

DATE:	August 1, 2024
SUBJECT:	Updated Guidance on Parental Opt-In Requirement
CATEGORY:	Human Sexuality Instruction
NEXT STEPS:	Share with board of trustees and appropriate staff

The purpose of this letter is to clarify the obligations of Texas public school systems following the expiration of language in Section 28.004 of the Texas Education Code (TEC), requiring parental consent prior to human sexuality instruction.

Expiration of Statutory Language

The 87th Legislature passed House Bill 1525 in 2021, which included revisions to statutory regulations regarding human sexuality instruction (see Section 7 of the bill). Among other things, this legislation requires a school system to first obtain written consent from a parent before a student may receive instruction in human sexuality. In addition to the language that added this “opt in” requirement in TEC, Section 28.004(i-2), the law also included an expiration provision in TEC, Section 28.004(i-3), which provides that the “opt in” requirement expires on August 1, 2024. This was the only change to TEC, Section 28.004, that was made subject to an expiration date. Other changes, some of which are described below, are still in effect.

Notwithstanding expiration of the statutory opt-in mandate, school systems should continue requiring parental consent prior to offering human sexuality instruction to students, which is fully permitted by the authority granted to local school systems under TEC, §11.151.

Ongoing School District Requirements

The requirement that school systems obtain written parental consent prior to providing human sexuality instruction to a student was in addition to other requirements. For example, TEC, Section 28.004(q-6), requires that before a student may receive any instruction related to the prevention of child abuse, family violence, dating violence, and sex trafficking a district must obtain written consent from the student’s parent.

Additionally, school systems are still required to partner with parents in the instruction of students and provide parents the opportunity and information needed to tailor their child’s human sexuality instruction to their values.

Specifically, the statute requires that school systems inform parents whether human sexuality instruction is provided in the district, TEC, Section 28.004(i); disclose the content, availability and schedule of the instruction, TEC, Section 28.004(i)(2); furnish a list of their parental rights regarding such instruction, TEC, Section 28.004(i)(3); and notify parents about opportunities to become involved in the development and adoption of the human sexuality curriculum, TEC, Section 28.004(i)(5). Of special note is the parental right to “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”. (See TEC Section 28.004(i)(3)(B)). This requirement, like others noted above, is ongoing and is not subject to the expiration provision.

Previous Agency Guidance

The Texas Education Agency (TEA) has previously issued clarification on the question of whether the statutory right of a parent to remove a student from human sexuality instruction without penalty conflicts with the statutory prohibition of parental removal of a student to avoid a test or the satisfaction of grade-level requirements. That guidance determined that the most reasonable interpretation of the statutory requirements is that the parental right with respect to human sexuality instruction is an exception to the general prohibition on parental removal. You may refer to the referenced [guidance](#).

Additional Supports and Questions

If you have any questions relating to curriculum standards, please contact (512) 463-9581 or submit a Curriculum Request Form through the [TEA Help Desk](#).