



8-2020

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Recommended Citation

Herman, Brittney (2020) "Sexual Education as a Form of Sexual Assault Prevention: A Survey of Sexual Education Among States with the Highest and Lowest Rates of Rape," *BYU Education & Law Journal*: Vol. 2020 : Iss. 1 , Article 5.

Available at: https://scholarsarchive.byu.edu/byu_elj/vol2020/iss1/5

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Sexual Education as a Form of Sexual Assault Prevention: A Survey of Sexual Education Among States with the Highest and Lowest Rates of Rape

Brittney Herman

INTRODUCTION

Our Nation overwhelmingly supports sexual education in public schools.¹ A study by Siecus found that 98% of people surveyed support sexual education in public high schools and 89% in public middle schools.² Unfortunately for some students, they will receive no sexual education of very limited, ineffective sexual education, simply because of where they live.³ Even if a student is fortunate to live in an area which has or requires sexual education, this education may be insufficient.⁴

There have been countless advocates for sexual education.⁵ With the rise of each new sexual education concern, advocates emerge as if in waves. Most recently the sexual education debate examines whether to include curriculum regarding varying sexual preferences.⁶

¹ Zach Eisenstein, *Survey says (again): People overwhelmingly support sex ed*, SIECUS-NEWS AND UPDATES (2019), <https://siecus.org/survey-says-people-support-sex-ed/>.

² *Id.*

³ Planned Parenthood, *What's the State of Sex Education in the U.S.?*, FOR EDUCATORS (2019), <https://www.plannedparenthood.org/learn/for-educators/whats-state-sex-education-us>.

⁴ *Id.*

⁵ See Collin Rosenbaum, *The Pornography Public Health Crisis: Using a Holistic Approach to Protect Citizen's Welfare*, 26 ANN. HEALTH L. ADVANCE DIRECTIVE 104, 104, (2017) (arguing in part that improved sexual education would reduce use of pornography among young adults); Erica Woebse, *Eating Hot Peppers to Avoid HIV/AIDS: New Challenges to Failing Abstinence-Only Programs*, 20 Wm. & Mary J. of Women & L. 709, 716 (2014) (stating issues regarding to abstinence-only education and advocating for the evolution of such education); James McGrath, *Abstinence-Only Adolescent Education: Ineffective, Unpopular, and Unconstitutional*, 38 U.S.F. L. REV. 665, 671 (2004) (arguing that abstinence-only education is not an appropriate choice for public education).

⁶ See, e.g., Sarahh Camille Conrey, *Hey, What About Me?: Why Sexual Education Classes Shouldn't Keep Ignoring LGBTQ Students*, 23 HASTINGS WOMEN'S L.J. 85 (2012).

In the early 2000's, the concern was teen pregnancy.⁷ The 1990's held the question of whether there should be sexual education programs in public schools.⁸ The hot topic of the 1980' was raising awareness of STDs and HIV's.⁹

Today, there is a nation-wide sexual assault crisis.¹⁰ One study indicates that one in five women will be sexually assaulted.¹¹ The #MeToo movement has brought attention to this epidemic. I posit that public education curriculum on health and sexual education plays or could potentially play a huge role in these numbers. This subject has not been widely discussed, and this paper is the first which will survey the sexual education standards specifically in those states which have the highest or lowest rate of rape. The goal of this paper is to simply display those concepts used by the top five states and the lowest five states so policymakers may observe these policies and decide what they would like to try for their state. The goal of this essay is not to conduct a national survey of every state, but rather examine general sexual education concepts used by those states with the five highest and five lowest rates of rape for policy consideration.

In Part One of this article I will briefly examine the data regarding the rates of rape in various states, which will be the states I use in Part Two. In Part Two I will examine the National Health Education Standards as well as the states analyzed in Part One. Finally, in Part Three, I will examine additional factors which could contribute to the rates of rape in various states. In addition to the sexual education standards, other factors will be discussed which may also affect the rate of rape in a state.

⁷ Rebecca Wind, *Following Decade-Long Decline, U.S. Teen Pregnancy Rate Increases as Both Birth and Abortions Rise*, GUTTMACHER INSTITUTE- NEWS RELEASE (Jan. 26, 2010), <https://www.guttmacher.org/news-release/2010/following-decade-long-decline-us-teen-pregnancy-rate-increases-both-births-and>

⁸ https://www.plannedparenthood.org/uploads/filer_public/da/67/da67fd5d-631d-438a-85e8-a446d90fd1e3/20170209_sexed_d04_1.pdf

⁹ Michael Reiss, *A Brief History of Sex Education*, HEALTH, SPORTS, & PSYCHOLOGY (Sept. 16th, 2005), <https://www.open.edu/openlearn/body-mind/health/health-studies/brief-history-sex-education>.

¹⁰ National Sexual Violence Resource Center, *Statistics About Sexual Violence*, NATIONAL SEXUAL VIOLENCE RESOURCE CENTER: INFO & STATS FOR JOURNALISTS (2015) https://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media-packet_statistics-about-sexual-violence_0.pdf.

¹¹ *Id.* It is critical however, to note that this study relies only on the reported assaults. In my nuclear family of five women, only one woman has not been sexually assaulted (that I know of), and I have been the only one of the four women assaulted to officially report the incident to law enforcement.

I. RATES OF RAPE AMONG STATES

The following graph uses FBI crime reporting statistics in order to determine which states experience the highest rate of rapes per 100,000 people. Rape was chosen as it is the most extreme form of sexual assault, and as the FBI has multiple definitions of sexual assault and only one definition of rape.¹²

The states chosen for this study are; Alaska, Michigan, South Dakota, Colorado, Arkansas, Maryland, North Carolina, Georgia, Connecticut, and New Jersey. These states were chosen because they are the states with the five highest and five lowest rates of rape per 100,000 people.¹³ The middle black line on the graph is a representation of the national average rate of rape over time. All of the aforementioned states are consistently very distant from the national average, however, those states with the lower rate of rape are increasing in distance from that national average with fewer and fewer rapes per 100,000 people.¹⁴ Alaska is also moving further away from the average, but Alaska's rate of rape is significantly increasing. The states with the highest rate of rape in 2017 are, from highest to lowest, Alaska, Michigan, South Dakota, Colorado, and Arkansas.¹⁵ The states with the lowest rate are, again from highest to lowest, Maryland, North Carolina, Georgia, Connecticut, and New Jersey.¹⁶

These therefore are the states which will be examined below regarding their sexual education standards. While the states with the highest and lowest rates of rape vary over time, these are states which have most consistently held spots in the top or bottom five rates of rape.¹⁷

II. STATE EDUCATION STANDARDS

¹² Federal Bureau of Investigation, Law Enforcement Support Section, Crime Statistics Management Unit, *Reporting Rape in 2013 Revised*, CRIMINAL JUSTICE INFORMATION SERVICES DIVISION (Apr. 9. 2014), <https://ucr.fbi.gov/recent-program-updates/reporting-rape-in-2013-revised>; Bureau of Justice Statistics, *Rape and Sexual Assault*, VIOLENT CRIME, [HTTPS://WWW.BJS.GOV/INDEX.CFM?TY=TP&TID=317](https://www.bjs.gov/index.cfm?ty=TP&tid=317).

¹³ The information from which these rates of rape were found is available for various years at <https://ucr.fbi.gov/crime-in-the-u.s>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

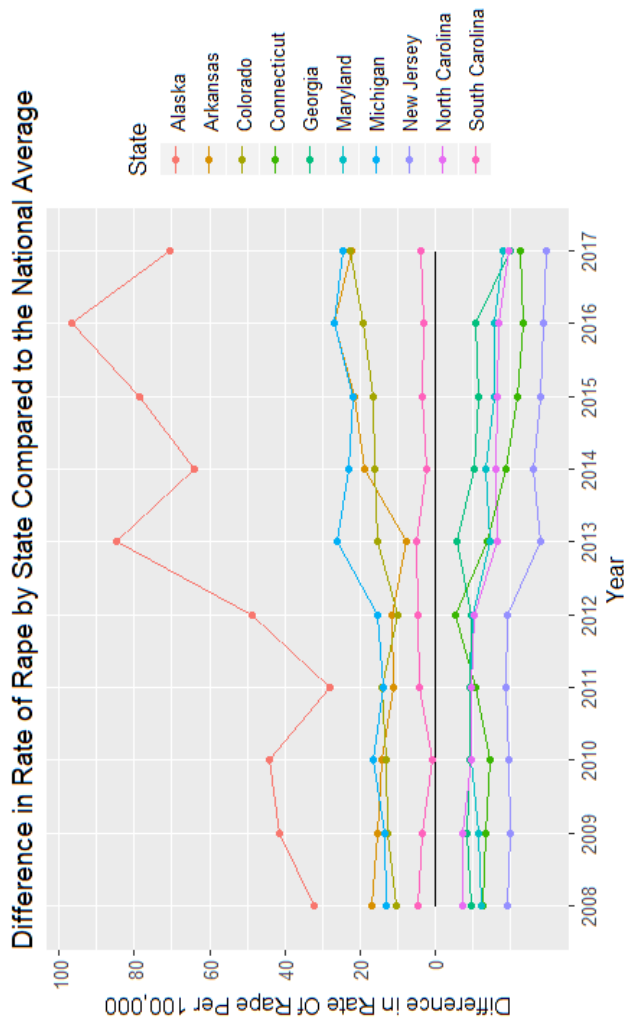
¹⁷ *Id.*

The effect of sexual education on sexual violence is not widely discussed and within these limited discussions the link has not been made so clear that policymakers have taken significant action based on the assertions of such discussions. However, many of those who examine this subject area conclude that “[s]ensitising children, parents, teachers, police and local communities to the nature and extent of sexual violence, and giving permission to discuss it, are essential steps in tackling it.”¹⁸ Studies have suggested that key ideas to the prevention of sexual violence are expressed as coercion, consent, sexual abuse and gender-based violence, such as dating violence, as a violation of human rights, the responsibility to report sexual abuse and gender-based violence, where one might go for support of gender-based violence, and the responsibility of all people to advocate for gender equality and against human right violations like sexual abuse and gender-based violence.¹⁹ Additionally, in order to mitigate the harmful effects of sexual assault, these studies recommend that programs include what sexual abuse and violence are and what to do about them, including accessing support should one be assaulted.²⁰ Therefore, as a states teach a wide variety of sexual education topics, this paper will primarily focus on these sexuality education concepts.

18 Peter Gordon, *Sexuality Education and the Prevention of Sexual Assault*, in 13 PROTECTING CHILDREN FROM SEXUAL VIOLENCE—A COMPREHENSIVE APPROACH 175 (2011), <https://www.coe.int/t/dg3/children/1in5/Source/PublicationSexualViolence/Gordon.pdf>.

19 *Id.* at 181.

20 *Id.* at 184.



III. THE NATIONAL SEXUALITY EDUCATION STANDARDS

The federal government provides standards of effective sexual education called the National Health Education Standards.²¹ In the introduction to these standards, the federal government provides a rationale for sexual education in public schools.²² This rationale observes that “teen relationship violence continues to be a pressing problem . . . ten percent of teens are physically harmed by their boyfriend or girlfriend in a given year.”²³

The National Health Education Standards serves as a guideline for standards a state may adopt.²⁴ Much like the common core adopted by many states, this framework is optional.²⁵ The document notes that health education has been found to have a positive overall effect on academic outcomes.²⁶ The federal government has explicitly stated that “[g]iven the evidence that connects lower risk behaviors to academic success, schools clearly have as vested an interest in keeping students healthy . . . [i]n providing comprehensive sexuality education programs, schools support student health and as such further foster young people’s academic achievement.”²⁷

These standards include instruction regarding rape, sexual assault, sexual abuse, sexual harassment, sexual violence, consent, refusal skills, and coercion.²⁸ According to the National Standards, these are “essential minimum, core content for sexuality education,” yet many states still do not include these basic concepts.²⁹

The federal government did not always hold this position.³⁰

²¹ *Id.*

²² *Id.*

²³ *Id.* at 7 (referring to both physical and sexual violence).

