
Disclaimer: This state profile has been prepared by Family Watch International and the Protect Child Health Coalition. While the information provided is as accurate as possible and is updated annually, *laws can change with each legislative session and laws are subject to interpretation. Therefore, it is advised that you verify and confirm all information posted on this website.*



NEW HAMPSHIRE STATUTES AND LAWS

This profile provides an overview of sex education laws in New Hampshire including:

- I. [Sex-Ed Requirements Quick Chart](#)
- II. [Parental Rights Laws](#)
- III. [Sex Education Laws](#)
- IV. [Consent Laws](#)
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New Hampshire legislative session convened on 1/2/19 and adjourned on 6/30/19. [New Hampshire Statutes](#) “include all changes and updates made up to January 2020” on the [New Hampshire Legislative website](#).

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What should I know about [navigating sex ed terms](#)?

I. SEX-ED REQUIREMENTS QUICK CHART				
LEGISLATIVE REQUIREMENTS	YES	NO	NOT INDICATED	LEGISLATIVE CODES
Sex education required	X			Ed 306.40(2)(e)
Sex education optional				
If/When Provided, Sexual Education Must/May:				
Be medically accurate			X	
Be evidence based			X	
Be age appropriate			X	
Be culturally appropriate and unbiased			X	
Reference/stress abstinence*	X			Ed 306.40(2)(e)
Include HIV/AIDS education	X			§189:10 , §186:11.IX , Ed 306.40
Be LGBTQ inclusive			X	
Include safety against sexual abuse			X	
Parental Role in Sexual Education:				
Parental notification	X			§186:11.IX-c , §186:11.IX-d
Parental involvement			X	
Opt-in			X	
Opt-out/withdraw	X			§186:11.IX-b , §186:11.IX-c
Survey opt-out/opt-in	X			§186:11.IX-d , §186:11.IX-d
Access to/review curriculum	X			§186:11.IX-c , §186:11.IX-d
<p>*Warning: While statutes might say “abstinence based” or require materials to “stress abstinence” as the standard, many CSE programs only mention abstinence in passing; they do not establish abstinence as the expected standard and fail to emphasize abstinence as the only sure way to protect against pregnancy and sexually transmitted diseases, including AIDS. See harmful elements of CSE here.</p>				

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II. PARENTAL RIGHTS LAWS

The following laws and guidelines apply to sex education and how it is taught according to [New Hampshire RSA Education Title 15](#).

[§186:11](#) Duties of State Board of Education Studies

IX-b. Health and Sex Education. Require school districts to adopt a policy allowing an exception to a particular unit of health or sex education instruction based on religious **objections**. Such policy shall include a provision for **alternative learning** sufficient to enable the child to meet state requirements for health education.

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.

IX-d. Require School Districts to Adopt a Policy Governing the Administration of Non-academic Surveys or Questionnaires to Students. The policy shall require school districts to **notify a parent** or legal guardian of a non-academic survey or questionnaire and its purpose. The policy shall provide that no student shall be required to volunteer for or submit to a non-academic survey or questionnaire, as defined in this paragraph, **without written consent** of a parent or legal guardian unless the student is an adult or an emancipated minor. The policy shall include an **exception** from the consent requirement for the youth risk behavior survey developed by the Centers for Disease Control and Prevention. The policy shall also allow a parent or legal guardian to **opt-out** of the youth risk behavior survey developed by the Centers for Disease Control and Prevention. The school district shall make such surveys or questionnaires available, at the school and on the school or school district's website, **for review** by a student's parent or legal guardian at least 10 days prior to distribution to students. In this paragraph, "non-academic survey or questionnaire" means surveys, questionnaires, or other documents designed to elicit information about a student's social behavior, family life, religion, politics, sexual orientation, sexual activity, drug use, or any other information not related to a student's academics.

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III. SEX EDUCATION LAWS

The following laws and guidelines apply to sex education and how it is taught according to [New Hampshire RSA Education Title 15](#).

[§189:10 Studies](#). – The school board shall ensure that health education and physical education are taught to pupils as part of the basic curriculum. The school board shall ensure that all studies prescribed by the state board of education are thoroughly taught, especially physiology, hygiene, and health and physical education as they relate to the effects of alcohol and other drugs, child abuse as established in the definition of "abused child" under RSA 169-C:3, II, **human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS)**, and sexually transmitted diseases on the human system.

