

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

1 State of Arkansas As Engrossed: S3/9/21 S3/15/21

2 93rd General Assembly

# A Bill

3 Regular Session, 2021

SENATE BILL 389

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5 By: Senators B. Ballinger, Beckham

6 By: Representatives Bentley, Gonzales, Pilkington

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## For An Act To Be Entitled

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

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### Subtitle

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

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

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6-16-1005. Parental notice and consent.

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(a) As used in this section:

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(1) "Gender identity" means the same as is used in the

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Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, which

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defines it as a category of social identity and refers to an individual's

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identification as male, female, or, occasionally, some category other than

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male or female; and



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

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

6                   (A) Curricula;

7                   (B) Materials;

8                   (C) Tests;

9                   (D) Surveys;

10                   (E) Questionnaires;

11                   (F) Activities; and

12                   (G) Instruction of any kind.

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

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

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

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

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

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

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

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

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

1 their rights under this section in an efficient and appropriate manner; and  
2 (B) Receiving a confirmation of receipt from parents and  
3 legal guardians of the written notification required under subdivision (c)(1)  
4 of this section.

5 (d) This section does not require:

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

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

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

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

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

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23 /s/B. Ballinger  
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