

The SIECUS State Profiles



TEXAS

TEXAS'S SEX ED SNAPSHOT

THE STATE OF SEX EDUCATION

Advocates in Texas have diligently worked against efforts to limit sex education across the state and are gearing up for a historic opportunity to advance comprehensive sex education for young people. While the Texas legislature was not in session in 2020, the Texas State Board of Education revised the Texas Essential Knowledge and Skills (TEKS) for Health Education for the first time in **over two decades**. The Texas Freedom Network, with support from SIECUS, led the #TeachTheTruth campaign to ensure the School Board of Education took steps to advance curriculum in Texas. While efforts to repeal the state's discriminatory teaching requirements on sexual orientation and gender identity or include instruction on consent were ultimately unsuccessful, schools are now required to provide instruction on birth control methods to students in seventh and eighth grade. Right now, advocates are working on advancing the adoption of updated instructional materials following the updated requirements. Several advocates plan on working with statewide partners to support school districts in adopting the new requirements in addition to adopting advanced, more comprehensive, sex education. In light of the unsuccessful effort to include instruction on sexual orientation and gender identity within the new sex education requirements, several bills ([House Bill 1038](#), [Senate Bill 261](#), [House Bill 1037](#), [Senate Bill 129](#)) have been introduced. If successful, the bills will repeal section 21.06 of the Penal Code, which states that homosexual conduct is a criminal offense. They would also remove the requirement to teach that "homosexual conduct" is not an acceptable lifestyle and a criminal offense within sex education. Further, House Bill 1037 and Senate Bill 129 seeking to remove heteronormative language pertaining to marriage within Texas code.

In light of the coronavirus pandemic, the ability of young people to receive sex education has been severely reduced. Some districts, including ones that were advancing their sex education curriculum, have reported halting all sex education programming due to hesitations in teaching it in a virtual setting. However, advocates report some success in advancing digital advocacy efforts.

While opponents of comprehensive sex education are in the minority in Texas, their voices are often the loudest and are being carefully considered by advocates. One opponent, Texas Values, is an organization that opposes advancements in access to abortion care, LGBTQ rights, and comprehensive sex education, and has historically mobilized opposition to advocate for restrictive policies when sex education curriculum is under review by the state and Independent School Districts (ISDs). Such opposition is fueled by federal abstinence-only funding and Texas receives the highest amount of abstinence-only funding in the country.

Since Texas schools are not required to provide sex education to students, school districts are left to decide what type of sex education—if any at all—they provide to youth. Mandating local control over sex education presents unique challenges that have resulted in a glaring disparity regarding the quality of sex education that students receive. Such discretion allows for the implementation of policies and curriculum that stigmatize marginalized youth, such as students of color and LGBTQ youth, and presents further challenges in ensuring

that low income districts have access to the resources needed to implement comprehensive sex education. Students of color make up the majority of Texas public school enrollment, and these young people need sex education curriculum that is trauma informed and culturally responsive to the structural barriers to reproductive health care and education that young people of color often face. For example, the Trump administration's continuous attack on immigrant communities has caused [many undocumented immigrants](#) to avoid seeking medical care out of fear of deportation. The [closure of 82 family planning clinics](#) in Texas between 2011 and 2016 has also directly impacted the ability of low-income families and individuals to access health care services.

In addition to inaccessible health services, a lack of reliable sex education curriculum further distances youth from comprehensive sexual health care and knowledge. A [2017 report](#) by the Texas Freedom Network found that **58.3 percent of school districts took an abstinence-only approach to sex education, 16.6 percent taught abstinence-plus curriculum, and 25 percent taught no sex education at all.** Advocates report that current sex education curriculum often includes discriminatory and false information about LGBTQ people and medically inaccurate information about abortion. Some textbooks have even been [reported](#) to omit condom usage as a strategy to avoid STIs and list condom use as a high risk behavior, while using shame and fear based tactics to emphasize the value of abstinence. Updating the TEKS for Health Education and advancing sex education curriculum in Texas is essential for ensuring young people receive bias-free, medically accurate, inclusive instruction that allows them to make informed decisions about their health and future. To adequately address the needs of young people, advocates report that curriculum must be comprehensive in its approach and include instruction on contraception and STI prevention, reproductive health care, sexual orientation and gender identity, and consent and sexual violence prevention.

Some districts in Texas have taken initiative to advance sex education in their communities. In October of 2019, the Austin Independent School District unanimously voted to approve comprehensive sex education curriculum for students in grades 3-8. The vote followed a three-hour school board meeting in which about 100 community members voiced their opinion on the new comprehensive measure.

