

2.0 STATE STATUTES

OVERVIEW

Wisconsin statutes support human growth and development (HGD) instruction. Relevant statutes include:

- Wis. Stat. sec. 146.89** Human growth and development instruction by a volunteer health care provider
- Wis. Stat. sec. 115.29** Application for federal funds for evidence-based teen pregnancy prevention programs
- Wis. Stat. sec. 115.35** Critical health problems education
- Wis. Stat. sec. 118.01** Educational goals and expectations, including instruction in physiology, hygiene, and sexually transmitted diseases
- Wis. Stat. sec. 118.019** Human growth and development instruction

The Wisconsin statutes are explained below. Copies of the statutory language can be found in subsequent pages and on the web at <http://www.legis.state.wi.us/rsb/>. Districts are advised to consult with their legal counsel for interpretation and application for local issues.

STATUTES*

Wisconsin Statute sec. 146.89 (3r)(e) allows volunteer health care providers to provide instruction in human growth and development if the instructional program is in compliance with requirements of Wisconsin Statute sec. 118.019.

Wisconsin Statute sec. 115.29 allows the State Superintendent to apply for federal funds allocated to evidence-based teen pregnancy prevention programs that have been proven through rigorous evaluation to delay sexual activity, increase contraceptive use, and reduce teen pregnancy in order to implement such a program.

Wisconsin Statute sec. 115.35 authorizes the Department of Public Instruction (DPI) to establish a critical health problems education program that includes specific topics such as sexually transmitted diseases, including acquired immunodeficiency syndrome. It gives the DPI authority to establish guidelines to help school districts develop comprehensive health education programs and prohibits the DPI from requiring school boards to use a specific human growth and development curriculum. This statute also states that participation in the human growth and development program is voluntary.

Wisconsin Statute sec. 118.01 identifies educational goals and expectations of public education, and as part of the goal of personal development states that each school board shall provide an instructional program designed to give pupils knowledge of the human body and the means to maintain lifelong health. Section 118.01(2)(d)2c of the Wisconsin Statutes continues that instruction in physiology and hygiene shall include instruction on

* Statute language current as of February 24, 2010.

sexually transmitted diseases and shall be offered in every high school. However, no student may be required to take instruction in these subjects if their parent/guardian files a written objection with the teacher. In such cases, the student cannot be penalized in any way for not taking the instruction but can be required to complete an alternative assignment if the subject is needed for graduation.

Wisconsin Statute sec. 118.01(2)(d)8 requires school districts to provide to students in elementary school “knowledge of effective means by which pupils may recognize, avoid, prevent and halt physically or psychologically intrusive or abusive situations which may be harmful to pupils, including child abuse, sexual abuse and child enticement.” This statute requires a school district to provide a protective behaviors curriculum at the elementary level.

Wisconsin Statute sec. 118.019 encourages all school boards to ensure that pupils in their districts are provided age-appropriate instruction in human growth and development. The instruction should support and enhance communication between pupils and their parents and provide pupils with the knowledge, skills, and support necessary to make healthy decisions now and throughout their lifetimes and to make responsible decisions about sexual behavior.

Instruction must be:

- Age-appropriate: suitable to a particular age group of pupils based on the developing cognitive and emotional capacity of and behaviors typical for the age group.
- Medically accurate: supported by the weight of research conducted in compliance with accepted scientific methods; where appropriate, the information is published in peer-reviewed journals; and the information is recognized as accurate by relevant leading professional organizations or agencies, such as the American Medical Association, the American Public Health Association, or the American Academy of Pediatrics.

School boards that provide an instructional program in human growth and development must:

- Use instructional methods and materials that do not promote bias against pupils of any race, gender, religion, sexual orientation, or ethnic or cultural background, or against sexually active pupils or children with disabilities.
- Promote self-esteem and positive interpersonal skills, with an emphasis on healthy relationships, including friendships, marriage, and romantic and familial relationships.
- Identify counseling, medical, and legal resources for survivors of sexual abuse and assault, including resources for escaping violent relationships; and present medically accurate information to pupils.
- Present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried pupils.

