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Understanding Texas Law on Sexual Health Education

Originally passed in 1995, the Texas Education Code (TEC) is the state law that governs Texas public education. TEC §28.004 outlines the requirements for sexual health education instruction (called Human Sexuality Instruction specifically in the code); indicates the need for every school district to have a School Health Advisory Council (SHAC) that reviews sexual education instruction; and describes the process for curriculum adoption, parent notification, and parent consent. Significant changes were made to §28.004 in the 87th Legislative session (2021). It is important to remember that some school districts set their own policy which may be slightly different or more restrictive than the state's minimum requirements for sexual health education instruction. Therefore, it is important to review your own district's policy as well.

In Reference To*:

Texas Education Code Sec. § 28.004. Local School Health Advisory Council and Health Education Instruction.

Retrieved from: <http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.28.htm#28.004>

Texas Education Code Section § 26.011. Parental Rights and Responsibilities.

Retrieved from: <http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.26.htm>

**The TEC should be reviewed after legislative sessions to determine if changes have been made to the code*

CHAMPSS Tools to Reference:

- a. Prioritize Facts and Tips: [Understanding & Improving SHACS](#)
- b. Assess Facts and Tips: [Finding Policies and Current Programs](#)
- c. Prepare Template: [Parent Notification Letter](#)



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Understanding Code Section §28.004

Sometimes it can be challenging to interpret the Texas Education Code, its changes, and how that impacts your instruction. The following tables include sections of the Texas Education Code that are most relevant to implementing a sexual health education program in your school and how your curriculum instruction is affected. The full Texas Education Code §28.004 is at the end of the document.

As you are reading the Texas Education Code, keep in mind that the same laws for curriculum approval and availability, and parent opt-in and notification, apply to instruction on the prevention of child abuse, family violence, dating violence, and sex trafficking.

Human Sexuality Curriculum Instruction	
What TEC Section §28.004 Says:	How this Affects Your Curriculum Instruction:
Must Discuss Abstinence As the Best Choice of Behavior	
<i>"...present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age..."</i>	Your program must state that abstinence is the best choice in an unmarried relationship, but you can still discuss condoms and contraception. Content on condoms and contraception are included in the updated middle and high school Health Education TEKS.
<i>"...devote more attention to abstinence from sexual activity than to any other behavior..."</i>	Your program must discuss abstinence more than other pregnancy, HIV/STD prevention methods (e.g., condoms and other contraceptives).
<i>"...emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus (HIV)..."</i>	Your program must state that abstinence is the only 100% effective method of preventing pregnancy and HIV/STDs, but you can still discuss condoms and contraception.
May Discuss Condoms and Contraception, But Only In Terms of Human-Use Reality Rates	
<i>"...teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content..."</i>	Instruction on condoms /contraception must discuss their effectiveness in terms of human-use reality rates rather than theoretical laboratory rates. Human-use reality rates refer to "typical use." This is normal human condom/contraceptive use including incorrect or inconsistent use (e.g., condom breaking, not using a condom/contraception each time a person has sex). Human-use reality rates are typically lower than theoretical laboratory rates. Theoretical laboratory rates refer to "perfect use" or when a person

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	uses their condom/contraceptive method consistently and correctly. These rates are calculated in laboratory studies, where perfect use can be verified.* Updated Health Education TEKS align with statute and instruct students to “analyze the effectiveness and the risks and failure rates (human-use reality rates) of barrier protection and other contraceptive methods in the prevention of STDs/STIs and pregnancy.”
<i>“...a school district may not distribute condoms in connection with instruction relating to human sexuality...”</i>	You may not give condoms to students in conjunction with your sexual health education curriculum; however condom distribution is not otherwise prohibited, such as from the school nurse or school based health clinic. Additionally, state law does not prohibit condom use demonstrations.
May Separate Students by Gender During Instruction	
<i>“...a school district that provides human sexuality instruction may separate students according to sex for instructional purposes...”</i>	You may separate boys and girls during instruction, but keep in mind your chosen program’s implementation design. If your program is designed for gender-integrated classes then separating students may affect how well the program works. Contact the program developers if you have questions.

