

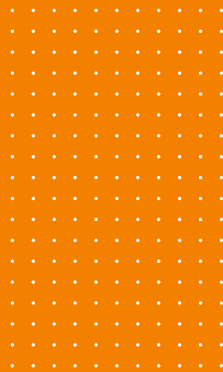
2023 State of Sex Education Legislative Look-Ahead

Updated January 2023



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PART ONE

Executive Summary



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SAM BURRISS

2022 was a year of countless attacks on the social fabric of our country, particularly at the state and local level.

Sex education, LGBTQIA+ rights, transgender rights, and racial justice advocates saw a sudden flurry of hate-based bills filed that attacked vulnerable students, public school curriculum, and libraries. In fact, SIECUS observed a **438% increase** in so-called “divisive concept” curriculum censorship legislation in 2022 as compared to 2021. Additionally, over **140** so-called “parental rights” bills were introduced in 2022 seeking to weaponize conservative litigation against public schools using fear-based tactics to misguide parents.

SIECUS observed a 438% increase in so-called “divisive concept” curriculum censorship legislation in 2022 as compared to 2021.

The spotlight on state politics was further maximized with the [Dobbs v. Jackson decision](#) of the Supreme Court which undermined the Constitutional right to abortion care and relegating the question of abortion access back to state courts and legislatures. Not surprisingly, many of the states working to limit access to abortion care are also the same ones that have the worst policies on sex education in public schools, making it more imperative than ever to work to advance pro-active reproductive health and education policies.

The 2022 midterm elections yielded many surprises by bucking historical trends nationally and creating both new opportunities and challenges at the federal, state, and local levels of governance. Unfortunately, there were races at the state and local levels where anti-public education candidates emerged victorious. These races showcase that the divide continues to widen between parts of the country embroiled with anti-Democratic misinformation campaigns attacking sex education and public education and parts of the country with pro-sex education and pro-Democracy political leadership. With the influx of hostile legislation pre-filed in several states, SIECUS anticipates the anti-sex education legislative trends from 2022 to carry over and become even more aggressive in 2023. Already, a number of states are introducing bills that seek to combine the worst of the “divisive concept” and “parental rights” bills from 2022 into even more insidious omnibus bills attacking vulnerable LGBTQIA+ youth and public school systems.





Yet, the midterm elections also showed the majority of Americans are voting to reject extremist candidates, support abortion access, and support Democracy. The midterm results highlighted that misinformation campaigns targeting LGBTQIA+ populations and sex education in state and local elections failed to persuade voters, falling short in numerous elections and resulting in an unexpected gain in pro-Democracy and pro-sex education political leadership power over two state governorships and state legislatures. There were also many historic wins for racialized people; the LGBTQIA+ community, religious minority communities, and young people, including the election of the first Gen-Z member of congress; the first two openly lesbian state governors; and the first transgender man to sit in any state legislature. These wins offer key opportunities to advance sex education at the state and local levels across the country.

At the federal level, 84 new members of Congress were elected, including the return of many champions of sex education such as Representative Barbara Lee. Unfortunately, the midterm election also resulted in a divided government with the House flipping to an anti-sex education leadership in control of the chamber and an energized extremist caucus that is likely to disrupt governance. Meanwhile, the White House and Senate remain under the leadership of pro-Democracy and

pro-sex education elected officials who will be able to prevent most harmful federal bills from moving forward. Despite the divided government, the reintroduction of [The Real Education and Access for Healthy Youth Act](#) (REAHYA) in 2023 will be a critical step in ensuring access to quality sex education and sexual and reproductive health services for young people at the federal level. Sex education advocates will need to focus on building bipartisan support for REAHYA and strengthening the endorsement of REAHYA champions. This legislation is needed to ensure all young people, especially LGBTQIA+ and racialized young people, have access to quality sexual health information and services that they deserve.

Navigating this complex sociopolitical landscape will be an arduous but necessary task for advocates working to advance sex education in the upcoming session. SIECUS believes that access to accurate and comprehensive sexual health information is not only key to improving sexual and reproductive health outcomes, but is essential for the health and well-being of young people.

As 2023 legislative sessions begin to convene, the fight to advance sex education continues. ■

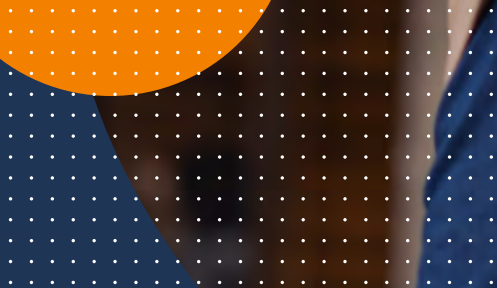
PART TWO

Introduction

As 2023 legislative sessions begin to convene, sex education advocates are preparing to both advance legislation and continue to defend against shifting opposition tactics, nation-wide.



PHOTO BY
YUSRON EL JIHAN



This past year, sex education, LGBTQAI+ rights, transgender rights, and racial justice advocates saw a sudden flurry of hate-based bills attacking vulnerable students, public school curricula, and libraries.

In fact, SIECUS observed a 438% increase in so-called “divisive concept” curriculum censorship legislation in 2022 as compared to 2021. Additionally, over 140 so-called “parental rights” bills were introduced in 2022 seeking to weaponize conservative litigation against public schools using fear-based tactics to misguide parents.

This dramatic increase in states’ legislative attacks on public school systems has historically been led by the “Regressive Minority,” as defined in the [Exposing Hate: The Truth on Attacks on our Kids, Schools, and Diversity](#) report, co-authored by SIECUS and our partners, Advocates for Youth, Human Rights Campaign, American Atheists, Ipas: Partners for Reproductive Justice, Equality Federation, and URGE: Unite for Reproductive and Gender Equity. In 2022, the collaboration between the traditional Christian Nationalist movement and other white supremacist and fascist groups led to this Regressive Minority successfully pushing various forms of attacks at the local, state, and federal levels.

The Regressive Minority hoped to leverage conservative uproar over coronavirus pandemic restrictions; the Black Lives Matter movement; the U.S. Supreme Court’s [Dobbs v. Jackson decision](#), which held that the Constitution does not confer the right to an abortion; and the “culture wars” playing out at the local level to rescind reproductive rights and the rights of LGBTQAI+ youth, as well as undermine public support for social-emotional educational programs that teach students to affirm and respect diversity in public schools. Even prior to the *Dobbs* decision, many of these hateful efforts were finding success, such as school sports bans for students who are transgender, curriculum censorship efforts, “parental bills of rights,” and social media mobilization efforts, among other strategies. Additionally, SIECUS and partnering organizations saw an increase in aggressive ground tactics propagated at the school board level, such as the disruption of meetings and an influx of school board candidates running on hate-based rhetoric.

