



Sexuality Information and Education
Council of the United States

2017

SEX ED

STATE LEGISLATIVE

YEAR-END REPORT

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INTRODUCTION

School-based sexuality education varies tremendously across the United States. Although 29 states and the District of Columbia require sexuality education instruction in public schools – through policies, rules and regulations, standards, and statutes – the content and quality of sexuality education instruction vary from state to state. There is even greater variance among states that do not have laws requiring sexuality education, where local districts and individual schools have discretion in whether or not sexuality education is taught and how it is implemented.

To better understand the legislative efforts that took place this year in advancing or restricting sexuality education instruction, SIECUS' *2017 Sex Ed State Legislative Year-End Report* provides an analysis of bills introduced in the 2017 legislative cycle related to sexuality education in schools. Bills were categorized based on their overall impact on sexuality education—they either **advanced** or **restricted** sexuality education, had a **neutral** impact on sexuality education, or had **mixed** impact on sexuality education—and whether they contained provisions related to content and/or the implementation of sexuality education topics. Several bills contained multiple provisions; however, bills were categorized by their overall impact on sexuality education, not by the impact of each individual provision in the bill.

Legislative activity is often influenced by current events and the political climate. As was true for prior years and editions of this report, violence prevention was among the most common topics included in this year's bills. In 2017, there was an increase in bills introduced requiring instruction in consent, mirroring online conversations driven by #MeToo and the SIECUS-led digital campaign #TeachThem, which highlights the value of sexuality education as a critical resource for providing young people education about sexual assault.

OVERVIEW: 2017 SEX ED STATE LEGISLATIVE ACTIVITY HIGHLIGHTS

- 64 bills related to school-based sexuality education were introduced in 27 states and Puerto Rico.
 - In examining each bill's overall impact, 43 bills sought to advance sexuality education, four sought to restrict sexuality education, nine bills had neutral impact, and eight bills had a mixed impact on advancing sexuality education.
- Seven laws were enacted in five states: California, North Carolina, New Hampshire, Utah, and Virginia
 - Two of these new laws advance the quality of sexuality education, four have neutral impact, and one had mixed impact – both advancing and restricting the quality of sexuality education.
- 31 bills sought to improve the quality of sexuality education by requiring that sexuality education be age- and/or developmentally appropriate; medically accurate and/or evidence-based/-informed; and/or culturally, linguistically and/or ability appropriate.
- 30 bills included provisions related to sexual violence prevention instruction, which includes instruction on healthy relationships, decision-making skills, communication skills, addressing unwanted advances, relationship violence and abuse, consent, and human trafficking.

NEWLY ENACTED LAWS

Seven new laws related to school-based sexuality education were enacted in five states in 2017: California, North Carolina, New Hampshire, Utah, and Virginia. All other bills discussed in this report failed to advance for a number of reasons including failing to pass out of committee, referral to the next legislative session, or lack of movement in legislative chambers among others.

On October 7, 2017, California passed two laws that advance sexuality education. The first, [AB 643](#), now Chapter 574, amends the existing California Healthy Youth Act—passed in 2015—to include instruction providing students with the knowledge and skills required to recognize early warning signs of adolescent relationship abuse and intimate partner violence. The second, [AB 1227](#), now Chapter 558, amends the California Healthy Youth Act to require instruction to include information about sexual abuse and information about human trafficking, instead of sex trafficking.

On July 20, 2017, the Governor of North Carolina signed into law an act that makes organizational and technical changes to the statute that governs sexuality education in public schools. It repeals G.S. §§ 115C-81, 115C-81.1, 115C-81.3, and 115C-81.4, replacing it with a new section: G.S. § 115C-81.5, which contains nearly identical language as the repealed sections, but is organized differently. [HB 135](#), has a neutral impact on sexuality education in North Carolina, as it only makes these organizational and technical changes.

Also on July 20, 2017, [HB 103](#) passed in New Hampshire, requiring school districts to provide parents and legal guardians with advance notice of course materials involving discussion of human sexuality or human sexual education. It also requires school districts to make curricula available to parents and guardians for review upon request.

On March 20, 2017, the Governor of Utah signed into law [SB 196](#), which repeals language prohibiting the advocacy of homosexuality in health instruction, replacing it instead with language that prohibits the advocacy of premarital or extramarital sexual activity in health instruction. Although the bill repeals harmful and stigmatizing anti-LGBTQ language in the statute, the additional prohibition restricts access to sexuality education.

