

Your Question:

You requested information on state policies enacted in recent years regarding sex education in public schools.

Our Response:

Sex education requirements can be an important, multifaceted and potentially controversial component of curriculum considerations for education policymakers. Below we first provide an overview of current sex education state laws, then provide examples of trends in recent enacted state legislation regarding consent, parent notification/involvement, restrictions on sex education and other related bills.

Current Sex Education Laws

According to the [Guttmacher Institute](#), 29 states and the District of Columbia mandate some form of sex education. ECS does not endorse or oppose positions taken by this organization, but the information they provide on existing state policy, as summarized below, may be useful.

- When provided, sex education is often required by law to have certain characteristics. It must be **age appropriate** in 24 states and the District of Columbia, **medically accurate** in 16 states, **culturally appropriate and unbiased** in 10 states and the education **cannot promote religion** in four states.
- Parental involvement in determining whether students receive sex education is often incorporated into law as well. Thirty-one states and the District of Columbia require that parents have the opportunity to **opt their children out** of sex education, 24 states and the District of Columbia require **parents be given notice** about the education, and five states **require parent consent** for their children to receive sex education.
- Education about sex can also incorporate other important concepts. In 37 states and the District of Columbia, sex education must contain information on **dating and sexual violence prevention**, 31 states and the District of Columbia must include information on **healthy relationships**, 27 states and the District of Columbia must incorporate education on **sexual decision-making and self-discipline**, 24 states and the District of Columbia require teaching **refusal skills and personal boundaries**, and 11 states and the District of Columbia require sex education include information on **consent**.

Recent Sex Education Legislation

Consent

Colorado — [H.B. 19-1032](#) (2019) defined consent as the affirmative, unambiguous, voluntary, continuous, knowing agreement between all participants in each physical act within the course of a sexual encounter or interpersonal relationship. The bill added several content requirements for public schools that offer sex education, including how to communicate consent, recognize the communication of consent, recognize the withdrawal of consent and how to avoid pursuing a sexual encounter with a person who has not provided consent.

Delaware — [S.B. 78](#) (2019) created a definition of consent, and required school districts and charter schools serving grades seven through 12 to provide age- and developmentally-appropriate, evidence-informed instruction on the meaning of consent and respecting others’ personal boundaries. The bill also created reporting requirements on the implementation of this requirement for districts, charter schools and the department of education.

New Jersey — [A 2190](#) (2019) required school districts to incorporate age-appropriate instruction on consent for physical contact and sexual activity in grades six through 12. The bill also required the commissioner of education to provide school districts with age-appropriate sample learning activities and resources on consent.

Oklahoma — [S.B. 926](#) (2019) required that curriculum, materials, classes, programs, tests, surveys or questionnaires used to teach, or in connection with, a sex education class or program include information about consent.

Parent Notification/Involvement

Florida — [H.B. 545](#) (2021) required districts to notify parents of public school students of their right to exempt their child from the teaching of reproductive health or any illnesses. Districts must post information online on how to request exemption and view instructional materials used. School boards must annually approve all instructional materials used to teach reproductive health or illnesses topics in an open public meeting with a process for public review and comment.

Montana — [S.B. 99](#) (2021) allows a parent or guardian to withdraw a student from instruction or an organized school function regarding human sexuality instruction and classifies the withdrawal as an excused absence. The bill also requires parents and guardians to be notified prior to such instruction or the holding of an event introducing such materials for instructional use. Districts must also make such materials available for public inspection, among other requirements.

Texas — [H.B. 1525](#) (2021) required the board of trustees to adopt a policy establishing a process for approving curriculum materials for the district’s human sexuality instruction, and outlines requirements for the policy. The bill also required curriculum materials adopted for the school district’s human sexuality instruction to be made available to parents and/or the public. Materials must be based on the advice of the local school health advisory council, suitable for the intended subject and grade level and reviewed by academic experts before being adopted.

Prohibiting Certain Instruction

Alabama — [H.B. 322](#) (2022) prohibits individuals or groups providing instruction to students in kindergarten through grade five from providing instruction or engaging in classroom discussion on sexual orientation or gender identity in a manner that is not considered age appropriate or developmentally appropriate for students according to state standards.

Utah — [H.B. 71](#) (2019) requires that the state board make rules regarding health instruction that prohibit instruction in the intricacies of intercourse, the advocacy of pre- or extramarital sexual activity, or the advocacy or the encouragement of the use of contraceptive methods or devices. The bill allows instruction to include information about contraceptive methods or devices that stresses effectiveness, limitations, risks and information on state law applicable to minors obtaining contraceptive methods. Requires the state board make rules for a district governing board that adopts instructional materials recommended by the board. Prohibits the state board from requiring districts to teach or adopt instructional materials that include information on contraceptive methods or devices.

Other

Illinois — [H.B. 24](#) (2021) defines "sexting" and requires course material and instruction in sex education classes to include an age-appropriate discussion about sexting. The bill also outlines areas of exploration that must be included in this discussion.

Rhode Island — [S.B. 796](#) (2021) amends the definition of "dating violence" to include abusive or coercive behaviors used to exert power over a current or former dating partner and expands the definition to include behaviors that happen online, in person or through the use of technology. The amended definition also lists the different types of abuse. This definition applies to the state's dating violence education, which is required in health curriculum for students in grades seven through 12. The bill also requires school districts to collect data on student misconduct that is considered dating violence and include this data in their annual discipline data report submitted to the department of education.

Virginia — [H.B. 1023](#) (2022) requires family life education curriculum in kindergarten through grade 12 to include age-appropriate instruction on the human trafficking of children.

Washington — [S.B. 5395](#) (2020) requires every public school to provide comprehensive sexual health education that is consistent with the Washington state health and physical education K-12 learning standards, including curriculum related to affirmative consent and bystander training. Defines the following terms: affirmative consent, comprehensive sexual health education, and medically and scientifically accurate.

Additional ECS Resources

The [State Education Policy Tracking Tool](#) provides summaries of all enacted and vetoed bills from 2020-2022. Sex Education bills can be found under "curriculum." Education Commission of the States also has an [archive of related bills](#) dating back to 1996.

[Student Health and Wellness Key Issues Page](#) contains links to recent ECS publications related to student health and wellness.

[Blog: State Approaches to Teach Consent in Health Education Classrooms](#) highlights state legislation regarding instruction on consent.

[Recent State Action in Recognition of LGBT History Month](#) summarizes various pieces of legislation related to LGBTQIA+ students, including curriculum inclusions and prohibitions.