

2016 SEX ED STATE LEGISLATIVE YEAR-END REPORT



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Council of the United States

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INTRODUCTION

Twenty-four states plus the District of Columbia require some form of sexuality education in our nation's public schools. The content and quality of the instruction in these states, and others without any requirements, paints a patchwork of sexuality education across the country. The Sexuality Information and Education Council of the United States' (SIECUS) *2016 Sex Ed State Legislative Year-End Report: Top Topics and Takeaways* provides analysis to better understand the legislative efforts that took place this past year to advance or restrict sexuality education instruction topics and implementation.

In addition to providing updates on state legislative activity since our mid-year [2016 State Legislative Round-Up](#), this year-end report provides an analysis of the more common instruction content topics and implementation factors included in this year's slew of legislation. In addition, we highlight notable provisions, societal and school environmental factors, and provide an updated table indicating the type of provisions included in the reviewed legislation.

Legislative activity in state capitals did not take place in isolation from the broader influences and conversations in society and the embroiled political and policy climate this year. Broad concepts of sexuality permeated 2016's cultural and social conversations; from [legislative](#) and [violent](#) attacks on the rights of lesbian, gay, bisexual, transgender, queer or questioning (LGBTQ) individuals to the United States Supreme Court [upholding](#) the constitutional right to abortion to the #BlackLivesMatter movement elevating awareness of systemic racial oppression to the consuming coverage of the presidential election that increased discourse around such topics as gender stereotypes and sexual violence, themes from these conversations clearly shaped many of the provisions included in this year's state legislative sexuality education proposals as explored in the following pages.

OVERVIEW: 2016 SEX ED STATE LEGISLATIVE ACTIVITY HIGHLIGHTS

- 94 bills related to sexuality education were introduced in 29 states
 - 61 bills sought to advance the quality of sexuality education, 23 bills sought to restrict sexuality education, and 10 would have had a neutral impact.
 - 13 bills in 9 states had bipartisan support to advance sexuality education: California, Hawaii, New Jersey, New York, Ohio, South Carolina, Virginia, Washington, and Wisconsin.
- 8 laws were enacted in 6 states: Alaska, California, Maryland, Mississippi, Oklahoma, and Virginia.
 - 5 of these new laws advance the quality of sexuality education and 3 impose new restrictions.
- 63% of the bills included provisions related to both the content of instruction as well as its implementation.
- Sexual violence prevention instruction and parental notification were the most common provisions in state legislation related to sexuality education, continuing common themes from 2015.

NEWLY ENACTED LAWS

Eight new laws related to school-based sexuality education were enacted in 2016. These laws were passed in a total of six states: Alaska, California, Maryland, Mississippi, Oklahoma, and Virginia. Five of these new laws advance the quality of sexuality education and three impose new restrictions. Summaries of five of these laws passed by June 30, 2016 in Maryland (HB 365/Ch.262 and HB 72/Ch. 609), Mississippi (HB 494/Ch. 389), Oklahoma (HB 2797/Ch. 353), and Virginia (HB 659/Ch. 434) are available in [SIECUS' 2016 State Legislative Round-Up](#). Since the summer Round-up report, three new laws were enacted, one in Alaska and two in California.

On July 28, 2016, **Alaska** Governor Bill Walker let [HB 156](#) become law Ch. 54 without his signature. While the new law has broader implications beyond sexuality education, it represents the results of efforts by some in the legislature to prohibit a school district from contracting or using materials furnished by an abortion services provider. While the new law is not nearly as restrictive as prior iterations, it establishes new requirements that the instructor and any materials for sex education, human reproduction, or human sexuality must be approved by the district's school board. Additionally, the law expands parental notification and review processes.

In September 2016, **California** passed two new laws that advance sexuality education. The first, [AB 2536](#), now Ch. 419, establishes new requirements related to school policies and the provision of resources related to cyber bullying. The second, [SB 1435](#), now Ch. 633, requires the Instructional Quality Commission to consider including sexual harassment and violence into comprehensive instruction for grades 9–12. The new law also requires the commission to consider the inclusion of the “development of healthy relationships” for grades K–8 during the revision of the health framework after January 1, 2017.

LEGISLATIVE ACTIVITY

Beyond legislation that successfully became law, there were a variety of legislative proposals that would have had varying and diverse degrees of impact on sexuality education and corresponding statutes had they passed. Comparing legislation state-to-state would overlook the nuance that exists within the multiple layers of state laws. To help provide a more reflective analysis of the types of provisions included in this year's 94 bills related to school-based sexuality education, rather than assessing the individual bill by their primary topic, provisions within the bill were broken down between whether the intent was to shape the content or implementation of instruction.

