

NEW YORK STATE COMMISSIONER'S REGULATIONS
SUBCHAPTER G, Part 135:
HEALTH, PHYSICAL EDUCATION, AND RECREATION

Section 135.1 Definitions

- (j) *Health education* means instruction in understandings, attitudes, and behavior in regard to the several dimensions of health. This instruction relates to alcohol, tobacco, and other drugs, safety, mental health, nutrition, dental health, sensory perception, disease prevention and control, environmental and public health, consumer health, first aid, and other health-related areas.

Section 135.3 Health Education

- (a) *Provision for health education.* It shall be the duty of the trustees and boards of education to provide a satisfactory program in health education in accordance with the needs of pupils in all grades. This program shall include, but shall not be limited to, instruction concerning the misuse of alcohol, tobacco, and other drugs.
- (b) *Health education in the elementary schools.*
1. The elementary school curriculum shall include a sequential health education program for all pupils, Grades K-6. In the kindergarten and primary grades, the teacher shall provide for pupil participation in planned activities for developing attitudes, knowledge and behavior that contribute to their own sense of self-worth, respect for their bodies and ability to make constructive decisions regarding their social and emotional, as well as physical, health. Personal health guidance shall also be provided according to the individual needs of pupils. This guidance shall include the development of specific habits necessary to maintain good individual and community health. In addition to continued health guidance, provision shall be made in the school program of Grades 4-6 for planned units of teaching, which shall include health instruction through which pupils may become increasingly self-reliant in solving their own health problems and those of the group. Health education in the elementary school grade shall be taught by the regular classroom teachers.
 2. All elementary schools shall provide appropriate instruction concerning the Acquired Immune Deficiency Syndrome (AIDS) as part of the sequential health education program for all pupils, Grades K-6. Such instruction shall be designed to provide accurate information to pupils concerning the nature of the disease, methods of transmission, and methods of prevention; shall stress abstinence as the most appropriate and effective premarital protection against AIDS; and shall be age appropriate and consistent with community values. No pupil shall be required to receive instruction concerning the methods of prevention of AIDS if the parent or legal guardian of such pupil has filed with the principal of the school which the pupil attends a written request that the pupil not participate in such instruction, with an assurance that the pupil will receive such instruction at home. In public schools, such instruction shall be given during an existing class period using existing instructional personnel, and the board of education or trustees shall provide appropriate training and curriculum materials for the instructional staff who provide such instruction and instructional materials to the parents who request such materials. In public schools, the board of education or trustees shall establish an advisory council which shall be responsible for making recommendations concerning the content, implementation, and evaluation of an AIDS instruction program. The advisory council shall consist of parents, school board members, appropriate school personnel, and community representatives, including representatives from religious organizations. Each board of education or trustees shall determine the content of the curriculum and approve its implementation, and shall be responsible for the evaluation of the district's AIDS instruction program.

continued

(c) *Health education in the secondary schools.*

1. The secondary school curriculum shall include health education as a constant for all pupils. In addition to continued health guidance in the junior high school grades, provision shall also be made for a separate one-half year course. In addition to continued health guidance in the senior high school, provision shall also be made for an approved one-half unit course. Health education shall be required for all pupils in the junior and senior high school grades and shall be taught by teachers holding a certificate to teach health. A member of each faculty with approved preparation shall be designated as health coordinator, in order that the entire faculty may cooperate in realizing the potential health-teaching values of the school programs. The health coordinator shall insure that related school courses are conducted in a manner supportive of health education, and provide for cooperation with community agencies and use of community resources necessary for achieving a complete school-community health education program.
2. (i) All secondary schools shall provide appropriate instruction concerning the Acquired Immune Deficiency Syndrome (AIDS) as part of required health education courses in Grades 7-8 and in Grades 9-12. Such instruction shall be designed to provide accurate information to pupils concerning the nature of the disease, methods of transmission, and methods of prevention; shall stress abstinence as the most appropriate and effective premarital protection against AIDS; and shall be age appropriate and consistent with community values. No pupil shall be required to receive instruction concerning the methods of prevention of AIDS if the parent or legal guardian of such pupil has filed with the principal of the school which the pupil attends a written request that the pupil will receive such instruction at home. In public schools, such instruction shall be given during an existing class period using existing instructional personnel, and the board of education or trustees shall provide appropriate training and curriculum materials for the instructional staff who provide such instruction and instructional materials to the parents who request such materials. In public schools, the board of education or trustees shall establish an advisory council which shall be responsible for making recommendations concerning the content, implementation, and evaluation of an AIDS instruction program. The advisory council shall consist of parents, school board members, appropriate school personnel, and community representatives, including representatives from religious organizations. Each board of education or trustees shall determine the content of the curriculum and approve its implementation, and shall be responsible for the evaluation of the district's AIDS instruction program.

(ii) Boards of education or trustees that make condoms available to students as part of the district's AIDS instruction program shall:
 - a. submit a condom distribution policy to the advisory council for consideration;
 - b. make condoms available only to students who participate in an appropriate AIDS instruction program as defined in this section;
 - c. provide each student receiving condoms with accurate and complete health guidance as to the risks of disease that may result from the student's use or misuse of such product, which appropriately takes into account the child's age;
 - d. assure that such personal health guidance is provided by health service personnel or school personnel trained and supervised by competent health professionals or health educators; and
 - e. submit for approval by the commissioner a plan for the training of health service personnel, as defined in subdivision (c) of section 136.1 of this Part, or school personnel who will provide such personal health guidance. Such plan shall be approved upon a finding of the commissioner that the training is adequate to prepare such personnel or school personnel to provide the required personal health guidance in an effective manner.