



October 20, 2016

RE: Sexual Health Education Implementation and the California Healthy Youth Act

Dear California County Superintendents:

We write on behalf of the ACLU of California to offer assistance in bringing your county's school districts into compliance with the new California Healthy Youth Act (AB 329).¹ The California Healthy Youth Act, which went into effect on January 1, 2016, strengthens and expands requirements for comprehensive sexual health and HIV prevention education in all California public schools, including making this instruction mandatory for students in middle school and high school.

As a sponsor of the California Healthy Youth Act, the ACLU is now working to ensure effective implementation of this new law across the state. In addition to overseeing education in alternative schools, county offices of education are a crucial source of support and guidance for school districts in the county, so we would like to offer to serve as a resource to your office as you evaluate your policies, curriculum, practices, and training with respect to sexual health and HIV education, and help school districts in your county do the same. We have worked collaboratively with both counties and districts to ensure they are meeting these new requirements and providing their students with the information and skills they need to make decisions that will positively impact their health, their relationships, and their overall well-being. The California County Superintendents Educational Services Association is also sending you an electronic copy of this letter and these materials.

What the California Healthy Youth Act Requires

Schools play an essential role in providing students with the knowledge and skills they need to form healthy relationships, protect their sexual health, and form healthy identities. When students have accurate information to make healthy decisions about their relationships and their lives, we will have healthier, safer environments where all our students can thrive. That is why California established requirements for sexual health education over a decade ago and why the California Healthy Youth Act, which strengthened and updated those requirements, was enacted last year with the support of the California School Boards Association, the California State Parent Teacher Association, and the California Teachers Association, among others. As a judge ruled last year in an ACLU case concerning a school district's failure to follow California sexual health education law, "access to medically and socially appropriate sexual education is an important public right."²

¹ California Healthy Youth Act, Assembly Bill 329, 2014-2015 Reg. Sess. (Cal. 2015), codified at CAL. EDUC. CODE §§ 51930-51939.

² *American Academy of Pediatrics v. Clovis Unified Sch. Dist.*, No. 12CECG02608 (Cal. Super. Ct. May 14, 2015), available at <https://www.aclunc.org/sites/default/files/2015.05.04%20Notice%20of%20Entry%20of%20Order.pdf>.

Under the California Healthy Youth Act, all California school districts are now required to provide comprehensive sexual health education to all students in middle school and high school. Key components of the new law include:

- Integration of sexual health education into the existing HIV mandate, requiring instruction on both comprehensive sexual health and HIV prevention at least once in middle school and once in high school.
- A requirement that all comprehensive sexual health education and HIV prevention instruction and materials align with and support the purposes of the Healthy Youth Act, as defined. All instruction and materials must be medically accurate, objective, bias-free, and inclusive of all students.
- A requirement that all sexual health education and HIV prevention education instruction and materials—regardless of the grade in which they are taught—recognize that people have different sexual orientations and be inclusive of same-sex relationships. Instruction and materials must teach students about gender, gender expression, gender identity, and explore the harm of negative gender stereotypes.
- A requirement that instruction and materials provide students with knowledge and skills for making and implementing healthy decisions about sexuality, including negotiation and refusal skills to assist pupils in overcoming peer pressure and using effective decision-making skills to avoid high-risk activities.
- A clarification of existing law requiring that school districts employ only an “opt-out” or passive parental consent process for instruction; “opt-in” or active consent is prohibited, including in elementary school.
- In grades seven to twelve, in addition to the above, instruction must include, but is not limited to:
 - Information on the nature and transmission of HIV and other sexually transmitted infections (STIs).
 - Information about the effectiveness and safety of all federal Food and Drug Administration (FDA)-approved methods that prevent or reduce the risk of contracting HIV and other STIs.
 - Information about the treatment of HIV and other STIs.
 - Discussion about social views of HIV and AIDS, emphasizing that all people are at some risk of contracting HIV and that the only way to know one’s HIV status is by being tested.
 - Information that abstinence is the only certain way to prevent unintended pregnancy and HIV and other STIs; information about value of delaying sexual activity must be included and must be accompanied by information about other methods for preventing pregnancy and STIs. In keeping with current law, abstinence-only curriculum remains strictly prohibited.
 - Information about the effectiveness and safety of all FDA-approved contraceptive methods in preventing pregnancy.

