

The Future of Sex Education in the States

A 2018 Post-Midterm Elections Analysis

Introduction

The 2018 midterm elections will be remembered for their historic, record-breaking midterm voter turnout. This effort by the public aimed to dramatically shift the national political landscape—electing members of Congress that better reflect the growing diversity of the general population and demanding public accountability of the Executive Branch. Nationally, Republicans increased their majority in the Senate, while Democrats now hold a strong majority in the House. However, as the country continues to focus on the outcomes of federal elections, races at the state level should, by no means, be ignored. State-level races have implications for many issues—including sex education—which are primarily decided by governors, state legislatures, and local officials.

This brief provides an analysis of the midterm results for governors, state legislatures, school district races, and ballot measures, highlighting the impact they will have on young people, people of color, health care, schools, and the political landscape.

Governors

Governor races have a large impact on state sex education policy. These policies are typically created through state legislatures and signed into law by the state’s governor. Governors have the unique power to either approve or veto key legislation to advance a young person’s right to sex education.

Thirty-six gubernatorial seats were on the ballot in the 2018 midterms. There were several firsts in the 2018 midterms. Notably, Colorado’s Jared Polis is set to become the first openly gay man to serve as governor in the U.S. With two races still up in the air – Florida and Georgia – pro-choice candidates won seven seats previously held by anti-abortion governors¹

- Illinois: JB Pritzker
- Kansas: Laura Kelly
- Michigan: Gretchen Whitmer
- New Mexico: Michelle Lujan Grisham
- Maine: Janet Mills
- Wisconsin: Tony Evers
- Nevada: Steve Sisolak

Five of the seven gubernatorial offices were held by ardent anti-abortion officials for the past four or eight years. Governors have the power to protect reproductive rights at the state level. For example, New Jersey Gov. Phil Murphy restored funding to Planned Parenthood after the state’s previous governor, Chris Christie, eliminated funding.

¹ For SIECUS’ purposes, we considered elected official legislative records and candidate statements on issues of abortion, contraception, and other reproductive health issues as a proxy for ascertaining an elected official’s record of, or likelihood of support comprehensive sexuality education and use the terms “pro-choice” and “anti-abortion” to generally describe these positions.

With the Florida and Georgia governor races still pending, it appears that anti-abortion candidates did not win any elections for governorship that were previously held by pro-choice governors.

Additionally, governors and state legislatures have the potential to determine the future of abortion rights if the Supreme Court moves to undercut *Roe v. Wade*, the future of Medicaid expansion (in some states), education, immigration, voting rights, and gender equality.

State Legislatures

Much was at stake for state legislatures across the country in the 2018 midterms. Eighty-seven of the 99 state legislative chambers held an election impacting more than 6,000 seats. This represents 82 percent of all state legislative seats.

Similar to governorship, state legislatures have a significant impact on sex education across the country. While 31 states and the District of Columbia mandate sex education, only 21 states require sex education or HIV/STI instruction to be age-appropriate, medically accurate, culturally informed, or evidenced based/informed. State legislation is critical in shaping – and, too often, limiting – the quality of sex education in this country. The [SIECUS 2018 State Legislative Mid-Year Report](#) highlighted the impact state legislators had on advancing or restricting sex education during the 2018 session.

Heading into the 2018 elections, anti-abortion legislators held majorities in 67 of the country's 99 state legislative chambers (36 senate chambers and 31 house chambers). The 2018 midterms resulted in pro-choice candidates winning a majority in six state legislative chambers previously controlled by an anti-abortion majority (4 senate chambers and 2 house chambers), and anti-abortion candidates winning a majority in one house chamber. Anti-abortion legislators now have a majority membership in 62 state legislative chambers (32 senate, 30 house), and pro-choice legislators have a majority membership of 37 (18 senate, 19 house).

The table below lists state legislative chambers where ideological control changed following the November 6, 2018 elections.