Over 140 so-called “parental rights” bills were introduced in 2022 seeking to weaponize conservative litigation against public schools using fear-based tactics to misguide parents.





In spite of this, SIECUS believes that sex education, alongside other inclusive school programming, is critical to ensuring the health and well-being of the next generation. It is incredibly important that advocates continue to challenge the efforts of the Regressive Minority through collaboration between social movements and community mobilization, especially at the local level. Through proactive messaging strategies, coalition building, and advocating for legislation that promotes human rights, advocates can combat many of these oppositional tactics. For further guidance on how to prepare to mobilize against such efforts in your community, see the section below on [pg. 32](#) “2022 State Advocacy Tools.”

SIECUS believes that access to accurate and honest relationship and sexual health information is key to improving sexual and reproductive health outcomes. The 2022 midterm election resulted in many historic wins across the U.S., giving hope that newly elected legislators will speak up for sex education because it teaches young people respect, inclusion, and factual information—concepts the majority of Americans want for their young people (Saavedra et al, 2022). These wins include the election of 84 new federal legislators, such as the return of many champions of sex education like Representative Barbara Lee and numerous state legislators who are proponents of sexual and reproductive freedoms.

The 2022 midterm election resulted in many historic wins across the U.S., giving hope that newly elected legislators will speak up for sex education.

While the majority of Americans rejected extremist candidates, there were unfortunately many races at the federal, state, and local levels where anti-public education candidates emerged victorious. At the federal level, this has resulted in a divided government where the House has flipped to anti-sex education elected officials taking control whilst the Senate remained majority pro-sex education legislators. Navigating this complex socio-political landscape will be an arduous but necessary task for advocates working to advance sex education in the upcoming legislative session.

Despite the divided government, the reintroduction of [The Real Education and Access for Healthy Youth Act](#) in 2023 remains a critical opportunity to advance access to sex education and sexual and reproductive health services for young people. This legislation is needed to ensure all young people, especially LGBTQAI+ and racialized youth, have access to the quality sexual health information and services that they deserve. In 2023, advocates will need to focus on reinforcing the sponsorship of pro-sex education legislators, as well as gaining bipartisan support for REAHYA, which may be challenging due to political in-fighting within the House majority.

This legislative report will review the past year’s legislation since the release of [SIECUS’s State Legislative Mid-Year Report](#) and will give an overview of expected legislative trends for 2023. ■





PART THREE

State Legislative Wrap-Up



PHOTO BY
GAYATRI MALHOTRA



The 2022 Sex Ed State Legislative Mid-Year Report identified 87 bills that were introduced or carried over from the previous legislative session related to sex education.

Of these, **3** were enacted into law in **2** different states. Only **1** new law advances sex education, while **2** of the new laws restrict sex education:

In Tennessee, [HB 2557](#) was enacted, which restricts public schools or open-enrollment public charter schools from knowingly entering into transactions to assist in teaching family life with individuals or entities who perform abortions; induce abortions; provide abortion referrals; or provide funding, advocacy, or other support for abortion.

In Virginia, [HB 1023](#) was enacted, which amends the state’s family life education curricula to require the Standards of Learning to include objectives related to dating violence and the characteristics of abusive relationships to be taught at least once in middle school and at least twice in high school. The standards include high school education on the prevention of dating violence; domestic abuse; sexual harassment, including sexual harassment using electronic means; sexual violence; and human trafficking, as well as education on the law and meaning of “consent.” **[SB 656](#)** was also enacted, requiring parental notification of any instructional material that includes what is deemed to be “sexually explicit content.”





Sex Education

Since the publication of the SIECUS mid-year report, **8** more bills have been introduced in **5** different states related to sex education. Thus far, none of these have been enacted into law. Of the 8 bills, **7** are directly related to sex education, and **1** is related to sexually explicit material and parental rights.

In Massachusetts, [H 5135](#) was introduced and would require the Massachusetts House to investigate a number of education-related bills, including [H 633](#), that require sex education to be offered as a non-mandatory elective course for which parents have to provide written consent prior to enrollment.

In Michigan, [HB 6452](#) was introduced and, if enacted, would prohibit instruction in sexually-transmitted infection (STI) prevention and reproductive health earlier than 4th grade. It also would change legal language to say that sex education **MUST** stress abstinence and require a physician, registered nurse, or other state board-certified individual to supervise instruction.

In New Jersey, several bills restricting sex education were introduced. Two of these, [A4660](#) and [S3077](#), would require parental consent for all students prior to enrollment in sex education classes. If enacted, this

would shift New Jersey's sex education to an "[opt-in](#)" policy. Another bill, [A4801](#), was introduced and, if enacted, would rescind New Jersey Student Learning Standards in Comprehensive Health and Physical Education that require instruction on sexual orientation and gender identity and directs the Board of Education to develop a Parental Advisory Committee that would adopt standards for health instruction.

In Ohio, [HB 722](#) was introduced and would require public schools to adopt policies to increase parental involvement by requiring parental notification for instructional material involving "sexually explicit content." It also requires an alternative be provided if a parent objects to the material.

In South Carolina, [H 5483](#), titled "Reproductive Health Rights Act," was introduced. If enacted, this bill would expand reproductive rights and would change the definition of reproductive health education to include "age appropriate, unbiased, comprehensive, and medically accurate" while also adding that instruction on abstinence and risks associated with sexual activity outside of marriage may be encouraged and discussed but cannot be the only form of contraception instruction provided. It also changes language from "stressing importance of" to "encouraging" abstinence.

LGBTQAI+ and Trans Youth Rights

Beyond bills directly impacting sex education, SIECUS observed a devastatingly high number of school-based hate bills that were introduced by states. **4** bills have been introduced that restrict the rights of LGBTQAI+ students.

In Illinois, [SB 4213](#) was introduced and, if enacted, would require students playing on interscholastic sports teams to play on the team that aligns with their “biological gender,” which has to be the sex assigned at birth and prohibits, specifically, students of male sex assigned at birth from playing on women’s sports teams. This effectively targets transgender women from being able to play on the team that aligns with their gender identity.

In Michigan, [SR 0166/HR0349](#) were both resolutions introduced that would condemn the Michigan Department of Education’s teacher training videos on student gender orientation and reaffirm the fundamental right of parents to direct the education of their children.

In New Jersey, [S 3076](#) was introduced and titled “Child Protection and Anti-Mutilation Act.” If enacted, this legislation would prohibit the provision of gender-affirming care for minors.

