

ASSEMBLY BILL

No. 517

Introduced by Assembly Member Gallagher

February 23, 2015

An act to amend Sections 51938 and 51939 of the Education Code, relating to sexual health and HIV/AIDS prevention education.

LEGISLATIVE COUNSEL'S DIGEST

AB 517, as introduced, Gallagher. The California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act: outside consultants: parental consent.

Existing law, the California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act, authorizes school districts to provide comprehensive sexual health education, consisting of age-appropriate instruction, in any of kindergarten and grades 1 to 12, inclusive, and requires school districts to ensure that all pupils in grades 7 to 12, inclusive, receive HIV/AIDS prevention education, as specified. Existing law requires school districts to notify parents and guardians about its plan to provide this instruction for the upcoming year and to inform them, among other things, of their right to request that their child not receive comprehensive sexual health and HIV/AIDS prevention education. If a school has received a written request from a pupil's parent or guardian excusing the pupil from participation, the pupil is prohibited from attending a class in comprehensive sexual health and HIV/AIDS prevention education or participating in an otherwise authorized anonymous, voluntary, and confidential test, questionnaire, or survey on pupil health behaviors and risks.

This bill would require, if a school district elects to provide comprehensive sexual health education or HIV/AIDS prevention

education, to be taught by outside consultants, or to hold an assembly to deliver comprehensive sexual health education or HIV/AIDS prevention education by guest speakers, the school district to request written permission from a pupil's parent or guardian for the pupil to participate in that class or assembly, and advise the parent or guardian that his or her written permission is required to authorize the pupil to participate in that class or assembly. The bill would prohibit a pupil from attending a class in comprehensive sexual education or HIV/AIDS prevention education, taught by outside consultants, or an assembly that delivers comprehensive sexual education or HIV/AIDS prevention education by guest speakers, unless the school has received prior written permission from the pupil's parent or guardian authorizing the pupil to participate in that class or assembly. The bill would prohibit a pupil from being subject to disciplinary action, academic penalty, or other sanction if the pupil's parent or guardian does not give written permission for the pupil to attend a class in comprehensive sexual education or HIV/AIDS prevention education, taught by outside consultants, or an assembly that delivers comprehensive sexual education or HIV/AIDS prevention education by guest speakers. The bill would also require, while comprehensive sexual health education or HIV/AIDS prevention education, taught by outside consultants, or an assembly that delivers comprehensive sexual education or HIV/AIDS prevention education by guest speakers is being administered, that an alternative educational activity be made available to pupils whose parents or guardians have not provided written permission for the pupil to attend that class or assembly.

Because this bill would require local educational agencies to perform additional duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51938 of the Education Code is amended
2 to read:

3 51938. A parent or guardian of a pupil has the right to excuse
4 their child from all or part of comprehensive sexual health
5 education, HIV/AIDS prevention education, and assessments
6 related to that education, as follows:

7 (a) At the beginning of each school year, or, for a pupil who
8 enrolls in a school after the beginning of the school year, at the
9 time of that pupil's enrollment, each school district shall notify
10 the parent or guardian of each pupil about instruction in
11 comprehensive sexual health education and HIV/AIDS prevention
12 education and research on pupil health behaviors and risks planned
13 for the coming year. The notice shall do all of the following:

14 (1) Advise the parent or guardian that written and audiovisual
15 educational materials used in comprehensive sexual health
16 education and HIV/AIDS prevention education are available for
17 inspection.

18 (2) Advise the parent or guardian whether the comprehensive
19 sexual health education or HIV/AIDS prevention education will
20 be taught by school district personnel or by outside consultants.
21 A school district may provide comprehensive sexual health
22 education or HIV/AIDS prevention education, to be taught by
23 outside consultants, ~~and~~ or may hold an assembly to deliver
24 comprehensive sexual health education or HIV/AIDS prevention
25 education by guest speakers, ~~but if it only with written permission~~
26 *of the parent or guardian of each pupil present. If a school district*
27 *elects to provide comprehensive sexual health education or*
28 *HIV/AIDS prevention education in either of these manners, the*
29 *notice shall include the date of the instruction, the name of the*
30 *organization or affiliation of each guest speaker, and information*
31 *stating the right of the parent or guardian to request a copy of this*
32 *section, Section 51933, and Section ~~51934~~. 51934, and a request*
33 *for the written permission of the pupil's parent or guardian for*
34 *the pupil to participate in that class or assembly, and shall advise*
35 *the parent or guardian that his or her written permission is*
36 *required to authorize the pupil to participate in that class or*
37 *assembly. If arrangements for this instruction are made after the*
38 *beginning of the school year, notice shall be made by mail or*