State	Chamber	Pre-Midterm Control	Post Midterm Control
Colorado	Senate	Anti-abortion	Pro-choice
Maine	Senate	Anti-abortion	Pro-choice
Minnesota	House	Anti-abortion	Pro-choice
New Hampshire	House	Anti-abortion	Pro-choice
New Hampshire	Senate	Anti-abortion	Pro-choice
New York	Senate	Anti-abortion	Pro-choice
Alaska	House	Pro-choice	Anti-abortion

A number of states saw advancements made by the pro-choice movement in the 2018 midterm election. Four states where anti-abortion legislators held control of the governorship and both legislative chambers were dismantled by voters. Several states also saw an expansion of pro-choice elected officials to win majorities in both legislative chambers and the governorship. The following states made significant advancements in the makeup of their state legislatures:

- Colorado: A pro-choice majority was elected in the Colorado State Senate along with a new pro-choice governor.

- Connecticut: The Connecticut State Senate, previously split, gained a pro-choice majority.
- Illinois: Illinois saw an increase in pro-choice majorities in both chambers along with the election of a pro-choice governor.
- Maine: Pro-choice candidates gained control of the Maine State Senate along with the election of a pro-choice governor.
- New Hampshire: The state house, previously anti-abortion, won a pro-choice majority—despite the reelection of anti-abortion Governor Chris Sununu.
- New York: The New York State Senate, previously anti-abortion, won a pro-choice majority. With the reelection of Governor Cuomo, the Reproductive Health Act—which would modernize New York’s abortion law and remove the criminal ban on late-term abortion—is likely to finally pass.
- North Carolina: Anti-abortion super-majorities were eliminated in both the House and Senate.

School Districts

Over 900 school districts across the country held elections during the November 2018 midterms. School board elections, while often overlooked, can have a profound impact. After all, school boards set local policy and regulations, hire the superintendent, adopt the sex education curriculum, and oversee implementation of state and federal requirements. They also oversee millions – and in the case of some large districts, billions – of dollars in education funding.

At the school district level, most K-12 public schools are governed by local school boards. Generally, the school board is responsible for developing and ensuring the school district’s sex education policies. Although they must follow state law, school boards often help in shaping the health standards and recommendations for curricula provided in the district.

Ballot Measures and Constitutional Amendments

Ballot measures offer one of very few opportunities voters have to directly approve or reject specific policies at the state level. In the 2018 midterm elections, voters weighed in on 155 ballot measures in 37 states. Measures covered a vast range of issues from taxes and marijuana to energy and minimum wage. In the chart below, SIECUS analyzed the impact and election results for nineteen ballot measures in 16 states, which dealt specifically with young people, people of color, health care, and schools. These fell under six categories: abortion and abortion funding, Medicaid expansion, gender equity, elections and voting, redistricting, and schools and education.

Abortion and Abortion Funding

Abortion ban measures were proposed in three states (Alabama, Oregon, and West Virginia). The bans, which passed in both Alabama and West Virginia, amend their state constitutions to explicitly remove protections surrounding the right to abortion and/or state funding for abortion. These bans are intended to make access to safe and legal abortion even more difficult for young people—including low-income individuals and communities of color—who already face substantial barriers to abortion care such as cost, transportation, parental notification requirements, and more.

Medicaid Expansion

Medicaid expansion measures proposed and passed in three states (Idaho, Nebraska, and Utah) sought to increase access to health care for low-income people in compliance with the Affordable Care Act, which, in turn, would improve educational outcomes for low-income youth. To date, 36 states in the United States have expanded Medicaid, leaving 14 without Medicaid expansion. Having a parent or guardian in poor health, or dealing with their own medical issues, can decrease a student's academic performance. This can also contribute to spotty attendance and increased dropout rates. Improved access to quality medical care positions students to better succeed at school. Expanding Medicaid would especially benefit youth of color, who are disproportionately represented among Medicaid beneficiaries.

