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Oklahoma's Health Education Act and the Benefit of Comprehensive Sex Education Curriculum

Landes Bauter

ABSTRACT

Oklahoma has historically struggled to provide comprehensive sex education in public schools. In 2020, Oklahoma had the fourth-highest teen birth rate in the United States.¹ Oklahoma also had the fifth-highest rate of gonorrhea and the fourth-highest rate of syphilis.² Currently, there are no sex education requirements at a state level, and Oklahoma students are burdened by educational inequity.³ The current approach must change if Oklahoma wishes to prepare students to be sexually healthy adults. While the recently enacted Health Education Act, Oklahoma Senate Bill 89, mandates health education in Oklahoma public schools, sex education is not explicitly included in that health education.⁴ However, sex education is part of comprehensive health education, and Oklahoma now mandates health education; therefore, the state should strive to provide students with evidence-based, comprehensive sex education free of abstinence rhetoric. This article will explain why comprehensive sex education should be

¹ *Teen Birth Rate by State*, CDC (Feb. 25, 2020), <https://www.cdc.gov/nchs/pressroom/sosmap/teen-births/teenbirths.htm> [<https://perma.cc/H7BW-EY89>].

² *Sexually Transmitted Disease Surveillance 2020, Table 13. Primary and Secondary Syphilis – Reported Cases and Rates of Reported Cases by State, Ranked by Rates, United States, 2020*, CDC (April 12, 2022), <https://www.cdc.gov/std/statistics/2020/tables/13.htm> [<https://perma.cc/953J-2BJS>]; *Sexually Transmitted Disease Surveillance 2020, Table 7. Gonorrhea – Reported Cases and Rates of Reported Cases by State, Ranked by rates, United States, 2020*, CDC (April 12, 2022), <https://www.cdc.gov/std/statistics/2020/tables/7.htm> [<https://perma.cc/EJ68-P5N8>].

³ *Oklahoma State Profile*, SIECUS, https://siecus.org/state_profile/oklahoma-fy21-state-profile/ [<https://perma.cc/2J2A-7VGU>].

⁴ OKLA. STAT. tit. 70 §11-103.12 (2021).

included in the Oklahoma Health Education Act curriculum or mandated through new legislation.

First, this article will briefly explain the history of sex education in America. Second, it will describe the state of sex education in Oklahoma. Third, it will explain Oklahoma's Health Education Act. Fourth, it will explore the pros and cons of different approaches to sex education. Fifth, it will recommend comprehensive sex education as the appropriate sex education method. Sixth, it will advocate for the inclusion of sex education within Oklahoma's Health Education Act by describing the solution and explaining how the state could realistically implement the solution. It will also explain the benefits of the solution and address potential criticism. Seventh, it will explore an alternative solution of standardizing sex education through new legislation. It will describe the solution and explore how the state could best implement it while also addressing the benefits and criticism this solution may garner. Eighth, it will discuss the aspects that must be part of Oklahoma's sex education standards regardless of how the state establishes sex education. Finally, it will address broad criticisms of sex education that are not specific to either solution but could apply to both.

I. A BRIEF HISTORY OF SEX EDUCATION

Before the 1900s, American sex education took place mainly in the home.⁵ Although public education was on the rise, most American children did not have the opportunity to attend school.⁶ Sex education was based on Christian morality, and both actual and social law enforced abstinence until marriage.⁷ In 1873, Congress passed the Comstock Act, which defined contraceptives as obscene and illicit and made it a federal offense to

⁵ 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, 25 (2014).

⁶ Nancy Kober & Diane Stark Rentner, *History and Evolution of Public Education in the US*, GEORGE WASHINGTON UNIV. CTR. ON EDUC. POL'Y 4 (2020), <https://files.eric.ed.gov/fulltext/ED606970.pdf> [<https://perma.cc/S4J8-6ECM>].

⁷ See Huber & Firmin, *supra* note 5, at 25.

disseminate birth control through the mail or across state lines.⁸ Twenty-four out of the thirty-seven states enacted their own version of the Comstock Act.⁹ Connecticut's statute was by far the most restrictive; it allowed the arrest of married couples using birth control in their own homes.¹⁰

The Progressive Era, roughly 1809 to 1920, was a time of increased sex outside of marriage.¹¹ During World War I, the spread of venereal diseases made sexual health a national issue, and sex education shifted from a private matter to a government concern.¹² In response, the American Social Hygiene Association (ASHA) was founded in 1914 to fight prostitution and the spread of venereal diseases by educating women about wholesome sex within marriage.¹³ In 1912 and 1914, the National Education Association passed resolutions calling for the adoption of sex education in schools.¹⁴ Schools began implementing sex education throughout the early 1900s.¹⁵ Nevertheless, the focus of early sex education remained on marriage and family planning until the 1960s.¹⁶

The 1960s and 1970s brought a sexual revolution and constitutional protections for the private use of contraceptives. In the 1965 case, *Griswold v. Connecticut*, Planned Parenthood employees arrested for operating a

⁸ Anthony Comstock's "Chastity" Laws, PBS, <https://www.pbs.org/wgbh/americanexperience/features/pill-anthony-comstocks-chastity-laws/> [<https://perma.cc/5265-9BHA>] (last visited Sep. 24, 2021).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Naomi Rivkind Shatz, *Unconstitutional Entanglements: The Religious Right, the Federal Government, and Abstinence Education in the Schools*, 19 YALE J. L. AND FEMINISM 496, 496 (2008).