Right now, advocates can take steps to improve sex education in their community. After contacting their ISDs to determine what sex education, if any at all, is currently being taught, advocates can vocalize the need for improved curriculum and develop local support for advancing sex education requirements. Advocates can focus on ensuring curriculum is medically accurate and culturally responsive to the needs of youth of color and LGBTQ youth, or ensure topics such as consent, healthy relationships, contraceptive options, and reproductive health care are included in sex education curriculum. Advocates are encouraged to use the SIECUS [Community Action Toolkit](#) to guide local efforts to advance sex education.

STATE SEX EDUCATION POLICIES AND REQUIREMENTS AT A GLANCE

- Texas schools are not required to teach sex education.
 - If a school chooses to teach sex education, curriculum must emphasize abstinence.
- If a school chooses to teach sex education, curriculum must state that homosexuality is not an acceptable lifestyle to the general public and that it is a criminal offense under the Texas Penal Code. The United States Supreme Court handed down a decision in [Lawrence v. Texas](#) that declared state laws criminalizing homosexual behavior to be unconstitutional in 2003.
- Curriculum is not required to include instruction on consent.
- Parents or guardians may remove their children from any part of sex education instruction if it conflicts with their beliefs by submitting a written request to the teacher. [This is referred to as an "opt-out" policy.](#)
- Texas has no standard regarding medically accurate sex education instruction.

STATE HOUSE HIGHLIGHTS

This section highlights sex education bills that were introduced during the 2020 state legislative session and will be updated when Texas's 2021 legislative session convenes. These proposed bills provide a brief overview of both recent and current legislative action taken to advance or restrict sex education. For a more comprehensive look at relevant legislation concerning sex education and related topics such as reproductive health care, LGBTQ rights, and HIV/AIDS, continue reading on to the "State Legislative Activity" section of Texas's profile.

2021 Legislative Session

House Bill 1037 (pending): Aims to replace gender specific language relating to the rights and duties of spouses. Repeals section 21.06 of the Penal Code, which states that homosexual conduct is a criminal offense. Removes the requirement to teach that "homosexual conduct" is not an acceptable lifestyle and a criminal offense within sex education. [An identical, companion bill](#) was introduced in the Senate.

House Bill 1038 (pending): Aims to repeal section 21.06 of the Penal Code, which states that homosexual conduct is a criminal offense. Removes the requirement to teach that "homosexual conduct" is not an acceptable lifestyle and a criminal offense within sex education.

Senate Bill 129 (pending): Aims to replace gender specific language relating to the rights and duties of spouses. Repeals section 21.06 of the Penal Code, which states that homosexual conduct is a criminal offense. Removes the requirement to teach that "homosexual conduct" is not an acceptable lifestyle and a criminal offense within sex education.

2019 Legislative Session

House Bill 1012 (failed): Sought to require local school health advisory council to consist of five members appointed by the board of trustees. The bill would have prohibited school districts from distributing contraceptives to students and required the board of trustees to notify parents if they are considering a change to the content of a school's sex education instruction. The board would then be required to provide an opportunity for public comment. [An identical companion bill was introduced in the Senate.](#)

House Bill 2161 (failed): Sought to require schools to provide age-appropriate and medically accurate sex education. Under the bill, instruction would be required to cover human sexuality, pregnancy, STIs, abstinence as the preferred choice of behavior, the health benefits of methods approved by the FDA for preventing pregnancy, sexual harassment, and healthy relationships

House Bill 3144 (failed): Sought to require schools to provide age-appropriate and medically accurate sex education. Under the bill, instruction would be required to cover human sexuality, pregnancy, STIs, abstinence as the preferred choice of behavior, the health benefits of methods approved by the FDA for preventing pregnancy, consent, sexual harassment, and healthy relationships.

House Bill 3719 (failed): Sought to require schools to provide age-appropriate and medically accurate sex education. Under the bill, instruction would be required to cover human sexuality, affirming information on sexual orientation and gender identity, pregnancy, STIs, abstinence as the preferred choice of behavior, the health benefits of methods approved by the FDA for preventing pregnancy, consent, sexual harassment, healthy relationships, and the importance of regular gynecological exams, including pap smear screenings, and testing for STIs.