- An objective discussion of all legally available pregnancy outcomes, including, but not limited to, parenting, adoption, abortion; California’s newborn safe surrender law; and the importance of prenatal care.
- Information about sexual harassment, sexual assault, adolescent relationship abuse, intimate partner violence, and sex trafficking.
- Information about accessing resources for sexual and reproductive health care and assistance with sexual assault and intimate partner violence, as well as students’ legal rights to access these resources.

Action Steps to Ensure Compliance with the California Healthy Youth Act

If it has not done so already, the County Office of Education and districts within the county should make the following changes to bring their policies and practices into compliance with the new laws.

- **Adopt board policies and administrative regulations** governing comprehensive sexual health and HIV prevention instruction to reflect the new requirements for comprehensive sexual health and HIV prevention education under the California Healthy Youth Act.

The California School Boards Association has issued a revised model board policy and administrative regulation 6142.1 that encompasses both comprehensive sexual health education and HIV prevention education and aligns with the new law.

- **Review sexual health and HIV curriculum and instruction** to ensure it is compliant with the new law and incorporates teaching on all the newly required topics. Adopt new curriculum or supplements, if necessary. We have enclosed fact sheets and curricular evaluation materials to assist you in this process.
- **Review any outside and guest speakers who teach sexual health and HIV curriculum** to ensure they have the requisite expertise in comprehensive sexual health HIV prevention education and knowledge of the most recent medically accurate research on the relevant topic or topics covered in their instruction.
- **Review and update parental notification letters and opt-out processes** to ensure they comply with the new law. We have enclosed a sample letter and resources to assist you in this process.
- **Provide in-service training** to district teachers as necessary to ensure they understand the requirements of the California Healthy Youth Act and are informed about new developments in the scientific understanding of HIV and sexual health. This is particularly important for new content areas such as sexual orientation and gender, healthy relationships, relationship violence, and sexual harassment.

* * *

Again, we are eager to work collaboratively with you to serve as a resource to the County Office of Education as it supports its districts in making these changes and also implements the California Healthy Youth Act in alternative schools. For your reference, we have also enclosed a factsheet about another new law the ACLU helped pass last year in relation to pupil services for

lactation accommodations, which ensures that breastfeeding students have access to the lactation accommodations they need. In addition to sexual health and HIV education implementation, we can provide collaborative support on issues concerning pregnant and parenting students, LGBTQ students, and any other issue concerning youth's reproductive health rights. We hope that you will reach out should you need assistance on any of these matters. Please contact Ashley Morris in Northern California at (415) 621-2493 or amorris@aclunc.org or Kelli Soto in Southern California at (213) 977-5268 or ksoto@aclusocal.org with any questions.

Sincerely,



Phyllida Burlingame
Reproductive Justice Policy Director
ACLU of Northern California



Melissa Goodman
Director of the LGBTQ, Gender & Reproductive
Justice Project
ACLU of Southern California



David Trujillo
Advocacy Director
ACLU of San Diego & Imperial Counties

Enclosures:

- Factsheet about AB 302, ACLU of California (Dec. 2015)
- California Healthy Youth Act: Q&A for Districts, ACLU of California (Jan. 2016)
- California Healthy Youth Act: Fast Facts for Districts, ACLU of California (Jan. 2016)
- California Healthy Youth Act: Facts for Grades K-6, ACLU of California (Jan. 2016)
- California Healthy Youth Act: Curriculum Evaluation Checklist for Districts, Grades 7-12, ACLU of California (Jan. 2016)
- California Healthy Youth Act: Assessment Tool for LGBTQ & Gender-Inclusiveness, ACLU of California (June 2016)
- California Healthy Youth Act: Curricular Materials and Resources, ACLU of California (Jan. 2016)
- Sample Parent/Guardian Notification Letter, Grades 7-12, ACLU of California (Jan. 2016)