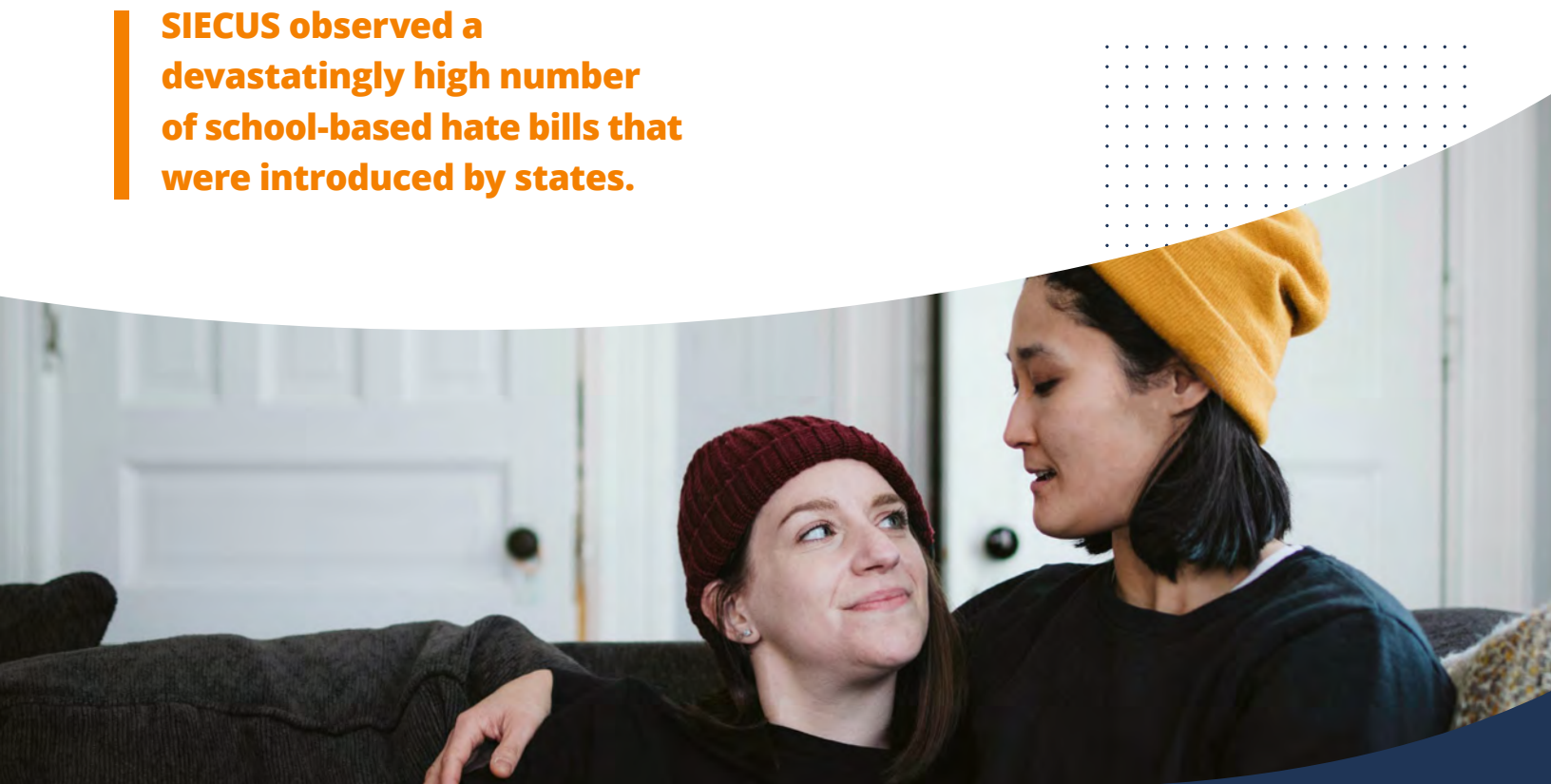
SIECUS observed a devastatingly high number of school-based hate bills that were introduced by states.

Abortion Access

SIECUS tracked **3** bills that have been introduced that would specifically impact young people’s access to abortion care. As a reminder, SIECUS tracks reproductive rights legislation only as it relates to young people. For a detailed overview on abortion state legislation, please visit our partner the Guttmacher Institute’s [State Legislative Tracker](#).

In New Jersey, [S 3167](#) was introduced. If enacted, it would prohibit school districts from displaying advertisements that promote abortion providers. In effect, this would target many reproductive health clinics including Planned Parenthood.

In South Carolina, [S 1373](#) was introduced and, if enacted, would establish numerous restrictions on abortion including making it a felony to “recruit, harbor, or transport” any pregnant minor to receive an abortion in another state.



Parental Rights

These insidious bills represented efforts from social conservatives to increase parental opposition to social equity and inclusion programs under the guise of “parental rights” in schools. These demands for “parental rights” often included the ability to object to sex education curriculum alongside instruction that involves the teaching of “divisive concepts” such as Critical Race Theory, inclusion and affirmation of LGBTQAI+ identities, or gender equity. In the midterm elections, however, many candidates running on platforms that exemplified the “parental rights” movement failed to win their races. This may indicate that in the upcoming legislative session, the opposition will shift or reframe this narrative to find a new way to spread their regressive agenda.

In the midterm elections, many candidates running on platforms that exemplified the “parental rights” movement failed to win their races.

Although the “parental rights” movement did not significantly galvanize voters, reflected by the results of the midterm elections discussed further below on [pg. 19](#), **2** more bills have been introduced this session. This is in addition to the **142** bills introduced in 2022, as documented within [SIECUS's State Legislative Mid-Year Report](#), and clearly reflects the Regressive Minority shifting their focus from strictly “parental bill of rights” legislation to pushing other frameworks focused on attacking the rights of LGBTQAI+ youth.

Honest History

Education that is grounded in racial justice and truthfully instructs on American history, similar to sex education, is necessary to create a generation of young people who are empathetic and who practice inclusion. In regards to racially informed education, **1** negative and **1** positive bill were introduced since the publication of SIECUS's State Legislative Mid-Year Report.

In Missouri, [SB 21](#) was introduced and, if enacted, would prohibit “divisive concepts” from being taught in schools. Divisive concept bills are pieces of legislation that are designed to erode the public education system and impede opportunities to create a more inclusive and affirmatively diverse society. As previously mentioned in [SIECUS's 2022 State of Sex Education Legislative Look-Ahead](#), these bills erroneously categorize instruction on the history of race and gender and discussions on racism and other forms of systemic bias as “divisive.”

In contrast, **in New Jersey, [S 3106](#)** was introduced. If enacted, this would require school districts to develop age-appropriate anti-bias instruction as a part of Comprehensive Health and Physical Education. This instruction would highlight cultural identity, diversity and inclusion, subjects such as sexual orientation and gender identity, race and ethnicity, and religious tolerance. Additionally, it would provide information on implicit biases and how to address these.