²⁴ National Sexuality Education Standards: Core Content and Skills, K-12 [a special publication of the Journal of School Health], FUTURE OF SEX EDUC. 6 (2011), <http://www.futureof-sexeducation.org/documents/josh-fose-standards-web.pdf>.

²⁵ *Id.*

²⁶ *Id.* at 7.

²⁷ *Id.* at 6.

²⁸ National Sexuality Education Standards, *supra* note 24, at 19.

²⁹ *Id.* at 6 In addition to sexual education standards, the National Health Education Standards also provides a reference glossary. The glossary includes the definitions of “comprehensive sexuality education,” “consensual,” “dating violence,” “rape” “sexual abuse,” “sexual assault,” and “sexual harassment.” *Id.* at 39–40; see *The SIECUS State Profiles Fiscal Year 2018*, SIECUS (2019), <https://siecus.org/state-profiles-2018/>.

³⁰ *History of Sex Education*, FUTURE OF SEX EDUCATION, <http://www.futureof-sexed.org/background.html>.

Less than a decade ago, abstinence-only education was not only encouraged, but government-funded.³¹ Sexual education develops quickly over time as sex education has been subject to social trends, public health concerns, politics and various controversies.³² Prior to 1900, there was virtually no public school sexual education.³³ However, with the sexual revolution in the 1920's there came the considerations of the federal and state government involvement with sexual matters.³⁴ "Societal diseases" such as gonorrhea, syphilis, and other venereal diseases lead to increased government involvement.³⁵

Many individuals believed schools to be the best place to address society's ills.³⁶ This idea of addressing sexually-related societal ills in schools grew in the 1980's as the AIDS epidemic arose.³⁷ By the end of the 1980's twenty-three state legislatures passed mandates for sexuality education, while another twenty-three strongly encouraged schools to teach sexuality education.³⁸

The peak of this growth era of sexuality education was in 1989 when SIECUS published "Sex Education 2000: A Call to Action." SIECUS, the only national organization dedicated only to comprehensive sexual education, outlined what comprehensive, effective sexuality education would need to accomplish to ensure children received proper sexual education by the year 2000.³⁹ At that time, the Surgeon General, the National Academy of Sciences, and the Department of Health and Human Services all urged the implementation of sexual education in public schools.⁴⁰

Until the mid-90's, abstinence-only education was the standard program.⁴¹ The federal government created the Adolescent Family Life Act under President Reagan "to promote self-discipline and other prudent approaches to the problem of adolescent premarital sexual

31 See Valerie J. Huber & Michael W. Firmin, *A History of Sex Education in the United States Since 1900*, 23 INT'L J. OF EDUC. REFORM 25 (Jan. 29, 2014).

32 *History of Sex Education*, *supra* note 30.

33 Huber & Firmin, *supra* note 31, at 44.

34 *Id.*

35 *Id.*

36 *Id.*

37 *Id.*

38 *Id.*

39 *Id.*; Huber & Firmin, *supra* note 31, at 43.

40 *History of Sex Education*, *supra* note 30.

41 *Id.*

relations” and create federal funding for states using abstinence-only curriculum for sexuality education.⁴² This encouraged states which didn’t have abstinence-only education, including those states with comparatively comprehensive sexuality education, to begin abstinence-only programs.⁴³ In 1996 Clinton signed into the Welfare Reform Act which had a ride-on provision increasing federal abstinence education funding.⁴⁴

The George W. Bush campaign promised to fund both abstinence-only and comprehensive sexual education.⁴⁵ While Bush did support both, eventually comprehensive sexual education became more popular.⁴⁶ After Bush, Obama supported comprehensive sexual education and moved to eliminate all funds previously devoted to abstinence-only programs.⁴⁷ While he was not entirely successful, many states have now moved away from abstinence-only education.⁴⁸ Further examination of individual states displays what the results of state choices regarding education may be.

IV. SURVEYED CONCEPTS

Those concepts which will be surveyed among the chosen those aforementioned concepts recommended by the National Health Education Standards. Namely, consent, coercion, and refusal skills. Further, whether students must opt in to sexual education or have the option to opt out of the education will be considered. Opting into sexual education means that a student or their parent must affirmatively give consent to the school in order for the student to receive sexual education instruction. Opting out of sexual education means that the student or parent must affirmatively act to tell the school the student shall not be instructed in sexual education. It is critical to note that even if traits in curriculum are shared by the states with the highest rate or lowest rate of rape, this does not prove correlation or causation. There are countless factors which could play into the rate of rape

⁴² Huber & Firmin, *supra* note 31, at 42 (quoting Robert Pear, *Treating the Nation's Epidemic of Teen-age Pregnancy*, N.Y. TIMES (June 3, 1984)).

⁴³ *Id.* at 41

⁴⁴ *Id.*

⁴⁵ *Id.* at 42.

⁴⁶ *Id.*

⁴⁷ *Id.* at 43.

⁴⁸ Guttmacher Institute, *Sex and HIV Education*, STATE LAWS AND POLICIES (August 1, 2019), <https://www.guttmacher.org/state-policy/explore/sex-and-hiv-education>.

in a state, sexual education simply could be one of them. Rather, the examination of these gross features of these state's sexual education curriculum should allow policymakers another consideration when developing their system of sexual education.

V. A SURVEY OF THE HIGHEST FIVE STATES

The five states with the highest rate of rape are Alaska, Michigan, Colorado, South Dakota, and Arkansas.⁴⁹ Alaska's rate is by far the highest, occurring 116.7 times per 100,000 persons.⁵⁰ Michigan is in second place with 70.6, a number that pales in comparison to Alaska's alarming rate.⁵¹ These states are also the states that do not have a formal sexual education graduation requirement in public schools.⁵² Unfortunately, it is extremely easy to analyze the sexual education standards of these states because most of the time, there isn't any.

A. *Alaska*

Prior to this year, Alaska's sexual education laws and policies were minimal and ineffective.⁵³ School districts were "encouraged" to initiate and conduct a health program for students.⁵⁴ If a school district did have health education, the state suggested this program include the prevention of child abuse, but had no law or regulation regarding sexual health education.⁵⁵ Further, Alaska schools are notoriously underfunded and the funding formula for Alaska schools

49 Federal Bureau of Investigation, Law Enforcement Support Section, Crime Statistics Management Unit, Reporting Rape in 2013 Revised, CRIMINAL JUSTICE INFORMATION SERVICES DIVISION (April 9, 2014), <https://ucr.fbi.gov/recent-program-updates/reporting-rape-in-2013-revised>; Bureau of Justice Statistics, Rape and Sexual Assault, VIOLENT CRIME, [HTTPS://WWW.BJS.GOV/INDEX.CFM?TY=TP&TID=317](https://www.bjs.gov/index.cfm?ty=TP&tid=317).

50 *Id.*

51 *Id.*

52 SIECUS 2018, *supra* note 29.

53 See Anchorage Daily News Editorial Board, *Alaska Overdue for a Better, Standardized Sex Education Curriculum*, ANCHORAGE DAILY NEWS (August 18, 2018), <https://www.adn.com/opinions/editorials/2018/08/18/alaska-overdue-for-a-better-standardized-sex-education-curriculum/>.

54 SIECUS, *Alaska*, STATE PROFILES FISCAL YEAR 2017 (2018), <https://siecus.org/wp-content/uploads/2018/07/ALASKA-FY17-FINAL.pdf>.

55 Center for Disease Control and Prevention, *Alaska Summary Report*, ANALYSIS OF STATE HEALTH EDUCATION LAWS (Dec. 2017), https://www.cdc.gov/healthyyouth/about/pdf/summary_report_factsheets/Alaska.pdf. SIECUS, *Alaska*, *supra* note 54.

did not provide any additional funding or other incentives for schools to expend resources on these programs.⁵⁶ While in 1998, one survey found that health courses were indeed held in 91% of Alaska public schools, this survey failed to measure how much of this course was dedicated to sexual education, if any.⁵⁷

Prior to 2018, the biggest change in Alaska standards was in 2004 when Alaska introduced the Alaska Content Standards, *Skills for a Healthy Life*.⁵⁸ These skills required students learn about the physical sexual development of an individual, personal roles, how to respect others, and how to create safe and healthy environment.⁵⁹ While some districts may have followed these standards in a manner sufficient to produce a comparatively comprehensive sexuality education program, the standards are so broad that there is unclear whether students had to learn about sexual abuse, sexual assault, consent, coercion, refusal skills, dating violence, or other critical sexual-assault prevention techniques.⁶⁰

However, legislation passed in 2018 brought some of these needed concepts to Alaska public schools.⁶¹ Alaska now requires the governing body of each school district to adopt a program of training for faculty, staff, and students, regarding sexual abuse and assault awareness.⁶² Alaska Governor Mike Dunleavy wrote regarding these changes to K-12 changes, "I'm confident that, together, we will secure for them a safer and more prosperous Alaska."⁶³ The program must be age-appropriate and address warning signs of sexual abuse of a child, referral and resource information, available student counseling and educational support, methods for increasing awareness of others regarding sexual abuse, actions to prevent or report sexual abuse or

⁵⁶ Elizabeth Nudelman, *Alaska Public School Finding Formula Overview*, ALASKA DEP'T OF EDUC. AND EARLY DEVELOPMENT (Jan. 17, 2013), http://www.legis.state.ak.us/basis/get_documents.asp?session=28&docid=89; Nathaniel Herz, *Here's What Flat Funding Has Meant for Alaska School*, ANCHORAGE DAILY NEWS-Education (Feb. 25, 2018), <https://www.adn.com/alaska-news/education/2018/02/25/heres-what-three-years-of-flat-funding-has-meant-for-alaska-schools/>.

⁵⁷ *Id.*

⁵⁸ SIECUS, *Alaska*, STATE PROFILES FISCAL YEAR 2004 (2005), <https://siecus.org/wp-content/uploads/2015/03/Alaska04.pdf>.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ ALASKA STAT. §14.30.352

⁶² *Id.*

⁶³ Michael J. Dunleavy, *Time for a conversation about the Alaska we want*, ANCHORAGE DAILY NEWS <https://www.adn.com/opinions/2020/01/04/time-for-a-conversation-about-the-alaska-we-want/>

assault.⁶⁴ This program is an opt-out program.⁶⁵ One important note is that this training only says what must be included, and does not limit the presenter of the program to provide additional information where the required curriculum for the program may be lacking.⁶⁶

Also passed in 2018 is an Alaska law now requiring a school program regarding teen dating violence.⁶⁷ This program must provide training to both employees and students and give parental notification.⁶⁸ The training must be age-appropriate and include the warning signs of dating violence and abusive behavior, characteristics of healthy relationships, measures to prevent and stop dating violence and abuse, and community resources available to victims of dating violence and abuse.⁶⁹ This also is an opt-out program.⁷⁰ Again, it is important to note that this program does not limit the instructor only to the aforementioned concepts, but rather sets the minimum for instruction.⁷¹

Given Alaska's extremely high sexual assault rates in the recent years, Alaskan officials agreed action was needed.⁷² It will likely take time before any benefits of the new Alaskan laws are evident, if there are any benefits at all. There are issues with the new program. The state does not give any instruction regarding the length of either the sexual assault or teen dating violence programs.⁷³ Such a program could range from single hour-long presentation, to a series of presentations over time. If such a program is brief, a student could easily or unintentionally miss the presentation day at school. With a brief presentation, even take a bathroom break could result in a student missing a significant amount of the information. Alaska should provide additional guidance regarding the program.