¹² Kayla Blackman, Public Power, Private Matters: The American Social Hygiene Association and the Policing of Sexual Health in the Progressive Era 7 (May 2014) (M.A. thesis, University of Montana).

¹³ Shatz, *supra* note 11, at 496; *id.* at 15.

¹⁴ Huber & Firmin, *supra* note 5, at 31.

¹⁵ *See id.*

¹⁶ Shatz, *supra* note 11, at 496.

clinic challenged Connecticut's law forbidding contraceptive use.¹⁷ The Supreme Court held that the Bill of Rights implied right of privacy includes the right to privacy within marriage.¹⁸ This case created precedential protection for an individual's right to make birth control decisions and paved the way for future developments in sex education.¹⁹

In 1964, the founding of the Sexuality Education and Information Council of the United States (SIECUS) signaled a new era in sex education.²⁰ SIECUS supported values-neutral, comprehensive sex education that encouraged students to decide when to engage in sex and taught students how to access contraceptives.²¹ In 1969, California banned the SIECUS curriculum.²² This new version of sex education did not receive widespread support, and the anti-sex education movement spread rumors that sex education was a communist plot to overthrow America.²³

In the 1970s and 1980s, anti-sex education movements stopped attempting to ban sex education and focused on pushing an alternative, abstinence-only education.²⁴ Abstinence-only programs teach students that abstinence from sex is the only morally acceptable option and the only safe and effective way to prevent unintended pregnancy and STIs.²⁵ They

¹⁷ *Griswold v. Connecticut*, 381 U.S. 479, 480 (1965); see also *Timeline of Important Reproductive Freedom Cases Decided by the Supreme Court*, ACLU, <https://www.aclu.org/other/timeline-important-reproductive-freedom-cases-decided-supreme-court?redirect=cpreirect/16463> [<https://perma.cc/T3T3-RB99>] (last visited Sep. 24, 2021).

¹⁸ *Griswold*, 381 U.S. at 485-86.

¹⁹ See ACLU, *supra* note 17.

²⁰ Shatz, *supra* note 11, at 496; see also *Our History*, SIECUS, <https://siecus.org/about-siecus/our-history/> [<https://perma.cc/E5UE-MMHN>] (last visited Dec. 11, 2021).

²¹ See Huber & Firmin, *supra* note 5, at 37.

²² See *id.*

²³ Shatz, *supra* note 11, at 496.

²⁴ *Id.* at 497.

²⁵ *Abstinence Education Programs: Definition, Funding, and Impact on Teen Sexual Behavior*, KFF: WOMEN'S HEALTH POL'Y (June 1, 2018), <https://www.kff.org/womens-health-policy/fact-sheet/abstinence-education-programs-definition-funding-and-impact-on-teen-sexual-behavior/> [<https://perma.cc/538M-H9YT>].

generally do not discuss contraceptive methods unless to emphasize their failure rates.²⁶ In 1981, Congress passed the Adolescent Family Life Act (AFLA), known colloquially as the “chastity law.”²⁷ The Act promoted chastity and self-discipline and encouraged teens to postpone sex until marriage.²⁸ The Act legitimized abstinence-only programs by providing federal funding to organizations using abstinence-only programs.²⁹ For example, one hospital in Massachusetts used AFLA funding to teach curriculum titled “The Church’s Teaching on Abortion.”³⁰

AFLA programs did not escape national criticism, and in 1985 the ACLU challenged the AFLA on Establishment Clause grounds.³¹ The Supreme Court held that the AFLA did not violate the separation of church and state principles on its face.³² However, a 1993 out-of-court settlement required AFLA programs to be medically accurate and respect the “principle of self-determination” for teenage contraceptive use.³³ After the settlement, AFLA grant recipients were required to submit their curriculum to the Department of Health and Human Services for review of the curriculums’ promotion of religious ideals and medical accuracy.³⁴

Modern sex education is characterized by the debate between abstinence-only sex education and comprehensive sex education.³⁵ Supporters of abstinence-only programs argue that teaching abstinence will delay teens’

²⁶ *Id.*

²⁷ *Timeline of Abstinence-Only Education in U.S. Classrooms*, NCAC, <https://ncac.org/resource/timeline-of-abstinence-only-education-in-u-s-classrooms> [<https://perma.cc/TW4J-2Y6V>] (last visited Oct. 2, 2021).

²⁸ *Id.*

²⁹ Shatz, *supra* note 11, at 497.

³⁰ Patricia Donovan, *The Adolescent Family Life Act and the Promotion of Religious Doctrine*, 16 FAM. PLAN. PERSP. 222, 224 (1984).

³¹ NCAC, *supra* note 27.