Gender Equity

Ballot measures on gender equity included whether or not to repeal protections from discrimination on the basis of gender. This has significant implications for the treatment and rights of young people regardless of their gender identity. In [Massachusetts](#), voters upheld a state law that protects transgender people from discrimination in public accommodations, including bathrooms and locker rooms. In doing so, they rejected efforts by opponents to repeal the law in the first-ever statewide referendum on transgender rights in the U.S. This has a particular impact on young people in schools. When young people are afraid to use the bathroom due to harassment and discrimination, it can have serious negative impacts on both their health and academic success. This law helps ensure a safer school environment for all students—including transgender, gender nonconforming, and intersex youth.

Another measure in Nevada focused on menstrual care products. Voters were asked whether or not to exempt menstrual care products from sales tax—making these necessities more affordable. The ballot measure, which passed, is especially important for young people as they are less likely to earn an income and more likely to be directly impacted by this change.

Elections, Voting, and Redistricting

Elections and voting measures covered policies regarding photo ID laws, automatic voter registration, same- and election-day voting and registration, voting rights restoration, and redistricting.

How and where districts are drawn in each state often determine if the community can elect representatives of choice to local school boards, city councils, the state legislature, and Congress. It can also influence whether or not elected officials respond to the needs of the community, such as ensuring equitable educational and health care options for everyone. Minority voters have frequently faced discrimination in voting during redistricting processes.

Many of these measures on voting and redistricting policies impact young people's ability to vote. These also have a disproportionate impact on people of color. In particular, a measure passed in Florida will restore the voting rights of 1.4 million residents who faced felony convictions and have served their sentences. A disproportionate number of these residents are people of color, and restoring the voting rights of such a large number of people will affect the outcome of every election in Florida moving forward.

Furthermore, because young people are likely to be first-time voters, and are not yet registered, a simple, straight forward registration and voting process is essential to ensuring high voter turnout

among young people. Whether caused by a decrease in state recourses, racism, voter disenfranchisement, or an unforeseen closure of state agencies, these policies typically affect communities of color and immigrants most.

For example, reports from Alabama and Texas highlighted closures of several state agencies—which provide government-issued IDs that are necessary for voting—in largely minority communities. When we limit access to voting, we limit people’s options to take action on the issues that matter most to them—including sex education and sexual and reproductive health overall.

Schools and Education

Measures directly affecting schools and education covered policies regarding school vouchers, governor-appointed school officials, and the placement of religious iconography on school property. All of these issues impact the quality of schooling and education young people receive. School vouchers allow funding to be taken from public schools and used to benefit private and religious schools instead. State superintendents have significant influence over public education. Allowing the superintendent to be appointed, instead of elected by the people, creates concerns around the official’s qualifications and whether they would govern with the interests of the electorate in mind. Religious iconography on school property can emphasize one religion over another, marginalizing students who do not identify with the religion in question. It also raises concerns about the separation of church and state, which has implications for the influence of religion in instruction, including in sex education classes. Each of these issues has the potential to impact both the implementation and the quality of sex education.

Conclusion

While the midterms were highly anticipated, there were shadows that cast doubt on the overall democratic process. The country witnessed gaslighting, dog whistles, and outright racist attacks in political advertisements and along campaign trails. The central ideology of the country—free and open elections—was questioned by rampant voter suppression in places like North Dakota and Georgia. Even still, the country witnessed several firsts: the first openly gay male governor, the first two Muslim congresswomen, the first two Native American congresswomen, Massachusetts’ first black congresswoman, Connecticut’s first black congresswoman, and Texas’ first Latinx congresswomen were all elected during the midterms.

However, our work is far from done. In particular, the constitutional amendments passed in Alabama and West Virginia banning abortion are intended to incite a legal battle, calling abortion rights into question across the country. With a new anti-abortion majority on the Supreme Court bench, anti-abortion advocates will use these amendments as fodder for a frontline battle on reproductive health issues at the federal level. The November elections also highlighted an increased need to focus efforts at the state level and engage with state legislators. While change is often slow at the federal level, immediate (and lasting) changes occur at the state level frequently. If nothing else, this midterm election reinforced the importance of amplifying the need to advance sexual health education, information, and care at every level of state decision-making.