Further, because there is no class and the program does not have to be graded, there is no accountability for students and no practical way to determine whether students have retained the

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ ALASKA STAT. §14.30.356

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Dunleavy, *supra* note 63.

⁷³ ALASKA STAT. §§ 14.30.352, 14.30.356.

information. These concepts could be added to Alaska's Content and Education Standards which still do not the new program concepts.⁷⁴ An Alaska student is still not accountable for any more information than human sexual development information, if the student even takes a health class.⁷⁵

B. Michigan

For over a decade Michigan has required instruction regarding STDs and HIV/AIDS.⁷⁶ During such instruction, abstinence must be stressed.⁷⁷ Parents are able to opt students out of the disease prevention education or any part of sexuality instruction.⁷⁸ Michigan law explicitly states that health and sexuality classes cannot be a requirement for graduation.⁷⁹ Since as early as 2003, school boards were allowed to develop sexual education curriculum which could, and was limited to covering family planning, human sexuality, and family life education.⁸⁰ This curriculum had to be reviewed by a board consisting of parents, students, educators, clergy, and health professionals.⁸¹ This may seem outdated, but today, these laws have not changed.⁸²

Because sexual education laws in Michigan have not changed for nearly twenty years, Michigan communities are taking notice.⁸³ Local churches are offering sexual education courses for students.⁸⁴ At one church, these programs cover comprehensive sexual education

⁷⁴ *Skills for a Healthy Life*, ALASKA CONTENT STANDARDS (2019), <https://education.alaska.gov/akstandards/Skills-for-Healthy-Life.pdf>

⁷⁵ *Id.*

⁷⁶ SIECUS, *Michigan*, STATE PROFILES FISCAL YEAR 2003 (2004), <https://siecus.org/wp-content/uploads/2015/03/Michigan-for-2003-web.pdf>.

⁷⁷ *Id.*

⁷⁸ SIECUS, *Michigan*, STATE PROFILES FISCAL YEAR 2017 (2018), <https://siecus.org/wp-content/uploads/2018/07/MICHIGAN-FY17-FINAL-New.pdf>.

⁷⁹ SIECUS, *Michigan*, STATE PROFILES FISCAL YEAR 2012 (2013), <https://siecus.org/wp-content/uploads/2015/03/Michigan-Summary-FINAL-2012.pdf>; SIECUS, *Michigan*, STATE PROFILES FISCAL YEAR 2017 (2018), <https://siecus.org/wp-content/uploads/2018/07/MICHIGAN-FY17-FINAL-New.pdf>.

⁸⁰ SIECUS, *Michigan*, STATE PROFILES FISCAL YEAR 2003 (2004), <https://siecus.org/wp-content/uploads/2015/03/Michigan-for-2003-web.pdf>.

⁸¹ *Id.*

⁸² MICH. COMP. LAWS §§ 380.1169–.1170, 380.1506–.1507, and 388.1766–.1766a

⁸³ *Id.*; Patti Brandt Burgess, *Let's Talk About Sex: Local Church Offers Sex Ed for Young Teens*, TRAVERSE CITY RECORD EAGLE (Aug. 4, 2019), https://www.record-eagle.com/news/body_and_soul/let-s-talk-about-sex-local-church-offers-sex-ed/article_a5343298-b3ad-11e9-9a5c-87393cd2b2e9.html

⁸⁴ *Id.*

topics such as self-worth, gender, consent, and seemingly progressive topics.⁸⁵ This program is offered for children who would be public middle-school aged, 7th to 9th graders.⁸⁶ These education courses are well-attended and participation is encouraged.⁸⁷ Yet, even the least progressive of the concepts taught at these churches have not reached public schools.⁸⁸

Some community leaders remark, “Boys and girls sit in separate classrooms watching videos about the reproductive system, maybe getting handouts of free deodorant or tampons. Throw in a lesson that abstinence is the safest form of sex, and that’s often the extent of it.”⁸⁹ Those school districts which wish to move beyond current education programs sometimes do so secretly without telling upper administration.⁹⁰ Further, Young Women’s Christian Association (YWCA) says sexual assault and domestic violence “remains a little-discussed topic,” in Michigan schools, despite the fact that Michigan has the second-highest rate of rape in the country for 2017.⁹¹ The YWCA also offers education meant to prevent sexual assault and domestic violence.⁹² In a further effort to prevent sexual violence, many advocacy groups are working to revolutionize Michigan as one of the first few states requiring sexual education regarding consent, which helps students know whether they have been sexually assaulted and something that can help them from sexually assaulting someone else.⁹³

The Michigan Department of Education unofficially stated that

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ SIECUS, *Michigan, STATE PROFILES FISCAL YEAR 2012* (2013), <https://siecus.org/wp-content/uploads/2015/03/Michigan-Summary-FINAL-2012.pdf>; SIECUS, *Michigan, STATE PROFILES FISCAL YEAR 2017* (2018), <https://siecus.org/wp-content/uploads/2018/07/MICHIGAN-FY17-FINAL-New.pdf>.

⁸⁹ Andy Balaskovitz, *Teach the Children Well: Comprehensive Sex Education Advocates Face Uphill Climb to Change West Michigan Culture*, REVENUE (Feb. 21, 2019), <https://revenue.com/features/news/item/4365-teach-the-children-well-comprehensive-sex-education-advocates-face-uphill-climb-to-change-west-michigan-culture>.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ Jessica Wheeler, *Michigan is One of 42 States that Doesn’t Teach Consent as Part of Sexual Education*, WEST MICHIGAN (Oct. 2, 2018), <https://wwmt.com/news/local/michigan-one-of-42-states-that-dont-teach-consent-as-part-of-sex-ed>; Planned Parenthood, *Sexual Consent*, SEX AND RELATIONSHIPS (2019), <https://www.plannedparenthood.org/learn/sex-and-relationships/sexual-consent>.

sex education is not required in public schools because it is up to the school district, but districts which offer sexual education must teach it is wrong to take advantage of, harass or exploit another person sexually, and encourage respect for self and others, and provide instruction on healthy dating relationships.⁹⁴ However, school administrators and officials still complain that it is unclear whether certain kinds of relationship education and sexual assault education requires state approval.⁹⁵ Michigan educators complain these rules need clarification and some subjects should be required.⁹⁶ One educator writes, “this is just basic stuff, like ‘[students] deserve to be respected.’”⁹⁷

Rather than state-funding sexual education programs, all funding comes from districts.⁹⁸ Which, like Alaska, creates very little incentive for districts to begin any program at all. Some funding has recently been made available for use over the next five years by the CDC for multiple districts.⁹⁹ Without this outside funding, Michigan schools have little to no incentive or resources to develop sexuality education programs.¹⁰⁰ Currently, there is no indication that Michigan has any intention to change their sexual education laws.¹⁰¹ Michigan is one of the few states to have failed to change any official aspect of sexuality education in two decades.¹⁰²

C. Colorado

Nearly twenty years ago Colorado school districts were able to decide whether to teach sexual education in public schools, subject to guidelines provided by the Colorado Department of Education.¹⁰³

⁹⁴ Wheeler, *supra* note 93.

⁹⁵ Balaskovitz, *supra* note 89.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ David Andrews, *CDC Gives Big Bucks to Mid-Michigan Sex. Ed Program*, WILX 10 (Dec. 6, 2018), <https://www.wilx.com/content/news/CDC-gives-big-bucks-to-Mid-michigan-sex-ed-program-502101991.html>.

⁹⁹ *Id.*

¹⁰⁰ Justin Dawes, *Study Finds Michigan Schools Underfunded*, GRBJ (Feb. 9, 2019), <https://www.grbj.com/articles/89977-study-finds-michigan-schools-underfunded>

¹⁰¹ SIECUS, *Michigan*, STATE PROFILES FISCAL YEAR 2012 (2013), <https://siecus.org/wp-content/uploads/2015/03/Michigan-Summary-FINAL-2012.pdf>; SIECUS, *Michigan*, STATE PROFILES FISCAL YEAR 2017 (2018), <https://siecus.org/wp-content/uploads/2018/07/MICHIGAN-FY17-FINAL-New.pdf>.

¹⁰² *See infra*, part one.

¹⁰³ SIECUS, *Colorado*, STATE PROFILES FISCAL YEAR 2003 (2004), <https://siecus.org/wp-content/uploads/2015/03/Colorado-for-2003-web.pdf>; Colorado statute §22-25-104.

Abstinence was to be emphasized.¹⁰⁴ If the school did not receive state funding for their sexual education program, parents were able to opt their child out of any sexual education program.¹⁰⁵ If a school received state funding, sexuality education programs had to be opt-in, where parents have the opportunity to review curriculum and must provide consent to allow their student to take part in the curriculum.¹⁰⁶

In 2006 the sexual education laws in Colorado changed to say that sexual education programs should include information that was science-based, age-appropriate, culturally sensitive, and medically accurate.¹⁰⁷ Again, in 2009, standards changed to ensure students could “[a]ccess valid information and resources that provide information about sexual assault and violence, analyze situations that could lead to violence and acquaintance rape, and to whom one could confide regarding a sexual assault.¹⁰⁸ This was a great victory for sexual assault prevention in Colorado. However, it is still important to recognize that this change only affects a student *if* a school decides to offer sexual education, *if* a student chooses to take sexual education, and *if* the school chooses to follow a program which will provide them with state funding.

In 2013, the state legislature created a grant program which explicitly required all state-funded sexuality education to adhere to the above-mentioned requirements of sexuality education that is science-based, age-appropriate, culturally sensitive, and medically accurate.¹⁰⁹ Further, this grant program stated that if accepting state funds, the curriculum, among other concepts, must instruct regarding personal power, boundary setting, and resisting peer pressure, along with the aforementioned sexual assault and violence information.¹¹⁰ This curriculum is opt-in and not a requirement for graduation.¹¹¹ This is the same law today, with the exception of an August 2019 bill

104 *Id.*

105 *Id.*

106 *Id.*

107 SIECUS, *Michigan*, STATE PROFILES FISCAL YEAR 2006 (2007), <https://siecus.org/wp-content/uploads/2015/03/COLORADO06.pdf>.

108 CDE, *Comprehensive Health*, COLORADO ACADEMIC STANDARDS (Dec. 10, 2009), https://www.cde.state.co.us/sites/default/files/documents/cohealthpe/documents/health/health_high_school.pdf.

109 SIECUS, *Colorado*, STATE PROFILES FISCAL YEAR 2018 (2019), <https://siecus.org/wp-content/uploads/2019/03/Colorado-FY18-Final-1.pdf>.

110 *Id.*

111 *Id.*

which now requires any sexual education, regardless of funding, to be medically accurate.¹¹² The state does not keep track of how many schools teach sexual education.¹¹³

Colorado is trying to do more, but is facing difficulty.¹¹⁴ A bill recently failed and faced great community opposition.¹¹⁵ The bill would consent, removes a charter school waiver out of sexual education requirements, and funds a grant program for schools that want to teach sexual education but lack the resources.¹¹⁶ Over the past two decades, there have been changes to Colorado sexuality education standards.¹¹⁷ This could indicate that more changes will come.