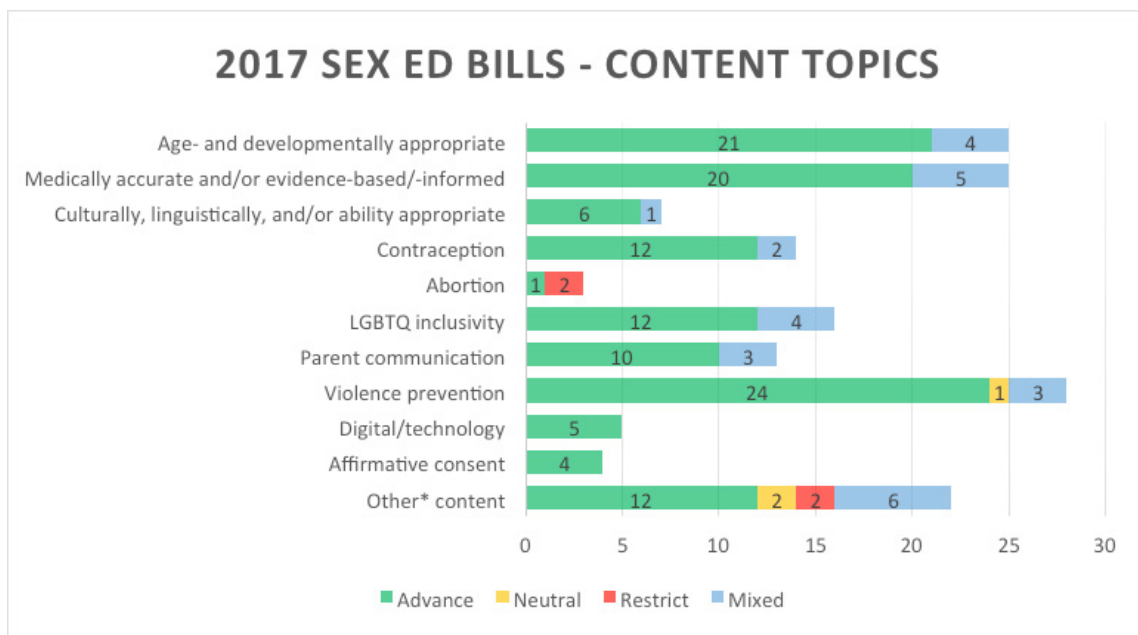
In March 2017, two laws were passed in Virginia that had a neutral effect on the quality of sexuality education. [HB 2257](#) and [SB 1475](#) both allow instruction on consent in any high school family life education curriculum. [HB 2257](#) allows for the incorporation of age-appropriate elements of effective and evidence-based programs on the prevention of dating violence, domestic abuse, sexual harassment, and sexual violence. While this law identified the topics to be addressed, the law does not explicitly define consent. [SB 1475](#) states that sexual violence prevention curriculum may include instruction that increases student awareness requiring consent before sexual activity. Both of these bills allow for instruction on consent in family life education curriculum but does not require its inclusion.

LEGISLATIVE ACTIVITY

The wide range of bills introduced in this legislative cycle are indicative of the differences in sexuality education instruction across the country. Some legislators seek to codify sexuality education in the states, while others believe sexuality education should not be taught in schools at all. In some states, such as Florida, bills were introduced that both advanced and restricted sexuality education.

COMMON AND NOTABLE INSTRUCTION CONTENT PROVISIONS

Of the 64 bills introduced related to sexuality education in schools, 53 included provisions to amend instruction content. Bills related to violence prevention instruction were most common, but there were nearly as many bills with age- and developmentally appropriate, and medically accurate and/or evidence-based/-informed provisions. The table below, and the examples of the highlighted topics that follow, demonstrate that, with few exceptions, state legislative efforts related to sexuality education content was overwhelmingly intended to improve its quality and broaden its scope.



*Includes topics such as the use of drugs and alcohol, HPV, information about access to health care, anatomical and psychological characteristics of a fetus, disease prevention, abstinence, and sexuality in and out of the context of marriage.

Note that the designation of “advance, neutral, restrict, or mixed” above refers to the effects of the bill as a whole, not necessarily the specific provision topic.

Contraception and Abortion

Twenty-four bills related to contraception and three bills related to abortion in the context of sexuality education were introduced this year. Most of the bills regarding contraception required discussion of contraception in sexuality education instruction.