- Emphasize that abstinence from sexual activity before marriage is the most effective way to prevent pregnancy and sexually transmitted diseases, including human immunodeficiency virus and acquired immunodeficiency syndrome.
- Present medically accurate information and, when age-appropriate, address:
 - a) The importance of communication about sexuality and decision making about sexual behavior between the pupil and the pupil's parents, guardians, or other family members.
 - b) Reproductive and sexual anatomy and physiology, including biological, psychosocial, and emotional changes that accompany maturation.
 - c) Puberty, pregnancy, parenting, body image, and gender stereotypes.
 - d) The skills needed to make responsible decisions about sexuality and sexual behavior throughout the pupil's life, including how to refrain from making inappropriate verbal, physical, and sexual advances and how to recognize, rebuff, and report any unwanted or inappropriate verbal, physical, and sexual behaviors.
 - e) The benefits of and reasons for abstaining from sexual activity. Instruction under this subdivision shall stress the value of abstinence as the most reliable way to prevent pregnancy and sexually transmitted infections.
 - f) The health benefits, side effects, and proper use of contraceptives and barrier methods approved by the federal food and drug administration to prevent pregnancy and barrier methods approved by the federal food and drug administration to prevent sexually transmitted infections.
 - g) Methods for developing healthy life skills, including setting goals, making responsible decisions, communicating, and managing stress.
 - h) How alcohol and drug use affect responsible decision making.
 - i) The impact of media and one's peers on thoughts, feelings, and behaviors related to sexuality.
 - j) Marriage and parental responsibility.
 - k) Criminal penalties for engaging in sexual activities involving a child.
 - l) Sex offender registration requirements, including who is required to report, what information must be reported, who has access to the information reported, and the implications of being registered.

School boards, on an annual basis, must provide parents of each pupil enrolled in the school district with an outline of the human growth and development curriculum used in the pupil's grade level and information regarding how the parent may inspect the complete curriculum and instructional materials. In addition, the curriculum and instructional materials must be made available at any time upon request.

A school board that elects not to provide an instructional program in human growth and development must, by September 30 of each school year, send home to the parent or guardian of each pupil enrolled in the school district a notice that includes:

- A statement that the school board is encouraged by state statute to provide instruction in human growth and development in grades kindergarten to 12.
- A statement that the school board is not providing any human growth and development instruction to pupils enrolled in the school district.

Students can be exempted from HGD instruction if the student's parent files a written request with the teacher or school principal.

In addition, this statute requires that any school district that offers a HGD curriculum must appoint an advisory committee composed of parents, teachers, school administrators, pupils, health care professionals, members of the clergy, and other residents of the school district to develop and review the curriculum at least every three years. The term "develop" can be interpreted in the broad sense of ongoing development and evolution. If interpreted in this way, the advisory committee does not necessarily write the curriculum's lessons, especially if the school district has a curriculum in place. Feedback, edits, decisions on topics, and timing are all effective ways for a committee to work and develop a curriculum. In some cases the committee will actually develop and write lessons for the curriculum.

GUIDELINES FOR OPT-OUT POLICIES

The state does not require parents to give permission for HGD instruction; however, Wisconsin Statute sec. 118.019 allows parents to exempt their child from instruction in human growth and development with a written request to the teacher or principal. This is referred to as an "opt-out" policy. Wisconsin Statute sec. 118.01(2)(d)2c permits pupils to be exempted from instruction on physiology and hygiene, STDs, symptoms of disease and the proper care of the body if his or her parent files a written request with the teacher or school principal. Typically a school will provide parents with an opt-out form when they provide them with the HGD curriculum outline. Wisconsin statutes do not provide, and legislative history does not support, the use of the parent "opt-in" method by local school districts where the "opt-out" method is statutorily specified. The opt-in method would require a parent to notify their child's principal/teacher if they want their child to take instruction in HGD.