MORE ON SEX ED IN TEXAS

State Law

Neither sex education nor education on human immunodeficiency virus (HIV) and other sexually transmitted infections (STIs) are statutorily mandated in Texas. However, [Texas Education Code §7.102\(c\)\(11\)](#) requires the State Board of Education to “adopt rules to carry out the curriculum required or authorized under [§28.002](#),” which includes “health.” This means all school districts must adhere to the Texas Essential Knowledge and Skills for Health Education standards. Accordingly, [Texas Education Code §§ 28.004](#), [Texas State Board of Education Administrative Code §§ 115.22](#), [115.23](#), [115.32](#), and [115.33](#) require that all “course materials and instruction relating to human sexuality” must:

1. Present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;
2. Devote more attention to abstinence from sexual activity than to any other behavior;
3. Emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100% effective in preventing pregnancy, sexually transmitted diseases (STDs), infection with HIV or acquired immune deficiency syndrome (AIDS), and the emotional trauma associated with adolescent sexual activity;
4. Direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, STDs, and infection with HIV or AIDS; and
5. Teach contraception and condom use in terms of human-use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content.

School districts may not distribute condoms and are allowed to “separate students according to sex for instructional purposes.” Each school district must also have a local health advisory council established by the school district’s board of trustees. The council must make recommendations to the school district about changes in that district’s curriculum and “appropriate grade levels and methods of instruction for human sexuality instruction.”^[v] This council also must “assist the district in ensuring that local community values are reflected in the district’s health education instruction.”

Texas Health and Safety Code [§85.007](#) and [§163.002](#) state that course materials and instruction must “state that homosexual conduct is not an acceptable lifestyle to the general public and is a criminal offence under [Section 21.06, Penal Code](#)” a common “no promotion of homosexuality” style law. The United States Supreme Court handed down a decision in [Lawrence v. Texas](#) that declared state laws criminalizing homosexual behavior to be unconstitutional in 2003, invalidating Section 21.06 despite it remaining in Texas Code.

Parents or guardians may remove their children from any part of sex education instruction if it conflicts with their “religious or moral beliefs” by submitting a written request to the teacher. [This is referred to as an “opt-out” policy.](#)

State Standards

The [Texas Essential Knowledge and Skills for Health Education](#) includes standards for what the health curriculum should look like if provided. These standards include teaching students to “analyze the effectiveness and ineffectiveness of barrier protection and other contraceptive methods,” “analyze the importance of abstinence from sexual activity,” “summarize the facts related to HIV infection and [STDs],” and to understand “the emotional trauma associated with adolescent sexual activity.”

STATE LEGISLATIVE ACTIVITY

State legislative activity related to sex education does not take place in isolation from the broader embroiled political and policy climate. Attacks on the rights of lesbian, gay, bisexual, transgender, queer, or questioning (LGBTQ) individuals, and efforts to limit access to abortion care and other reproductive healthcare services prevent students from receiving comprehensive sex education and accessing sexual and reproductive healthcare services. Below are highlights of current legislative activity related to these topics. Texas legislative sessions occur every other year. Texas's 2021 session convenes January 12, 2021.

| TITLE | DESCRIPTION | STATUS |
|--|---|---------------|
| <u>HOUSE BILL 407</u> | PROHIBITS MENTAL HEALTH CARE PROVIDERS FROM PERFORMING CONVERSION THERAPY ON MINORS. | FILED (2021) |
| <u>HOUSE BILL 560</u> | PROHIBITS MENTAL HEALTH CARE PROVIDERS FROM PERFORMING CONVERSION THERAPY ON MINORS. | FILED (2021) |
| <u>HOUSE BILL 726</u> | PROHIBITS HEALTH CARE PROVIDERS FROM PERFORMING A MEDICAL PROCEDURE RELATED TO INTERSEX TRAITS ON A FOSTER CHILD UNLESS IT IS MEDICALLY NECESSARY AND THEY HAVE THE INFORMED CONSENT OF THE MINOR. IF IT IS MEDICALLY NECESSARY, THEY MUST OBTAIN THE INFORMED CONSENT OF THE MINOR IN ADDITION TO COURT AUTHORIZATION. | FILED (2021) |
| <u>HOUSE BILL 1037</u> | REMOVES HETERONORMATIVE LANGUAGE PERTAINING TO MARRIAGE WITHIN TEXAS CODE, REPEALS SECTION 2.06 OF THE PENAL CODE THAT STATES THAT HOMOSEXUAL CONDUCT IS A CRIMINAL OFFENSE, AND REMOVES THE REQUIREMENT TO TEACH THAT HOMOSEXUAL CONDUCT IS NOT AN ACCEPTABLE LIFESTYLE AND A CRIMINAL OFFENSE WITHIN SEX EDUCATION. | FILED (2021) |
| <u>HOUSE BILL 1165</u> | PROHIBITS ABORTION IF A FETAL HEARTBEAT IS DETECTED. | FILED (2021) |
| <u>HOUSE BILL 1038</u> | REPEALS SECTION 21.06 OF THE PENAL CODE, WHICH STATES THAT HOMOSEXUAL CONDUCT IS A CRIMINAL OFFENSE. REMOVES THE REQUIREMENT TO TEACH THAT HOMOSEXUAL CONDUCT IS NOT AN ACCEPTABLE LIFESTYLE AND A CRIMINAL OFFENSE WITHIN SEX EDUCATION. | FILED (2021) |
| <u>HOUSE BILL 1280</u> | PROHIBITS ABORTION UNLESS IN THE CASE OF A MEDICAL EMERGENCY (2021) | FILED (2021) |
| <u>HOUSE BILL 1399</u> | PROHIBITS MEDICAL PROFESSIONALS FROM ENGAGING IN CONVERSION THERAPY WITH MINORS. | FILED (2021) |
| <u>HOUSE BILL 1424</u> | PERMITS A MEDICAL PROFESSIONAL TO OBJECT TO PARTICIPATING IN ANY MEDICAL PROCEDURE THAT PROCEDURE VIOLATES THEIR ETHICAL, MORAL, OR RELIGIOUS BELIEFS | FILED (2021) |
| <u>SENATE BILL 97</u> | PROHIBITS MENTAL HEALTH PROVIDERS FROM PERFORMING CONVERSION THERAPY ON MINORS. | FILED (2021) |
| <u>SENATE BILL 129</u> | REMOVES HETERONORMATIVE LANGUAGE PERTAINING TO MARRIAGE WITHIN TEXAS CODE, REPEALS SECTION 2.06 OF | FILED (2021) |