Texas Education Code on Curriculum Adoption For Human Sexuality Instruction	
What TEC Section § 28.004 Says:	How this Affects Your Curriculum:
Curriculum Approval Process	
<i>“The board of trustees shall adopt a policy establishing a process for the adoption of curriculum materials for the school district's human sexuality instruction.”</i>	Your district’s board of trustees must adopt a formal written process laying out how the district will select sex education curriculum materials. The Texas Association of School Boards (TASB) serves as a resource for policy drafting and included this policy in Update 118 at EHAA(LOCAL).
<i>“The policy must require the board to adopt a resolution convening the local school health advisory council for the purpose of making recommendations regarding the curriculum materials.”</i>	Following changes in the 87th Legislative Session, it is the responsibility of the school board to direct the SHAC to review sex education curriculum materials. This means the school board should initiate the process through a resolution, rather than the SHAC. This policy is included in TASB’s Regulations Resource Manual. Log into your myTASB account to access the Regulations Resource Manual.
<i>“The policy must require the local school health advisory council to ... hold at least two public meetings on the curriculum materials before adopting recommendations; and provide the recommendations ... to the board at a public meeting of the board.”</i>	Newly adopted statute requires SHACs to hold at least two “public meetings” before adopting curriculum recommendations. SHACs are not governmental entities and the requirements for SHAC public meetings are not specified in statute, but this could reasonably be interpreted to mean



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	that the meeting must be open to the public with opportunity for public comment.
<i>...the board, after receipt of the local school health advisory council's recommendations under Subdivision (2), to take action on the adoption of the recommendations by a record vote at a public meeting.</i>	The School Board must formally adopt any curriculum through a record vote at a public meeting.
<i>Curriculum materials proposed to be adopted for the school district's human sexuality instruction must be made available as provided by Subsection (j)(1) or (2)(A) or (C), as applicable.</i>	Members of the community must be able to review all curriculum materials during the adoption process. Public domain materials should be posted online, while copyrighted materials should be made available for review at a student's home campus or emailed in a secure way to the parent.
<i>Before adopting curriculum materials for the school district's human sexuality instruction, the board of trustees shall ensure that the curriculum materials are:</i> <ul style="list-style-type: none"> <i>(1) based on the advice of the local school health advisory council;</i> <i>(2) suitable for the subject and grade level for which the curriculum materials are intended; and</i> <i>(3) reviewed by academic experts in the subject and grade level for which the curriculum materials are intended.</i> 	<p>The board must make sure that sexual health education curriculum is age-appropriate and has been reviewed by experts. This could be accomplished by adopting materials which have been approved by the State Board of Education; or by adopting other curricula or programs that align with the TEKS.</p> <p>You are not required to pick a program from TEA's list of approved instructional materials.</p> <p>If you are interested in selecting a sexual health program that is an evidence-based program (EBP)¹, you can use the iCHAMPSS Smart Program Shopping tool.. The iCHAMPSS EBP Selection Guide can also be helpful as it identifies criteria of evidence based programs to ease the program selection process.</p>

¹ Evidence-based programs have undergone peer review and rigorous evaluation through a randomized controlled trial or strong quasi-experimental design and have shown impact on behaviors.