Menstrual Equity

Menstrual equity is another closely related movement to sex education as puberty and menstruation are one of many topics covered within sex education. Further, facilitating access to free menstrual products empower all young people to take care of their sexual and reproductive health while also confronting shame-based notions about natural bodily processes. **1** bill has been introduced addressing menstrual equity.

If enacted, **New Jersey's S 1221** would require school districts to provide direct access to menstrual products. Schools with students in grades 6-12 would be required to have menstrual products in at least 50 percent of female and gender-neutral school bathrooms free of charge, and the cost of menstrual products would be borne by the State.

Youth Mental Health

In a continuation of positive trends in legislation from earlier this year, **2** more bills were introduced that sought to advance mental health for young people. Mental health and sex education are inextricably tied. Sex education has the potential to improve youth mental health outcomes, and mental health education is one avenue through which some sex education can occur.

In Illinois, SB 4211 was introduced and, if enacted, would allow for schools to include in their curriculum a unit of instruction in mental health including prevention of disorders and how to access resources that are age-appropriate, if they choose.

In New Jersey, A 4587 was introduced and, if enacted, would require the development of a commission to study the mental health impacts of the COVID-19 pandemic on students in K-12 schools.

Sexual Violence Prevention

Additionally, **1** bill has been introduced that is related to abuse, assault, and violence prevention. Legislation that establishes assault and abuse prevention are important for advocates to uplift and support as these concepts are encompassed within the [National Sex Education Standards](#).

In Michigan, HB 6537 seeks to prohibit public schools from expelling, or suspending for more than 10 days, students who were sexually assaulted. ■





PART FOUR

Fiscal Year 2022: Federal Appropriations for Adolescent Sexual Health Programs



PHOTO BY
SURFACE

In March 2022, Congress passed the “[Consolidated Appropriations Act of 2022](#)” after nearly one year of deliberation. This funded the federal government’s fiscal year through September 2022.

On September 30, 2022, President Biden approved a “[continuing resolution](#)” to keep funding ongoing through December 16, 2022. The appropriations process is significantly important. Although the federal government does not fund sex education, the federal government does fund evidence-based adolescent sexual health programs, including the Personal Responsibility Education Program (PREP), Division of Adolescent School Health (DASH), and Teen Pregnancy Prevention Program (TPPP). While these programs are important, they do not require programs to meet the comprehensive curriculum standards of the [National Sex Education Standards](#).

For more information on what sex education consists of, review the call-out box under the “Strategizing Sex Ed Policy in State Legislatures” section on [pg. 31](#).

Currently, federal appropriations for fiscal year 2023 have been finalized with President Biden signing the “[Consolidated Appropriations Act of 2023](#)” on December 29, 2022. For a more comprehensive look at the FY22 final amount appropriated by Congress and the FY23 numbers for programs funding sex education, please reference the chart below.





Federal Appropriations for Sex Education Programming

Program	FY22 Final Amount	FY23 Presidential Budget	FY23 House Committee	FY23 Senate Committee	FY23 SIECUS & coalition requested	FY23 Final Amount
<p><u>Teen Pregnancy Prevention Program (TPPP)</u></p> <p>Administered by the Office of Population Affairs (OPA)</p>	\$101M	\$111M	\$130M	\$130M	\$150M	\$101M
<p><u>HIV School Health</u></p> <p>Administered by the Division of Adolescent and School Health (DASH), National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC)</p>	\$36.1M	\$34.1M	\$46.1M	\$42.1M	\$100M	\$38M
<p><u>Personal Responsibility Education Program (PREP)</u></p> <p>Administered by the Family and Youth Services Bureau (FYSB), the Administration for Children and Families (ACF)</p>	\$75M	+\$237M (mandatory)	N/A	N/A	\$400M	\$75M (extended through the FY21 Omnibus bill)
<p><u>Title V Sexual Risk Avoidance Education (Title V SRAE) Program</u></p> <p>Abstinence-Only-Until-Marriage (AOUM) State Grant Program, Administered by FYSB, ACF</p>	\$75M	\$0	\$0	\$0	\$0	\$75M (extended through the FY21 Omnibus bill)
<p><u>Sexual Risk Avoidance Education (SRAE)</u></p> <p>AOUM Competitive Grant Program Administered by FYSB, ACF</p>	\$35M	\$0	\$0	\$0	\$0	\$35M



Federal funding of PREP, TPPP, and DASH are not enough to ensure that all young people have access to advanced sex education. As the above chart illustrates, Congress also continues to fund harmful “sexual risk avoidance” education (SRAE) through the Title V Sexual Risk Avoidance Education (Title V SRAE) Program, which promotes abstinence-only-until-marriage (AOUM) education programming. Thus, it is important for advocates to support the advancement of the [Real Education and Access for Healthy Youth Act](#), which would provide grant funding to organizations, schools, and institutions that provide quality, inclusive, and shame-free sex education to young people, especially marginalized youth such as young racialized people, LGBTQAI+ youth, and youth with disabilities.

Federal funding of PREP, TPPP, and DASH are not enough to ensure that all young people have access to advanced sex education.

The introduction of REAHYA ([S. 1689/H.R. 3312](#)) by Senator Cory Booker, Senator Mazie Hirono, Representative Barbara Lee, and Representative Alma Adams in Congress in 2021 set the tone for advancing national legislation in support of sex education in K–12 schools across the country. At the time of this publication, there are 14 co-sponsors in the Senate and 87 co-sponsors in the House, the highest number of co-sponsors for positive sex education legislation ever. This increase in support has largely been attributed to the combined advocacy efforts of national sex education advocates, SIECUS, and Sex Education Policy Action Council members during the annual Sex Education on the Hill event. With increasing recognition, REAHYA has the potential to advance and fund quality evidence-based sex education programs and end investments into AOUM programs (also called “sexual risk avoidance”). REAHYA will be re-introduced in 2023 for consideration by the 118th Congress, which began its session on January 3, 2023. ■

PART FIVE

Impact of the 2022 Midterm Elections on the Sex Ed Policy Landscape

The 2022 midterm elections was a surprising event, in which a “red wave” of conservative candidates failed to win their contests and voters overwhelmingly demonstrated support for democracy and constitutional rights. It showcased more historic victories across the country for legislators representing the racialized people, the LGBTQAI+ community, religious minority communities, and young people. Numerous seats were won at the federal, state, and local levels that will impact the future of sex education.



Federal

35 of 100 Senate seats and all 470 House seats were up for election in the 2022 midterm elections. Of the seats up for election, there are many newcomers to Capitol Hill. Eighty-four seats were filled with new Members of Congress: 7 in the Senate and 77 in the House, creating a large freshman class with whom advocates can work to inform about sex education and collaborate to pass legislation that advances sexual and reproductive health rights. Unfortunately, the midterm election also resulted in a divided government with the House newly led by anti-sex education members in control of the chamber. Meanwhile, the White House and Senate remain under the leadership of pro-sex education elected officials who will be able to prevent most harmful federal bills from moving forward.