The following chart describes and provides analysis for each of the highlighted state ballot measures in detail.

State	Title	Topic	Type	Impact if passed	Summary	Analysis	Status
Alabama	State Abortion Policy Amendment	Abortion and Abortion Funding	Legislative Referendum	Negative	Amendment 2 would require that state policies “recognize and support the sanctity of unborn life and the rights of unborn children, most importantly the right to life.” It would also change the constitution to no longer “protect the right to abortion or require the funding of abortion.”	Passing Amendment 2 would lay the groundwork for an absolute abortion ban in Alabama. With no exceptions articulated, this measure would allow for severe abortion access restrictions should <i>Roe v Wade</i> be overturned. Young people already face significant barriers to abortion care. If passed, this amendment could pave the way to further decrease abortion access for all, but especially young people, those with low incomes, immigrant communities, and communities of color.	Pass
Alabama	Authorizing the Display of the Ten Commandments on Public Property	Schools and Education	Legislative Referendum	Negative	Amendment 1 would authorize "the right to display the Ten Commandments on property owned or administered by a public school or public body." The measure prohibits the use of public funds to defend the constitutionality of the amendment but does not address the use of public funds to create or erect the display of the Ten Commandments.	Debates about putting religious iconography like the Ten Commandments on public property are debates about the separation of church and state. A monument to a particular set of religious beliefs gives the appearance of a state endorsement of that religion. Separation of church and state is also a sex education issue; health classrooms and public grounds alike should be free from overt endorsements of particular religious beliefs.	Pass
Arizona	Repeal of School Voucher Popular Referendum	Schools and Education	Popular Referendum	Negative	A "yes" vote on Proposition 305 approves the state’s expansion of its school voucher program. Up to 30,000 students of any background would be given public	School voucher debates generally boil down to whether investments in public school systems should be increased, or whether to take funding from public schools and use them for private and religious schools instead. This	Fail

State	Title	Topic	Type	Impact if passed	Summary	Analysis	Status
					tax dollars to be used for private-school tuition.	referendum would use taxpayer dollars to give even extremely wealthy families money for their children to attend private school – money that could instead be spent to improve education for the entire state.	
Arkansas	Photographic Voter Identification Requirement Amendment	Elections and Voting	Legislative Referendum	Negative	Issue 2 would require voters to present valid photo ID in order to vote in person and to enclose a copy of photo ID with an absentee ballot. The General Assembly would establish acceptable types of ID. It would require the state to issue photo ID at no charge to those who do not have one. Without photo ID, a voter may cast a provisional ballot, which may be counted when a valid photo ID is produced.	If passed, Issue 2 would create unnecessary hurdles in order to vote, discouraging voters and reducing turnout. This disproportionately affects racial minorities and young people who are less likely to possess a photo ID. While the measure does require the state to issue a photo ID to individuals without one, it still creates further barriers to casting a ballot, especially if there are time constraints or transportation requirements in order to obtain the new photo ID.	Pass
Colorado	Colorado Commission for Congressional Redistricting Amendment	Redistricting	Legislative Referendum	Positive	Amendment Y would create a 12-member commission to draw congressional districts for Colorado. It would govern a number of factors related to the commission including criteria for the district maps (this includes competitiveness), criteria for membership of the commission, rules regarding disclosure for lobbying the commission, and the establishment of a process to	An independent commission is designed to reduce partisanship and gerrymandering, increase transparency, and give unaffiliated voters and racial minorities better representation in the redistricting process. An independent commission would result in more fair and competitive congressional districts.	Pass