The vast majority of the bills, more than two-thirds (63 bills), contained measures that would impact both content and implementation. Only 21 bills were specific to implementation and an even fewer, 10 bills, included provisions exclusive to instruction content.

COMMON AND NOTABLE INSTRUCTION CONTENT PROVISIONS

Within the 94 bills related to sexuality education, 69 included provisions to change instruction content. The specific language of these provisions within generalized topic types varied widely across bills. While these bills have been assessed in a slightly different manner than in prior state legislative reports, just as in 2015, the prevalence of provisions related to sexual violence prevention remained the obvious priority focus of state legislatures across the country in 2016. This was followed closely by requirements for instruction appropriate for students' age and development and rooted in science. The table below, as well as examples of the more common topics that follow, show how—with few exceptions—state legislative efforts related to sexuality education content was overwhelmingly intent on improving its quality and scope.

Provision Topics	NO. OF STATES	NO. OF BILLS	OVERALL BILL IMPACT		
			ADVANCE	NEUTRAL	RESTRICT
Sexual Violence Prevention (including topics such as child sexual abuse prevention; teen dating violence prevention; bullying prevention; sex trafficking awareness; and healthy relationships)	18	40	40	0	0
Age and/or Developmentally Appropriate	16	36	34	0	2
Medically Accurate, Evidence-informed/based	13	32	29	0	3
Parent/Guardian Communication	7	17	17	0	0
Culturally, Linguistically, and/or Ability Appropriate (including trauma-informed)	7	14	14	0	0
Contraception	6	13	13	0	0
Lesbian, Gay, Bisexual, Transgender, Queer or Questioning (inclusion and/or non-discriminatory)	4	11	11	0	0
Abortion	3	3	0	0	3
Digital Technology and Sexuality	3	3	3	0	0
Other*	10	21	10	9	2

*Includes such topics as the use of drugs and alcohol, HPV, mental health, extension of existing instruction, and use of standards.

Note that the designation of “advance, neutral, or restrictive” above refers to the bill in whole, not necessarily the specific provision topic.

Sexual Violence Prevention Instruction

Sexual violence prevention is a broad content topic that took many forms in legislative provisions among 40 bills in 18 states in 2016. The majority of these provisions, all part of bills that would in some way advance sexuality education, remained focused on the prevention of child sexual abuse or teen dating violence. Often such provisions were separate from—or at least did not specifically call for integration into—sexuality education instruction. Several bills, however, sought to integrate and broaden the scope of sexuality education to include healthy relationship instruction and skill-building, emphasizing consent.

Pennsylvania SB 1338: “An affirmative consent standard shall be established to emphasize healthy sexual behaviors. ...It is the responsibility of both parties to ensure that affirmative consent has been established before proceeding with any sexual activity. ...The absence of protest or resistance does not comply with affirmative consent. ...Past sexual relations and/or existing relationships are not indicative of affirmative consent.”

Washington SB 5506: “...includes information on preventing sexual abuse and violence and understanding consent.

Science-based Instruction

While differentiated in the table above, age and developmental appropriateness, as well as science-based instruction were both not necessarily included in the same bills. However, when these types of provisions were combined overall, they represented the most common content requirements for instruction related to sexuality in this year’s legislation. The majority of the bills with these types of provisions do not include definitions for these terms, though some guidance is provided within the legislative text, as in the following examples.

Mississippi SB 2594: “Covers a broad range of topics, including medically accurate, complete, age and developmentally appropriate information about all the aspects of sex needed for a complete sex education program, ...”

New York A 1616A/S 700A: “...based on theoretical projects that have been demonstrated to influence health behavior.”

Oklahoma HB 2959: “well-informed, factually based, medically accurate, body-positive...”

Culturally, Linguistically, and/or Ability Appropriate Instruction

Though not yet as common as other instruction content topics as evidenced in the table above, it is encouraging to find that 14 bills in seven states sought to intentionally incorporate instruction reflective of students’ culture, language, and ability. Most of these bills were specific to instruction related to narrowly defined violence prevention instruction and no single bill included all three considerations specific to comprehensive sexuality education. However, despite their limitations, the following state examples offer language for consideration in future legislation to advance instruction that is responsive to the lives of young people.

Florida HB 859: “Is culturally competent and appropriate for use with students of any race, gender, gender identify, sexual orientation, and ethnic and cultural background.”

