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**REPORT ON LEGISLATION BY THE
SEX & LAW COMMITTEE, HEALTH LAW COMMITTEE,
AND EDUCATION & THE LAW COMMITTEE**

A.6512

S.4844

M. of A. Nolan

Sen. Metzger

AN ACT to amend the education law, in relation to comprehensive sexuality education in schools

THIS BILL IS APPROVED

The Sex and Law Committee, Health Law Committee and Education and the Law Committee of the New York City Bar Association support the passage of A.6512/S.4844 (“the bill”). The bill is seeking to amend the Education Law by adding a new section to require that comprehensive, age-appropriate, medically accurate sexuality education be taught in New York State public and charter schools from kindergarten through 12th grade. Comprehensive sexuality health education (or “CSE”) is a curriculum-based and age-appropriate process of teaching and learning about all aspects of sexuality including cognitive, emotional, physical, social and cultural.

The bill is a common-sense measure that requires the Commissioner of Education, in consultation with the Commissioner of Health, to create a CSE program in New York State public and charter schools that includes: 1) learning standards that reflect national CSE standards;¹¹ 2) model curricula to facilitate implementation for school districts; 3) resources for teachers and school districts to support implementation; and 4) a system to track and evaluate CSE programs to ensure accountability. Districts and individual schools will have the flexibility to implement a CSE curriculum tailored to their student population while still meeting the standards set forth by the Commissioner. The bill also offers an opt-out provision so that a parent or guardian may elect for the student to not participate in select lessons.

The goal of CSE is to empower students with information that will enable them to take care of their health and well-being, respect bodily autonomy, and the tools needed to develop social,

¹ Released in 2012, the National Sexuality Education Standards establish a thorough catalog of essential sex education content. The standards promote healthy relationship-building skills as one of seven fundamental components to a comprehensive sex education curriculum. Lessons focus not only on physical development, pregnancy, and sexually transmitted infections, but also on safety, respect and consent, sexual decision-making, self-efficacy, sexual orientation and gender identity, and awareness about cultural messages that reinforce gender norms and sexual violence. These curricular standards are essential to challenging societal messages that implicitly and explicitly condone misogyny, homophobia, transphobia, and the violence and sexualized bullying that too often result. Further, the learning is age-appropriate and cumulative so that all students from kindergarten through high school are receiving and building on information that is right for their level of cognitive and social development. See National Sexuality Education Standards, <https://advocatesforyouth.org/wp-content/uploads/2019/09/josh-fose-standards-web.pdf>. (All links in this report were last visited on March 26, 2020).

individual, and relationships rooted in respect and clear consent. CSE standards present sexual development as a natural, healthy part of human growth, to support schools in improving academic performance and provide parameters for teaching sexuality education and skills at different grade levels in a medically accurate, culturally sensitive, and age-appropriate manner. CSE ultimately encourages higher academic performance and minimizes high school dropout rates by helping to reduce bullying, teen pregnancy and sexual harassment and violence.²

Notably, and as discussed below, states and cities across the country have already implemented comprehensive, age-appropriate sex education from kindergarten through high school. In passing this legislation, New York would join 29 other states and the District of Columbia in requiring sex education in the public schools.

I. THE NEED FOR LEGISLATION

A CSE program is the most effective educational method to teach young people relationship and decision-making skills, postpone intercourse, reduce numbers of sexual partners, decrease chances of unintended pregnancy, and reduce chances of contracting a sexually transmitted infection (“STI”).³ Abstinence-based sexual education programs, however, often reinforce, rather than debunk, sex stereotypes, perpetuate a culture of gender-based violence and fail to offer LGBTQ students with relevant information on safe sex and healthy relationships.⁴

As discussed in the New York Civil Liberties Union’s legislative memo in support of the bill, comprehensive sexuality education is a critical need in New York, given our state’s high rates of unintended pregnancies and STIs, as well as the alarming increase in incidences of intimate partner abuse, sexual harassment, gender biases and gender-based violence.⁵

II. NEW YORK’S CURRENT POLICIES ARE INEFFICIENT AND INCONSISTENT

Currently, CSE is not a required component of education in New York State. In 2017, only 37.9% of 6th, 7th, and 8th graders, and 80.1% of high schoolers were taught about all sixteen critical sexual education topics (as identified by the Center for Disease Control, or “CDC”). In fact, a shocking two-thirds of NYS school districts exclude any mention or depiction of external female genitalia from anatomy lessons. Moreover, much of the literature or messaging around sex is shame based and includes moral overtones which lay dangerous foundations for gender discrimination.⁶ For example, one district even defined the vagina as a “sperm deposit.” Furthermore, over half of school districts did not speak at all about sexual orientation, and only

² *Id.*

³ *Sex Education in New York*. National Organization for Women, New York City, 2020, available at: <https://nownyc.org/issues/get-the-facts-sex-education-in-ny/>.