D. South Dakota

In 2003 South Dakota did not require sexuality education in public schools, leaving such decisions up to local school boards.¹¹⁸ Schools were only required to teach character development which included sexual abstinence.¹¹⁹ Today, sexual education is still not required, but the state suggests public schools conform their educational standards to those established by the Board of Education.¹²⁰ These standards include instruction on sexuality, but only as an

¹¹² SIECUS, *Colorado*, STATE PROFILES FISCAL YEAR 2018 (2019), <https://siecus.org/wp-content/uploads/2019/03/Colorado-FY18-Final-1.pdf>; Keren Landman, *How #MeToo Is Changing Sex Ed Policies- Even in Red States*, KISER HEALTH NEWS (Aug. 12, 2019), <https://khn.org/news/how-metoo-is-changing-sex-ed-policies-even-in-red-states/>.

¹¹³ *Id.*

¹¹⁴ Caitlin Curley, *Which 4 Colorado Dems are Facing Recall Attempts*, COLORADO POLITICS (Aug. 21, 2019), https://www.coloradopolitics.com/quick-hits/which-colorado-dems-are-facing-recall-attempts/article_4191c2e2-c40f-11e9-b4bb-3baf7a501c7c.html. As of August 2019, Democrats in Colorado are facing recall over the support of new bills including one which would expand sexual education in public schools. The new bill causing this facing of recall is Colorado House Bill 19-1032.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ Yesenia Robles, *Colorado Changes its Laws Around Sex Ed. Here's What You Need to Know*, COLORADO SUN (May 22, 2019), <https://coloradosun.com/2019/05/22/colorado-sex-ed-law-explained/>; Anna Staver, *Colorado Sex Education Bill: Separating Fact from Fiction*, DENVER POST (Feb. 27, 2019), <https://www.denverpost.com/2019/02/27/colorado-sex-ed-bill-fact-fiction/>; Nic Garcia, *Stalled Sex Ed Bill Moves Forward in Colorado- with Changes*, COLORADO LEGISLATURE- COLORADO POST (May 2, 2019), <https://www.denverpost.com/2019/05/02/sex-ed-bill-moves-forward-in-colorado-senate-with-changes/>.

¹¹⁸ SIECUS, *Colorado*, STATE PROFILES FISCAL YEAR 2003 (2004), <https://siecus.org/wp-content/uploads/2015/03/South-Dakota-for-2003-web.pdf>; 13-33-6.1.

¹¹⁹ *Id.*

¹²⁰ *Id.*

encouragement to abstain from “risky sexual behaviors.”¹²¹ The standards do not include sexual assault or sexual abuse, domestic violence, or what a healthy relationship may look like.¹²² Peer pressure is examined, but not within the context of sexual behavior.¹²³ Rather than “comprehensive sexual education,” South Dakota emphasizes “comprehensive health education” in which sexuality is but a sentence in the context of the entirety of the curriculum.¹²⁴

Recently, there has been little news regarding South Dakota sexual education laws. There seems to be no indication that South Dakota intends to change its laws or education standards, despite multiple critiques.¹²⁵ South Dakota appears to be more interested in banning teachings on various sexual education concepts rather than expanding them.¹²⁶ South Dakota has however recently joined a sexual abuse prevention campaign, which could lead to future changes.¹²⁷

E. Arkansas

Arkansas law does not require schools to teach sexuality education.¹²⁸ This has always been the case in Arkansas.¹²⁹ Schools are permitted to offer sexual education, but in such programs, abstinence

¹²¹ *South Dakota Health Education Standards*, SOUTH DAKOTA DEPARTMENT OF EDUCATION (2018), <http://doe.sd.gov/board/packets/documents/012618/item6doc2.pdf>.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ Denise-Marie Ordway, *Sex Education: Why an Abstinence-Only Approach is Problematic*, JOURNALIST'S RESOURCE (May 22, 2019), <https://journalistsresource.org/studies/society/education/sex-education-abstinence-research/>; Patrick Springer Forum News Service, *Is North Dakota Taking the Best Approach to Sex Ed?*, THE BISMARCK TRIBUNE (Jan. 13, 2019), https://bismarcktribune.com/news/state-and-regional/is-north-dakota-taking-the-best-approach-to-sex-ed/article_4fffb830-a9dd-5c79-8fef-dcd8a6a16969.html.

¹²⁶ Kelley Czajka, *South Dakota Banned the Teaching of Gender Dysphoria in Public Schools*, PACIFIC STANDARD (Feb. 14, 2019), <https://psmag.com/news/south-dakota-banned-the-teaching-of-gender-dysphoria-in-public-schools/>; Patrick Anderson, *South Dakota Educators Balk at Proposed Ban on Gender Identity, Expression Instruction*, ARGUS LEADER (Feb. 6, 2019), <https://www.argusleader.com/story/news/2019/02/06/south-dakota-legislature-educators-balk-proposed-gender-identity-restrictions-class/2787556002/>.

¹²⁷ Associated Press, *South Dakota Joining Child Sex Abuse Prevention Campaign*, NEWS CENTER 1 (Jan. 15, 2019), <https://www.newscenter1.tv/south-dakota-joining-child-sexual-abuse-prevention-campaign/>.

¹²⁸ SIECUS, *Arkansas*, STATE PROFILES FISCAL YEAR 2018 (2019), <https://siecus.org/wp-content/uploads/2019/03/Arkansas-FY18-Final-1.pdf>.

¹²⁹ *Id.*

must be stressed and sexual activity discouraged.¹³⁰ Arkansas students are required to complete 0.5 credits in health and safety education and in 2015 this health and education courses was amended to add dating violence awareness as a mandatory component of this course.¹³¹ Students must learn about relationship abuse, but are not required to learn sexual among physical and emotional abuse.¹³² However, the code does refer educators and officials to materials from various sources.¹³³ While it is not required that educators reference these materials,¹³⁴ among these sources is the Center for Disease Control and Prevention, which does include sexual abuse among the types of abuse inflicted on a partner.¹³⁵ Therefore, there is a chance, however slim, that students will receive instruction regarding sexual abuse.

There does not appear to be any indication that Arkansas laws will expand to include a more comprehensive sexuality education. Even though many “red” states have recently passed sexual education reformation bills, such as adding contraception discussion or sexual violence prevention, recent applicable Arkansas bills have failed.¹³⁶ Arkansas admits that it ranks highest in the nation for the percentage of students who have been forced to have sex.¹³⁷ Still, recent bills have focused on pregnancy and sexually transmitted diseases rather than sexual assault prevention.¹³⁸ Arkansas recognizes the importance of violence prevention, and the fact that violence disproportionately affects youth.¹³⁹ However, there still has been no indication from Arkansas of an intention to pass a law which would require sexual assault prevention programs through public education.

Rather, the focus in Arkansas legislation is with regards to higher education. The Arkansas state legislature has passed new laws

130 *Id.*

131 ALASKA STAT. § 6-16-1004

132 *Id.*

133 *Id.*

134 *Id.*

135 *Violence Prevention*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html>

136 Landman, *supra* note 112; Spencer Irvine, *Sex Education Changes are Coming to Red States Too*, ACCURACY IN ACADEMIA (Aug. 15, 2019), <https://www.academia.org/sex-education-changes-are-coming-to-red-states-too/>.

137 *Id.*

138 *Id.*

139 *Violence Prevention*, ARKANSAS DEPARTMENT OF HEALTH (2017), <https://www.healthy.arkansas.gov/programs-services/topics/violence-prevention>.

within the past five years to prevent assault on college campuses. One bill, HB 1518 was recently passed which requires the Arkansas Higher Education Coordinating Board to develop an action plan to address the prevention of sexual assault.¹⁴⁰ Again, however, there is nothing being done for lower, public-school education.¹⁴¹ The focus in Arkansas appears to be over college-age students, despite the fact that many individuals affected by sexual assault and rape are among the youth.¹⁴² This is all despite the fact that Arkansas residents want better sexual education in their public schools.¹⁴³

VI. A SURVEY OF THE LOWEST FIVE STATES

The states with the consistently lowest rate of rape per 100,000 inhabitants include New Jersey, Connecticut, Georgia, North Carolina, and Maryland. New Jersey's rate of rape is nearly 10% of that of Alaska.¹⁴⁴ Connecticut falls shortly behind.¹⁴⁵ Georgia, North Carolina, and Maryland have also earned a spot as some of the states with the lowest rate of rape.

A. *New Jersey*

New Jersey has, over the past 10 years, consistently been the state with the lowest rate of rape. New Jersey also has one of the most comprehensive sexual education laws the state with the longest history of sexual education curriculum.¹⁴⁶ New Jersey was the first state

¹⁴⁰ *Prevention of Sexual Assault*, ARKANSAS DIVISION OF HIGHER EDUCATION (2019), <https://www.adhe.edu/institutions/government-relations-and-student-success/prevention-of-sexual-assault>

¹⁴¹ *Id.*

¹⁴² *Sexual Violence Prevention Resources*, ARKANSAS TECH UNIVERSITY (2019), https://www.atu.edu/jerrycares/sx_resources.php; Tracy Courage, *Campus Activities Planned to Observe Sexual Assault Awareness Month*, UNIVERSITY NEWS- UNIVERSITY OF ARKANSAS, LITTLE ROCK (Apr. 1, 2019), <https://ualr.edu/news/2019/04/01/saam-week/>; *Violence Prevention*, ARKANSAS DEPARTMENT OF HEALTH (2017), <https://www.healthy.arkansas.gov/programs-services/topics/violence-prevention>.

¹⁴³ Leslie Newell Peacock, *When Will the Family Council Grow Up?*, ARKANSAS TIMES (Mar. 7, 2019), <https://arktimes.com/arkansas-blog/2019/03/07/when-will-the-family-council-grow-up>.

¹⁴⁴ *See infra*, Part One.

¹⁴⁵ *Id.*

¹⁴⁶ David Matthau, *Why Sex Education in NJ is Still Leaving Students Unsatisfied*, NEW JERSEY 101.5 (Nov. 28, 2016), <https://nj1015.com/why-sex-education-in-nj-is-still-leaving-students-unsatisfied/>

to mandate sexual education courses.¹⁴⁷ It has been a national leader in sexual education for more than three decades.¹⁴⁸ Sexuality education curriculum was suggested in New Jersey as early as 1967.¹⁴⁹ The state established its current Comprehensive Health Education and Physical Education Curriculum Framework in 1999 and it has expanded since that time.¹⁵⁰ Now, the state includes Core Curriculum Content Standards for Comprehensive Health and Physical Education.¹⁵¹ Sexual assault prevention programs are part of this education.¹⁵² Granted, for some time, sexuality education was not required as a graduation credit until later on, but since as early as 2004 the state did mandate at least 150 minutes of health education during each school week in grades one through twelve.¹⁵³ These 150 minutes included requirements that students had to learn how to identify and address internal and external pressures to become sexually active.¹⁵⁴ This was an opt-out policy.¹⁵⁵

Now, students receive credit for their 150 minutes of sexual education every week and must acquire 3.75 credits of health education per year.¹⁵⁶ This is the most robust sexual education requirement of the states, while many other states still have no curriculum. New Jersey does not provide school districts with express curriculum, rather, standards are expressed in the Core Curriculum Content Standards for Comprehensive Health and Physical Education.¹⁵⁷ Again, these standards do include a sexual assault prevention program.¹⁵⁸

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ Sandra Gardner, *Sex Education: The Battle Goes On*, N.Y. TIMES (Jul. 5, 1981), <https://www.nytimes.com/1981/07/05/nyregion/sex-education-the-battle-goes-on.html>.