Florida introduced in both the House and the Senate a “Humanity of the Unborn Child Act,” which would have allowed school board districts to implement instructional programs to teach young people that fetuses should be protected. Both Florida bills were withdrawn from consideration and indefinitely postponed. However, it is important to monitor the introduction of these types of bills, which seek only to restrict access to and deny information about the full range of young people’s reproductive health options.

Below are examples of bills regarding abortion content; one would have restricted sexuality education and the other would have advanced it, however none of the bills introduced became law. The bill restricting sexuality education would have allowed schools to implement an instructional program that deterred students from considering abortion as a pregnancy option. The bill

advancing sexuality education would have removed a prohibition on providers of abortion services to furnish materials or instruction relating to sexuality education to students. The bill restricting sexuality education would have allowed schools to implement an instructional program that deterred students from considering abortion as a pregnancy option. The bill advancing sexuality education would have removed a prohibition on providers of abortion services to furnish materials or instruction relating to sexuality education to students.

Florida HB 841: “The Department of Education, in collaboration with the Department of Health, shall establish an instructional program for public school students based on the principles and requirements in this section. Each district school board may implement such instructional program using, at its discretion, content focused on teaching the humanity of the unborn child.”

Missouri HB 12: 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.”]

Lesbian, Gay, Bisexual, Transgender, Queer, and/or Questioning (LGBTQ) Inclusivity

There were no bills introduced that sought to restrict access to sexuality education for LGBTQ people, nor were there any bills that stigmatized LGBTQ people. In fact, six bills were introduced that sought to remove anti-LGBTQ language in sexuality education instruction and 10 bills sought to assure that materials and instruction are LGBTQ-inclusive or not biased against LGBTQ people. Only one bill (referenced above in the “Newly Enacted Laws” section) passed, removing a prohibition on “advocacy of homosexuality in health instruction,” while the other bills related to LGBTQ inclusivity did not pass. The three examples below demonstrate the range of language regarding LGBTQ inclusivity instruction and materials. Note that the Ohio bill is categorized as having a neutral impact because it does not explicitly contain LGBTQ affirming language, whereas the Massachusetts bill does. Though ensuring instruction and materials are not stigmatizing toward or biased against LGBTQ people is vital, it does not necessarily make sexuality education instruction accessible or relatable to young LGBTQ people.

Arizona SB 1125: Strikes [“No district shall include in its course of study instruction which:

1. Promotes a homosexual life-style.
2. Portrays homosexuality as a positive alternative life-style.
3. Suggests that some methods of sex are safe methods of homosexual sex.”]

Ohio HB 248: “Instruction and materials shall be appropriate for use with all pupils regardless of gender, race, ethnic and cultural background, religion, disability, sexual orientation, or gender identity.”

Massachusetts SB 2128: “Sexual health education shall be appropriate for students regardless of gender, race, disability status, sexual orientation or gender identity and shall include, but not be limited to, teaching ... age-appropriate information about gender identity and sexual orientation for all students, including affirmative recognition that people have different sexual orientations, gender identities and gender expressions and information about resources that offer support for lesbian, gay, bisexual, transgender, queer and questioning students.”

Violence Prevention

For purposes of this report, “violence prevention” is used to describe a myriad of sexuality education content topics, including prevention of intimate partner violence, relationship abuse, sexual violence, unwanted sexual advances, and human trafficking; skills-building for communication and decision-making; and consent. A total of 28 bills related to sexuality education included violence prevention topic provisions. During this year, California became the first state to require instruction on human trafficking as a part of the state’s sexuality education mandate by passing AB 1227. The only other state to introduce legislation related to human trafficking was Florida, which introduced three bills – [SB 286](#), [HB 665](#), and [SB 96](#) – that all failed to pass.

Florida [SB 286](#): “The human trafficking education portion of the health curriculum shall include, but is not limited to, information on the warning signs of human trafficking, terms used by traffickers, red flags that would indicate a trafficker’s malicious intent toward a student, websites that are popular with traffickers, and details on how a student may get help.”

Mississippi [HB 288](#): “...healthy relationships ... and ... protection from dating violence, sexual assault, bullying and harassment.”

Affirmative Consent

In this legislative cycle, four bills from four different states (Massachusetts, Maryland, Michigan, and Pennsylvania) sought to implement instruction on affirmative consent. Although the bills vary slightly in describing affirmative consent, all four bills describe it as a voluntary and/or conscious agreement to engage in sexual activity. Two of the bills, from Michigan and Pennsylvania, indicate that ensuring affirmative consent is the responsibility of each individual involved in each sexual act. None of these bills were passed this legislative cycle.

