



**Back to School:**

## What You Need to Know about the CA Healthy Youth Act

**August 2, 2019**

Implementation of comprehensive sexual health education in public schools, per the “California Healthy Youth Act” (“CHYA”) of 2015, is of concern to a growing number Catholic families. For those parents or guardians, some state-recommended curricula that *may be taught* (if school districts decides to adopt) includes graphic instructions and morally objectionable ideas and behavior. Recognizing this affect, this article, and the link below, seeks to clarify the law and related issues.

Since taking effect on January 1, 2016, the CHYA has required California public school districts to provide students in grades seven through twelve with comprehensive sexual health education and HIV prevention information. Under this law, school districts may even choose to offer “age-appropriate” instruction earlier than Grade 7. While each school district can determine its own curriculum, the instruction must meet certain standards, such as being medically accurate and objective; being appropriate for use with students of all races, genders, sexual orientations, and ethnic and cultural backgrounds; affirmatively recognizing different sexual orientations and including same-sex relationships in discussions; and teaching about gender, gender expression, gender identity, and the harm of negative gender stereotypes.

A significant element of the CHYA has been its recognition of the right of parents to supervise their children’s sexual health education: “The Legislature recognizes that while parents and guardians overwhelmingly support medically accurate, comprehensive sex education, parents and guardians have the ultimate responsibility for imparting values regarding human sexuality to their children.” In acknowledging this right and responsibility, **the Act requires: 1) schools to notify parents and guardians about the planned instruction, 2) allows parents and guardians to review materials in advance of the instruction, and 3) permits them to excuse their children from participation in *all or part* of the sexual health education**, HIV prevention education, and assessments related to that education.

While the law's deference to parents is commendable, there is ambiguity as to the extent of the "opt out" provision's reach. In particular, there has been some confusion and concern in several California public school districts about whether the "opt out" provision applies to instruction involving discussions of gender identity and sexual orientation.

The confusion stems from a seemingly conflicting provision in the CHYA (Section 51932(b)), which states that the law (and therefore the "opt-out" provision) "does not apply to instruction, materials, presentations, or programming that discuss gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family and do not discuss human reproductive organs and their functions." The Orange County Board of Education has taken the position that if sex education instruction is offered in "separate modules" and one of those modules discusses gender identity or sexual orientation without reference to reproductive organs or functions, then parents are not permitted to excuse their children from that particular module or discussion.

However, the California Catholic Conference (CCC) strongly believes that this analysis is flawed. The CHYA, by its own terms, applies to "comprehensive sexual health education," which must include instruction regarding sexual orientation and gender identity/expression. Specifically, the Act provides that "comprehensive sexual health education" instruction must "affirmatively recognize that people have different sexual orientations and, when discussing or providing examples of relationships and couples, shall be inclusive of same sex-relationships." The CHYA also requires that the "[i]nstruction and materials shall teach pupils about gender, gender expression, gender identity, and explore the harm of negative gender stereotypes." Given the Act's requirement to provide instruction on sexual orientation and gender identity/expression as part of a school's "comprehensive sexual health education" program - even if this instruction is presented in "separate modules" without reference to reproductive organs or functions - the only reasonable conclusion is that parents must be given the opportunity to excuse their children from all or part of that program.

The question then arises - what did the Legislature intend by including Section 51932(b), which, in effect, does not allow parents to opt out of instruction and programming that discuss gender, gender identity/expression, and sexual orientation and do not discuss human reproductive organs and their functions? The answer is unclear but a possible interpretation is that this provision applies to areas of instruction and curriculum unrelated and unconnected to a school district's comprehensive sexual health education and HIV prevention education classes, such as social studies lessons on the role and contributions of prominent LGBT Californians. Thus, in situations where the topics of sexual orientation and gender identity/expression are discussed in a class, separate from sexual health education and outside the purview of the CHYA, parents presumably would not have the option to excuse their children from participation in those discussions.

As the scope of parental rights under the CHYA is unclear, **parents should use this as an opportunity to contact their schools and school districts to request clarification and**

**to advocate for parental rights to be protected to the fullest extent.** This responsibility of parents is affirmed both by the Catechism of the Catholic Church (2223), which acknowledges parents as the primary educators of their children, and the CHYA itself, which, as mentioned above, recognizes that “parents and guardians have the ultimate responsibility for imparting values regarding human sexuality to their children.”

## **Parental Actions to Take & Questions to Ask Local Schools/Districts**

### ***STEP 1. MAKE SURE YOU ARE NOTIFIED.***

- If parents did not receive notification regarding their child(ren)’s sexual health education, ask the school/district: How and when are parents notified about the planned instruction in comprehensive sexual health and HIV prevention education?
- If parents are uncertain of their child(ren)’s school district, please see the following: (<https://www.cde.ca.gov/schooldirectory/>). This Website link, maintained by the California Department of Education, is where one can simply add in their own Zip code to identify the appropriate school district/schools.

### ***STEP 2. CAREFULLY REVIEW THE CURRICULUM.***

- If it is not indicated in the notice, ask the school/district: How and when can parents review all curricular course materials to be used in comprehensive sexual health education? This can be available on-line or at the school/district.
- Curricular materials should be examined judiciously to determine that what is to be taught child(ren) regarding human sexuality is acceptable to their parents and supportive of the values they wish to impart. For example, does the instruction and materials include information about abstinence? (The Education Code requires that instruction and materials include information that abstinence is the only certain way to prevent HIV, other STIs, and unintended pregnancy. It also states: ‘Instruction shall provide information about the value of delaying sexual activity while also providing medically accurate information on other methods of preventing HIV and other sexually transmitted infections and pregnancy.’ ‘Abstinence-only’ sex education, which offers abstinence as the only option for preventing STIs and unintended pregnancy, is not permitted in California public schools.”)
- If unclear in the curriculum review, ask the school/district:
  - Are children taught human sexuality matters regarding gender identity/sexual orientation in curricular areas other than comprehensive sexual health education?
  - Who will instruct child(ren) in comprehensive sexual health education and in which course?

- Who determines whether the instruction and materials are “age appropriate” (especially, if the district chooses to provide sexual health education below Grade 7?

***STEP 3. EXERCISE YOUR OPTION TO EXCUSE, AS DESIRED.***

- Should parents choose to excuse their child(ren) from all or part of comprehensive sexual health education, they must assertively do so in writing. If it is not indicated in the notice and/or curricular materials, ask the school/district: what “Opt-Out” form should be use and when is it due to whom?

For further information on the “Rights & Responsibilities of Parents/Guardians of Children in Public Schools Regarding Sexual Health Education”, click [here](#).