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Texas Education Code on Parent Notification For Human Sexuality Instruction

What TEC Section § 28.004 Says:	How this Affects Your Curriculum:
<p><i>"...before each school year, a school district shall provide written notice to a parent of each student enrolled in the district of the board of trustees' decision regarding whether the district will provide human sexuality instruction to district students..."</i></p>	<p>Before the start of the school year, your school must send a letter to parents informing them that human sexuality instruction will be provided to their child in the coming school year.</p>
<p><i>"...the notice must include a statement informing the parent of the human sexuality instruction requirements under state law (and) a detailed description of the content of the district's human sexuality instruction and a general schedule on which the instruction will be provided."</i></p>	<p>Your school must send a detailed description of the content of the school district's human sexuality program to the parents and a general time schedule for the instruction, as well as the state requirements required for human sexuality instruction before each school year.</p>
<p><i>"...the notice must include ... a statement of the parent's right to:</i> <i>(A) at the parent's discretion, review or purchase curriculum materials as provided by Subsection (j);</i> <i>(B) remove the student from any part of the district's human sexuality instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and</i> <i>(C) use the grievance procedure as provided by Subsection (i-1) or the appeals process under Section 7.057 concerning a complaint of a violation of this section;</i> <i>(4) a statement that any curriculum materials in the public domain used for the district's human sexuality instruction must be posted on the district's Internet website, if the district has an Internet website, and the Internet website address at which the curriculum materials are located."</i></p>	<p>Your school must inform parents of their right to look over or purchase the program materials and to remove their child from the program without academic punishment or penalty.</p>
<p><i>"...information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council (SHAC)..."</i></p>	<p>Your school must inform parents of how they may participate in the decision-making process by joining the district SHAC.</p>
<p><i>"...A parent may use the grievance procedure adopted under Texas Education Code Section §26.011 concerning a complaint..."</i></p>	<p>Your school must inform parents how they may file a formal complaint related to sexual health education as detailed by TEC Section § 26.011.</p>

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Texas Education Code on Parent Rights For Human Sexuality Instruction

What TEC Section § 28.004 Says:	How this Affects Your Curriculum:
Parent Opt-in Requirement	
<p><i>“ Before a student may be provided with human sexuality instruction, a school district must obtain the written consent of the student's parent. A request for written consent under this subsection:</i></p> <p><i>(1) may not be included with any other notification or request for written consent provided to the parent, other than the notice provided under Subsection (i); and</i></p> <p><i>(2) must be provided to the parent not later than the 14th day before the date on which the human sexuality instruction begins.</i></p>	<p>Schools are now required to secure active consent from parents or guardians before a student receives sex education. The consent form must be provided to parents no later than two weeks prior to the start of program implementation. If you do not currently have a parent consent form, see iCHAMPSS Opt-In & Opt-Out Forms. Previously, parents could opt children out of sex education. It is a best practice for schools to maintain records of the percent of students who are opted in and opted out of sex education, as well as keeping track of how many families do not respond to consent forms. This can help ensure that students do not slip through the cracks and miss sexual health education because their parents forgot to return the form.</p> <p>The iCHAMPSS Parent Notification Letter can help you inform parents of new or currently approved sexual health education curricula.</p>
<p><i>(i-3) Subsection (i-2) and this subsection expire August 1, 2024.</i></p>	<p>This parent opt-in requirement is only in place for three years, until August 1, 2024. After that, barring additional legislative changes, the statute will revert to “opt-out” provisions.</p>
Curriculum Availability	
<p><i>A school district shall make all curriculum materials used in the district's human sexuality instruction available by:</i></p> <p><i>(1) for curriculum materials in the public domain:</i></p> <p><i>(A) providing a copy of the curriculum materials by mail or e-mail to a parent of a student enrolled in the district on the parent's request; and</i></p> <p><i>(B) posting the curriculum materials on the district's Internet website, if the district has an Internet website</i></p>	<p>For any sexual health education curriculum materials in the public domain, a district must both post materials online, if the district has a website, and also provide materials on request to parents of enrolled students by email or by mail.</p>
<p><i>For copyrighted curriculum materials, allowing a parent of a student enrolled in the district to:</i></p> <p><i>(A) review the curriculum materials at the student's campus at any time during regular business hours;</i></p> <p><i>(B) purchase a copy of the curriculum materials from the publisher as provided by the district's purchase agreement for the</i></p>	<p>For copyrighted materials, a district must make the materials available through the following ways:</p> <ol style="list-style-type: none"> 1) allow the parent of an enrolled student to review the materials at the student’s home campus during normal business hours, 2) Purchase a copy of the materials from the publisher, or