¹⁵⁰ SIECUS, *New Jersey, STATE PROFILES FISCAL YEAR 2006 (2007)*, <https://siecus.org/wp-content/uploads/2015/03/NEW-JERSEY06.pdf>; SIECUS, *New Jersey, STATE PROFILES FISCAL YEAR 2010 (2011)*, <https://siecus.org/wp-content/uploads/2015/03/NEW-JERSEY10.pdf>; N.J.S.A. 18A:35-4.3.

¹⁵¹ *Id.*

¹⁵² SIECUS, *New Jersey, STATE PROFILES FISCAL YEAR 2006 (2007)*, <https://siecus.org/wp-content/uploads/2015/03/NEW-JERSEY06.pdf>; <https://siecus.org/wp-content/uploads/2015/03/NEW-JERSEY10.pdf>; N.J.S.A. 18A:35-4.3.

¹⁵³ SIECUS, *New Jersey, STATE PROFILES FISCAL YEAR 2004 (2005)*, <https://siecus.org/wp-content/uploads/2015/03/New-Jersey04.pdf>.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ SIECUS, *New Jersey, STATE PROFILES FISCAL YEAR 2016 (2017)*, <https://siecus.org/wp-content/uploads/2018/08/NEW-JERSEY-FY16-New.pdf>.

¹⁵⁷ *Id.*

¹⁵⁸ N.J. STAT. ANN. §§18A:35-4.3.

New Jersey's sexual education program has many admirable traits. First, New Jersey's sexual education program is an opt-out program.¹⁵⁹ It is only when the parent finds curriculum unacceptable that the parent must act. Because parental consent is not required, it is likely that more children end up taking an opt-out class rather than an opt-in class.¹⁶⁰ Second, New Jersey explicitly requires sexual assault prevention programs.¹⁶¹ These programs include teaching the difference between sexual assault, love, affection, and commitment.¹⁶²

Third, the state teaches students skills for resisting pressure to enter into sexual behaviors.¹⁶³ The safe sexual behaviors teach about dating violence and encourage the exercise of safe environments for the discussion of sexual behaviors.¹⁶⁴ Fourth, the state teaches responsible sexual behaviors such as the impact of sexual behavior on oneself, others, and physical, social, and emotional health concerns from sexual behavior.¹⁶⁵ This also includes the impacts that sexual behavior may have on one's life, including one's future education, career plans, and wellness.¹⁶⁶

Finally, unlike many states who have sexual education program, New Jersey law does require that students learn about consent.¹⁶⁷ This includes teaching students that they must give consent for every step of sexual intimacy.¹⁶⁸ New Jersey's curriculum is one of the most comprehensive of all of the states.

B. Connecticut

Before recent changes in 2016, Connecticut did not strictly require that students receive any sort of sexual education.¹⁶⁹ However,

¹⁵⁹ N.J. STAT. ANN. §18A:35-4.7.

¹⁶⁰ SIECUS, *New Jersey*, STATE PROFILES FISCAL YEAR 2018 (2019), <https://siecus.org/wp-content/uploads/2019/03/New-Jersey-FY18-Final.pdf>.

¹⁶¹ N.J. STAT. ANN. §§18A:35-4.3.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ SIECUS, *New Jersey*, STATE PROFILES FISCAL YEAR 2006 (2007), <https://siecus.org/wp-content/uploads/2015/03/NEW-JERSEY06.pdf>; SIECUS, *New Jersey*, STATE PROFILES FISCAL YEAR 2010 (2011), <https://siecus.org/wp-content/uploads/2015/03/NEW-JERSEY10.pdf>; N.J.S.A. 18A:35-4.3.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ SIECUS, *Connecticut*, STATE PROFILES FISCAL YEAR 2016 (2017), <https://siecus.org/wp->

schools were required to teach human growth and development and disease prevention.¹⁷⁰ In 2016, Connecticut's General Assembly enacted a law stating health would be one of the new graduation requirement for high school students starting with the class of 2020.¹⁷¹ Before the enactment of that law, unlike many states which do not have sexual education requirements, Connecticut did have sexual education guidelines required by health courses.¹⁷² Even unlike those states which have no law requiring sexual education but do still have curriculum guidelines, Connecticut has extensive guidelines.¹⁷³ For example, Texas does not have sexual education requirements for graduation, but does require that if there is to be a sexual education component of a health course, it must teach abstinence-only sexual education curriculum.¹⁷⁴ This abstinence-only guideline is common among states with no sexual education requirement.¹⁷⁵ Or, in the alternative, states will expressly limit what can be taught in a health course. For example, Utah is an abstinence-only state, but the law does allow that students learn refusal skills.¹⁷⁶ However, such skills are a limit rather than a requirement.¹⁷⁷ The law provides strict standards for what can and cannot be a part of classroom curriculum, which was not the case in Connecticut.¹⁷⁸ Connecticut did not have such strict guidelines for sexual education as is guidelines were a floor rather than a ceiling of what could be taught.

Today, the Connecticut guidelines have evolved into a required curriculum are quite clear and incredibly comprehensive.¹⁷⁹ Like New

content/uploads/2018/08/CONNECTICUT-FY16-New.pdf.

¹⁷⁰ *Id.*

¹⁷¹ CONN. GEN. STAT. § 10-221a (2018).

¹⁷² SIECUS, *Connecticut*, STATE PROFILES FISCAL YEAR 2016 (2017), <https://siecus.org/wp-content/uploads/2018/08/CONNECTICUT-FY16-New.pdf>.

¹⁷³ *Id.*

¹⁷⁴ CONN. GEN. STAT. § 10-221a (2018)

¹⁷⁵ TEX. EDUC. CODE ANN. §§ 28.004; TEX. STATE BOARD OF EDUC. ADMIN. CODE §§ 115.22, 115.23, 115.32, and 115.33.

¹⁷⁶ See SIECUS, *The SIECUS State Profiles Fiscal Year 2018*, SIECUS (2019), <https://siecus.org/state-profiles-2018/>.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*; SIECUS, *Connecticut*, STATE PROFILES FISCAL YEAR 2006 (2007), <https://siecus.org/wp-content/uploads/2015/03/CONNECTICUT06.pdf>.

¹⁷⁹ Connecticut Department of Education, *Guidelines for the Sexual Health Education Component of Comprehensive Health Education*, CONNECTICUT'S OFFICIAL STATE WEBSITE (2019), <https://portal.ct.gov/SDE/Publications/Sexual-Health-Education-Component-of-Comprehensive-Health-Education/Sexual-Health-Education-Curriculum-Framework>.

Jersey, Connecticut is an opt-out state.¹⁸⁰ Therefore, a parent does not need to provide affirmative consent for their child's participation. The student is required to take on half-credit of health, of which sexual education is included.¹⁸¹ Connecticut expressly states the goals for its sexual education standards, including the fact that Connecticut aims to prevent sexual assaults using these standards.¹⁸²

Connecticut has provided guidelines for every level, from elementary levels to middle and high school requirements.¹⁸³ For example, under physical, mental, emotional, and social growth and development education standards, kindergarten students must be able to "[i]dentify displays of affection with appropriate people and situations."¹⁸⁴ By fourth grade students will have the ability to "[d]escribe and demonstrate appropriate ways to express affection with different people in various situations."¹⁸⁵ By grade eight students in Connecticut can "[e]xamine appropriate and healthy ways to express affection, love, friendship and concern."¹⁸⁶ Finally, by graduation students will be able to "[c]ompare, contrast and analyze appropriate ways to express needs, wants and feelings in relationships."¹⁸⁷

Connecticut has identified eight content standards that must be included in any sexual education program which include:

- Physical, Mental, Emotional, and Social Growth and Development
- Accessing Health Information and Resources
- Self-Management of Healthy Behaviors
- Analyzing Internal and External Influences
- Communication Skills
- Decision-Making Skills
- Goal Setting Skills
- Advocacy¹⁸⁸

180 SIECUS, *Connecticut*, STATE PROFILES FISCAL YEAR 2016 (2017), <https://siecus.org/wp-content/uploads/2018/08/CONNECTICUT-FY16-New.pdf>; SIECUS, *New Jersey*, STATE PROFILES FISCAL YEAR 2016 (2017), <https://siecus.org/wp-content/uploads/2019/03/New-Jersey-FY18-Final.pdf>.

181 CONN. GEN. STAT. § 10-221a (2018).

182 Connecticut Department of Education, *supra* note 179.

183 *Id.*

184 *Id.*

185 *Id.*

186 *Id.*

187 *Id.*

188 Connecticut Department of Education, *supra* note 179.

These standards line up well with the National Health Education Standards, however, the two do not match exactly. There are still eight National Health Education Standards, but Connecticut omits some and includes others.¹⁸⁹ Additionally, the National Health Education Standards handle grades K-2, 3-5, 6-8, and 9-12 rather than Connecticut's K-4, 5-8, and 9-12 standards.¹⁹⁰

Like the National Health Education Standards, there are a multitude of concepts involved in all of these learning objectives.¹⁹¹ Many of these concepts aim to prevent sexual assault.¹⁹² Under physical, mental, emotional, and social growth and development students learn appropriate ways to express their needs, wants, and feelings in a relationship, how to analyze the impact sexual behavior may have on others and analyze the factors of unhealthy relationships, and about how environments impact sexual health, unhealthy dating practices (such as violence), and more.¹⁹³ Under the second standard, Accessing Health Information and Resources, students learn about existing laws that protect individuals from sexual harassment, sexual assault, sexual exploitation, and human trafficking and about the legal age for sexual behaviors in Connecticut.¹⁹⁴

Third, from the Self-Management of Healthy Behaviors unit students learn how to express their feelings, how to abstain from intercourse, how to respond to harassment, and how to address sexual exploitation and coercion.¹⁹⁵ Fourth, students must examine personal values and their relationship to sexual decisions, the influence of alcohol and drugs on sexual behavior, and internet sexual exploitation under Analyzing Internal and External Influences, Standard Four.¹⁹⁶

Fifth, as a part of the Communication Skills area, students must be able to analyze the effectiveness of both verbal and non-verbal skills as ways to refuse pressure to engage in sexual behavior, how to negotiate out of risky situations regarding sexual behavior, how to set clear expectations and boundaries on sexual behaviors through personal strategy, and analyze sexual harassment and violence impacts

¹⁸⁹ National Sexuality Education Standards, *supra* note 24.

¹⁹⁰ Connecticut Department of Education, *supra* note 179; National Sexuality Education Standards, *supra* note 24.

¹⁹¹ *Id.*

¹⁹² Connecticut Department of Education, *supra* note 179.