³² *Id.*

³³ *Id.*

³⁴ Rebekah Saul, *Whatever Happened to the Adolescent Family Life Act?*, GUTTMACHER POL’Y REV. (April 1, 1998) <https://www.guttmacher.org/gpr/1998/04/whatever-happened-adolescent-family-life-act> [<https://perma.cc/Q542-LH4S>].

³⁵ Shatz, *supra* note 11, at 497.

first sexual encounters and reduce their total number of partners, leading to an overall reduction in teen pregnancy and sexually transmitted infections (STI).³⁶ Critics of abstinence-only programs argue they do not prevent teen pregnancy and promote gender stereotypes.³⁷

In 2009, President Barack Obama eliminated most federal funding for abstinence-only sex education programs and instead funded programs that have been proven effective through independent evaluations.³⁸ These programs, known as comprehensive sex education programs, stress that abstinence is the most effective way to prevent pregnancy and STIs while providing accurate information about contraceptives, sexuality, puberty, reproductive health, and body image.³⁹ Participants may also learn about interpersonal relationships, gender identity, and sexual orientation.⁴⁰

II. THE STATE OF SEX EDUCATION IN OKLAHOMA

Oklahoma is colloquially known as the “belt buckle” of the bible belt.⁴¹ It is a profoundly Christian state with 79% of adults self-identifying as various denominations of Christianity and 75% of adults reporting they attend religious services at least once a month.⁴² It is also a majority

³⁶ KFF: WOMEN’S HEALTH POL’Y, *supra* note 25.

³⁷ Shatz, *supra* note 11, at 497.

³⁸ NCAC, *supra* note 27.

³⁹ *Sexuality Education as Part of a Comprehensive Health Education Program in K to 12 Schools*, AM. PUB. HEALTH ASS’N (Nov. 18, 2014), <https://www.apha.org/policies-and-advocacy/public-health-policystatements/policy-database/2015/01/23/09/37/sexuality-education-as-part-of-a-comprehensive-health-educationprogram-in-k-to-12-schools> [<https://perma.cc/3EA6-HJNM>].

⁴⁰ *Id.*

⁴¹ Donald Cohen, *The Belt Buckle of the Bible Belt (Capital and Main)*, OKLA. POL’Y INST. (July 4, 2017), <https://okpolicy.org/belt-buckle-bible-belt-capital-main/> [<https://perma.cc/WA9C-ZKPY>].

⁴² *Adults in Oklahoma, Religious Landscape Study*, PEW RSCH. CTR., <https://www.pewforum.org/religious-landscape-study/state/oklahoma/> [<https://perma.cc/8NDL-2S34>].

Republican state.⁴³ In the 2020 presidential election, every single Oklahoma county voted majority for Republican candidate Donald Trump.⁴⁴ Oklahoma's current Governor, Kevin Stitt, is famously conservative and claims he is "the most pro-life governor in the country."⁴⁵ These factors influence how Oklahoma lawmakers and schools approach sex education and may also explain parents and guardians' aversion to sex education.

Oklahoma does not currently require schools to teach sex education.⁴⁶ However, it does require that any sex education given "shall have one of the primary purposes the teaching of or informing students about the practice of abstinence."⁴⁷ The state also offers parents and guardians the right to review all curricula and excuse students from sex education classes.⁴⁸ School districts have the liberty to decide what type of sex education—if any at all—they will provide to young people.⁴⁹

Additionally, Oklahoma schools are required to provide HIV/AIDS prevention education regardless of whether sex education is provided.⁵⁰ The HIV/AIDS curriculum must be medically accurate and updated as newly discovered medical facts make it necessary.⁵¹ The State Department of Education, working with the State Department of Health, generally produces the curriculum.⁵² Schools may develop their own curriculum, but the State Department of Health must approve it for medical accuracy.⁵³

⁴³ *Oklahoma Election Results 2020*, NBC NEWS (Mar. 3, 2021, 12:21 PM), <https://www.nbcnews.com/politics/2020-elections/oklahoma-results> [<https://perma.cc/9DF3-WSNP>].

⁴⁴ *Id.*

⁴⁵ Kevin Stitt (@GovStitt), Twitter (Sep. 10, 2021, 7:00 AM), <https://twitter.com/govstitt/status/1436328772249194498?lang=en> [<https://perma.cc/TN67-XWDJ>].

⁴⁶ OKLA. STAT. tit. 70, §11-105.1 (2019).

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ SIECUS, *supra* note 3.

⁵⁰ OKLA. STAT. tit. 70, §11-103.3 (2021).