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<p><i>curriculum materials under Subsection (j-1); or</i> <i>(C) review the curriculum materials online through a secure electronic account in a manner that prevents the curriculum materials from being copied and that otherwise complies with copyright law.</i></p>	<p>3) Review the materials online in a secure manner (such as behind password protection).</p> <p>Previously, districts only had to make materials available for reasonable public inspection, which was often accomplished by keeping a copy of the curriculum at the central office.</p>
<p><i>If a school district purchases from a publisher copyrighted curriculum materials for use in the district's human sexuality instruction, the district shall ensure that the purchase agreement provides for a means by which a parent of a student enrolled in the district may purchase a copy of the curriculum materials from the publisher at a price that does not exceed the price per unit paid by the district for the curriculum materials.</i></p>	<p>Districts must ensure that contracts with publishers allow parents of enrolled students to purchase a copy of curriculum materials at the same price paid by the district. This provision applies to all purchase agreements entered into, amended, or renewed on or after September 1, 2021.</p>

*Trussell, J. (2011). "Contraceptive failure in the United States." *Contraception*, 83(5):397-404. Retrieved from: <http://www.contraceptivetechnology.com/CTFailureTable.pdf>



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Texas Education Code Section § 28.004

Law regarding School Health Advisory Council (SHAC)

Sec. 28.004. LOCAL SCHOOL HEALTH ADVISORY COUNCIL AND HEALTH EDUCATION INSTRUCTION.

- (a) The board of trustees of each school district shall establish a local school health advisory council to assist the district in ensuring that local community values are reflected in the district's health education instruction.
- (b) A school district must consider the recommendations of the local school health advisory council before changing the district's health education curriculum or instruction.
- (c) The local school health advisory council's duties include recommending:
- (1) the number of hours of instruction to be provided in:
 - (A) health education in kindergarten through grade eight; and
 - (B) if the school district requires health education for high school graduation, health education, including physical health education and mental health education, in grades 9 through 12;
 - (2) policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent physical health concerns, including obesity, cardiovascular disease, Type 2 diabetes, and mental health concerns, including suicide, through coordination of:
 - (A) health education, which must address physical health concerns and mental health concerns to ensure the integration of physical health education and mental health education;
 - (B) physical education and physical activity;
 - (C) nutrition services;
 - (D) parental involvement;
 - (E) instruction on substance abuse prevention;
 - (F) school health services, including mental health services;
 - (G) a comprehensive school counseling program under Section 33.005;
 - (H) a safe and healthy school environment; and
 - (I) school employee wellness;
 - (3) appropriate grade levels and methods of instruction for human sexuality instruction;
 - (4) strategies for integrating the curriculum components specified by Subdivision (2) with the following elements in a coordinated school health program for the district:



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- (A) school health services, including physical health services and mental health services, if provided at a campus by the district or by a third party under a contract with the district;
 - (B) a comprehensive school counseling program under Section 33.005;
 - (C) a safe and healthy school environment; and
 - (D) school employee wellness;
- (5) if feasible, joint use agreements or strategies for collaboration between the school district and community organizations or agencies;
- (6) strategies to increase parental awareness regarding:
- (A) risky behaviors and early warning signs of suicide risks and behavioral health concerns, including mental health disorders and substance use disorders; and
 - (B) available community programs and services that address risky behaviors, suicide risks, and behavioral health concerns;
- (7) appropriate grade levels and curriculum for instruction regarding opioid addiction and abuse and methods of administering an opioid antagonist, as defined by Section 483.101, Health and Safety Code; and
- (8) appropriate grade levels and curriculum for instruction regarding child abuse, family violence, dating violence, and sex trafficking, including likely warning signs that a child may be at risk for sex trafficking, provided that the local school health advisory council's recommendations under this subdivision do not conflict with the essential knowledge and skills developed by the State Board of Education under this subchapter.
- (d) The board of trustees shall appoint at least five members to the local school health advisory council. A majority of the members must be persons who are parents of students enrolled in the district and who are not employed by the district. One of those members shall serve as chair or co-chair of the council. The board of trustees also may appoint one or more persons from each of the following groups or a representative from a group other than a group specified under this subsection:
- (1) classroom teachers employed by the district;
 - (2) school counselors certified under Subchapter B, Chapter 21, employed by the district;
 - (3) school administrators employed by the district;
 - (4) district students;
 - (5) health care professionals licensed or certified to practice in this state, including medical or mental health professionals;