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

on relationships.¹⁹⁷ Six, the Decision-Making Skills standards require students learn about the external influences of partners, peers, and the community on sexual activity, the long-term impacts of sexual activity, and alcohol and drug influence on sexual activity. Seventh, under goal-setting students learn how external influences affect goal setting regarding sexual health, among others.¹⁹⁸ Finally, under Advocacy students learn to advocate for sexual health, especially in relationships, how to campaign for better health and sex education, and finally, how to best treat others with respect.¹⁹⁹ The sexual assault prevention concepts are interwoven into every health education concept.²⁰⁰ It is important to note that in Connecticut the required health course is only half of a credit and there is a significant amount of material to cover.²⁰¹

C. Georgia

The fact that Georgia is one of the states with the lowest rate of rape may be somewhat surprising due to some of the recent sexual health debates and because Georgia is generally viewed as quite conservative.²⁰² However, since the end of the 1980's, Georgia law has required schools to teach sexuality education.²⁰³ Georgia laws have always set forth minimum standards, and allowed school boards to add more material where they feel it is appropriate and to develop their own curriculum.²⁰⁴ It is important to note that having such curriculum is a requirement, rather than encouragement like under Alaska law.²⁰⁵ State funds are in fact withheld from a school or district until these programs are in place.²⁰⁶

Unlike other states with the lowest rape rates, Georgia does not have a set, laid-out curriculum which schools must use for their

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² Keren Landman, *supra* note 112.

²⁰³ SIECUS, *Georgia*, STATE PROFILES FISCAL YEAR 2003 (2004), <https://siecus.org/wp-content/uploads/2015/03/Georgia-for-2003-web.pdf>.

²⁰⁴ *Id.*

²⁰⁵ *Id.*

²⁰⁶ *Id.*

students.²⁰⁷ Rather, Georgia allows the schools to design their own curriculum so long as students meet the performance standards Georgia sets.²⁰⁸ Since 2009, Georgia has required schools teach about how to handle peer pressure, examine community values, and the promotion of self-esteem that could lead to sexual activity.²⁰⁹

The performance standards give clear expectations for instruction, assessment, and student work. These standards are the minimum which schools must teach.²¹⁰ The sexual education performance standards are a requirement for graduation, whether the student goes through the program in what Georgia calls “Health” or “Health and Personal Fitness” classes.²¹¹ The student must take a half credit of one of these classes or a physical education class to meet one whole credit. Even though it is likely that most students take a personal fitness credit in addition to their health credit, it is even still possible that a student may take both “Health” and “Health and Personal Fitness” and therefore receive additional units on sexual education.

The standards set forth by the State of Georgia begin by citing the United States Center for Disease Control and that the center has identified risky sexual behavior as something that needs addressed.²¹² This is the basis on which Georgia created these requirements.²¹³ Georgia’s sexual education program is an opt-out program.²¹⁴ Students are expected to take go through sexual education programs.²¹⁵ These programs are pro-abstinence, but must still teach about contraception.²¹⁶ However, the state does stress that students must learn how to demonstrate clear limits on sexual behaviors, how to handle sexual abuse, and how to find access to crisis centers for

²⁰⁷ *Georgia Performance Standards for Health Education*, GEORGIA DEPARTMENT OF EDUCATION (2009), https://www.georgiastandards.org/Standards/Georgia%20Performance%20Standards/9-12_Health_Education.pdf.

²⁰⁸ *Id.*

²⁰⁹ SIECUS, *Georgia*, STATE PROFILES FISCAL YEAR 2008 (2009), <https://siecus.org/wp-content/uploads/2015/03/GEORGIA08.pdf>

²¹⁰ SIECUS, *Georgia*, STATE PROFILES FISCAL YEAR 2016 (2017), <https://siecus.org/wp-content/uploads/2018/07/GEORGIA-FY17-FINAL.pdf>.

²¹¹ GA. CODE ANN. §160-4-2-.48.

²¹² *Georgia Performance Standards for Health Education*, *supra* note 207.

²¹³ *Id.*

²¹⁴ SIECUS, *Georgia*, STATE PROFILES FISCAL YEAR 2017 (2018), <https://siecus.org/wp-content/uploads/2018/07/GEORGIA-FY17-FINAL.pdf>.

²¹⁵ GA. CODE ANN. §160-4-2-.48.

²¹⁶ SIECUS, *Georgia*, STATE PROFILES FISCAL YEAR 2017 (2018), <https://siecus.org/wp-content/uploads/2018/07/GEORGIA-FY17-FINAL.pdf>.

rape, sexual assault, and sexual violence.²¹⁷

Georgia is taking additional steps to prevent sexual assault. Senate Bill 401 by the Georgia state legislature officially added annual age-appropriate sexual abuse and awareness programs in grades K-9, meaning children will start learning these concepts younger starting in 2019.²¹⁸ However, sexual assault and abuse has been a part of the high school performance standards since as early as 2009.²¹⁹

While it is admirable that Georgia does choose to focus much of the performance standards on how to react to a sexual assault or like event, there may not be enough explicit prevention measures for these performance standards to truly be effective on their own. For example, although “setting clear limits on sexual behaviors” may cause a school to decide to teach consent, refusal skills, or other prevention techniques, another school may decide that these terms need not be included in education. It may even be up to the whim of a single teacher. The Georgia state legislature has been considering adding “consent” to sex education curriculum as it has become popular among many school districts, though these are not yet in place.²²⁰

Whether the word “consent” or “coercion” is used, Georgia’s curriculum may still be helpful in preventing sexual assault. In mitigating the harms of sexual assault, it is possible that not explicitly using such terms may not be helpful. If a student’s “clear limits” have been violated, then they did not provide consent, though the student would not know the correct terminology. Reporting would likely be easier if the correct terms were used, therefore it is best that these are the terms that are taught. Georgia could likely do better by simply rewording the sexual education standards to explicitly include the terms and tools that an individual would need in order to report their assault in the way that is most effective.

Georgia also takes additional steps outside of the traditional

²¹⁷ *Georgia Performance Standards for Health Education*, *supra* note 207.

²¹⁸ *Sexual Abuse and Assault Awareness Frequently Asked Questions*, GEORGIA DEPARTMENT OF EDUCATION (Nov. 8, 2018), https://www.gadoe.org/Curriculum-Instruction-and-Assessments/Curriculum-and-Instruction/Documents/SB%20401%20FAQ_November%208%202018.pdf.

²¹⁹ *Georgia Performance Standards for Health Education*, *supra* note 207.

²²⁰ Vanessa McCray, ‘Consent’ Joins Sex-Ed Topics in Some Metro Atlanta Schools, EDUCATION: THE ATLANTA JOURNAL-CONSTITUTION (Oct. 17, 2018), <https://www.ajc.com/news/local-education/consent-joins-sex-topics-some-metro-schools/uuDlCnqDkRuebMla9stjWK/>.

classroom settings.²²¹ Georgia believes that sexual assault is preventable and works on community education as well as public education.²²² These programs work on promoting safe dating, advocating for the respect of women, and more.²²³

D. North Carolina

Like the National Sexuality Education Standards, North Carolina breaks their education standards into levels for different ages of students which are K-2, 3-5, 6-8, and 9-12.²²⁴ Students are required to take a health education course which includes sexual education.²²⁵ The sexual education program is currently opt-out; however, North Carolina has recently entertained the idea of switching to an opt-in program.²²⁶ This is despite the fact that many groups are opposed to an opt-in program and that North Carolina has had an opt-out policy for over 15 years.²²⁷

Before the current laws were in place, North Carolina enacted the Healthy Youth Act in 2016 which provides parents, students, and schools greater access to sexuality education, and established the Reproductive Health and Safety Education Program.²²⁸ The Act established the sexual education programs in schools that compromise between parents' desires, students' needs, and the best public health practices.²²⁹

Prior to the enactment of the Healthy Youth Act, the North

²²¹ *Sexual Violence Prevention*, GEORGIA DEPARTMENT OF PUBLIC HEALTH (2019), <https://dph.georgia.gov/SexualViolence>.

²²² *Id.*

²²³ *Id.*

²²⁴ National Sexuality Education Standards, *supra* note 24.

²²⁵ *Earning Your High School Diploma-North Carolina*, LEARNINGPATH.ORG (2019), http://learningpath.org/articles/Earning_Your_High_School_Diploma_-_North_Carolina.html

²²⁶ Richard Adkins, *Sex Ed Would be Opt-In, Not Opt-Out Instruction Under House Bill*, WRAL.COM (Feb. 28, 2019), <https://www.wral.com/sex-ed-would-be-opt-in-not-opt-out-instruction-under-house-bill/18226327/>.

²²⁷ Margot Schein, *North Carolina Needs Fewer Hurdles to Sex Education, Not More*, PLANNED PARENTHOOD VOTES! SOUTH ATLANTIC (Apr. 24, 2019), <https://www.plannedparenthoodaction.org/planned-parenthood-votes-south-atlantic/blog/north-carolina-needs-fewer-hurdles-to-sex-ed-not-more>; SIECUS, *Georgia*, STATE PROFILES FISCAL YEAR 2015 (2016), <https://siecus.org/wp-content/uploads/2015/03/North-Carolina-for-2003-web.pdf>.

²²⁸ *Healthy Youth Act*, SEXUAL HEALTH INITIATIVES FOR TEENS <http://www.shiftnc.org/resources/for-schools/healthy-youth-act>.

²²⁹ *Id.*

Carolina General Assembly provided that if a school wanted to provide more than abstinence-only education, it could obtain permission to do so through the state.²³⁰ Up until that point, North Carolina's sexuality education was controlled at the local level by schools, parents, and public health professional and widely varied across the state and over time.²³¹ However, North Carolina sexual education was seen as largely effective toward preventing both the health concerns at the time and those of today.²³² Additionally, it is important to note that although there were no strict guidelines regarding what should be taught in sexual education, sexual education was a state requirement for schools and for students.²³³

Today, through the Healthy Youth Act, sexual assault and sexual abuse risk prevention are required as a part of the sexual education program, and such a program is required, even though an opt-out program.²³⁴ The course is offered through grades 7, 8, and 9.²³⁵ The North Carolina program is not necessarily a "stress abstinence" program like New Jersey, it does not promote sexual activity either.²³⁶ The Healthy Youth Act did not limit sexual education teaching to only the concepts provided therein, rather, this curriculum has evolved over time and schools did not need to ask permission to teach additional concepts like the schools did under state-mandated abstinence-only education.²³⁷ In fact, many school districts have moved to new curriculum to come back to the Healthy Youth Act standards.²³⁸

North Carolina breaks up their concepts into multiple categories which are, Mental and Emotional Health, Personal and Consumer Health, Interpersonal Communication and Relationships, Nutrition and Physical Activity, and Alcohol Tobacco, and Other Drugs.²³⁹

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ *N.C. School District Votes to End Widely Used Sex Education Program Amid Outcry*, CBS THIS MORNING (Feb. 14, 2018), <https://www.cbsnews.com/news/debate-over-planned-parenthood-sex-education-program-north-carolina/>

²³⁸ *Id.*

²³⁹ *North Carolina Essential Standards: Health Education- High School*, PUBLIC SCHOOLS OF NORTH CAROLINA <http://www.ncpublicschools.org/docs/curriculum/healthfulliving/new-standards/healthful-living/9-12.pdf>.