Source. 1858, 208:2. GS 81:5. GL 89:5. 1883, 37:2. 1887, 52:1. PS 92:6. 1895, 40:1; 50:2. 1899, 12:1. 1903, 31:1. 1909, 49:1. 1911, 136:1. 1921, 85, II:2. PL 117:8. RL 135:10. RSA 189:10. 1959, 130:1. 1973, 242:2; 529:37. 1975, 183:1. 2008, 251:3. 2016, 56:1, eff. July 4, 2016.

[§186:11.IX](#). Instruction as to Child Abuse Prevention, Youth Suicide Prevention, Intoxicants, Drugs, **HIV/AIDS**, and Sexually Transmitted Diseases.

- (a) Direct the department to develop academic standards to serve as a guide and reference in health, physiology, and hygiene as they relate to the effects of alcohol and other drugs, child abuse, human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS), and sexually transmitted diseases on the human system, and which are designed to help students lead longer, healthier lives.
- (b) Provide information about HIV/AIDS to all public and private schools to facilitate the delivery of appropriate courses and programs.
- (c) Review HIV/AIDS curriculum materials to assure relevancy in assisting students to become health-literate citizens and lead longer, healthier lives.

[Ed 306.40](#) Health Education Program. (Administrative Rule)

- (b) The local school board shall require that each school health education program provides:
 - (2) A planned K-12 curriculum in health education designed to teach the skills listed in (b)(1) above across the following content areas of health education;
 - e. Family life and **comprehensive sexuality education**, including instruction relative to **abstinence** and sexually transmitted infections **in accordance with RSA [189:10](#)**;

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IV. CONSENT LAWS

[Age of Majority](#) - Based on New Hampshire Code [§21-44](#), anyone under the age of 18 is considered a minor, while those 18 years old and older are considered adults.

[Age of Consent](#) - Based on New Hampshire Code [§632-A](#), the age when children can legally consent or agree to sex is 16.

Warning! Most CSE programs put parental rights at risk by either encouraging or requiring that parents not be notified and/or by instructing children how to access such things as abortion, contraception and other so-called health services **without parental notification or consent**. It is particularly dangerous to encourage students in this way, particularly considering the fact the laws often support what is being taught in CSE programs. For example:

- **Without notifying or receiving consent from their parents**, minor children in New Hampshire may consent to:
 - [§141-C:18](#) Sexually Transmitted Disease.
 - [§141-F:5](#) Testing.
 - [§132:33](#) Parental Notification Prior to Abortion.
- See “State Laws that address High-Impact HIV Prevention Efforts” at [cdc.gov](https://www.cdc.gov)

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V. OBSCENITY LAWS

The following laws and guidelines apply to sex education and how it is taught according to [New Hampshire Criminal Code](#).

New Hampshire recodified its criminal law based in part on the ALI-MPC in 1973.

N.H. Rev. Stat. § 650:2 Offenses.

I. A person is guilty of a misdemeanor if he commits obscenity when, with knowledge of the nature of content thereof, he:

- (a) Sells, delivers or provides, or offers or agrees to sell, deliver or provide, any obscene material; or
- (b) Presents or directs an obscene play, dance or performance, or participates in that portion thereof which makes it obscene; or
- (c) Publishes, exhibits or otherwise makes available any obscene material; or
- (d) Possesses any obscene material for purposes of sale or other commercial dissemination; or
- (e) Sells, advertises or otherwise commercially disseminates material, whether or not obscene, by representing or suggesting that it is obscene.

II. A person who commits any of the acts specified in subparagraphs (a) through (e) of paragraph I with knowledge that such act involves a child in material deemed obscene pursuant to this chapter is guilty of:

- (a) A class B felony if such person has had no prior convictions in this state or another state for the conduct described in this paragraph;
- (b) A class A felony if such person has had one or more prior convictions in this state or another state for the conduct described in this paragraph.

III. For the second and for each subsequent violation of paragraph I, such person shall be guilty of a class B felony.

N.H. Rev. Stat. § 650:4 Justifiable and Non-Commercial Private Dissemination.

It is an affirmative defense to prosecution under this chapter that dissemination was restricted to:

- I. Institutions or persons having scientific, educational, governmental or other similar justification for possessing obscene material; or
- II. Non-commercial dissemination to personal associates of the accused who are not under 18 years of age.