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- (6) the business community;
- (7) law enforcement;
- (8) senior citizens;
- (9) the clergy;
- (10) nonprofit health organizations; and
- (11) local domestic violence programs.

(d-1) The local school health advisory council shall meet at least four times each year. For each meeting, the council shall:

- (1) at least 72 hours before the meeting:
 - (A) post notice of the date, hour, place, and subject of the meeting on a bulletin board in the central administrative office of each campus in the school district; and
 - (B) ensure that the notice required under Paragraph (A) is posted on the district's Internet website, if the district has an Internet website;
- (2) prepare and maintain minutes of the meeting that state the subject and content of each deliberation and each vote, order, decision, or other action taken by the council during the meeting;
- (3) make an audio or video recording of the meeting; and
- (4) not later than the 10th day after the meeting, submit the minutes and audio or video recording of the meeting to the district.

(d-2) As soon as practicable after receipt of the minutes and audio or video recording under Subsection (d-1)(4), the school district shall post the minutes and audio or video recording on the district's Internet website, if the district has an Internet website.

(l) The local school health advisory council shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The council must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The council shall ensure that local community values are reflected in any policy recommendation made to the district under this subsection.

(l-1) The local school health advisory council shall establish a physical activity and fitness planning subcommittee to consider issues relating to student physical activity and fitness and make policy recommendations to increase physical activity and improve fitness among students.



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(m) In addition to performing other duties, the local school health advisory council shall submit to the board of trustees, at least annually, a written report that includes:

- (1) any council recommendation concerning the school district's health education curriculum and instruction or related matters that the council has not previously submitted to the board;
- (2) any suggested modification to a council recommendation previously submitted to the board;
- (3) a detailed explanation of the council's activities during the period between the date of the current report and the date of the last prior written report; and
- (4) any recommendations made by the physical activity and fitness planning subcommittee.

(n) Any joint use agreement that a school district and community organization or agency enter into based on a recommendation of the local school health advisory council under Subsection (c)(5) must address liability for the school district and community organization or agency in the agreement.

(o) The local school health advisory council shall make policy recommendations to the district to increase parental awareness of suicide-related risk factors and warning signs and available community suicide prevention services.

Law regarding Sexual Health Education Instruction

(e) Any course materials and instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus or acquired immune deficiency syndrome shall be selected by the board of trustees with the advice of the local school health advisory council and must:

- (1) present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;
- (2) devote more attention to abstinence from sexual activity than to any other behavior;
- (3) emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus or acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;
- (4) direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with human immunodeficiency virus or acquired immune deficiency syndrome; and



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(5) teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content.

(e-1) The board of trustees shall adopt a policy establishing a process for the adoption of curriculum materials for the school district's human sexuality instruction. The policy must require:

(1) the board to adopt a resolution convening the local school health advisory council for the purpose of making recommendations regarding the curriculum materials;

(2) the local school health advisory council to:

(A) after the board's adoption of the resolution under Subdivision (1), hold at least two public meetings on the curriculum materials before adopting recommendations; and

(B) provide the recommendations adopted under Paragraph (A) to the board at a public meeting of the board; and

(3) the board, after receipt of the local school health advisory council's recommendations under Subdivision (2), to take action on the adoption of the recommendations by a record vote at a public meeting.