Unlike Connecticut, the North Carolina standards do not include a sexual education component in every unit.²⁴⁰ The third standard is the one which holds the first sexual education information.²⁴¹ The information in this unit includes principles of healthy dating thy myths, misconceptions, and stereotypes pertaining to sexual assault and sexual abuse based on law and research, and designing plans for the prevention of sexual assault and abuse that include appropriate resources and skills.²⁴² The other units do not include more sexual-assault prevention information.²⁴³ However, in the Alcohol, Tobacco, and other drugs unit, curriculum advises against engaging in risky behaviors with someone who is under the influence of alcohol or other drugs, which may include sexual activity risks with alcohol and drugs.²⁴⁴

In North Carolina there is a direct focus on sexual assault prevention as a part of these North Carolina standards.²⁴⁵ North Carolina Students have been required to learn refusal skills and strategies to handle peer pressure regarding sexual acts for over 15 years.²⁴⁶ Additionally, a house bill and senate bill introduced in 2007 and implemented in 2009 requires students learn awareness of sexual abuse and assault, and reducing the risk of such events.²⁴⁷ One of the current learning objectives for students is that they “[c]ontrast the myths, misconceptions, and stereotypes pertaining to sexual assault and sexual abuse with what is known based on law and research.”²⁴⁸ Students must also “Design safe plans for the prevention of sexual assault and abuse that include appropriate resources and needed skills.”²⁴⁹ These are specific strategies intended to allow students to develop and maintain reproductive and sexual health.²⁵⁰

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ SIECUS, *North Carolina, STATE PROFILES FISCAL YEAR 2003* (2004), <https://siecus.org/wp-content/uploads/2015/03/North-Carolina-for-2003-web.pdf>

²⁴⁷ SIECUS, *North Carolina, STATE PROFILES FISCAL YEAR 2003* (2004), <https://siecus.org/wp-content/uploads/2015/03/NORTH-CAROLINA08.pdf>; SIECUS, *North Carolina, STATE PROFILES FISCAL YEAR 2003* (2004), <https://siecus.org/wp-content/uploads/2015/03/NORTH-CAROLINA09.pdf>

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ *Id.*

Although North Carolina does have an admirable sexual education program, especially compared to the majority of the nation, it could still improve. For example, North Carolina fails to explicitly state many comprehensive sexual education standards.²⁵¹ Rather, the state favors broad learning objectives that then leave room for individual district, school, or even teacher interpretation.²⁵²

There are arguments that the practical applications of many of the beneficial aspects of North Carolina's sexual education programs, including sexual assault prevention and other concepts are not taught sufficiently.²⁵³ Additionally, those who have personally experienced North Carolina's K-12 sexual education system suggest education regarding toxic masculinity or other ways to specifically address perpetrators while they are young and before they become perpetrators.²⁵⁴ While it is likely that these concepts will help and while North Carolina has room to grow, their methods are still significantly more comprehensive than other states.

E. *Maryland*

Like Georgia, Maryland's health education standards are student-objective based rather than specific curriculum. Additionally, like the other states with the lowest rate of rape, Maryland's sexual education program is an "opt out" program.²⁵⁵

In 2003, prior to the implementation of current law, Maryland's county school boards were required to work with the county's health department in establishing a school health education program which would meet a number of specified goals.²⁵⁶ The goal applicable to sexuality education was Goal F which was to help students "develop and use skills for making responsible decisions about sexual behavior and its consequences for the individual and others."²⁵⁷ These concepts

²⁵¹ *Id.*

²⁵² *North Carolina Essential Standards*, *supra* note 239.

²⁵³ Aislinn Antrim, *N.C. Sex Education is Lacking in Consent Education*, THE DAILY TAR HEEL (Oct. 4, 2018), <https://www.dailytarheel.com/article/2018/10/nc-sex-ed-1004>.

²⁵⁴ Gordon, *supra* note 18.

²⁵⁵ SIECUS, *Maryland*, STATE PROFILES FISCAL YEAR 2011 (2012), <https://siecus.org/wp-content/uploads/2015/03/MARYLAND-FINAL-2011.pdf>

²⁵⁶ SIECUS, *Maryland*, STATE PROFILES FISCAL YEAR 2003 (2004), <https://siecus.org/wp-content/uploads/2015/03/Maryland-for-2003-web.pdf>.

²⁵⁷ MD. CODE REGS. 13A.04.18.02, 13A.04.18.03, and 13A.04.18.04

were a floor, rather than a ceiling.²⁵⁸

The school was required to teach this program every year starting at kindergarten in mixed gender groups and must include information regarding roles of family members, male and female roles in society, sexual variations, family planning, and more.²⁵⁹ Since (year-at least 2005) it has been required that an elective health education course is available in middle and high school.²⁶⁰ The required elective courses in health began in 2005.²⁶¹ The required sexuality programs were opt-out, but the elective courses were opt-in.²⁶² Now, all programs are opt-out.²⁶³

In 1996, the Maryland Department of Health, Center for Health Promotion received a grant from the CDC to address rape and sexual assault prevention by providing education, training, and technical support to reduce the number of rapes and sexual assaults.²⁶⁴ This program was implemented in Maryland Public Schools as early as 2009.²⁶⁵ It focuses on preventing bullying, teasing harassment, sexual abuse, rape, and dating violence among youth.²⁶⁶

Maryland's health standards are very similar to those of North Carolina.²⁶⁷ North Carolina and Maryland have almost exactly the same names for their six health education standards.²⁶⁸ In Maryland these are, Mental and Emotional Health, Personal and Consumer Health, Family Life and Human Sexuality, Safety and Injury Prevention, Nutrition and Fitness, Disease Prevention and Control, and

²⁵⁸ SIECUS, *Maryland*, STATE PROFILES FISCAL YEAR 2003 (2004), <https://siecus.org/wp-content/uploads/2015/03/Maryland-for-2003-web.pdf>.

²⁵⁹ *Id.*

²⁶⁰ SIECUS, *Maryland*, STATE PROFILES FISCAL YEAR 2006 (2007), <https://siecus.org/wp-content/uploads/2015/03/MARYLAND06.pdf>.

²⁶¹ SIECUS, *Maryland*, STATE PROFILES FISCAL YEAR 2004 (2005), <https://siecus.org/wp-content/uploads/2015/03/Maryland04.pdf>.

²⁶² *Id.*

²⁶³ SIECUS, *Maryland*, STATE PROFILES FISCAL YEAR 2010 (2011), <https://siecus.org/wp-content/uploads/2015/03/MARYLAND-FINAL-2011.pdf>.

²⁶⁴ *Rape and Sexual Assault Prevention Program*, MARYLAND DEPARTMENT OF HEALTH, https://phpa.health.maryland.gov/ohpetup/Pages/rsapp_overview.aspx.

²⁶⁵ Joyce Danzler and Sarah Martin, *Maryland's School-Based Sexual Violence Prevention Program*, CALIFORNIA COALITION AGAINST SEXUAL ASSAULT (Oct. 14, 2009), <http://www.cal-casa.org/2009/10/maryland%E2%80%99s-school-based-sexual-violence-prevention-program/>.

²⁶⁶ *Rape and Sexual Assault Prevention Program*, *supra* note 264.

²⁶⁷ *Id.*; *North Carolina Essential Standards*, *supra* note 239

²⁶⁸ *Rape and Sexual Assault Prevention Program*, *supra* note 264; *North Carolina Essential Standards*, *supra* note 239.

Alcohol Tobacco, and Other Drugs.²⁶⁹

Maryland briefly defines each standard as an introduction to curriculum set forth by law. Under the standard Family Life and Human Sexuality, the main objective is that “[s]tudents will demonstrate the ability to use human development knowledge, social skills, and health enhancing strategies to promote positive relationships and healthy growth and development throughout the life cycle.”²⁷⁰

Further, the Family Life and Human Sexuality requires that students learn a number concepts, including influences on sexual behavior, the differences between healthy and unhealthy relationships, laws that relate to sexual behavior, describing limits on sexual intimacy, advocating for respect on intimacy, refusal strategies for sexual pressure, communicating about sexual behavior, and values which influence attitudes toward sexual behavior.²⁷¹

Aside from this standard, Maryland has enacted a number of legislative acts which provide more guidance and requirements as to what students must learn as part of their sexual education.²⁷² In 2016, Maryland enacted a bill which officially required the State Board of Education and certain nonpublic schools to develop a program on sexual abuse and assault prevention and for such a program to be a graduation requirement.²⁷³ The teachers of this program must have training in the area of sexual assault prevention.²⁷⁴

Maryland references the National Health Education Standards as it applies to its health education program, drawing concepts from the National Health Education standards, though not strictly including them as a part of required curriculum.²⁷⁵ These standards require students define consent and understand its implications for decision-making and analyze the effects of alcohol and other drugs on

²⁶⁹ *Rape and Sexual Assault Prevention Program*, *supra* note 264; *North Carolina Essential Standards*, *supra* note 239.

²⁷⁰ *Standard: Health Education, High School*, SCHOOL IMPROVEMENT IN MARYLAND (JAN. 27, 2009) https://mdk12.msde.maryland.gov/INSTRUCTION/curriculum/Health/Pages/standard4/high_school.aspx

²⁷¹ *Id.*

²⁷² SIECUS, *North Carolina, STATE PROFILES FISCAL YEAR 2017* (2018), https://siecus.org/state_profile/north-carolina-fy17-state-profile/.
https://siecus.org/state_profile/north-carolina-fy17-state-profile/.

²⁷³ *Id.*

²⁷⁴ *Id.*

²⁷⁵ National Sexuality Education Standards, *supra* note 24.

consent.²⁷⁶ Additionally, the provision regarding coercion requires that students have the ability to explain why tricks, coercion, or threats in relationships are wrong.²⁷⁷ Finally, there is extensive information in these National Sexuality Education Standards regarding sexual abuse and sexual assault.²⁷⁸ In 2018, Maryland enacted a bill which officially adopted some of these standards, including consent, into Maryland's curriculum.²⁷⁹

However, one issue with Maryland's Health Education is that, although health is required and the sexual education program is an opt-out program, a student can easily get out of taking the class.²⁸⁰ Students are required to take one half credit of health.²⁸¹ At some schools though, this health credit can consist of a class called "Current Health Issues" rather than a student's traditional health class, which would include the above-mentioned curriculum.²⁸² These schools do not have a posted curriculum for these alternative health classes, so while it is possible that students are learning the essential concepts needed for success, it is also possible that they are not. It may be more effective for the state to lay out specific education standards that include these concepts and do not allow for flexibility for specific schools.

VII. OTHER FACTORS

This article is not so bold as to assert that sexual education is the only factor which may affect rape rates. Some factors may include the demographics of a state's population such as the male to female ratio or racial makeup, urbanization, the climate, and more. However, when comparing these factors in the previously discussed states, there is an indication that such factors do not heavily affect rape rates.

²⁷⁶ *Id.*

²⁷⁷ *Id.*

²⁷⁸ *Id.*

²⁷⁹ SIECUS, *North Carolina, STATE PROFILES FISCAL YEAR 2017* (2018), <https://siecus.org/wp-content/uploads/2019/03/Maryland-FY18-Final.pdf>.

²⁸⁰ See Policy 1030- Graduation Requirements, HCPSS (Apr. 12, 2018), <https://www.hcpss.org/policies/8000/8030-graduation-requirements/>.

²⁸¹ *Id.*

²⁸² *Id.*

A. Male to Female Population

Because males are statistically more likely to commit rape, and females are more likely to be the victims of rape,²⁸³ the ratio of males to females could potentially affect the rates of rape. Under this school of thought, states with more males than females would have higher rates of rape. However, the data shows that this is not necessarily the case.²⁸⁴

New Jersey: 51.2 % female, 48.8% male²⁸⁵

Connecticut: 51.2 % female, 48.8% male²⁸⁶

Georgia: 51.3%female, 48.7% male²⁸⁷

North Carolina: 51.4% female, 48.6% male²⁸⁸

Maryland: 51.6% female, 48.4% male²⁸⁹

In these top five states we see that in fact, as the male population decreases, the rate of rape is actually increasing. New Jersey and Connecticut have the highest percentage of males of these states, but the lowest rates of rape.²⁹⁰ The percentage of males in the population is indeed higher in those states with the highest rate of rape.²⁹¹ These populations are as follows:

Alaska: 47.7% female, 52.2% male²⁹²

Michigan: 50.8% female, 49.2% male²⁹³

Colorado: 49.8% female, 50.2% male²⁹⁴

²⁸³ RAINN, *Victims of Sexual Violence: Statistics*, <https://www.rainn.org/statistics/victims-sexual-violence>.