⁴ *See Despite New Branding, Abstinence-Only Programs Have Same Old Problems*, Guttmacher Institute, December 2017, available at: <https://www.guttmacher.org/article/2017/12/despite-new-branding-abstinence-only-programs-have-same-old-problems>.

⁵ *See Comprehensive Sexuality Education*. New York Civil Liberties Union, 2019, available at: <https://www.nyclu.org/en/legislation/legislative-memo-comprehensive-sex-ed> and footnotes contained therein.

⁶ *See Supra* at 3.

42% of districts taught about sexual harassment, with only 28% teaching about sexual assault or rape.⁷

Clearly, the dissemination of incomplete and inconsistent programming has detrimental effects on the health and wellbeing of New York's students of all gender identifications and sexual preferences. New York has a higher teen pregnancy rate than the national average, coupled with the highest teen abortion rate in the country.⁸ Individuals between the ages of 15 and 19 represent more than 50% of new STI cases in New York State and a 2017 survey found that 50% of New York high school students have engaged in sexual intercourse, only 11% have used a pregnancy/STI prevention method.⁹ In particular, New York City's rates of intimate partner violence between high schoolers are some of the highest in the country.

Where New York State fails to provide comprehensive sexuality education, coalitions of non-profit organizations laboriously work to fill in these educational gaps. Planned Parenthood is one the leading organizations on this front and reaches more than 26,000 young people, adults and professionals across New York City annually through their education department to provide tools to help participants aged kindergarten through adulthood, to make informed decisions and lead healthy and safe lives.¹⁰ Recent Federal policies defunding Planned Parenthood and like organizations are making it increasingly impossible to continue implementing such supplemental programs. Accordingly, it is vital that New York takes responsibility for implementing a comprehensive sexuality education policy.

III. REDUCING SEXUAL HARASSMENT, GENDER-BASED VIOLENCE, AND RISKS TO LGBTQ YOUTH

New York State should not delay in ensuring students receive comprehensive sexuality education in order to effectively prevent intimate partner violence. In 2017, 10.7% of female high school students and 8.6% of male high school students in New York reported experiencing physical dating violence in the prior year, compared to 9.1% of female high school students and 6.5% of male high school students nationwide.¹¹ New York State high school students also reported higher percentages of sexual violence than the national average.¹² Additionally, studies show that violence in adolescent relationships sets the stage for violence in future relationships,

⁷ See *Birds, Bees and Bias: How Absent Sex Ed Standards Fail New York's Students*. New York Civil Liberties Union, Sept. 2012, available at: <https://nownyc.org/issues/get-the-facts-sex-education-in-ny/> and footnotes contained therein.

⁸ *Supra* at 5.

⁹ *Supra* at 5.

¹⁰ Planned Parenthood of New York City Testimony for the Oversight Hearing on Sex Ed in NYC Schools October 27, 2015.

¹¹ Visit the CDC's Youth Online database for additional information on sexual behaviors, <https://nccd.cdc.gov/youthonline/App/Results.aspx?TT=C&SID=HS&QID=H22&LID=NY&LID2=SL&YID=2017&YID2=SY&SYID=&EYID=&HT=C01,C04&LCT=LL&COL=S&ROW1=N&ROW2=N&TST=false&C1=&C2=&SC=DEFAULT&SO=ASC&VA=CI&CS=Y&DP=1&QP=G&FG=G1&FA=A1&FR=R1&FS=S1&FSC=P1&FSI=I1>.

¹² *Id.*

including intimate partner violence and sexual violence perpetration.¹³ These troubling statistics have broad implications for our communities, public health and the future of our youth.

LGBTQ youth face and even higher risk of victimization and violence at school. According to GLSEN's most recent nationwide school climate survey, 35% of LGBTQ students feel unsafe at school because of their gender, and 44.6% feel unsafe because of their gender expression, 87.4% of LGBTQ students heard negative remarks about transgender people in school, and 94% heard negative remarks about gender expression and 71% of these students reported hearing these transphobic comments from teachers or school staff.¹⁴ As a result, transgender, gender non-conforming, and non-binary youth are more likely to miss school, have lower GPAs, and experience school discipline than their cisgender peers. Additionally, LGBTQ students are more than twice as likely to report dating violence.¹⁵ Under the threat of constant trauma, LGBTQ students are less likely to pursue higher education, and experience higher levels of depression and lower self-esteem.¹⁶