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

These programs are required to teach that abstinence is the only certain means of preventing AIDS contraction.⁵⁴ All HIV/AIDS prevention curricula must be available for parents and guardians of students to review.⁵⁵

Because individual school districts control sex education, the amount and quality of sex education students receive varies widely across the state.⁵⁶ In 2014, the Tulsa World newspaper reported that the state's largest school district, Oklahoma City Public Schools, provided no sex education classes to students at any grade level.⁵⁷ Many students report that the little sex education they participated in emphasized abstinence from a Christian morality perspective.⁵⁸

In a University of Oklahoma Daily article, one student recalls being given Band-Aids and "being told to stick them to a bunch of people around us."⁵⁹ The teacher related the no longer sticky Band-Aids to someone who has had sex with multiple partners and claimed that the more sex a person has, the more they will become desensitized to sex and lose empathy and compassion for their partners.⁶⁰

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ See *Adolescent Sexual Health in Oklahoma 2019*, OKLA. STATE DEP'T. OF HEALTH 1, 3 (2019), https://www.ok.gov/health2/documents/Adolescent_Sexual_Health_Report_Oklahoma_2019.pdf [<https://perma.cc/9ZPM-GE8E>].

⁵⁷ Carmen Forman, *Sex Education Varies Widely in Oklahoma Schools*, TULSA WORLD (Feb. 19, 2019), https://tulsaworld.com/news/local/education/sex-education-varies-widely-in-oklahoma-schools/article_9d114e75-7430-5807-9f1a-8fe5fa02caaa.html [<https://perma.cc/8D5R-LPK5>].

⁵⁸ See Abigail Hall, *'Abstinence-Only Education Doesn't Work': OU Students Share Tales of Sex, Disease and Consent Education in Oklahoma, Texas Schools*, OU DAILY (Mar. 3, 2020), https://www.oudaily.com/culture/abstinence-only-education-doesn-t-work-ou-students-share-tales-of-sex-disease-and-consent/article_b20d2d0e-4f38-11ea-ae76-3376ac20df16.html [<https://perma.cc/RWW5-HVGA>].

⁵⁹ *Id.*

⁶⁰ *Id.*

In 2019, the Oklahoma State Department of Health published the Adolescent Sexual Health Report, which reported that the sex education students receive mainly depends on available funding and students' location.⁶¹ There are coordinated efforts to provide sex education in the state's metropolitan areas, but students in rural schools have disproportionately worse resources.⁶²

The report demonstrates how Oklahoma adolescents are affected by the lack of sex education resources. Within Oklahoma, 43% of public high school students had sexual intercourse, and 50% of students did not use a condom during their last sexual intercourse.⁶³ Adolescents made up 65% percent of chlamydia cases in the state.⁶⁴ The report emphasizes that Oklahoma's teen birth rate is declining much slower than the national average.⁶⁵ From 1991 to 2017, Oklahoma's teen birth rates decreased by 59%, but the national average dropped by 70% in the same period.⁶⁶ At the time of the report, Oklahoma had the third-highest teen birth rate for fifteen- to nineteen-year-olds in the United States.⁶⁷

The report recommends changes that the state can make at many levels to improve adolescent sexual health in Oklahoma, including policy, community, organization, and individual.⁶⁸ It recommends supporting comprehensive health education for Oklahoma students.⁶⁹ It also proposes that districts allow educators to deliver evidence-based health education in school settings.⁷⁰ The solutions outlined in this article follow the recommendations of the Oklahoma State Department of Health.

⁶¹ OKLA. STATE DEP'T. OF HEALTH, *supra* note 56, at 3.

⁶² *Id.*

⁶³ *Id.* at 4–5.

⁶⁴ *Id.* at 9.

⁶⁵ *Id.* at 13.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.* at 3.

⁶⁹ *Id.* at 15.

⁷⁰ *Id.*

III. THE OKLAHOMA HEALTH EDUCATION ACT

During the 2021 legislative session, Senator John Haste introduced Oklahoma Senate Bill 89, the Health Education Act, which became law in April of 2021.⁷¹ The purpose of the Act is as follows:

- (1) Ensure students receive instruction in health, particularly at an early age when habits are formed;
- (2) Support the health and well-being of children that have been affected by traumatic experiences;
- (3) Improve academic outcomes for students; and
- (4) Improve the overall health outcomes of Oklahoma's population.⁷²

The bill appears to address the problems described in the State Department of Health's Adolescent Sexual Health Report but fails to adequately address sex education.

The bill amends section 11-103.6 of the School Code of 1971 by adding health and physical education to the required subjects in Oklahoma schools.⁷³ The purpose of the act, as previously stated, is found in Okla. Stat. tit. 70 §11-103.12, and Okla. Stat. tit. 70 §11-103.13 details how to carry out the act.⁷⁴ By the 2022–2023 school year, the State Department of Education shall create professional development programs and credentials for teachers who will teach health education.⁷⁵ By the 2023–2024 school year, school districts shall provide students with instruction on all health education subject matter standards.⁷⁶

The subjects included in the bill are physical health, mental health, social and emotional health, and intellectual health.⁷⁷ The text does not directly reference sex education, but professionals consider sex education an

⁷¹ *Oklahoma Senate Bill 89*, LEGISCAN, <https://legiscan.com/OK/bill/SB89/2021> [<https://perma.cc/K96N-NF2Q>] (last visited Oct. 2, 2021).

⁷² OKLA. STAT. tit. 70 §11-103.12 (2021).

⁷³ OKLA. STAT. tit. 70 §11-103.6 (2020).