Hawaii HB 2004: “Culturally sensitive; Adaptable for special education students and students with limited proficiency in the English.”

Abortion

Unlike many of the provisions highlighted above in which the goal is to advance the quality of sexuality education, the bills that included provisions related to abortion sought only to restrict and deny students information about the full range of their reproductive health options. In addition to Oklahoma’s newly passed “Humanity of the Unborn Child Act” ([read more](#)), legislation in Mississippi and West Virginia similarly sought to withhold accurate sexual health information, though both bills failed to advance.

Mississippi HB 954: “Any discussion of abortion must be presented from the medical perspective of the potential long-term and short-term hazards presented to patients as the result of having the procedure performed.”

West Virginia HB 2458: “No person employed by, compensated by or providing any services for the state board or any county board may counsel, refer, transport or assist any student to obtain an abortion as part of or in relation to their employment. Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$200 or confined in jail for a period of not more than six months. Nothing in this section may be construed to endorse, allow, permit or approve of any abortion.”

To Note: The topics highlighted above are not intended to diminish the notable inclusion of provisions related to parent-child communication, LGBTQ-inclusiveness / non-discrimination, contraception, technology, or catch-all “other” topics as specified in the table. These are critically important content topics to consider in efforts to advance sexuality education. Please utilize the 2016 State Legislation Table at the end of this document to explore the breadth of these provisions.

COMMON AND NOTABLE INSTRUCTION IMPLEMENTATION PROVISIONS

Sexuality education in the classroom is dependent upon far more than the topic contents in the curricula. The overall school environment plays a critical role in supporting the sexual health of students, but the decisions that influence how instruction is implemented play a significant role in shaping the quality of sexuality education. In addition to the 59 bills that included provisions related to both instruction content and instruction implementation, 25 bills were specific only to the latter, for a total of 84 bills with provisions focused on these crucial components. While not exhaustive, the provisions included in the table and further highlighted below provide examples as to the common instruction implementation provisions in 2016 state legislation.

Provision Topics	NO. OF STATES	NO. OF BILLS	OVERALL BILL IMPACT		
			ADVANCE	NEUTRAL	RESTRICT
Parent (Guardian) Notification	19	36	18	7	11
Specifying Grade(s) of Instruction (ranging from preschool–12th grade)	13	30	27	0	3
Establishing New School Policies and/or Task Force(s)	13	25	20	0	5
Educator Training	8	18	18	0	0
Evaluation and/or Reporting on Instruction	6	14	12	1	1
Educator Type and/or Restrictions	7	14	9	0	5
New Funding Specified	3	5	4	0	1
Other**	9	12	9	2	1

**Includes such topics as expansion to charter or community schools, parent training, cyber bullying, and use of standards.

Note that the designation of “advance, neutral, or restrictive” above refers to the bill in whole, not necessarily the specific provision topic.

Parent & Public Notification

Just as sexual violence prevention continued as a prevalent theme into 2016 related to instruction, in terms of implementing instruction, parental notification remained one of the more common components of legislation related to sexuality education in 2016. As parents and families can play a critical role in the sexuality education of young people, legislation seeking to encourage parent engagement can be beneficial to strengthening the quality of instruction. It is when the notification processes themselves become barriers to students receiving quality sexuality education that concerns over some such bills arise. Beyond some of the usual language specifying whether parents or legal guardians must either opt their child into or out of instruction, some variation on these provisions included the following.

Florida HB 859: “The parent or guardian of a student who is enrolled in a school subject to the requirements of subsection (2) may file a complaint with the district school superintendent if the parent or guardian believes the school is not in compliance with such requirements.”

Missouri HB 1905: “...shall make all curriculum materials and names and affiliations of presenters used in the district’s or schools’ human sexuality instruction available for public inspection...prior to the use of such materials in actual instruction.”

South Carolina S 574: Each local school district shall publish on its website the title and publisher of all health education materials they have approved, adopted, and used in the classroom.

School Policies

Legislation that proposes the development of school policies and/or task forces to examine the scope and ways to address components of adolescent sexual health are a common way to gain incremental steps toward progress. Typically, these types of bills charge a government body with a mission and timeline. In 2016, 25 bills in 13 states focused on this type of incremental implementation policy shift. While 80% of the bills that included these types of provisions aimed to advance policies or task force goals, the remaining 20% of the bills would have had an overall restrictive impact—even if the provision related to school policies or task forces itself was positive. As the composition of the proposed task forces and school policies were unique from bill-to-bill, please refer to the State Legislative Provision Table below to explore examples.

