
Disclaimer: This state profile has been prepared by Family Watch International and the Protect Child Health Coalition. While the information provided is as accurate as possible and is updated annually, *laws can change with each legislative session and laws are subject to interpretation. Therefore, it is advised that you verify and confirm all information posted on this website.*



TEXAS STATUTES AND LAWS

This profile provides an overview of sex education laws in Texas, including:

- I. [Sex-Ed Requirements Quick Chart](#)
- II. [Parental Rights Laws](#)
- III. [Sex Education Laws](#)
- IV. [Consent Laws](#)
- V. [Obscenity Laws](#)
- VI. [State Department of Education Policies](#)

“The [statutes](#) available on the [Texas Legislative website](#) are current through the 86th Legislature, 2019. The Texas Constitution is current through the amendments approved by voters in November 2019. In 2018 the section headings to the constitution, which are not officially part of the text of the constitution, were revised to reflect amendments and to modernize the language.” Texas legislative sessions convened on 1/8/19 and adjourned on 5/27/19

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What should I know about [navigating sex-ed terms](#)?

I. SEX-ED REQUIREMENTS QUICK CHART				
LEGISLATIVE REQUIREMENTS	YES	NO	NOT INDICATED	LEGISLATIVE CODES
Sex education required		X		§28.002
Sex education optional	X			§28.004(i)
If/When Provided, Sexual Education Must/May:				
Be medically accurate			X	
Be evidence based			X	
Be age appropriate	X			§28.004(c.3)
Be culturally appropriate/ unbiased			X	
Reference/stress abstinence*	X			§28.004(e.1-4)
Include HIV/AIDS education	X			§28.004(e.3-4)
Be LGBTQ inclusive			X	
Include safety against sexual abuse	X			see §28.017
Parental Role in Sexual Education:				
Parental notification	X			§28.004(i)
Parental involvement	X			§4.001.b, §26.001(a-c), §28.004(i.3)
Opt-in			X	
Opt-out/withdraw	X			§26.010(a)
Access to/review curriculum	X			§ 26.006(a-c), §28.004(i.2.A)
Public Review				§28.004(j)
<p>*Warning: While statutes might say “abstinence based” or require materials to “stress abstinence” as the standard, many CSE programs only mention abstinence in passing; they do not establish abstinence as the expected standard and fail to emphasize abstinence as the only sure way to protect against pregnancy and sexually transmitted diseases, including AIDS. See harmful elements of CSE here.</p>				

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II. PARENTAL RIGHTS LAWS

What should I know about [parental rights laws](#)?

According to [Texas Education Code 8-2E.26](#) Parents Rights and Responsibilities

[Sec. 26.001](#)

(a) **Parents are partners** with educators, administrators, and school district boards of trustees in their children's education. **Parents shall** be encouraged to actively **participate** in creating and implementing educational programs for their children.

(b) The rights listed in this chapter are not exclusive. This chapter **does not limit a parent's rights** under other law.

(c) Unless otherwise provided by law, a board of trustees, administrator, educator, or other person **may not limit parental rights**.

(d) Each board of trustees shall provide for procedures to consider complaints that a parent's right has been denied.

(e) Each board of trustees shall cooperate in the establishment of ongoing operations of at least one parent-teacher organization at each school in the district to promote parental involvement in school activities.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

[Sec. 26.006](#) **ACCESS TO TEACHING MATERIALS.**

(a) A parent is entitled to:

(1) **review** all teaching materials, instructional materials, and other teaching aids used in the classroom of the parent's child; and

(2) **review** each test administered to the parent's child after the test is administered.

(b) A school district shall make teaching materials and tests readily available for **review by parents**. The district may specify reasonable hours for review.

(c) A student's **parent is entitled to request** that the school district or open-enrollment charter school the student attends allow the student to take home any instructional materials used by the student. Subject to the availability of the instructional materials, the district or school shall honor the request. A student who takes home instructional materials must return the instructional materials to school at the beginning of the next school day if requested to do so by the student's teacher. A school district or open-enrollment charter school must provide the instructional materials to the student in printed format if the student does not have reliable access to technology at the student's home. In this subsection, "instructional material" has the meaning assigned by [Section 31.002](#).

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(d) The requirement under Subsection (c) to provide to a student instructional materials in a printed format does not require a school district or open-enrollment charter school to purchase printed copies of instructional materials that the district or school otherwise would not purchase. A district or school may comply with Subsection (c) by providing the student a printout of the relevant electronic instructional materials.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2001, 77th Leg., ch. 805, Sec. 1, eff. June 14, 2001.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 12, eff. July 19, 2011.
Acts 2019, 86th Leg., R.S., Ch. 1031 (H.B. 391), Sec. 1, eff. June 14, 2019.

Sec. 26.010 EXEMPTION FROM INSTRUCTION.

(a) **A parent is entitled to remove the parent's child** temporarily from a class or other school activity that conflicts with the parent's religious or moral beliefs if the parent presents or delivers to the teacher of the parent's child a written statement authorizing the removal of the child from the class or other school activity. **A parent is not entitled to remove the parent's child** from a class or other school activity to avoid a test or to prevent the child from taking a subject for an entire semester.

(b) This section does not exempt a child from satisfying grade level or graduation requirements in a manner acceptable to the school district and the agency.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

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III. SEX EDUCATION LAWS

What should I know about [sex education laws](#)?

The following laws and guidelines apply to sex education and how sex education is taught, according to Texas [Education Code](#)

[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**;

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(4) strategies for integrating the curriculum components specified by Subdivision (2) with the following elements in a coordinated school health program for the district:

- (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;

(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;
- (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.