Divided government at the federal level will make it more difficult to pass progressive legislation. Moreover, a caucus of extreme right-wing legislators in the House will likely result in an increase in extreme, hate-based legislation mirroring the attacks on sex education, LGBTQIA+ communities, and public schools expected within state legislatures this year. Legislation of this nature is almost guaranteed to fail passage, as while some of these were enacted last year, the majority of them did not make it out of committee. This also offers opportunities for advocates to make compelling arguments against such hateful legislation to moderate legislators in an effort to build bipartisan support for evidence-based legislation that affirms human rights and dignity, such as REAHYA.

Divided government at the federal level will make it more difficult to pass legislation that supports young peoples' healthy development.

Senate

In addition to 28 incumbents winning re-election, 7 first-time senators will join the Senate. Newly elected leaders such as Senator-elect John Fetterman (PA), a champion of women's and LGBTQIA+ rights, and Senator-elect Peter Welch (VT), a strong supporter for young people's right to an affordable education and racial equity, create more opportunities to gain new supporters for sexual and reproductive freedom legislation. However, the election of Senator-elect Markwayne Mullin (OK), Senator-elect Tedd Budd (NC), and Senator-elect Katie Britt (AL), who all appear to oppose sexual and reproductive rights, will present a challenge to overcome in the ongoing ideological struggle for sex education legislation.

And yet, the control of the Senate now rests with a majority of elected officials who support sexual and reproductive health and rights. This—paired with the return of incumbents who co-sponsored REAHYA 2021, such as Senator Alex Padilla (CA), Senator Tammy Duckworth (IL), Senator Richard Blumenthal (CT), and Senator Chris Van Hollen (MD)—gives advocates hope that the likelihood of passing federal legislation for sex education is a possibility in the 118th Congressional session.



State & Local

At the state and local level, the mid-term election results were even more monumental and compelling. In simultaneous firsts, the first two openly lesbian governors were elected in Massachusetts and Oregon: Maura Healy and Tina Kotek, respectively. Additionally, Katy Hochul became the first woman to be elected as governor of New York. A total of 36 gubernatorial races were held in 2022.

Within the state legislatures, State Representative-elect James Roesner became the first transgender man to be elected to any state legislature. In Texas, two representatives, Salman Bhojani and Suleman Lalani, became the first Muslim state legislators after winning in their respective districts.

Further, the 2022 midterm elections shifted power in multiple states. The Minnesota Senate and Pennsylvania House both flipped to pro-sex education majorities, which will allow for increased ability for state legislators to prevent harmful legislation from passing. In Michigan, the midterm election resulted in a trifecta win with new pro-sex education majorities in both houses of the state legislature and governor's office. This immense victory could present real opportunities for progress for sex education advancement in Michigan.

Unfortunately, this will not be the case in places like Nevada, where sex education policy advocacy will face steeper challenges with the loss of the governor's office to an anti-sex education candidate, nor states like Florida and Texas, where Regressive Minority elected officials remain in power.

Additionally, at the local level, school board races were incredibly important this year. With much of the culture wars taking place at school board meetings, it is no surprise that the anti-sex education opposition attempted to take over many school boards nationwide. However, there is reason for hope that the tide is turning on these opposition tactics. Before November's elections, The 1776 PAC, a regressive minority political action group run by extremist Stephen Miller, had a 75% win rate in getting their endorsed candidates elected to school boards across the country. But in November, their win rate was just 33%, indicating a very real voter rejection of these efforts and an opportunity for local pro-sex ed organizing, even in communities where the Regressive Minority has a loud presence. ■

There is reason for hope that the tide is turning on these opposition tactics.



PART SIX

Looking Ahead to 2023



PHOTO BY
GAYATRI MALHOTRA

Federal Opportunities for Sex Education in 2023

While appropriations for fiscal year 2023 have been enacted, it will be key for advocates and policymakers to promote the reintroduction of REAHYA in 2023.

Despite REAHYA (2021) failing to pass in the 117th Congress, the momentum created by its support, resulting in 87 co-sponsors in the House and 14 co-sponsors in the Senate, clearly shows that it is popular and necessary in the coming session. It is a top priority for sex education advocates in the new year.

Until REAHYA passes, advocates will continue to work to bolster programs such as TPPP, PREP, and DASH to support existing evidenced-based sex education in Fiscal Year 2023 and continue our advocacy for the elimination of SRA funding.

Impact of *Dobbs v. Jackson Supreme Court Decision and Sex Education*

On June 24, 2022, the Supreme Court released its decision declaring that the Constitution does not protect the right to abortion care, upending five decades of precedent protecting the right to privacy over one's own reproductive health. This decision enabled the many states with "trigger bans" that essentially outlaw abortions to go into effect. As a result, abortion access has become increasingly restricted in 26 states across the United States (Centers for Reproductive Rights, 2019). A policy analysis conducted by Guttmacher Institute discovered that as many as 66 abortion providers in 15 different states had stopped providing abortion care within 100 days after *Roe* falling (Kirsten et. al, 2022).

While this in itself is troubling, when we analyze existing sex education laws, we see that many of these states, such as Arkansas and Mississippi, also mandate abstinence-only instruction. Thus, not only are young people in the state being limited in their access to necessary reproductive health care, but education that is critical to their sexual and reproductive health is also lacking.

Fortunately, the *Dobbs* decision also resulted in widespread voter activism in many states such as Michigan and Kentucky, where voters turned out in higher-than-expected numbers to protect abortion access. In Michigan, Proposal 3, a ballot measure that would amend the Michigan Constitution to add the right to abortion and protect the use of contraceptives, was approved by an over 56% majority. In Kentucky, voters successfully rejected a proposition to amend the state constitution to say that it does not protect the right to abortion. In other states such as Pennsylvania and California, governors moved to issue executive orders that offered protection for abortion providers and those who may now have to travel out of state to receive abortion care.

In this shifting landscape, it is now more important than ever that alongside the fight for enshrining reproductive rights, we continue to bolster sex education policy in these states. This will meet the gap in knowledge and health services that will result from the fall-out of the *Dobbs* decision. Unfortunately, the *Dobbs* decision has set a federal precedent for states to attack additional human rights, including access to public education and contraception, which have, until now, been considered irrevocable.



2023 State Legislative Calendar

46 state legislatures hold regular sessions annually. The other 4 states—Montana, Nevada, North Dakota, and Texas—meet in odd-numbered years. Nine state legislatures have full-time legislators, meaning that the legislature meets throughout the year. All other legislators are considered part-time as they only meet for a portion of the year. Below is the 2023 state legislative calendar.

