



Sen. Cary Smith introduced [Senate Bill 99](#) “Establish parameters for k-12 human sexuality education” in the 2021 session. It passed on party-line votes and was signed into law by Gov. Gianforte. This fact sheet addresses how SB 99 affects your worksite activities.

SB99

- Defines “human sexuality instruction” as teaching or otherwise providing information about human sexuality, including intimate relationships, human sexual anatomy, sexual reproduction, sexually transmitted infections, sexual acts, sexual orientation, gender identity, abstinence, contraception, or reproductive rights and responsibilities. [20-7-120\(6\)](#)
- Creates a new statutory reason for a student to be exempted by their parents from compulsory attendance requirements. [20-5-103\(2\)d](#)
- Mandates that schools (not teachers) adopt a policy ensuring parents are given at least 48-hour notice of human sexuality instruction [20-7-120\(2\)](#)
- Mandates that districts (not teachers) notify parents of students scheduled to be enrolled in human sexuality instruction of the basic content to be taught and their right to withdraw their student [20-7-120 \(3\)](#)
- Mandates that a district (not a teacher) make all curricular materials used in human sexuality instruction available for public inspection prior to their use [20-7-120\(4\)](#)
- Prohibits a school or any school employee (including teachers) from using any curricular materials provided by an entity who provides abortion services [20-7-120\(5\)](#)

SB99 does NOT

- Provide for any penalties for teachers, schools or districts breaking this law.
- Hold an individual employee accountable for directives in the law. Board policy or administrative direction, however, may shift responsibility down to the individual employee.
- Change the provisions of your collective bargaining agreement.

What hasn't changed

- You are responsible for knowing and following board policies regarding what to teach, what materials to use, and when to notify parents of your planned

materials. Your board likely has a policy covering Controversial Issues & Academic Freedom (often, but not always, 2330).

- School employees must complete work tasks as required by their employers - but not for free. If you are being asked to review curricular materials outside of the workday, you must be paid for your time or given release time. Consult your local president and/or MFPE field consultant.

How SB 99 could impact you

- The school/district are responsible for the annual notification and 48-hour requirements, but they may choose to assign the work of notifying parents to individual teachers, in which case you need to follow those directives.
 - o If the administration has not provided clear directions, ask for written guidance. If you don't receive a timely response, call your MFPE field consultant and continue asking, in writing, for clarification.
- You may question whether your curriculum or materials fall under the definition of "human sexuality instruction."
 - o When in doubt, ask your administrator. Use school email to ask for permission to use a certain curricular item or lesson. Get the answer in writing. If your administrator stops by to answer in person, make sure you have a witness and document the conversation including date, time, witness, and specific words used in a follow-up email recapping your understanding of the instruction.
 - o Do not use curricular materials that have not received administrator or board approval, including classroom library and supplemental resources.
- Your district may instruct you to provide alternate assignments for students who are opted out.
 - o Keep track of how many hours you spend creating alternate assignments. This may need to be addressed with your local president and MFPE field consultant as a contract issue.
- Your board may be considering policies in response to SB 99.
 - o Work through your local union and MFPE field consultant to watch board agendas and be prepared to partner with them as they make decisions affecting your workplace.
- SB 99 does not address notice requirements for answering student questions and creates a gray area about what it means to be "otherwise providing information" to a student.

- o We are seeking answers and will share any new information ASAP.
- o Use your best professional judgment.