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VI. STATE DEPARTMENT OF EDUCATION POLICIES

The following laws and guidelines apply to sex education and how it is taught according to the [New Hampshire Department of Education](#).

[Health Education Curriculum Guidelines](#)

“The New Hampshire Department of Education does not discriminate on the basis of race, color, religion, marital status, national/ethnic origin, age, sex, sexual orientation, or disability in its programs, activities and employment Practices.” (pg. ii)

Students will cover the subject of “Sexual behaviors that result in HIVinfection/other STDs and unintended pregnancy” (pg 10) including:

Elementary: (pg. 71)

“Growth and development is a dynamic maturing process with physical, mental, emotional, and social aspects. Personal and family relationships and influences are central to attitudes and decisions about sexual behavior. Unprotected sex can lead to unintended pregnancy and sexually transmitted disease (STD), including HIV/AIDS. Abstinence is the most effective method of preventing pregnancy and STD. Different methods of contraception have varying effectiveness in preventing pregnancy and STD.”

Students need to know:

- Relationship between AOD use and sexual behavior
- HIV/AIDS is a disease
- HIV currently has no cure
- HIV is not transmitted through casual contact
- importance of having compassion for people with HIV/AIDS

Middle School: (pg. 108)

“Growth and development is a dynamic maturing process with physical, mental, emotional, and social aspects. Personal and family relationships and influences are central to attitudes and decisions about sexual behavior. Unprotected sex can lead to unintended pregnancy and sexually transmitted disease (STD), including HIV/AIDS. Abstinence is the most effective method of preventing pregnancy and STD. Different methods of contraception have varying effectiveness in preventing pregnancy and STD.”

Students need to know:

- how to make a personal commitment to abstain from sexual intercourse.
- that most students are not engaging in sexual intercourse
- 3 how to refuse unwanted or unprotected sex
- benefits of setting sexual limits, e.g., staying in school, reputation, achieving future goal
- strategies to show respect for sexual limits of others
- strategies to deal with pressures to cross sexual limits
- effects of alcohol and other drug use on sexual behavior
- risks of unintended pregnancy and disease with unprotected sexual intercourse

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- influences on sexual behavior, e.g., family, peers, religion, media, culture, internal
- risks of HIV and other STDs
- common signs and symptoms of HIV and other STDs
- common routes of transmission of HIV and other STDs
- effective prevention strategies—abstinence is the most effective
- that HIV and other STDs can be asymptomatic
- consequences of untreated HIV and other STDs
- treatment options
- valid sources of information and help
- importance of having compassion for people with HIV
- that abstinence is the most effective prevention method
- facts and myths about contraceptive methods

High School: (pg. 141)

“Growth and development is a dynamic maturing process with physical, mental, emotional, and social aspects. Personal and family relationships and influences are central to attitudes and decisions about sexual behavior. Unprotected sex can lead to unintended pregnancy and sexually transmitted disease (STD), including HIV/AIDS. Abstinence is the most effective method of preventing pregnancy and STD. Different methods of contraception have varying effectiveness in preventing pregnancy and STD.”

Students need to know:

- how to prevent sexual assault
- how to recognize sexual harassment
- how to make a personal commitment to abstain from sexual intercourse
- most students are not engaging in sexual intercourse
- strategies for refusing unwanted or unprotected sex
- benefits of setting sexual limits, e.g., staying in school, reputation, achieving future goals
- importance of respecting sexual limits of others
- strategies for dealing with pressures to cross sexual limits
- effects of alcohol and other drug use on sexual behavior
- risks of unintended pregnancy and disease with unprotected sex
- influences on sexual behavior, e.g., family, peers, religion, media, culture, internal
- risks of multiple partners
- situations that may lead to sex
- how to make a personal commitment to avoid pregnancy, HIV and other STDs
- risks of HIV and other STDs
- effective prevention strategies—abstinence is the most effective
- common signs and symptoms of HIV and other STDs
- common routes of transmission of HIV and other STDs
- relative risks of specific behaviors
- treatment options
- valid sources of information and help

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- resources for counseling and testing
- that HIV and other STDs can be asymptomatic
- abstinence is most effective method
- relative effectiveness of contraceptive methods
- importance of consistent use of contraceptives
- valid sources to get help

Compare [state laws](#) with [state department of education](#) policies for alignment.

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