Maryland [HB 365](#): “‘Affirmative consent’ means clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in each act within the course of sexual activity.”

Pennsylvania [HB 1615](#): “An affirmative consent standard shall be established to emphasize healthy sexual behaviors. The standard shall include the following information: (A) It is the responsibility of both parties to ensure that affirmative consent has been established before proceeding with any sexual activity...”

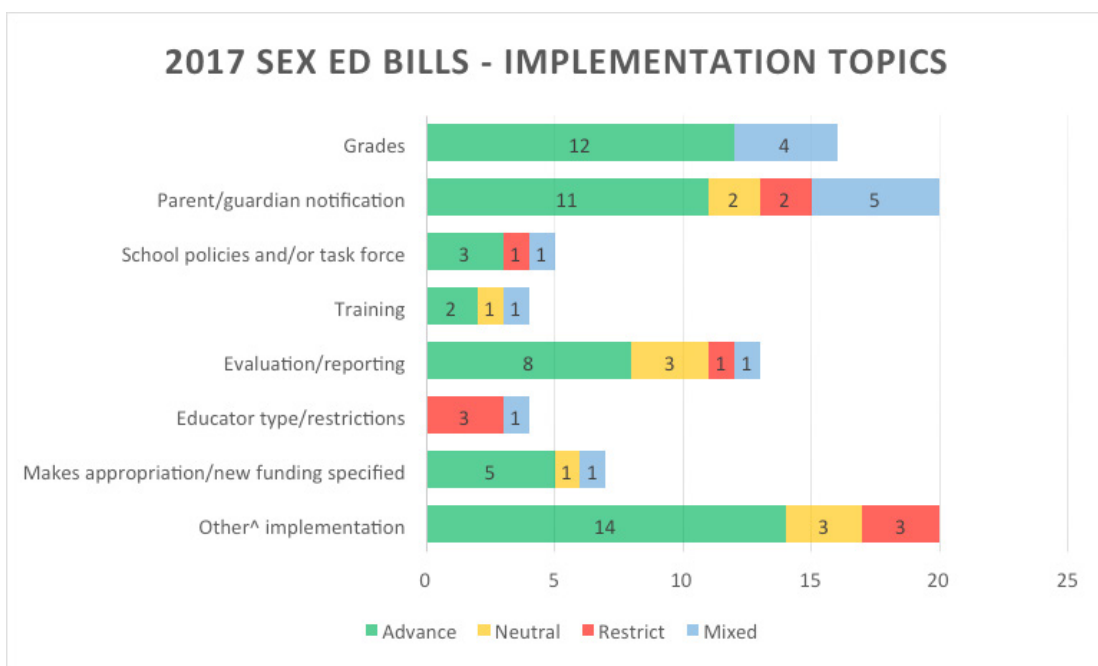
Note: The topics highlighted above are not intended to diminish the notable inclusion of provisions related to all other topics within sexuality education. These are critically important content topics to consider in efforts to advance sexuality education. Please utilize the table at the end of this document to explore the breadth of these provisions.

COMMON AND NOTABLE INSTRUCTION IMPLEMENTATION PROVISIONS

The quality and content of sexuality education in schools are impacted by far more than legislation that discusses which topic contents are required or permitted. Legislation that dictates how instruction is implemented is also critical in shaping the quality and content of sexuality education. A total of 47 bills included provisions related to instruction implementation; 37 bills included provisions related to both instruction content and instruction implementation and 10 bills included provisions related only to instruction implementation. Below, some instruction implementation provisions are highlighted.

[^] Includes topics such as expansion to charter or community schools and the promulgation and adaptation of rules, standards, and curricula.

Note that the designation of “advance, neutral, restrict, or mixed” above refers to the effects of the bill as a whole, not necessarily the specific provision topic.



Parent/Guardian Notification

Parent/guardian notification laws include provisions related to opting out or into sexuality education instruction, allowing for the review of curricula or materials related to sexuality education, and notifying parents/guardians that sexuality education will be taught. Under an opt-in policy, teachers need written permission from a parent/guardian before a student can attend a sexuality education class. Most states and school districts rely on opt-out policies for sexuality education, which automatically enroll all students but allow parents/guardians to remove their children from instruction without penalty. Opt-out policies usually require school districts to send written notification to parents/guardians before sexuality education lessons are taught, including information on what is being taught and who will be teaching the class. It is then the responsibility of parents/guardians to inform the school district in writing if they do not wish their child to attend those lessons.