⁷⁴ See OKLA. STAT. tit. 70 §11-103.12–13 (2021).

⁷⁵ OKLA. STAT. tit. 70 §11-103.13 (2021).

⁷⁶ *Id.*

⁷⁷ *Id.*

essential part of health education.⁷⁸ In light of the adolescent sexual health challenges that Oklahoma faces, the State Department of Education should take this opportunity to implement the comprehensive sex education recommended by the Oklahoma State Department of Health.

IV. RECOMMENDED SEX EDUCATION CURRICULUM

To address Oklahoma's health challenges adequately, the state must mandate sex education, but the education provided must effectively educate students to result in statistical changes. Substantial scholarship has been devoted to determining the best way to educate adolescents about sexual health. Organizations like the Centers for Disease Control and Prevention (CDC) and World Health Organization (WHO) provide research and recommendations on the most effective education methods.⁷⁹ Other resources, such as the National Sex Education Standards, are collaboratively published by independent sexual health organizations.⁸⁰ These resources do not control how Oklahoma will provide sex education, but they inform educators and help them make the best decisions for students.

The CDC identifies essential topics critical for sexual health and recommends that all sex education courses cover these topics.⁸¹ The topics include the following: the benefits of abstinence; how HIV and STI are transmitted; the health consequences of HIV and STI; the influences that

⁷⁸ *Id.*; see SIECUS, *supra* note 3.

⁷⁹ Meg Anderson, *The CDC Gives U.S. Schools Low Marks in Sex Ed*, NPR (Dec. 10, 2015, 7:08 AM), <https://www.npr.org/sections/ed/2015/12/10/457281553/the-cdc-gives-u-s-schools-low-marks-in-sex-ed> [<https://perma.cc/XU3E-PS9Y>]; UNESCO, *International Technical Guidance on Sexuality Education*, WHO (2018), <https://www.who.int/reproductivehealth/publications/adolescence/comprehensive-sexuality-education/en/> [<https://perma.cc/5WKJ-2Z6L>].

⁸⁰ ADVOCATES FOR YOUTH ET AL., NATIONAL SEX EDUCATION STANDARDS (2d Ed.) 12 (2020), <https://www.advocatesforyouth.org/wp-content/uploads/2021/11/NSES-2020-web-updated2.pdf> [<https://perma.cc/J9XW-DZRY>].

⁸¹ Anderson, *supra* note 79.

family, peers, and media have on sexually risky behavior; the efficacy and use of condoms; and the importance of preventative care necessary to maintain sexual health.⁸² According to the CDC, a quality sexual health education curriculum “includes medically accurate, developmentally appropriate, and culturally relevant content and skills that target key behavioral outcomes and promote healthy sexual development.”⁸³ Additionally, the World Health Organization recommends that students receive comprehensive sex education.⁸⁴

The National Sex Education Standards are published by three independent sexual health organizations and endorsed by fourteen other organizations.⁸⁵ The standards highlight specific characteristics of sex education programs that effectively support healthy sexual development in adolescents. Effective programs are research-based and theory-driven; focus on clear health goals; provide basic and accurate functional knowledge; increase the personal perception of risk; and address social pressure and influence.⁸⁶

The World Association for Sexual Health recognizes sexual health as a fundamental human right, including access to scientifically accurate information about sexuality, sexual health, and sexual rights.⁸⁷ To become sexually healthy adults, young people need the knowledge, attitudes, and skills necessary to avoid HIV, STIs, and unintended pregnancy.⁸⁸

⁸² *Id.*

⁸³ *Id.*

⁸⁴ UNESCO, *supra* note 79.

⁸⁵ ADVOCATES FOR YOUTH ET AL., *supra* note 80, at 2, 4.

⁸⁶ *Id.*

⁸⁷ *Declaration of Sexual Rights*, WORLD ASS’N FOR SEXUAL HEALTH, 1 (2014), https://worldsexualhealth.net/wp-content/uploads/2021/09/declaration_of_sexual_rights_sep03_2014_b.pdf [<https://perma.cc/JB49-BK3U>].

⁸⁸ AM. PUB. HEALTH ASS’N, *supra* note 39.

Adolescents specifically need the knowledge described above because they are at a higher risk for acquiring STIs than any other age group.⁸⁹

There are three main approaches to sex education in schools: abstinence-only, abstinence-plus, and comprehensive. Years of research and evaluations have shown that comprehensive sex education programs have the most positive effect on adolescents' sexual behaviors.⁹⁰ A comprehensive curriculum will be the best way for Oklahoma to address the educational inequality students are currently experiencing. Abstinence-only curricula is not appropriate because, as this article will explain, abstinence-only programs are ineffective, harmful, and potentially unconstitutional.