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					ensure that 8 of the 12 members approve of the final map.		
Colorado	Colorado Commission for Legislative Redistricting Amendment	Redistricting	Initiative	Positive	Amendment Z would create a 12-member commission to draw state legislative districts for Colorado. It would govern a number of factors related to the commission including criteria for the district maps (this includes competitiveness), criteria for membership of the commission, rules regarding disclosure for lobbying the commission, and the establishment of a process to ensure that 8 of the 12 members approve of the final map.	An independent commission is designed to reduce partisanship and gerrymandering, increase transparency, and give unaffiliated voters and racial minorities better representation in the redistricting process. An independent commission would result in more fair and competitive congressional districts.	Pass
Florida	Restoration of Voting Rights for Individuals with Felony Convictions Amendment	Elections and Voting	Initiative	Positive	Amendment 4 would restore voting rights to Floridians with a felony conviction, excluding felons convicted of murder and felony sexual offenses.	Florida is one of four states with a lifetime ban on voting for those convicted of a felony. If passed, Amendment 4 would restore the voting rights of the 1.4 million Floridians currently prohibited from voting under this law--despite serving their sentences. A disproportionate number of these residents are racial minorities, allowing the current system to suppress the vote of groups already targeted by the criminal justice system and the school-to-prison pipeline.	Pass
Idaho	Medicaid Expansion Initiative	Medicaid Expansion	Initiative	Positive	Proposition 2 would expand Medicaid coverage in accordance with the Affordable Care Act to	Expanding Medicaid would increase access to health care for many low-income individuals, including young	Pass

State	Title	Topic	Type	Impact if passed	Summary	Analysis	Status
					those under 65 with an income that is 133 percent (or below) of the federal poverty line and are not eligible for other state medical insurance coverage.	people – and especially young people of color, who are disproportionately represented among beneficiaries. In addition to increasing access to general and reproductive health care, expanding Medicaid would positively impact schooling. When young people and their parents have access to affordable and reliable health care, it increases their chances for success in school, improving attendance and academic performance.	
Maryland	Election-Day Registration Amendment	Elections and Voting	Legislative Referendum	Positive	Question 2 allows qualified voters to register and vote at a precinct polling place on election day.	Question 2 expands the same-day voting and registration policy already in place for early voting to election day itself. It would decrease unnecessary barriers to vote, especially for young people who are more likely to be first-time voters and less likely to already be registered.	Pass
Massachusetts	Popular Referendum of Gender Anti-Discrimination Legislation	Gender Equity	Popular Referendum	Positive	Question 3 asks whether to repeal a current law prohibiting discrimination based on gender identity. A “yes” vote would keep the law in place, while a “no” vote would repeal the law and remove protections based on gender identity.	Ensuring that the current law protecting individuals from discrimination based on gender identity remains is imperative to safeguarding the rights of all individuals regardless of their identity. The law applies to youth and adults alike and requires protections to extend to all public places, including schools, stores, and restaurants. The law is essential to protecting the right of people of all genders and gender identities to live free of discrimination.	Pass

State	Title	Topic	Type	Impact if passed	Summary	Analysis	Status
Michigan	Voting, Voter Registration, and Election Auditing Policies Initiative	Elections and Voting	Initiative	Positive	Proposal 3 would add several voting policies to the Michigan Constitution including: automatic voter registration, same-day and election-day voter registration, straight-ticket voting, and no-excuse absentee voting.	The components of Proposal 3 are designed to reduce barriers to voting, simplify the process, and encourage voter turnout. Much like Maryland's Question 2, Proposal 3 would make it easier for young people, among others, to vote as they are more likely to be first-time voters, less likely to already be registered, and more likely to be in college and require an absentee ballot.	Pass
Nebraska	Medicaid Expansion Initiative	Medicaid Expansion	Initiative	Positive	The initiative would expand Medicaid coverage in accordance with the Affordable Care Act to those under 65 with an income 138 percent or below of the federal poverty line and who are not eligible for other state medical insurance coverage.	Expanding Medicaid would increase access to health care for many low-income individuals, including young people – and especially young people of color, who are disproportionately represented among beneficiaries. In addition to increasing access to general and reproductive health care, expanding Medicaid would positively impact schooling. When young people and their parents have access to affordable and reliable health care, it increases their chances for success in school, improving attendance and academic performance.	Pass
Nevada	Automatic Voter Registration Initiative	Elections and Voting	Initiative	Positive	Question 5 would enact automatic voter registration, a system in which individuals are automatically registered to vote unless they decline.	If passed, Question 5 would reduce obstacles to voting by making it easier to register. This would particularly reduce barriers for low-income people, minorities, and young people who are more likely to be first-time voters and less likely to already be registered. The	Pass