Educator Training

The quality of sexuality education a student receives can ultimately come down to the quality of the educator, which is why training and professional development for sexuality educators is so vital. Yet as evidenced in the above table, it is not one of the more common factors considered in newly introduced legislation related to sexuality education. Fortunately, eight states with a cumulative 18 bills included some type of provision related to educator training requirements. As represented by the examples below, educator training provisions were more likely to be included in bills specific to sexual violence prevention, though this may merely be a matter of sexual violence prevention bills being more common than broader comprehensive sexuality education bills.

Georgia HB 406: “Such requirements also may include participating in or presenting at in-service training programs on sexual abuse and assault awareness and prevention. ...These programs also may include in-service training programs on sexual abuse and assault awareness and prevention.”

New Jersey A 3254: “A teaching staff member may satisfy in each professional development cycle one or more hours of the professional development requirement established by the State Board of Education through participation in training programs on sexual abuse and assault awareness and prevention.”

Type of and Restrictions on Educators

Instruction implementation provisions related to the type of educator providing instruction were fairly split between the intention to include versus exclude qualified educators. Of the 14 bills in seven states, nine sought to emphasize experience in providing sexuality education instruction, while 5 sought to impose hurdles mainly based upon an educator’s affiliation with abortion providers.

Minnesota HF 2747: “A school district may not permit an abortion services provider or an employee or volunteer of an abortion services provider to offer, sponsor, furnish course materials, or provide instruction relating to human sexuality or sexually transmitted diseases. ... A school district and an education services organization that has a contract with a school district may not contract with an abortion services provider.”

Missouri HB 1905: Strikes [“No school district or charter school, or its personnel or agents, shall provide abortion services, or permit a person or entity to offer, sponsor, or furnish in any manner any course materials or instruction relating to human sexuality or sexually transmitted diseases to its students if such person or entity is a provider of abortion services.”]

TAKEAWAYS: LOOKING FORWARD TO 2017

Many of the provisions referenced throughout this report—even those seeking to advance the quality of sexuality education—may not yet be to the standard of the information and education our nation’s young people need and deserve to lead healthy lives. It is encouraging, however, that there is demonstrated motivation across the country to strive toward this goal. As we continue to push our policies to support the sexual health and rights of students, the provisions that are in direct opposition to these efforts must not be neglected. The victories in advancing school-based quality sexuality education instruction can often be measured by whether ground was lost; incremental progress beyond that must be celebrated. Regardless the margin of victory, policies that ensure equitable access to information and eradicate stigma must embolden our commitment to support the lifelong sexual health of generations to come.

State Bill No.	Provision Topics																
	Instruction Content									Instruction Implementation							
	Sexual Violence Prevention	Age- and Developmentally-Appropriate	Medically Accurate, Evidence-Informed/ Based	Parent Communication	Culturally, Linguistically, and/or Ability Appropriate	Contraception	LGBTQ	Abortion	Digital/ Tech	Other	Notification	Grades	School Policies and/ or Task Force	Training	Evaluation/ Reporting	Educator Type/ Restrictions	New Funding Specified
AK HB 156											X				X		
AK SB 89											X						
AZ HB 2 410	X	X	X	X		X	X				X	X		X	X		
AZ HB 2542											X						
AZ SB 1019							X										
AZ SB 1020	X	X	X	X		X	X				X	X		X	X		
CA AB 517											X						
CA AB 2536													X				X
CA SB 592	X												X				
CA SB 1435	X	X	X		X							X					
FL HB 859	X	X	X		X	X					X						
FL SB 1018		X	X							X	X						X
FL SB 1056		X	X		X	X					X						
GA HB 406	X	X										X		X			
HI HCR 6													X				
HI HB 459	X	X		X			X				X					X	
HI HB 595	X	X		X			X				X					X	
HI HB 1333											X						
HI HB 1782	X	X	X	X	X							X		X	X		
HI HB 1787													X				
HI HB 2004	X	X	X		X		X				X			X			
HI HB 2129	X	X	X	X	X							X		X	X		
HI SR 4													X				
HI SCR 6													X				
HI SB 151	X	X	X	X	X							X		X	X		
HI SB 395	X	X		X			X				X					X	
HI SB 1185											X						