State	Convenes	Adjourns	Notes
Alabama	Mar. 7, 2023	Jun. 8, 2023 est.	
Alaska	Jan. 17, 2023	May 16, 2024	Full-time legislature
Arizona	Jan. 9, 2023	Apr. 30, 2023	
Arkansas	Jan. 9, 2023	Mar. 10, 2023	
California	Dec. 5, 2022	Nov. 30, 2024	Full-time legislature
Colorado	Jan. 9, 2023	May 8, 2023	
Connecticut	Jan. 4, 2023	Jun. 7, 2023	
Delaware	Jan. 10, 2023	Jun. 30, 2024	
District of Columbia	Jan. 2, 2023	Dec. 31, 2023	
Florida	Mar. 7, 2023	May 5, 2023 est.	
Georgia	Jan. 9, 2023	May. 5, 2023	
Hawaii	Jan. 18, 2023	April 2, 2024	Full-time legislature
Idaho	Jan. 9, 2023	Mar. 25, 2023	
Illinois	Jan. 11, 2023	Jan. 5, 2025	Full-time legislature
Indiana	Jan. 10, 2023	Feb. 8, 2023	
Iowa	Jan. 9, 2023	May 17, 2023	
Kansas	Jan. 9, 2023	May 21, 2024	
Kentucky	Jan. 3, 2023	Mar. 30, 2023	
Louisiana	Apr. 10, 2023	Jun. 8, 2023	
Maine	Dec. 7, 2022	Jun. 21, 2023	
Maryland	Jan. 11, 2023	Apr. 10, 2023	
Massachusetts	Jan. 3, 2023	Dec. 31, 2024	Full-time legislature
Michigan	Jan. 11, 2023	Dec. 31, 2024	Full-time legislature
Minnesota	Jan. 3, 2023	May 22, 2024 est.	



State	Convenes	Adjourns	Notes
Mississippi	Jan. 3, 2023	Apr. 3, 2023	
Missouri	Jan. 4, 2023	May 30, 2023	
Montana	Jan. 2, 2023	Apr. 25, 2023	
Nebraska	Jan. 4, 2023	Jun. 9, 2023	
Nevada	Feb. 6, 2023	Jun. 5, 2023	
New Hampshire	Jan. 4, 2023	Jun. 30, 2023	
New Jersey	Jan. 11, 2022	Jan. 9, 2024	
New Mexico	Jan. 17, 2023	Mar. 18, 2023	
New York	Jan. 4, 2023	Jan. 2, 2025	Full-time legislature
North Carolina	Jan. 11, 2023	Jun. 30, 2024	
North Dakota	Jan. 3, 2023	Apr. 28, 2023	
Ohio	Jan. 2, 2023	Dec. 31, 2024	Full-time legislature
Oklahoma	Feb. 6, 2023	May 26, 2023	
Oregon	Jan. 17, 2023	Jun. 17, 2023	
Pennsylvania	Jan. 3, 2023	Nov. 30, 2024	Full-time legislature
Puerto Rico	Jan. 11, 2021	Dec. 31, 2024	
Rhode Island	Jan. 3, 2023	Jun. 30, 2023	
South Carolina	Jan. 10, 2023	Jun. 30, 2024	
South Dakota	Jan. 10, 2023	Mar. 27, 2023	
Tennessee	Jan. 10, 2023	Apr. 26, 2024	
Texas	Jan. 10, 2023	May 29, 2023	
Utah	Jan. 17, 2023	Mar. 3, 2023	
Vermont	Jan. 4, 2023	May 9, 2023	
Virginia	Jan. 11, 2023	Feb. 11, 2023	
Virgin Islands	Jan. 9, 2023	Dec. 31, 2024	Full-time legislature
Washington	Jan. 9, 2023	Apr. 29, 2023	
West Virginia	Jan. 11, 2023	Mar. 11, 2023	
Wisconsin	Jan. 3, 2023	Dec. 31, 2024	Full-time legislature
Wyoming	Jan. 10, 2023	Mar. 10, 2023	

State Legislation to Look Out For in 2023

Each legislative cycle, SIECUS monitors proposed legislation on a variety of topics that may impact both education of and access to sexual and reproductive health and services. In addition, SIECUS tracks legislative trends at the intersection of sex education and issues of reproductive and racial justice, LGBTQ+ rights, and gender-based violence.

As discussed above, in 2022, SIECUS tracked an 438% increase in “divisive concept” bills and the introduction of 144 “parental rights” bills. In 2023, SIECUS anticipates a doubling down of these attacks on sex education and other forms of inclusive and affirming public education through “monster” bills or omnibus bills that piece together many restrictive and hateful policies targeted at the education and healthcare system. An example of such legislation is Missouri [Senate Bill 22](#) (2022). This bill, if enacted, would prohibit instruction on “divisive concepts,” institute a “parental bill of rights,” prohibit gender affirming care, and prohibit student athletes who are transgender from playing interscholastic sports on the teams that align with their gender identity.

Similar to this, SIECUS expects to see a rise in both bills attacking transgender young people’s rights, such as the aforementioned bill, and an increase in counter-measures, including bills seeking to enshrine protections for students who are transgender in the education system, such as Texas [House Bill 851](#).

In addition to “parental rights” bills, the opposition’s strategy of restricting sex education in elementary school grade levels such as kindergarten through third grade, or kindergarten through fifth grade, will likely continue. This strategy, popularized by Florida’s [House Bill 1557](#), otherwise known as the “Don’t Say Gay” bill, which targets “primary grade levels,” has appeared in recently introduced legislation in Michigan ([HB 6452](#)). This has been attributed “young kids” narrative in efforts to stigmatize and misinform the public about age-appropriate instruction on sexual orientation, gender identity, and reproductive health overall.

Ultimately, these efforts are all implicated in preventing young people from learning content that helps them make healthy, informed decisions and from building community with others around them. The following bills, which may either limit or advance the aforementioned issues, exemplify the trends SIECUS has identified coming into the 2023 legislative session. While not an exhaustive list of all monitored legislation, this includes bills that have been pre-filed ahead of the upcoming state legislative sessions.

These efforts are all implicated in preventing young people from learning content that helps them make healthy, informed decisions and from building community with others around them.

Abortion

In Texas, [HB 776](#) was introduced by State Representative Brian Harrison. If enacted, this bill would prohibit the provision of both abortion care and gender-affirming care to minors.

Bullying and Harassment

In Texas, [HB 498](#) was introduced by State Representative Thresa Meza. If enacted, this legislation would add to existing law that bullying and harassment can also occur on the basis of one's perceived identity, such as sexual orientation and gender identity.