State	Title	Topic	Type	Impact if passed	Summary	Analysis	Status
						measure is designed to encourage increased turnout, which is especially low for young people in the state of Nevada.	
Nevada	Sales Tax Exemption for Feminine Hygiene Products Measure	Gender Equity	Legislative Referendum	Positive	Question 2 would exempt menstrual care products from sales tax.	Passing Question 2 would effectively make sanitary napkins and tampons, which are a medical necessity for individuals who menstruate, less expensive. This especially benefits low-income individuals and young people, who are less likely to earn an income.	Pass
North Carolina	Photo ID Requirement to Vote Amendment	Elections and Voting	Legislative Referendum	Negative	The amendment would require voters to present a photo ID for in-person voting.	This amendment would create unnecessary hurdles in order to vote, discouraging voters and reducing turnout. This disproportionately affects racial minorities, young people, college students, those with disabilities, and the elderly, who are less likely to possess a current photo ID and face additional barriers to obtaining one. This measure comes after a similar attempt in 2013 was ruled unconstitutional as it was found to intentionally target African Americans.	Pass
Oregon	Ban Public Funds for Abortions Amendment	Abortion and Abortion Funding	Initiative	Negative	Measure 106 would prohibit public funds for abortion, providing exceptions only when medically necessary or required by federal law.	While Measure 106 does provide for exceptions in extreme cases, it would disproportionately affect low-income people seeking abortion care. The measure would go beyond blocking the procedure from being covered by Medicaid to also denying coverage for any Oregon state employee. This	Fail

State	Title	Topic	Type	Impact if passed	Summary	Analysis	Status
						restricts access among these groups to only those who can afford to pay out-of-pocket.	
South Carolina	Making the State Superintendent an Appointed Position by the Governor Amendment	Schools and Education	Legislative Referendum	Negative	Amendment 1 would make the state superintendent of education into a position appointed by the governor, rather than one elected by the people.	State superintendents have significant influence over public education throughout the entire state. In order to ensure that the superintendent is fully qualified and has a background in education, many educators and school administrators opposed this initiative so they could maintain more direct electoral control over this important office.	Fail
Utah	Medicaid Expansion Initiative	Medicaid Expansion	Initiative	Positive	The initiative would expand Medicaid coverage in accordance with the Affordable Care Act to those under 65 with an income 138 percent or below of the federal poverty line. The measure increases the sales tax from 4.70 percent to 4.85 percent to cover the state's portion of the Medicaid costs.	Expanding Medicaid would increase access to health care for many low-income individuals, including young people – and especially young people of color, who are disproportionately represented among beneficiaries. In addition to increasing access to general and reproductive health care, expanding Medicaid would positively impact schooling. When young people and their parents have access to affordable and reliable health care, it increases their chances for success in school, improving attendance and academic performance.	Pass
West Virginia	Stating There is No Right or Requirement of Funding for	Abortion and Abortion Funding	Legislative Referendum	Negative	Amendment 1 would amend the state constitution to say that "nothing in this Constitution secures or protects a right to	Amendment 1 would prevent abortion from being covered by Medicaid, most significantly impacting low-income people, people of color, immigrants,	Pass

State	Title	Topic	Type	Impact if passed	Summary	Analysis	Status
	Abortion Amendment				abortion or requires the funding of abortion."	and the LGBTQ community. Much like the measure in Alabama, Amendment 1 would also allow for significant abortion restrictions should <i>Roe v Wade</i> be overturned. This would affect anyone in West Virginia seeking abortion care, including young people, who must already overcome hurdles to obtain the procedure.	