Abstinence-only curricula teach students that abstinence until marriage is expected of everyone and exclude information about other contraceptives and STI prevention methods.⁹¹ There is currently no solid evidence to support abstinence-only programs' positive effects on adolescents' sexual behaviors.⁹² A nine-year congressionally mandated study followed four Abstinence-Only-Until-Marriage programs and found that abstinence-only education did not affect the sexual behavior of adolescents.⁹³ Youth who participated in these programs did not abstain from sex longer than students who did not participate.⁹⁴ A second study found that states requiring abstinence-focused sex education have higher teenage pregnancy rates, even after accounting for socioeconomic status, education, and race factors.⁹⁵ Considering Oklahoma's longstanding challenges, an abstinence-only sex education curriculum will be ineffective at decreasing teen pregnancy and STI rates.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ KFF: WOMEN'S HEALTH POL'Y, *supra* note 25.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

Abstinence-plus curricula are misunderstood as a middle ground between abstinence-only and comprehensive sex education. However, these programs leave significant gaps in student's sexual health educations.⁹⁶ Abstinence-plus programs stress the expectation of abstinence the same way as abstinence-only programs.⁹⁷ They may include information on puberty, contraception, and safe-sex practices, but they are not required to address these topics or be scientifically accurate.⁹⁸ Abstinence-plus programs may satisfy the wishes of Oklahoma's Christian conservative population because these programs have flexible standards. However, they will not be the most effective way to challenge Oklahoma's youth's problems.

In contrast, comprehensive sex education curricula provide scientifically accurate information about sexual development, reproduction, contraceptive, and STI prevention, among other subjects. Comprehensive programs teach students that abstinence is the most effective way to prevent unplanned pregnancy and STI, but they do not portray abstinence as a societal expectation.⁹⁹ These programs are effective in delaying sexual initiation and increasing the use of contraceptives.¹⁰⁰ One study demonstrated that students who participate in comprehensive sex education programs are more likely to delay sex than adolescents who do not.¹⁰¹ It also found that students in comprehensive programs have a 50% lower risk of teen pregnancy than students in abstinence-only programs.¹⁰² Oklahoma must adopt comprehensive sex education standards to effect positive change for adolescents.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *What is Abstinence-Plus Sex Education vs. Abstinence-Only Education?*, TEEN MISSISSIPPI THMS (Jan. 20, 2021), <https://teenhealthms.org/blog/what-is-abstinence-plus-sex-education-vs-abstinence-only-education/> [<https://perma.cc/SR76-BMSD>].

⁹⁹ KFF: WOMEN'S HEALTH POL'Y, *supra* note 25.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

V. THE NEED FOR COMPREHENSIVE SEX EDUCATION IN OKLAHOMA

To best address the needs of Oklahoma students, students must be offered comprehensive sex education programs within schools. Oklahoma adolescents are deeply affected by the state's current lack of sex education resources.¹⁰³ Oklahoma's teen birth rate is declining at a much slower pace than the national average; in 2019, Oklahoma had the third highest teen birth rate in the United States.¹⁰⁴

Comprehensive sex education will be the best way to address Oklahoma's consistently high reports of teen STI contraction and unintended pregnancy because comprehensive sex education programs positively affect teen sexual behaviors.¹⁰⁵ Studies demonstrate that students who participate in comprehensive programs have reduced rates of sexual activity, sexually risky behavior, STIs, and pregnancy.¹⁰⁶

Fifty-two percent of Oklahoma's public schools are in rural areas, far above the national average of twenty-nine percent.¹⁰⁷ Students in rural communities often have challenges accessing healthcare and educational resources outside of school.¹⁰⁸ Because of these obstacles, teaching sex education in schools will be the best way to reach all students. Sex education should be provided in schools because schools are a readily available academic environment where students are able to ask questions and rely on the information given by educators.

¹⁰³ See OKLA. STATE DEP'T. OF HEALTH, *supra* note 56, at 8.

¹⁰⁴ *Id.*

¹⁰⁵ AM. PUB. HEALTH ASS'N, *supra* note 39.

¹⁰⁶ COMM. ON ADOLESCENT HEALTH CARE, COMPREHENSIVE SEXUALITY EDUC., AM. COLL. OF OBSTETRICIANS AND GYNECOLOGISTS (Nov. 2016), <https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2016/11/comprehensive-sexuality-education.pdf> [<https://perma.cc/JE74-JWB3>].

¹⁰⁷ OKLA. STATE DEP'T. OF EDUC., DIVERSE LEARNERS (2020), <https://sde.ok.gov/sites/default/files/Brief4-%20Diverse%20Learners.pdf> [<https://perma.cc/68ZB-U9CF>].

¹⁰⁸ *Id.*

Oklahoma’s current sex education statutes foster an environment where unhealthy circumstances thrive.¹⁰⁹ The Health Education Act was enacted in part to “improve the overall health outcomes of Oklahoma’s population[.]”¹¹⁰ Merriam-Webster defines *health* as “the condition of being sound in body, mind or spirit.”¹¹¹ Events such as unplanned pregnancy, domestic abuse, sexual assault, and STI contraction have detrimental effects on students’ physical health and mental well-being. Therefore, comprehensive sex education may help students learn how to avoid these events and manage them if they occur. Proper implementation of a comprehensive sex education curriculum will help Oklahoma achieve the goals set in the Health Education Act and improve the overall health outcomes of Oklahoma’s students.