²⁸⁴ See *infra* this section.

²⁸⁵ *New Jersey Population 2020*, WORLD POPULATION REVIEW (2019), <http://worldpopulationreview.com/states/new-jersey-population/>

²⁸⁶ *Connecticut Population 2020*, WORLD POPULATION REVIEW (2019), <http://worldpopulationreview.com/states/connecticut-population/>

²⁸⁷ *Georgia Population 2020*, WORLD POPULATION REVIEW (2019), <http://worldpopulationreview.com/states/georgia-population/>

²⁸⁸ *North Carolina Population 2020*, WORLD POPULATION REVIEW (2019), <http://worldpopulationreview.com/states/north-carolina-population/>

²⁸⁹ *Maryland Population 2020*, WORLD POPULATION REVIEW (2019), <http://worldpopulationreview.com/states/maryland-population/>

²⁹⁰ See notes 285–86.

²⁹¹ *Id.*

²⁹² *Alaska Population 2020*, WORLD POPULATION REVIEW (2019), <http://worldpopulationreview.com/states/alaska-population/>

²⁹³ *Michigan Population 2020*, WORLD POPULATION REVIEW (2019), <http://worldpopulationreview.com/states/michigan-population/>

²⁹⁴ *Colorado Population 2020*, WORLD POPULATION REVIEW (2019), <http://worldpopulationreview.com/states/colorado-population/>

South Dakota: 49.7% female, 50.3% male²⁹⁵

Arkansas: 51% female, 49% male²⁹⁶

These numbers do not clearly show that more males will result in higher rates of rape, but it does not disprove the theory either. These population makeups could be a factor, but is not dispositive of higher rates of rape. This is evident as Michigan has a higher population of females that many other states in the top five, yet still has the second highest rate of rape.

B. Racial Demographics

Rapes are statistically more likely to be committed by people of color, and people of color are more likely to be rape victims.²⁹⁷

New Jersey: White: 67.9%; Black: 13.5%; <1% Native American; 9.4% Asian; <1% Native Hawaiian; 6.4% Other; 2.6% two or more races.²⁹⁸

Connecticut: White: 76.7%; Black: 10.5%; <1% Native American; 4.4% Asian; <1% Native Hawaiian; 5.1% Other; 3.1% two or more races.²⁹⁹

Georgia: White: 59.4%; Black: 31.3%; <1% Native American; 3.8% Asian; <1% Native Hawaiian; 2.8% Other; 2.3% two or more races.³⁰⁰

North Carolina: White: 69.0%; Black: 21.5%; 1.2% Native American; 2.7% Asian; <1% Native Hawaiian; 3.1% Other; 2.5% two or more races.³⁰¹

Maryland: 56.6%; Black: 29.7%; <1% Native American; 6.2% Asian; <1% Native Hawaiian; 3.9% Other; 3.2% two or more races.³⁰²

Alaska: 65.3%; Black: 3.2%; 14.2% Native American; 6.2% Asian; 1.2% Native Hawaiian; 1.4% Other; 8.5% two or more races.³⁰³

²⁹⁵ *South Dakota Population 2020*, WORLD POPULATION REVIEW (2019), <http://worldpopulationreview.com/states/south-dakota-population/>

²⁹⁶ *Arkansas Population 2020*, WORLD POPULATION REVIEW (2019), <http://worldpopulationreview.com/states/arkansas-population/>

²⁹⁷ End Rape on Campus, *Prevalence*, <https://endrapeoncampus.org/new-page-3>.

²⁹⁸ *New Jersey Population*, *supra* note 285.

²⁹⁹ *Connecticut Population*, *supra* note 286.

³⁰⁰ *Georgia Population*, *supra* note 287.

³⁰¹ *North Carolina Population*, *supra* note 288.

³⁰² *Maryland Population*, *supra* note 289.

³⁰³ *Alaska Population 2020*, *supra* note 292.

Michigan: 78.7% White; Black: 13.8%; <1% Native American; 2.9% Asian; <1% Native Hawaiian; 1.2% Other; 2.8% two or more races.³⁰⁴

Colorado: 84.2% White; Black: 4.1%; <1% Native American; 3.0% Asian; <1% Native Hawaiian; 4.1% Other; 3.5% two or more races.³⁰⁵

South Dakota: 84.7% White; Black: 1.7%; 8.7% Native American; 1.4% Asian; <1% Native Hawaiian; <1% Other; 2.7% two or more races.³⁰⁶

Arkansas: 77.3% White; Black: 15.4%; <1% Native American; 1.4% Asian; <1% Native Hawaiian; 2.5% Other; 2.4% two or more races.³⁰⁷

Those states with the highest numbers of persons of color actually have the lowest rates of rape. Something worth noting, however, is that those states which have the highest population of Native Americans also tend to have higher rates of rape, such as Alaska and South Dakota. However, these populations still have predominately white populations.

C. *Urbanization*

The percentage of the persons living in urban areas by state are as follows:

New Jersey: 94.7%³⁰⁸

Connecticut: 88.0%³⁰⁹

Georgia: 75.1%³¹⁰

North Carolina: 66.1%³¹¹

Maryland: 87.2%³¹²

Alaska: 66.0%³¹³

Michigan: 74.6%³¹⁴

304 Michigan Population 2020, *supra* note 293.

305 Colorado Population 2020, *supra* note 294.

306 South Dakota Population 2020, *supra* note 295.

307 Arkansas Population 2020, *supra* note 296.

308 Urban Percentage of the Population for States, Historical, IOWA STATE UNIVERSITY, <https://www.icip.iastate.edu/tables/population/urban-pct-states>.

309 *Id.*

310 *Id.*

311 *Id.*

312 *Id.*

313 *Id.*

314 *Id.*

Colorado: 86.2%³¹⁵
 South Dakota: 56.7%³¹⁶
 Arkansas: 56.2%³¹⁷

Those states with the highest rates of rape are the ones with the lowest percentages of urbanization. This is by a small margin, however, as North Carolina, one of the states with the lowest rates of rape, has 66.1% urbanization, and Alaska, the state with the highest rate of rape, has 66.0% urbanization, just .1% lower than North Carolina. However, the general trends in the states with the highest rates of rape is that urbanization percentages are lower.

D. Climate

Climate could also be a factor in determining which states experience a greater amount of sexual assault and rape. This is because a colder climate could lead individuals to participating in more indoor activities which may lead to higher rates of sexual assault and rape. However, it is clear when comparing those states with the highest rate and those with the lowest that this may not be a determinative factor.

New Jersey: 52.7³¹⁸
 Connecticut: 49.0³¹⁹
 Georgia: 63.5³²⁰
 North Carolina: 59.0³²¹
 Maryland: 54.2³²²
 Alaska: 26.6³²³
 Michigan: 44.4³²⁴
 Colorado: 45.1³²⁵
 South Dakota: 45.2³²⁶

315 Id.

316 Id.

317 Id.

318 Average Annual Temperature for Each US State, CURRENT RESULTS (2020), <https://www.currentresults.com/Weather/US/average-annual-state-temperatures.php>.

319 Id.

320 Id.

321 Id.

322 Id.

323 Id.

324 Id.

325 Id.

326 Id.

Arkansas: 60.4³²⁷

While the states with a higher rate of assault tend to be colder, it does not appear to be a determining factor in whether there are high or low rates of rape in a given state.

The aforementioned factors are not the only ones which may contribute to rates of rape, however they are some of those most easily measured. Other factors may include religion, cultural mores, regional culture, popularity of drinking and drug use, political norms, level of sexual activity among teens, and even the age of consent between states. Further, studies have indicated that where individuals are made to feel comfortable reporting a sexual assault, rates of reporting will increase.³²⁸ On the other hand, where individuals lack faith in their reporting systems, they are far less likely to report an assault.³²⁹

There are countless factors, some measurable and some not, that can and likely do affect the rate of rape in a state. Sexual education is one possible factor among numerous others. There are some states which were not included in this study which have lower rates of rape with minimal sexual education.³³⁰ Therefore, other factors must play a role. It is likely that none of these factors, including sexual education, are dispositive, but rather that each contribute to the rate of rape. There is no way to clearly tell which variable has the highest explanatory value, but each is one to consider.

VIII. CONCLUSION

In the states with the lowest rates of rape commonalities include teaching of consent, coercion, dating violence, healthy relationships, and refusal skills. Students in these states often learn about how to report an assault and the available remedies for assault. Generally,

³²⁷ Id.

³²⁸ Cameron Kimble, *Sexual Assault Remains Dramatically Underreported*, BRENNAN CENTER OF JUSTICE, <https://www.brennancenter.org/our-work/analysis-opinion/sexual-assault-remains-dramatically-underreported>

³²⁹ Id.

³³⁰ E.g. Iowa, which has a low rate of rape, only mandates that health education include sexual disease prevention. Federal Bureau of Investigation, Law Enforcement Support Section, Crime Statistics Management Unit, *Reporting Rape in 2013 Revised*, CRIMINAL JUSTICE INFORMATION SERVICES DIVISION (April 9, 2014); Bureau of Justice Statistics, *Rape and Sexual Assault*, VIOLENT CRIME.

these states have a state-created sexual education program or curriculum. Additionally, in all of the states with the lowest rate of rape, some degree of sexual education is mandatory for graduation, and all are “opt-out” programs.

On the other hand, those states with the highest rates of rape either have a recent history of or currently have policies which do not require sexual education in any degree as part of graduation. Sexual education in these states, if there is sexual education at all, were or are often limited to certain concepts dictated by the state. These states are largely limited to abstinence-only education and pregnancy and STI/STD prevention. If these states have sexual education curriculum, it is also oftentimes an “opt-in” program. These states also offer little to no funding for schools that wish to develop sexual education curriculum for students.

Clearly, given the broad number and variety of factors that could lead to a rate of rape or sexual assault, it is not clear if these concepts are causal or correlative, but this survey indicates that there are general concepts shared between those states with the highest rate of rape and concepts shared between the states with the lowest rate of rape. Again, there is no definite way to tell which variable has the highest explanatory value, but, as law and policy is the manner in which our society addresses social ills, determining whether sexual education should be implemented in a state is worth consideration. If a high rate of sexual assault is prevalent in a given state, society would hope that policy makers and researchers would consider all options, including education, to remedy this ill. In the past, more comprehensive sexual education has been a way in which sexual education concerns have been addressed and remedied.³³¹

Once again, this survey does not aim to draw the conclusion that sexual education is the only factor which will affect the rate of rape. Rather, this essay provides theory and additional considerations for policymakers and researchers addressing the ills in their state. The issues, data, and questions raised by this research should be examined and considered by policymakers and researchers as they seek all possible solutions to reduce rates of rape and sexual assault in their states.

³³¹ Evidence-Based Teen Pregnancy Prevention Program, CENTER FOR DISEASE CONTROL, <https://www.cdc.gov/teenpregnancy/practitioner-tools-resources/evidence-based-programs.html>

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Sexual Education