As parents and families play a critical role in the sexuality education of young people, legislation seeking to encourage parent/guardian engagement can be beneficial to strengthening the quality of instruction, though it may not directly advance sexuality education. It is when the notification processes themselves become barriers to students receiving quality sexuality education that concerns over such bills arise. Of note, Kansas introduced legislation (HB 2347) that would require parents/guardians to opt their children into sexuality education. Currently, Kansas has no legislation related to opting children in or out of sexuality education. The following New Hampshire bill exemplifies a typical parent/guardian notification provision with neutral impact.

New Hampshire HB 365: “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.”

Training

The quality of sexuality education a student receives is often dependent on the quality of the educator, which is why training and professional development for sexuality educators is 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. Only four bills (one each from Massachusetts and Ohio, and two from Utah) included a provision related to educator training requirements, whether it was offering in-service training or requiring training to teach sexuality education classes.

Educator Type/Restrictions

There were four bills related to educator type or restrictions placed on educators in sexuality education. The two in Florida restricted instructors from referring students to abortion services, one bill in Puerto Rico restricted instructors from addressing sexuality education in general, and one bill in Mississippi specified educator type for teaching abstinence-only or abstinence-plus curriculum. None of these bills passed.

Florida HB 841: “Any person employed to deliver the instructional program as provided in paragraph (a) may not refer any student to a medical facility or any provider for the performance of an abortion.”

Puerto Rico SB 377: “Sex education of our children is the responsibility of parents, and [it] should be free from undue interference from the Government of Puerto Rico.”

Bills Related to Sexuality Education

For the 2017-2018 legislative cycle, SIECUS tracked proposed sexual and reproductive health bills indirectly related to school-based sexuality instruction. Though the term sexual and reproductive health may signal specific topics—such as contraception and abortion—to many, there are a host of important issues that fall under this broad heading. While these topics may not directly impact young people in a classroom setting, the content of these bills may affect young people’s right to bodily autonomy.

Pornography as a public health hazard

Nineteen bill resolutions recognizing “pornography as a public health hazard” were introduced in 14 states. These resolutions were eventually adopted in four states. While these bills do not directly impact instruction, the topic of pornography is often used as a rationale to oppose sexuality education for young people—with opponents of sexuality education claiming that medically-accurate and science-based sexuality education is pornographic in nature thereby encouraging young people to engage in sexual activity.

Public Benefits

Mississippi introduced four bills that sought to attach additional requirements related to contraception, abstinence, and parenting to receive public benefits (MS HB 98). Young people ages 13 to 20 receiving TANF would be required to “participate in an educational activity that emphasizes that abstinence is the expected norm, in that abstinence from sexual activity or behavior is the only protection that is one hundred percent (100%) effective against unwanted teenage pregnancy, sexually transmitted infections and HIV when transmitted sexually.” While there are some positive components of the bill—that is, requiring instruction be free from bias and age-appropriate, as well as providing instruction on communication skills and financial responsibility—overall, this bill is troubling because it appears to blame and shame young people for their circumstances as opposed to recognizing the need to advance sexuality education for all young people regardless of racial or socioeconomic status.

Sexuality education in different settings

Two bills requiring access to sexuality education for women in prisons and people in developmental disability facilities, respectively, and three bills calling for a plan to prevent unintended pregnancies in post-secondary schools were introduced.

Other bills introduced included provisions related to parents’ private right of action to sue school districts for failing to comply with education standards, restricting access to public funds for abortion, allowing distribution of contraception in schools, and surveillance of risk behaviors among high school students.

TAKEAWAYS: LOOKING FORWARD TO 2018

The significant number of bills introduced to advance sexuality education in 2017 is encouraging. This highlights a demonstrated motivation to improve the sexuality education young people need and deserve to lead healthy lives. While not all 43 bills passed, the recognition by state legislators of the value of introducing and advancing such legislation should be celebrated alongside encouraging their continued efforts to introduce stronger bills that advance sexuality education. Regardless the margin of victory, policies that ensure equitable access to information and eradicate stigma must embolden the commitment to support the lifelong sexual health of generations to come.