Finally, a comprehensive sex education curriculum would be a welcome change because it has been supported and recommended by the state.¹¹² In 2019, the Oklahoma State Department of Health published a report that supported implementing comprehensive sex education in Oklahoma schools; specifically, the report recommended that teachers be allowed to provide evidence-based health education resources to students.¹¹³

VI. THE SOLUTIONS

The following section will present two ways Oklahoma could mandate sex education and ensure that students receive comprehensive sex education. The first solution will recommend that the Oklahoma State Department of Education include comprehensive sex education as a subject matter standard within Oklahoma’s Health Education Act. The second solution will explain how the Oklahoma legislature could mandate

¹⁰⁹ See OKLA. STATE DEP’T. OF HEALTH, *supra* note 56, at 8

¹¹⁰ OKLA. STAT. tit. 70 §11-103.12 (2021).

¹¹¹ *Health*, MERRIAM-WEBSTER (11th ed. 2020).

¹¹² OKLA. STATE DEP’T. OF HEALTH, *supra* note 56, at 15.

¹¹³ *Id.*

comprehensive sex education through new legislation by either making sex education a required subject taught in Oklahoma schools or amending the state's current sex education bills to mandate comprehensive sex education. This section will also discuss the unique problems and criticisms that each solution may face.

A. Oklahoma Health Education Act Solution

The best and most immediate way to implement comprehensive sex education in Oklahoma schools is to include sex education within the subject matter standards of Oklahoma's Health Education Act. This solution will require no significant action from the legislature, and it will enable schools to quickly implement age-appropriate sex education with little to no expenditure.

The Oklahoma legislature and the State Board of Education set skill and competency standards for each subject required by the state.¹¹⁴ School districts have the discretion to develop and implement curriculum so long as it meets the required skills and competency standards adopted by the State Department of Education.¹¹⁵

Oklahoma's Health Education Act added health and physical education as required subjects taught in Oklahoma schools.¹¹⁶ The Act requires the State Department of Education to develop micro-credentials for educators who will teach health education.¹¹⁷ It also requires the creation of professional development programs to help teachers incorporate health education curricula into existing coursework.¹¹⁸ The Act states that "Health education shall include but is not limited to physical health, mental health, social and emotional health and intellectual health."¹¹⁹ It further clarifies

¹¹⁴ OKLA. STAT. tit. 70 §11-103.6 (2020).

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ OKLA. STAT. tit. 70 §11-103.13 (2021).

¹¹⁸ *Id.*

¹¹⁹ *Id.*

that the State Board of Education will adopt health education subject matter standards by the 2023-2024 school year.¹²⁰

The State Board of Education should adopt comprehensive sex education as a subject matter standard within the Health Education Act. Sex education easily fits within the category of physical health. A genuinely comprehensive sex education curriculum will also discuss social and emotional health education topics such as peer and partner relationships and intimate partner abuse.¹²¹

Currently, the amount and quality of sex education that students receive mainly depend on the student's location and the school district's available funding.¹²² Because of this, sex education curricula varies widely throughout the state,¹²³ and many students receive no sex education at all.¹²⁴ Inclusion within the Health Education Act will guarantee that all students receive a uniform minimum level of sex education, as the state will be able to standardize sex education quality and create professional development programs to ensure schools meet those standards.¹²⁵ Including comprehensive sex education within the Health Education Act will allow the State Board of Education to integrate sex education with complementary health subjects to decrease the stigma and embarrassment that often comes with sex education courses.

Including a comprehensive curriculum within the Act will likely be the easiest way for the state to establish sex education programs. The legislature has already tasked the State Department of Education and the State Board of Education with creating subject matter standards and facilitating Health Education Act programs.¹²⁶ Subsequently, the

¹²⁰ *Id.*

¹²¹ WORLD ASS'N FOR SEXUAL HEALTH, *supra* note 87.

¹²² *See* OKLA. STATE DEP'T. OF HEALTH, *supra* note 56, at 8.

¹²³ *See id.*

¹²⁴ Forman, *supra* note 57.

¹²⁵ OKLA. STAT. tit. 70 §11-103.13 (2021).

¹²⁶ *Id.*

Departments will already be allocating resources and personnel to accomplish this task.¹²⁷ Including sex education within the subject matter standards should not require additional funds beyond what the project will already use.

B. Criticism of Health Education Act Solution

Critics of this solution may claim that it places an unnecessary burden on teachers by requiring them to learn and teach new information.¹²⁸ Including comprehensive sex education standards would change the material that educators learn and implement, but it will not add any new burdens¹²⁹—teachers are already required to attend trainings and attain accreditations under the Health Education Act.¹³⁰ Under this solution, the sex education standards would go into effect as a part of the Act, not as a separate additional curriculum.

