

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
93rd General Assembly  
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As Engrossed: S3/9/21 S3/15/21

## A Bill

SENATE BILL 389

By: Senators B. Ballinger, *Beckham*  
By: Representatives Bentley, Gonzales, Pilkington

### For An Act To Be Entitled

AN ACT TO REQUIRE THAT A PUBLIC SCHOOL PROVIDE TO PARENTS AND LEGAL GUARDIANS OF PUBLIC SCHOOL STUDENTS PRIOR WRITTEN NOTIFICATION OF AND AN OPPORTUNITY TO INSPECT MATERIALS RELATED TO SEX EDUCATION, SEXUAL ORIENTATION, AND GENDER IDENTITY; AND FOR OTHER PURPOSES.

### Subtitle

TO REQUIRE A PUBLIC SCHOOL TO PROVIDE TO PARENTS AND LEGAL GUARDIANS PRIOR WRITTEN NOTIFICATION OF AND AN OPPORTUNITY TO INSPECT MATERIALS RELATED TO SEX EDUCATION, SEXUAL ORIENTATION, AND GENDER IDENTITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 16, Subchapter 10, is amended to add an additional section to read as follows:

6-16-1005. Parental notice and consent.

(a) As used in this section:

(1) "Gender identity" means the same as is used in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, which defines it as a category of social identity and refers to an individual's identification as male, female, or, occasionally, some category other than male or female; and



(2) "Sexual orientation" means an individual's actual or perceived orientation as heterosexual, homosexual, or bisexual.

(b)(1) A public school shall make the following, as they relate to sex education, sexual orientation, and gender identity, available for inspection by parents and legal guardians of participating public school students:

- (A) Curricula;
- (B) Materials;
- (C) Tests;
- (D) Surveys;
- (E) Questionnaires;
- (F) Activities; and
- (G) Instruction of any kind.

(2) Information made available for inspection under subdivision (b)(1) of this section shall be made available regardless of whether any of the listed items are offered as part of a sex education class or program or as part of any other class, activity, or program.

(c)(1) A public school shall provide:

(A) Prior written notification to parents and legal guardians of public school students participating in any of the listed items under subdivision (b)(1) of this section; and

(B) A means by which parents and legal guardians of public school students participating in any of the listed items under subdivision (b)(1) of this section may:

(i) Inspect the items listed under subdivision (b)(1) of this section; and

(ii)(a) Notify the public school district in writing if the parent or legal guardian does not want his or her child to participate in any of the items listed under subdivision (b)(1) of this section.

(b) A student who is excused from participating in any or all portions of the items listed under subdivision (b)(1) of this section shall not be penalized for grading purposes if the student satisfactorily performs alternative lessons related to health.

(2) Each public school shall develop a means of:

(A) Providing written notification to parents and legal guardians as required under subdivision (c)(1) of this section that ensures effective notice and the ability of parents and legal guardians to exercise

their rights under this section in an efficient and appropriate manner; and

(B) Receiving a confirmation of receipt from parents and legal guardians of the written notification required under subdivision (c)(1) of this section.

(d) This section does not require:

(1) Parental notification before a public school or a public school district employee:

(A) Responds to questions posed by public school students during class regarding sex education, sexual orientation, or gender identity as it relates to a topic of instruction; or

(B) Refers to the sexual orientation or gender identity of a historical person, group, or public figure when such information provides necessary context in relation to a topic of instruction; or

(2) Local public school districts to provide instruction regarding sex education, sexual orientation, or gender identity not otherwise required by law.

(e) The requirements under subdivision (c)(1) of this section shall not apply if the listed item under subdivision (c)(1) of this section is directly related to a requirement under the Arkansas academic standards for the particular item in question.

/s/B. Ballinger