



New Hampshire

Department of Education

Serving New Hampshire's Education Community

Technical Advisory

Exception To Objectionable Curriculum Course Material

RSA 186:11, IX-c

*This Technical Advisory continues the New Hampshire Department of Education's communication regarding the new legislation which was passed into law during the 2017 legislative session. **House Bill 103 law became effective June 16, 2017.***

During the 2017 legislative session, RSA 186:11, IX-c, which requires school districts to adopt a policy allowing for an exception to objectionable course material, was amended. HB103 became effective on June 16, 2017. The amendment requires school districts to provide two weeks advanced notice to parents or legal guardians of curriculum course material used for the **instruction of human sexuality or human sexual education**. The new law is posted below in its entirety with the amendment in bold font:

The state board of education shall, in addition to the duties assigned by RSA 21-N:11: . . . IX-c. Require school districts to adopt a policy allowing an exception to specific course material based on a parent's or legal guardian's determination that the material is objectionable. Such policy shall include a provision requiring the parent or legal guardian to notify the school principal or designee in writing of the specific material to which they object and a provision requiring an alternative agreed upon by the school district and the parent, at the parent's expense, sufficient to enable the child to meet state requirements for education in the particular subject area. **The policy shall also require the school district or classroom teacher to provide parents and legal guardians not less than 2 weeks advance notice of curriculum course material used for instruction of human sexuality or human sexual education. The policy shall address the method of delivering notification to a parent or legal guardian. To the extent practicable, a school district shall make curriculum course materials available to parents or legal guardians for review upon request.** The name of the parent or legal guardian and any specific reasons disclosed to school officials for the objection to the material shall not be public information and shall be excluded from access under RSA 91-A.

The terms "human sexuality or human sexual education" are not defined in the statute, although are self-explanatory. The legislative record makes clear that the intent of the amendment was to address material used in the instruction of human sexuality or human sexual education, such as in health class and biology class.

Furthermore, the intent of the amendment was to allow the parent or legal guardian the opportunity to make suitability determinations regarding instructional material which concerns human sexuality or human sexual education. This legislative intent can only be achieved by providing parents timely access to such instructional content. The new law places an affirmative responsibility on the school districts, which control the content, to meet the

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requirement to **provide** parents with the curriculum course material in advance. Simply sending a notice home with a student may not be sufficient to achieve the legislative intent as districts will want to, as much as possible, avoid circumstances in which a school asserts that it provided notice and the parent or legal guardian disputes this assertion.

Therefore, school districts should modify their existing policies, as necessary, to specify how and when advance notification to parents and legal guardians will occur. Strong policies will include multiple modes of notification to provide sufficient assurance that parents or legal guardians have been afforded the appropriate and timely notice that the law requires. Such methods of notification may include email, posting on a web site, a letter sent through the school's parent portal, a handout sent home with students or by other means. Regardless of the exact methodologies that schools decide to utilize, the best method to reach that assurance, would be to have some type of affirmative parental or legal guardian acknowledgement of receipt.

It is important to note that the legislative intent of HB103 does not apply to literature or other content that might have or be perceived to have sexual content. In the case that curricular content may include sexual content outside of the context of instruction on human sexuality or human sexual education, schools should exercise prudent judgment and err on the side of caution by providing advance notice to parents or legal guardians. Additionally, if an outside agency or organization, such as the Motion Picture of America Association, Movie Guide film rating systems, Compass Book Ratings or other rating system, recommends restrictions on content, schools should consider engaging parents before presenting that specific content to students.

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