Of significant note from this year’s state legislative activity is the movement to include LGBTQ young people in sexuality education instruction, highlighted by the fact that there were 16 bills advancing LGBTQ inclusivity introduced this year, compared to the 11 bills introduced last year. Also gaining momentum is the attention being paid to affirmative consent. It is encouraging to see a shift from content provisions simply including language about consent without further definition to the incorporation of a “yes means yes” approach in legislative text, reinforcing the principle of ensuring explicit consent from all parties engaging in sexual activity and/or relationships.

Each win is an important step towards the provision of comprehensive sexuality education in schools across the country. While, success may be measured differently in each state dependent upon its policy climate, it is imperative that efforts to introduce bills that advance both sexuality education instruction content and implementation are supported. Furthermore the passage of legislation signals to advocates the value in continuing to demand laws and policies that respect the sexual rights of young people.

STATE LEGISLATION TRACKING TABLE

The table below contains information related to states' bills related to sexuality education instruction content and implementation topics. For the table below, use the following legend:

- Green** = advances sexuality education
- Red** = restricts sexuality education
- Gold** = has a neutral impact on sexuality education
- Blue** = has a mixed impact on sexuality education
- = enacted law

State	Bill No.	Content											Implementation							
		Age and Developmentally Appropriate	Medically Accurate	Culturally Appropriate	Contraception	Abortion	LGBTQ	Parent Communication	Violence Prevention	Digital/Technology	Affirmative Consent	Other	Grades	Parent/Guardian Notice	Policy/Taskforce	Training	Evaluation/Reporting	Educator Type/Restrictions	\$	Other
AL	HB 505		○	○																
AZ	SB 1125																			
CA	AB 643								●											
CA	AB 1227								●											●
FL	SB 286								○	○				○						
FL	HB 665								○	○				○						
FL	SB 96								○	○				○						
FL	HB 841					○												○		○
FL	SB 1006					○												○		○
HI	HB 710		○						○					○						
HI	SB 252		○						○					○						
HI	HB 856								○											
HI	HB 929								○					○						
HI	HB 930													○		○		○		○
HI	HB 963													○		○		○		○
IN	SB 66															○				
IN	SB 89															○				
KS	HB 2347													○						
KS	SR 1715	○	○	○										○						
KY	SB 250	○							○						○					
MA	SB 2128	○	○	○	○				○				○			○				○
MA	H 318	○								○										
MA	S 216	○	○						○					○						
MA	HB 3704	○			○			○						○		○				○
MD	HB 365								○				○							
MI	HB 4192																			○
MI	SB 0620								○				○							
MN	SF 1468	○	○		○				○				○	○		○				
MN	HF 1759	○	○		○				○				○	○		○				
MO	HB 12	○	○		○	○			○											
MS	HB 75	○	○		○				○											○
MS	HB 288	○	○	○	○				○											

State	Bill No.	Content											Implementation							
		Age and Developmentally Appropriate	Medically Accurate	Culturally Appropriate	Contraception	Abortion	LGBTQ	Parent Communication	Violence Prevention	Digital/Technology	Affirmative Consent	Other	Grades	Parent/Guardian Notice	Policy/Taskforce	Training	Evaluation/Reporting	Educator Type/Restrictions	\$	Other
MS	HB 291																			
NC	HB 135																			
NH	HB 103																			
NV	AB 348	○	○	○																
NY	S. 1070	○	○		○		○	○					○						○	○
NY	AB 768	○	○											○						○
NY	AB 2705	○	○		○		○	○					○						○	○
NY	SB 3124	○	○		○		○	○					○						○	
NY	SB 3737	○	○											○						○
OH	HB 248	○	○	○	○		○	○					○	○	○	○				
OK	SB 246		○											○						
OK	HB 1538	○	○											○						
OR	SB 318								○											○
PA	HB 1615	○	○	○	○		○	○	○	○	○	○		○						
PR	PS 377													○	○		○	○		○
SC	H. 3663		○																	○
SC	S 169	○							○						○					○
SC	S 461		○																	○
TX	SB 236																			
TX	SB 251																			
TX	HB 573																			
TX	HB 1547	○	○		○			○	○				○	○	○					
TX	HB 226																			
TX	SB 1104	○	○		○			○	○				○	○	○					
UT	SB 196																			
UT	HB 0137																			
UT	HB 215	○	○						○				○	○	○		○			○
VA	SB 828	○							○					○						
VA	HB 2257																			
VA	SB 1235																			○
VA	HB 2406																			
VA	SB 1475																			