(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;

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(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

(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.

(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 Subsections (e), (f), and (g).

(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 summary of the basic content** of the district's human sexuality instruction to be provided to the student, including a statement **informing the parent** of the instructional requirements under state law;

(2) **a statement of the parent's right** to:

(A) **review curriculum** materials as provided by Subsection (j); and

(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

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(3) 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 Subsection (i).

(j) A school district shall **make all curriculum materials used in the district's human sexuality instruction available for reasonable public inspection.**

Acts 2019, 86th Leg., R.S., Ch. 352 (H.B. [18](#)), Sec. 1.08, eff. December 1, 2019

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IV. CONSENT LAWS

What should I know about [consent and informed consent](#)?

[Age of Majority](#) = Based on Texas Civil Practices Code [CP129.001](#), anyone under the age of 18 is considered a minor, while those 18 years old and older are considered adults.

[Age of Consent](#) = Based on Texas Penal Code [PC22.011](#), the age when children can legally consent or agree to sex is 17. [Acceptable differences between ages](#) is 3.

Warning! Most CSE programs put parental rights at risk by either encouraging or requiring that parents not be notified and/or by instructing children how to access such things as abortion, contraception and other so-called health services **without parental notification or consent**. It is particularly dangerous to encourage students in this way, particularly considering the fact the laws often support what is being taught in CSE programs. For example:

- **Without notifying or receiving consent from their parents**, minor children in Texas may consent to
 - STI (sexually transmitted infection) services* ([FA32.003](#))
 - HIV services
 - Prenatal care services* ([FA32.003](#))
- **Parental consent** is required for
 - Abortion services ([FA32.003](#))
- **Other Consent laws**
 - ([FA32.003](#)) A child may consent to medical, dental, psychological, and surgical treatment at 16

**Health care providers may inform the minor's parents, but are not required to do so.
See more consent laws [here](#)*

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V. OBSCENITY LAWS

What should I know about [obscenity laws](#)?

Texas recodified its criminal law based in part on the ALI-MPC in 1974.

Tex. Penal Code Ann. [§ 43.24](#): Sale, Distribution, or Display of Harmful Material to Minor

(a) For purposes of this section:

(1) "Minor" means an individual younger than 18 years.

(2) "Harmful material" means material whose dominant theme taken as a whole:

(A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;

(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(C) is utterly without redeeming social value for minors.

(b) A person commits an offense if, knowing that the material is harmful:

(1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material;

(2) he displays harmful material and is reckless about whether a minor is present who will be offended or alarmed by the display; or

(3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b)(1) or (b)(2).

(c) It is an affirmative defense to prosecution under this section that the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification.

(c-1) It is a defense to prosecution under this section that the actor was the spouse of the minor at the time of the offense.

(d) An offense under this section is a Class A misdemeanor unless it is committed under Subsection (b)(3) in which event it is a felony of the third degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, **eff. Jan. 1, 1974**. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, **eff. Sept. 1, 1994**; Acts 2011, 82nd Leg., ch. 497 (H.B. 1344), § 1, **eff. Sept. 1, 2011**.

[Sec. 43.21](#) DEFINITIONS.

(a) In this subchapter:

(1) "Obscene" means material or a performance that:

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(A) the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

(B) depicts or describes:

(i) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or

(ii) patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

(C) taken as a whole, lacks serious literary, artistic, political, and scientific value.

(2) "Material" means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three dimensional obscene device.

(3) "Performance" means a play, motion picture, dance, or other exhibition performed before an audience.

(4) "Patently offensive" means so offensive on its face as to affront current community standards of decency.

(5) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

(6) "Wholesale promote" means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

(7) "Obscene device" means a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.

(b) If any of the depictions or descriptions of sexual conduct described in this section are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this section as to other patently offensive sexual conduct included herein. Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 372, ch. 163, Sec. 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1974, ch. 778, Sec. 1, eff. Sept. 1, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

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[Sec. 43.22](#) **OBSCENE DISPLAY OR DISTRIBUTION.**

(a) A person commits an offense if he intentionally or knowingly displays or distributes an obscene photograph, drawing, or similar visual representation or other obscene material and is reckless about whether a person is present who will be offended or alarmed by the display or distribution.

(b) An offense under this section is a Class C misdemeanor.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994

VI. STATE DEPARTMENT OF EDUCATION POLICIES

What should I know about [school policies](#)?

Texas Essential Knowledge and Skills for [Health Education](#)

[Section 115.1](#) Implementation of Texas Essential Knowledge & Skills for Health Ed. Elementary

[Section 115.2](#) Health Education, Kindergarten.

[Section 115.3](#) Health Education, Grade 1.

[Section 115.4](#) Health Education, Grade 2.

[Section 115.5](#) Health Education, Grade 3.

[Section 115.6](#) Health Education, Grade 4.

[Section 115.7](#) Health Education, Grade 5.

[Section 115.21](#) Implementation of Texas Essential Knowledge & Skills for Health Education, MS

[Section 115.22](#) Health Education, Grade 6.

[Section 115.23](#) Health Education, Grades 7-8.

[Section 115.31](#) Implementation of Texas Essential Knowledge & Skills for Health Education, HS

[Section 115.32](#) Health 1, Grades 9-10 (One-Half Credit).

[Section 115.33](#) Advanced Health, Grades 11-12 (One-Half Credit).

Compare [state laws](#) with [DOE policies](#) for alignment.

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