districts to

consult with the OSPI to ensure compliance with applicable requirements;

(10) Directs the OSPI, subject to funding provisions, to periodically review and revise, as necessary, training materials for classroom teachers and principals to implement the CSHE requirements, and to complete the initial review by March 1, 2021;

(11) Modifies reporting duties of schools and the OSPI with respect to CSHE curriculum and provided instruction, including by requiring public schools to annually identify to the OSPI the CSHE curriculum they are using and how classroom instruction applies with statutory requirements for CSHE instruction, and requiring the OSPI to provide related reports to the Legislature biannually, beginning after the 2022-23 school year;

(12) Specifies that nothing in the CSHE requirements expresses legislative intent to require that CSHE, or components of CSHE, be integrated into curriculum, materials, or instruction in unrelated subject matters or courses;

(13) Conditions web site postings by the OSPI and the Department of Health related to CSHE materials upon compliance with applicable federal law;

(14) Defines "public schools" by referencing an existing definition that includes common schools, charter schools, and other specified schools;

(15) Requires schools that provide CSHE to, at the beginning of the 2021-22 school year, notify parents or guardians, in writing or in accordance with the methods the school finds most effective in communicating with parents, that the school will be providing CSHE instruction during the school year; and

(16) Specifies that the notice must include, or provide a means for electronic access to, all course materials, by grade, that will be used at the school during the instruction.

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