LGBTQAI+ Rights

In California, [AB 5](#) was introduced by Assembly Member Rick Zbur. If enacted, it would establish the legislative intent to create the "The Safe and Supportive Schools Program," which would ensure that teachers get tools and training to support LGBTQAI+ pupils and that schools are safe and supportive for all pupils, teachers, and other employees.

In South Carolina, both [S 243](#), filed by State Senator Josh Kimbrell, and [S 274](#) pre-filed by State Senator Daniel Byron Verdin III, would prohibit the provision of, or outright ban of, gender-affirming medical care for minors. Copy-cat legislation in Tennessee, [SB 0001](#), filed by State Senator Matt Walsh, and SB 0005 pre-filed by State Senator Janice Bowling, would do the same. [SB 0005](#) is called the "Youth Health Protection Act," a misnomer for a law that seeks to prohibit the provision of gender-affirming medical care for youth.

In Virginia, both [HB 1387](#) and [HB 1399](#) seek to prohibit student athletes who were assigned male at birth from participating on school women's sports teams, targeting transgender girl athletes.

Mental Health

In Texas, [SB 113](#) and [HB 98](#) were introduced. If enacted, it would allow for school districts to provide on-campus mental health services in conjunction with the local mental health authority and also provides for Medicaid reimbursement for eligible students.

Parental Rights & Curriculum Censorship

In Virginia, [SB 787](#) was introduced by State Senator William DeSteph Jr. and, if enacted, it would require local school boards to develop policies for review of audiovisual materials that are available in libraries, especially those that have sexual content.

Religious Liberty

In Texas, [HB 319](#) was introduced by State Representative Tom Oliverson. If enacted, this bill would allow for physicians to deny medical care to patients due to rights of conscience.

Racial Equity

In South Carolina, [S 246](#) was introduced by State Senator Josh Kimbrell. If enacted, this bill would prohibit instruction of "Critical Race Theory" and "divisive concepts" in schools. These concepts include that "no person is inherently racist, sexist, or oppressive, whether consciously or unconsciously, solely by virtue of the individual's race or gender" and "a person, by virtue of his race or gender, does not bear personal responsibility for actions committed in the past by other members of the same race or gender."



Sex Education

In South Carolina, [S 234](#) was introduced by State Senator Dwight Loftis. If enacted, this bill would require public schools to create procedures for a parent to withdraw his or her child from any portion of sex education. Parents must be notified at least seven days in advance of sex education, including for any curriculum that has the goal or purpose of “studying, exploring, or informing students about gender roles or stereotypes, gender identity, gender expression, sexual orientation, or romantic or sexual relationships.” Additionally, [S 29](#) was introduced by State Senator Charles Hutto and, if enacted, would

re-define reproductive health education as age appropriate, unbiased, comprehensive, and medically accurate instruction. It would shift language to require that abstinence may be encouraged but may not be the only/primary method discussed of prevention of pregnancy and sexually transmitted diseases.

In Washington, [SB 5009](#) was introduced and, if enacted, would require sex education to become “opt-in,” requiring that parents sign their consent prior to their child’s enrollment into sex education classes.

A Closer Look at Regressive Pre-file Legislation in Texas

Ahead of the 2023 legislative session, lawmakers began to pre-file several pieces of harmful legislation in Texas. Thus far, **5** bills have been introduced targeting the rights of LGBTQAI+ youth through medical care bans and transgender sports bans. These bills include legislation like [HB 122](#), introduced by State Representative Steven Toth, that seeks to establish criminal penalties for healthcare professionals providing gender-affirming care to minors. It also includes novel framework such as [SB 249](#), which would categorize gender affirming care as “genital mutilation” and would penalize interstate travel for any gender-affirming procedures for minors.

Additionally, **3** bills have been prefiled that would limit vital health data collection on young people, prohibit instruction on gender identity and sexual orientation, and restrict library books under the guise of “parental rights.” An example of such legislation includes [SB 165](#), introduced by State Senator Donna Campbell, which seeks to require written parental consent prior to “social or psychological experiments” measuring attitudes, behavior, and knowledge, such as the Youth Risk Behavior Survey. It would also require parental consent prior to showing the child any “violence or sexual content” as part of an instructional curriculum, with the intended effect to restrict sex education.

Contrastingly, lawmakers have also prefiled proactive legislation such as [SB 111](#), [SB 82](#), and [SB 81](#) which, if enacted, would remove antiquated criminal penalties still in the Texas Penal Code for same-sex relationships. These **3** bills add to a total of **6** prefiled bills introduced as of December 2022 that would seek to protect the health of LGBTQAI+ young people in Texas.

Lastly, in response to the increase in bills targeting racially informed, U.S. history instruction in the past year, [HB 97](#) was prefiled by State Representative Diego Bernal and, if enacted, would remove a previously enacted ban on “divisive concepts” and restrictions on teachers.

Strategizing Sex Education Policy in State Legislatures

Despite the past year's attacks on sex education and public schools, advocates and policymakers hope to advance legislation that will advance sex education, especially in the current post-Dobbs landscape. This is supported by the results of the 2022 midterm election, which saw numerous pro-sex education state lawmakers emerge victorious.

If/Then Policies vs Sex Education Mandates

When considering what type of sex education policy to introduce in the upcoming legislative session, states can utilize two different approaches for implementing sex education curricula in schools.





The first approach is an “if/then” policy. This entails that IF schools are already teaching sex education or begin to offer sex education at their schools, THEN they must teach quality, medically accurate, and stigma-free sex education that includes concepts that may be outlined in or be aligned with the [National Sex Education Standards](#). The limitation of this approach is that it creates disparities within the state. Some school districts will adopt the new curriculum while others will opt-out, leading to young people’s access to quality sex education being dependent on where they live and even which school they attend.

The second approach is a state mandate. This would be a law that requires all schools to teach sex education and that sex education must fulfill all the parameters of quality sex education, as mentioned below. This policy will ensure that all young people in a state have access to advanced sex education, regardless of their zip code.

SIECUS provides technical assistance to states interested in advancing sex education policies in their own state or community. For more information on model legislation and examples of policies that can advance sex education, contact Alison Macklin, Director of Policy and Advocacy at SIECUS, at amacklin@siecus.org.

An Overview of Sex Education:

According to the [National Sex Education Standards \(NSES\)](#), the most effective sex education programs begin in kindergarten and continue through 12th grade using age-appropriate, medically accurate, evidence-based, trauma-informed, and culturally responsive curriculum. Further, instruction should incorporate discussion of sexual assault and violence prevention, mental health, sexual behavior, sexual orientation, gender identity, race and ethnicity, and the impact of media and societal norms on individuals.