(e-2) Curriculum materials proposed to be adopted for the school district's human sexuality instruction must be made available as provided by Subsection (j)(1) or (2)(A) or (C), as applicable.

(e-3) Before adopting curriculum materials for the school district's human sexuality instruction, the board of trustees shall ensure that the curriculum materials are:

(1) based on the advice of the local school health advisory council;

(2) suitable for the subject and grade level for which the curriculum materials are intended; and

(3) reviewed by academic experts in the subject and grade level for which the curriculum materials are intended.

(f) A school district may not distribute condoms in connection with instruction relating to human sexuality.

(g) A school district that provides human sexuality instruction may separate students according to sex for instructional purposes.

(h) The board of trustees shall determine the specific content of the district's instruction in human sexuality, in accordance with this section.



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(i) Before each school year, a school district shall provide written notice to a parent of each student enrolled in the district of the board of trustees' decision regarding whether the district will provide human sexuality instruction to district students. If instruction will be provided, the notice must include:

- (1) a statement informing the parent of the human sexuality instruction requirements under state law;
- (2) a detailed description of the content of the district's human sexuality instruction and a general schedule on which the instruction will be provided;
- (3) a statement of the parent's right to:
 - (A) at the parent's discretion, review or purchase a copy of curriculum materials as provided by Subsection (j);
 - (B) remove the student from any part of the district's human sexuality instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and
 - (C) use the grievance procedure as provided by Subsection (i-1) or the appeals process under Section 7.057 concerning a complaint of a violation of this section;
- (4) a statement that any curriculum materials in the public domain used for the district's human sexuality instruction must be posted on the district's Internet website, if the district has an Internet website, and the Internet website address at which the curriculum materials are located; and
- (5) information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council established under Subsection (a).

(i-1) A parent may use the grievance procedure adopted under Section 26.011 concerning a complaint of a violation of this section.

(i-2) Before a student may be provided with human sexuality instruction, a school district must obtain the written consent of the student's parent. A request for written consent under this subsection:

- (1) may not be included with any other notification or request for written consent provided to the parent, other than the notice provided under Subsection (i); and
- (2) must be provided to the parent not later than the 14th day before the date on which the human sexuality instruction begins.

(i-3) Subsection (i-2) and this subsection expire August 1, 2024.



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(j) A school district shall make all curriculum materials used in the district's human sexuality instruction or instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, available by:

- (1) for curriculum materials in the public domain:
 - (A) providing a copy of the curriculum materials by mail or e-mail to a parent of a student enrolled in the district on the parent's request; and
 - (B) posting the curriculum materials on the district's Internet website, if the district has an Internet website; and
- (2) for copyrighted curriculum materials, allowing a parent of a student enrolled in the district to:
 - (A) review the curriculum materials at the student's campus at any time during regular business hours;
 - (B) purchase a copy of the curriculum materials from the publisher as provided by the district's purchase agreement for the curriculum materials under Subsection (j-1) or (j-2); or
 - (C) review the curriculum materials online through a secure electronic account in a manner that prevents the curriculum materials from being copied and that otherwise complies with copyright law.

(j-1) If a school district purchases from a publisher copyrighted curriculum materials for use in the district's human sexuality instruction, the district shall ensure that the purchase agreement provides for a means by which a parent of a student enrolled in the district may purchase a copy of the curriculum materials from the publisher at a price that does not exceed the price per unit paid by the district for the curriculum materials.

(j-2) If a school district purchases from a publisher copyrighted curriculum materials for use in the district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, the district shall ensure that the purchase agreement provides for a means by which a parent of a student enrolled in the district may purchase a copy of the curriculum materials from the publisher at a price that does not exceed the price per unit paid by the district for the curriculum materials.