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| | THE PENAL CODE THAT STATES THAT HOMOSEXUAL CONDUCT IS A CRIMINAL OFFENSE, AND REMOVES THE REQUIREMENT TO TEACH THAT HOMOSEXUAL CONDUCT IS NOT AN ACCEPTABLE LIFESTYLE AND A CRIMINAL OFFENSE WITHIN SEX EDUCATION. | |
| SENATE BILL 261 | REPEALS SECTION 21.06 OF THE PENAL CODE, WHICH STATES THAT HOMOSEXUAL CONDUCT IS A CRIMINAL OFFENSE. REMOVES THE REQUIREMENT TO TEACH THAT "HOMOSEXUAL CONDUCT" IS NOT AN ACCEPTABLE LIFESTYLE AND A CRIMINAL OFFENSE WITHIN SEX EDUCATION. | FILED (2021) |
| SENATE BILL 391 | PROHIBITS ABORTION UNLESS IN THE CASE OF A MEDICAL EMERGENCY. | FILED (2021) |
| SENATE BILL 442 | REQUIRES THE LOCAL SCHOOL HEALTH ADVISORY COUNCIL TO ADOPT A POLICY ESTABLISHING A PROCESS OF ADOPTING CURRICULUM FOR SEX EDUCATION. | FILED (2021) |
| SENATE BILL 536 | PERMITS PREGNANT AND RECENTLY PREGNANT MINORS 16 AND OLDER TO CONSENT TO MEDICAL CARE. | FILED (2021) |

LEGISLATIVE KEY

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|---|
| <p>SEX EDUCATION</p> <p>REPRODUCTIVE HEALTH CARE</p> <p>SEXUAL ORIENTATION AND GENDER IDENTITY</p> <p>HIV/AIDS (THAT IMPACTS YOUTH)</p> |
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YOUTH SEXUAL HEALTH DATA

Young people are more than their health behaviors and outcomes. While data can be a powerful tool to demonstrate the sex education and sexual health care needs of young people, it is important to be mindful that these behaviors and outcomes are impacted by systemic inequities present in our society that affect an individual's sexual health and well-being. To learn more about Texas's Youth Risk Behavior Survey (YRBS) results, [click here](#).

STATE SCHOOL HEALTH PROFILES DATA

In 2019, the Centers for Disease Control and Prevention (CDC) released the School Health Profiles, which measure school health policies and practices and highlight which health topics were taught in schools across the country. Since the data were collected from self-administered questionnaires completed by schools' principals and lead health education teachers, the CDC notes that one limitation of the School Health Profiles is bias toward the reporting of more positive policies and practices. In the School Health Profiles, the [CDC identifies 20 sexual health education topics](#) as critical for ensuring a young person's sexual health.

Texas did not participate in the 2016 or 2018 School Health Profiles survey.

The quality of sex education taught often reflects funding available for sex education programs.

To learn more about federal funding streams, [click here](#).