State Bill No.	Provision Topics																
	Instruction Content										Instruction Implementation						
	Sexual Violence Prevention	Age- and Developmentally-Appropriate	Medically Accurate, Evidence-Informed/ Based	Parent Communication	Culturally, Linguistically, and/or Ability Appropriate	Contraception	LGBTQ	Abortion	Digital/ Tech	Other	Notification	Grades	School Policies and/ or Task Force	Training	Evaluation/ Reporting	Educator Type/ Restrictions	New Funding Specified
HI SB 2232	X	X	X	X	X							X	X	X			
HI SB 2235	X											X	X	X			
HI SB 2441	X	X	X	X	X							X	X	X			
KS HB 2199										X							
KS HB 2292									X								X
KY SB 29	X	X															
MD HB 72	X																
MD HB 365												X					
MA H 379	X	X									X	X	X	X			
MA S 2329	X																
MI HB 5444									X	X							
MI SB 826									X								
MN HF 2747										X					X		
MN SF 2956										X					X		
MS HB 494									X			X					
MS HB 756	X		X						X								
MS HB 932	X	X	X		X	X											
MS HB 954							X										
MS HB 985										X							
MS HB 992		X	X							X	X			X			
MS HB 1004									X								X
MS HB 1232									X		X				X	X	
MS HB 1233												X					
MS HB 1234																	
MS SB 2413		X	X							X	X						
MS SB 2434									X								
MS SB 2594		X	X		X	X											X

State Bill No.	Provision Topics																	
	Instruction Content									Instruction Implementation								
	Sexual Violence Prevention	Age- and Developmentally-Appropriate	Medically Accurate, Evidence-Informed/ Based	Parent Communication	Culturally, Linguistically, and/or Ability Appropriate	Contraception	LGBTQ	Abortion	Digital/ Tech	Other	Notification	Grades	School Policies and/ or Task Force	Training	Evaluation/ Reporting	Educator Type/ Restrictions	New Funding Specified	Other
MS SB 2775										X								
MS SB 2818									X									X
MO HB 1905	X	X	X	X		X			X	X					X			X
MO HB 2491			X			X			X	X					X			
MO HB 2803			X															
MO SB 672			X			X		X	X	X					X			
NH HB 1231										X								
NJ A 3254 *	X	X									X		X					
NJ S 2145 *	X	X									X		X					
NY A 1616A	X	X	X	X		X	X		X					X	X	X		
NY A 6707											X	X						
NY A 8080	X										X	X	X					
NY A 9261		X									X							X
NY S 700A	X	X	X	X		X	X		X					X	X	X		
NY S 905		X									X							X
NY S 1889	X	X	X	X		X	X		X					X	X	X		
NY S 1947B	X										X	X						X
NY S 3909	X										X	X	X					
NY S 6566	X										X	X	X					
OH HB 85	X	X								X	X		X					X
OK HB 2721			X															
OK HB 2797			X					X	X									
OK HB 2959			X	X														X
OR HB 4099																		
PA SB 1338	X	X	X	X	X	X	X		X	X	X	X						X
SC S 574			X								X	X						
SC S 1141	X										X	X						

State Bill No.	Provision Topics																	
	Instruction Content										Instruction Implementation							
	Sexual Violence Prevention	Age- and Developmentally-Appropriate	Medically Accurate, Evidence-Informed/ Based	Parent Communication	Culturally, Linguistically, and/or Ability Appropriate	Contraception	LGBTQ	Abortion	Digital/ Tech	Other	Notification	Grades	School Policies and/ or Task Force	Training	Evaluation/ Reporting	Educator Type/ Restrictions	New Funding Specified	Other
SD HB 1168										X								
TN HB 1348									X			X						
TN SB 1193									X			X						
UT HB 246		X	X	X	X				X			X						
UT HB 335										X				X				
VA HB 516										X								
VA HB 659	X	X	X								X							
VA SB 370	X	X									X							
WA HB 2183											X	X						
WA SB 5506	X																	
WV HB 2458								X				X			X			
WI AB 691	X	X	X		X						X	X						
WI AB 692	X								X		X	X	X					

* Legislation carries over into the second session of New Jersey's 2016 - 2017 legislative session.

Note: While many of the provisions categorized as Instruction Implementation are related to the Instruction Content topics (i.e. abortion, digital technology, etc.), the Instruction Content categories are specific to provisions determining what can or must be included in the instruction, rather than how these topics may impact broader implementation. E.g. An Instruction Implementation provision that prohibits educators affiliated with abortion providers would be categorized as "Educator Type/ Restriction" and not under the "Instruction Content - Abortion" category.

Table Key:

BOLD = Enacted law

Green = Advance

Yellow = Neutral

Red = Restrict