(k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website:

- (1) a statement of the policies and procedures adopted to promote the physical health and mental health of students, the physical health and mental health resources available at each campus, contact



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information for the nearest providers of essential public health services under Chapter 121, Health and Safety Code, and the contact information for the nearest local mental health authority;

(2) a statement of the policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Section 28.002(l);

(3) a statement of:

(A) the number of times during the preceding year the district's school health advisory council has met;

(B) whether the district has adopted and enforces policies to ensure that district campuses comply with agency vending machine and food service guidelines for restricting student access to vending machines; and

(C) whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of e-cigarettes, as defined by Section 38.006, and tobacco products by students and others on school campuses or at school-sponsored or school-related activities;

(4) a statement providing notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year; and

(5) for each campus in the district, a statement of whether the campus has a full-time nurse or full-time school counselor.

(p) In this section:

(1) "Curriculum materials" includes the curriculum, teacher training materials, and any other materials used in providing instruction.

(2) "Human sexuality instruction," "instruction in human sexuality," and "instruction relating to human sexuality" include instruction in reproductive health.

(q) Any course materials relating to the prevention of child abuse, family violence, dating violence, and sex trafficking shall be selected by the board of trustees with the advice of the local school health advisory council.

(q-1) The board of trustees shall adopt a policy establishing a process for the adoption of curriculum materials for the school district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking. The policy must require:

(1) the board to adopt a resolution convening the local school health advisory council for the purpose of making recommendations regarding the curriculum materials;

(2) the local school health advisory council to:



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(A) after the board's adoption of the resolution under Subdivision (1), hold at least two public meetings on the curriculum materials before adopting recommendations; and

(B) provide the recommendations adopted under Paragraph (A) to the board at a public meeting of the board; and

(3) the board, after receipt of the local school health advisory council's recommendations under Subdivision (2), to take action on the adoption of the recommendations by a record vote at a public meeting.

(q-2) Curriculum materials proposed to be adopted for the school district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking must be made available as provided by Subsection (j)(1) or (2)(A) or (C), as applicable.

(q-3) Before adopting curriculum materials for the school district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, the board of trustees shall ensure that the curriculum materials are:

- (1) based on the advice of the local school health advisory council;
- (2) suitable for the subject and grade level for which the curriculum materials are intended; and
- (3) reviewed by academic experts in the subject and grade level for which the curriculum materials are intended.

(q-4) The board of trustees shall determine the specific content of the district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking in accordance with this subchapter, including the essential knowledge and skills addressing these topics developed by the State Board of Education.

(q-5) Before each school year, a school district shall provide written notice to a parent of each student enrolled in the district of the board of trustees' decision regarding whether the district will provide instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking to district students. If instruction will be provided, the notice must include:

- (1) a statement informing the parent of the requirements under state law regarding instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking;
- (2) a detailed description of the content of the district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking;
- (3) a statement of the parent's right to:

(A) at the parent's discretion, review or purchase a copy of curriculum materials as provided by Subsection (j);



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(B) remove the student from any part of the district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and

(C) use the grievance procedure as provided by Subsection (i-1) or the appeals process under Section 7.057 concerning a complaint of a violation of this section;

(4) a statement that any curriculum materials in the public domain used for the district's instruction regarding the prevention of child abuse, family violence, dating violence, and sex trafficking must be posted on the district's Internet website address at which the curriculum materials are located; and

(5) information describing the opportunities for parental involvement in the development of the curriculum to be used in instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, including information regarding the local school health advisory council established under Subsection (a).

(q-6) Before a student may be provided with instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, a school district must obtain the written consent of the student's parent. A request for written consent under this subsection:

(1) may not be included with any other notification or request for written consent provided to the parent, other than the notice provided under Subsection (q-5); and

(2) must be provided to the parent not later than the 14th day before the date on which the instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking begins.