Implementing CSE will promote respect and inclusion by helping young people understand sexual orientation and gender identity through lesson plans and activities inclusive of, and relevant to, LGBTQ youth.¹⁷ In fact, CSE can help fill the gap experienced by 76% of Americans ages 18-25, who report that neither teachers nor parents spoke with them on how to avoid sexually harassing or degrading others, by promoting respect for bodily autonomy, gender equality and consent.¹⁸

Indeed, experts and researchers agree that these lessons should begin in elementary school (K-5) and continue through subsequent grade levels so that students may build upon their knowledge and skills as they mature. Kindergarteners need to learn foundational skills for healthy friendships, communication, and bodily autonomy just as much as teenagers need medically accurate, non-stigmatizing education about healthcare and relationships.¹⁹ For example, CSE from K-2 includes identifying family structures, friendships, understanding that all people have the right not to be touched, how to clearly say no, and the proper names for body parts, while CSE from grades 9-12 includes identifying safe contraceptive choices, describing sexual response cycle, including the role of hormones, and STI prevention.²⁰

¹³ *Supra* at 5.

¹⁴ Formerly the Gay, Lesbian & Straight Education Network.

¹⁵ *Supra* at 5.

¹⁶ THE 2017 NATIONAL SCHOOL CLIMATE SURVEY: THE EXPERIENCES OF LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER YOUTH IN OUR NATION'S SCHOOLS xviii – xx (GLSEN 2018).

¹⁷ *Supra* at 5.

¹⁸ Richard Weissbourd et. al., *The Talk: How Adults Can Promote Young People's Healthy Relationships and Prevent Misogyny and Sexual Harassment*, 2018, available at: <https://mcc.gse.harvard.edu/reports/the-talk>.

¹⁹ *Supra* at 5.

²⁰ For a more comprehensive list of the National Sexuality Education Standards by grade. See Future of Sex Education Initiative. (2012). National Sexuality Education Standards: Core Content and Skills, K-12 [a special publication of the Journal of School Health], available at: <https://advocatesforyouth.org/wp-content/uploads/2019/09/josh-fose-standards-web.pdf>.

A problem as prevalent and deeply rooted as sexual violence requires a multi-dimensional, multi-sector response. At the core of any such policy response must be a comprehensive sex education program that reaches all of our students. HIV/AIDS education alone is not enough. It is imperative that comprehensive sexual health education that addresses these types of issues be taught in our schools from an early age, so that we may effectively prevent sexual violence before it ever begins. CSE is more than just teaching young people how to avoid unintended pregnancy and improving health outcomes; it is a critical tool for building a culture of consent and preventing sexual assault and violence.

IV. NEW YORK IS FALLING BEHIND AND FAILING OUR YOUTH

New York remains years behind both the international community and the majority of the country. For nearly a decade, states and cities across the country, including in California,²¹ Chicago²² and Washington DC,²³ have led the movement by requiring and implementing comprehensive, age-appropriate sex education from kindergarten through high school. Furthermore, while DC and 29 states now mandate sex education,²⁴ 35 states and DC require provision of information about skills for healthy romantic and sexual relationships, and 38 states and DC require prevention of teen dating violence and sexual violence to be covered in school curriculums, New York's failure to mandate any instruction beyond HIV/AIDS education is unacceptable.²⁵

For these reasons, the Committees supports the bill's passage and further asks that the legislature consider any additional policies that will expand educational services vital to keeping all of our public and charter school students healthy and safe by equipping them with the skills needed to protect themselves and reduce instances of sexual harassment and gender based violence. Our youth and our communities deserve nothing less.

Sex & Law Committee
Mirah E. Curzer and Melissa S. Lee, Co-Chairs

Health Law Committee
Brian T. McGovern, Chair

Education & the Law Committee
Laura D. Barbieri, Chair

April 2020

²¹ California Education Code § 51933-51934.

²² Chicago Department of Public Health, "Sexual Education Policy in Illinois and Chicago", June 2013, http://www.cityofchicago.org/content/dam/city/depts/cdph/policy_planning/Board_of_Health/HCPolicyBriefJune2013.pdf.

²³ D.C. Office of the State Superintendent of Education, "2016 Health Standards", 2016, https://sboe.dc.gov/sites/default/files/dc/sites/sboe/publication/attachments/2016%20HealthEducationStandards_FIN.AL.pdf.

²⁴ *Sex and HIV Education*, Guttmacher Institute, February 2020, available at <https://www.guttmacher.org/state-policy/explore/sex-and-hiv-education>.

²⁵ *Id.*