Sex education programs cover:

- Human development and anatomy;
- Sexual and reproductive health throughout the lifespan (including puberty, abstinence, STIs, contraception, miscarriages, abortion, and pregnancy outcomes)
- Healthy relationships (including families, peer friendships, romantic relationships and dating, and sexual violence prevention)
- Personal skills (including communication, negotiation, personal safety, navigating refusals & consent, and decision-making)

Researchers have demonstrated that sex education programs that follow the NSES guidance results in important behavior & attitude benefits. Curricula that are inclusive of sexual orientations, gender identities, and expressions reduce bullying and harassment and create safer school environments for all students. Safe and affirming school climates is related to improved mental and sexual health outcomes for youth, leading to better academic performance.

2022 State Advocacy Tools

As states resume their legislative sessions, advocates may face unique challenges in advancing legislation surrounding sex education, access to health services, and other intersecting issues. Similarly, there will be many opportunities to advance our mission of sex education for social change.

The following tools may be utilized to advance sex education and other intersecting policies in your community and state.

Defending Access to Inclusive and Affirming Education is SIECUS’s policy brief explaining the rise of the Regressive Minority and their opposition to sex education and factual instruction on race, class, and gender, which is represented in the legislation that the movement propagates. For a more comprehensive overview of the Regressive Minority players and the strategies they deploy, check out [Exposing Hate: The Truth about Attacks on Our Kids, Schools, and Diversity.](#)

Community Action Toolkit provides advocates with a guide on how to build support for advanced sex education in their communities, help implement policies, and promote effective and evidence-based sex education programs that affirm young people’s right to education that empowers them to make healthy choices for oneself. This toolkit can be used by parents, teachers, students, health professionals, community or faith leaders, and anyone who is pushing for sex education reform.



The Model Sex Ed Legislation is a framework developed by SIECUS and partners such as Advocates for Youth, the American Civil Liberties Union (ACLU), and Planned Parenthood Federation of America. This model policy assists policy makers in constructing policies that establish or amend comprehensive sex education for youth in schools. Further, SIECUS is also strategizing alternative policy advancement strategies that will also ultimately advance sex education. For more information regarding the model Healthy Youth Act, please contact Alison Macklin, Policy and Advocacy Director, at amacklin@siecus.org.

National Standards for Sex Education, most recently updated in 2020, was developed by the Future of Sex Education (FoSE) initiative—comprised of Advocates for Youth, Answer, and SIECUS: Sex Ed for Social Change. This resource can help guide advocates considering sex education curricula to implement in their local schools and community centers. The goal of this publication is to provide clear, consistent, and straightforward guidance on the essential, minimum, core content, and skills needed for sex education to be effective for K-12 students. More specifically, the National Standards for Sex Education addresses the inconsistent implementation of sex education across the country and the lack of time allotted to such curriculum. This resource serves as a means of helping educators improve existing sex education curriculum.

Professional Learning Standards for Sex Education (PLSSE) is a toolkit that provides guidance to school administrators and classroom educators about the content, skills, and professional disposition needed to implement sex education effectively. The PLSSE can help educators stay up-to-date on content and teaching methods, as both information related to sex and research on best practices are frequently changing.

Using Outside Speakers to Provide Sex Education

is a tool for school administrators and educators to screen external instructors to protect against the accidental use of abstinence-only instructors hiding behind a “sexual risk avoidance” facade.

So You Want to Speak Up for Sex Ed Guide

, created by EducateUs, SIECUS’s 501c4 sister organization, provides a manual for parents and caregivers on how to show their support for comprehensive sex education at school board meetings, public hearings, and on other platforms.

Messages that Move Action for Sex Education

, also created by EducateUs, is designed to provide research-informed messaging strategies that are effective at mobilizing people into sex education advocacy.

SIECUS can provide technical assistance to interested organizations and parties in regards to policy and sex education advocacy on local, state, and national levels. In addition, individuals and organizations can join the [Sex Education Policy Action Council](#) (for more information, see below), a network of like-minded advocates working to advance sex education policies in their own states and communities.

Contact Us! →



Sex Education Policy Action Council

SIECUS's Sex Education Policy Action Council (SEPAC) is a membership-based council made up of advocates representing 34 states in every region nationwide. SEPAC is a movement of state and local advocates committed to, and actively working toward, advancing comprehensive sex education at the local, state, and federal levels. SEPAC fosters a community of like-minded individuals working together through research, advocacy, and implementation to advance sex education that's responsive to the unique needs of each region and state.

Members of SEPAC help shape a common narrative to advance comprehensive sex education policy, engage with policymakers seeking to advance and pass sex education legislation, educate federal congressional members on the need for comprehensive sex education, and create a model for expanding comprehensive sex education policy across the country. SEPAC is overseen by SIECUS's State Policy Action Manager, Miranda Estes, whom you can reach at mestes@siecus.org for further information on joining or any other questions/comments.

EducateUS: SIECUS In Action for 2023

[EducateUS](#) is SIECUS's 501(c)4 partner organization, focused on building a movement of pro-sex-education voters, candidates, and elected officials.

In 2022, EducateUS conducted first-of-its-kind research into which sorts of messages are most effective at moving people to go beyond passively supporting sex and relationships education and into effective advocacy and action. [You can read the full report on their findings here](#)—we encourage everyone to integrate these insights into all of your communications in 2023.

In 2023, EducateUS will focus close attention on school boards in key states, both by tracking and mounting effective responses to opposition attacks on sex education at the school board level, and by organizing to elect sex education champions to serve on these key bodies. To learn more and get involved, visit educateusaction.org. ■



PART SEVEN

Conclusion



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JD CHOW



While 2023 will be a year where advocates continue to defend against hateful attacks on sex education, there will be many opportunities to be on the offense and promote progressive legislation that improves access to quality sex education for young people.

With increasing partnerships and outreach to organizations outside the fold of sex education and reproductive health, SIECUS continues to work diligently to ensure we are at the forefront of the fight for a future where all young people, regardless of who they are or where they live, may benefit from sex education where they see themselves represented and affirmed.

Through targeted policy tracking and advocacy for sex education at the local, state, and federal levels, we are getting closer to making sex education for all young people a reality and eliminating long-standing barriers in access to this information, care, and education for their ultimate health and well-being. ■

For additional assistance with advancing sex education in your community during the 2023 legislative session, please contact the team at SIECUS by emailing info@siecus.org.

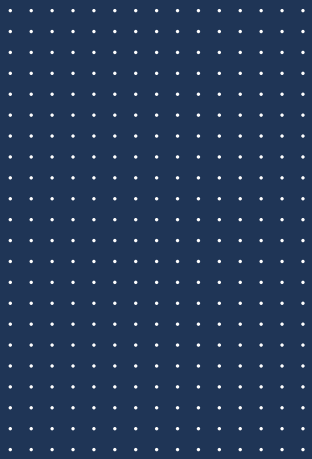


PART EIGHT

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