1 another commonly used method of notification, no fewer than 14
 2 days before the instruction is delivered.

3 (3) Include information explaining the parent’s or guardian’s
 4 right to request a copy of this chapter.

5 (4) Advise the parent or guardian that the parent or guardian
 6 may request in writing that his or her child not receive
 7 comprehensive sexual health education or HIV/AIDS prevention
 8 education.

9 (b) Notwithstanding Section 51513, anonymous, voluntary, and
 10 confidential research and evaluation tools to measure pupils’ health
 11 behaviors and risks, including tests, questionnaires, and surveys
 12 containing age-appropriate questions about the pupil’s attitudes
 13 concerning or practices relating to sex may be administered to any
 14 pupil in grades 7 to 12, inclusive, if the parent or guardian is
 15 notified in writing that this test, questionnaire, or survey is to be
 16 administered and the pupil’s parent or guardian is given the
 17 opportunity to review the test, questionnaire, or survey and to
 18 request in writing that his or her child not participate.

19 (c) The use of outside consultants or guest speakers as described
 20 in paragraph (2) of subdivision (a) is within the discretion of the
 21 school district.

22 SEC. 2. Section 51939 of the Education Code is amended to
 23 read:

24 51939. (a) (1) A pupil ~~may~~ *shall* not attend ~~any~~ a class in
 25 comprehensive sexual education or HIV/AIDS prevention
 26 education, or participate in any anonymous, voluntary, and
 27 confidential test, questionnaire, or survey on pupil health behaviors
 28 and risks, if the school has received a written request from the
 29 pupil’s parent or guardian excusing the pupil from participation.

30 (2) *A pupil shall not attend a class in comprehensive sexual*
 31 *education or HIV/AIDS prevention education, taught by outside*
 32 *consultants, or an assembly that delivers comprehensive sexual*
 33 *education or HIV/AIDS prevention education by guest speakers,*
 34 *unless the school has received prior written permission from the*
 35 *pupil’s parent or guardian authorizing the pupil to participate in*
 36 *that class or assembly.*

37 (b) A pupil ~~may~~ *shall* not be subject to disciplinary action,
 38 academic penalty, or other sanction if the pupil’s parent or guardian
 39 declines to permit the pupil to receive comprehensive sexual health
 40 education or HIV/AIDS prevention education or to participate in

1 anonymous, voluntary, and confidential tests, questionnaires, or
2 surveys on pupil health behaviors and ~~risks~~ risks, or if the pupil's
3 parent or guardian has not provided written permission for the
4 pupil to attend a class in comprehensive sexual education or
5 HIV/AIDS prevention education, taught by outside consultants, or
6 an assembly that delivers comprehensive sexual education or
7 HIV/AIDS prevention education by guest speakers.

8 (c) (1) While comprehensive sexual health education,
9 HIV/AIDS prevention education, or anonymous, voluntary, and
10 confidential test, questionnaire, or survey on pupil health behaviors
11 and risks is being administered, an alternative educational activity
12 shall be made available to pupils whose parents or guardians have
13 requested that they not receive the instruction or participate in the
14 test, questionnaire, or survey.

15 (2) While comprehensive sexual health education or HIV/AIDS
16 prevention education, taught by outside consultants, or an assembly
17 that delivers comprehensive sexual education or HIV/AIDS
18 prevention education by guest speakers is being administered, an
19 alternative educational activity shall be made available to pupils
20 whose parents or guardians have not provided written permission
21 for the pupil to attend that class or assembly.

22 SEC. 3. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

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