Another criticism of this solution is that it takes the power to control sex education out of local communities.¹³¹ However, school districts will maintain the power to create a customized sex education curriculum so long as it meets the subject matter standards adopted by the State Department of Education.¹³² Under this solution, school districts maintain the same level of discretion they currently have to control the curricula of all required subjects; thus, this solution would not take away any control that schools currently have.¹³³

¹²⁷ *Id.*

¹²⁸ See Shelby Montgomery, *Too Much or Too Little? Sex Ed Remains a Difficult Topic for School Districts*, KOCO NEWS 5 (Aug. 11, 2022, 5:48 PM), <https://www.koco.com/article/oklahoma-education-schools-sex-education-class-student-law/40874508> [<https://perma.cc/C7YK-A85E>].

¹²⁹ OKLA. STAT. tit. 70 §11-103.13 (2021).

¹³⁰ *Id.*

¹³¹ See Montgomery, *supra* note 128.

¹³² OKLA. STAT. tit. 70 §11-103.6 (2020).

¹³³ *Id.*

Additionally, this solution allows Oklahomans to influence the sex education curriculum through their directly elected state officials. Oklahomans elect the State Superintendent of Public Instruction, and the directly elected Governor of Oklahoma appoints the State Board of Education.¹³⁴ Through elections, the people of Oklahoma have placed their trust and support behind these officials; accordingly, these officials should have the best interest of the state and Oklahoma students in mind as they create and adopt sex education subject matter standards. As elected officials, members of the State Department of Education will have the discretion to create subject matter standards and teacher education programs with the unique culture of Oklahoma in mind.¹³⁵

C. New Legislation Solution

If the state chooses to exclude comprehensive sex education from the Heath Education Act, educational inequity will continually burden Oklahoma students. The state legislator could remedy the inequity by passing legislation that mandates and standardizes sex education in schools. Essentially, this solution recommends that the state mandate sex education through writing and passing new legislation. The state may lessen the burden of crafting entirely new legislation by looking to other states' successful comprehensive sex education laws. Oklahoma might also consider using existing comprehensive sex education curricula to help schools adopt the new subject.

The state may choose to take one of two paths to adopt sex education requirements: the legislature may write and pass a bill that adds sex education to the current subjects that schools must teach, or the legislature may write and pass a bill amending the state's current sex education statutes.

¹³⁴ About, OKLA. STATE DEP'T OF EDUC., <https://sde.ok.gov/about> [<https://perma.cc/L8KY-J347>] (last visited Oct. 29, 2021).

¹³⁵ OKLA. STAT. tit. 70 §11-103.13 (2021).

The first option asks the state to mandate sex education the same way that the Health Education Act mandated health education.¹³⁶ Here, the legislature could write and pass a bill that amends section 11-103.6 of the School Code of 1971 by adding sex education as a required subject in Oklahoma schools. If the state uses this method, the State Department of Education will adopt specific comprehensive subject matter standards after enacting the legislation—like the state is currently doing with the Health Education Act.¹³⁷ Unlike the second option, which would likely require the legislature to work with the State Department of Education and the State Department of Health from the beginning, this option would relieve the legislature from writing any specific educational requirements.

The second option asks the state to amend its current sex education statute to require comprehensive sex education. Current Oklahoma statutes do not require schools to teach any sex education;¹³⁸ the statutes only require that any sex education given must discuss consent and “have one of its primary purposes the teaching of or informing students about the practice of abstinence.”¹³⁹ These relaxed standards are a primary reason for the disparities in sex education quality across the state.¹⁴⁰

Adopting comprehensive sex education standards would require the current sex education statute to be amended but not overturned. The only requirement currently in place is that any education given should emphasize abstinence.¹⁴¹ Comprehensive sex education and abstinence are not mutually exclusive. In fact, many comprehensive curricula teach that abstinence is the most effective way to prevent pregnancy and STIs.¹⁴²

¹³⁶ *Id.*

¹³⁷ OKLA. STAT. tit. 70 §11-103.6 (2020); OKLA. STAT. tit. 70 §11-103.13 (2021).

¹³⁸ OKLA. STAT. tit. 70, §11-105.1 (2019).

¹³⁹ *Id.*

¹⁴⁰ SIECUS, *supra* note 3.

¹⁴¹ OKLA. STAT. tit. 70, §11-105.1 (2019).

¹⁴² KFF: WOMEN’S HEALTH POL’Y, *supra* note 25.

The Oklahoma legislature should craft new legislation to reflect students' need for comprehensive sex education and address educational disparities. In doing so, the Oklahoma legislators may look to other states' comprehensive sex education laws as examples to ease the burden of legislative research. For example, Washington recently undertook a comprehensive sex education reform.¹⁴³

1. Washington's Comprehensive Sex Education Bill

In 2020, Washington State voters passed the nation's first sex education ballot measure, which enabled a comprehensive sex education reform.¹⁴⁴ Before passing the bill, Washington's approach to sex education resembled Oklahoma's; individual school districts determined whether students would receive sex education.¹⁴⁵ Under Washington's new legislation, all public schools must provide comprehensive sex education to students by the 2022-2023 school year.¹⁴⁶

As part of Washington's comprehensive approach, schools are allowed to teach abstinence as the best method of preventing unintended pregnancy and STI; however, schools may not teach abstinence to the exclusion of information about other contraceptives and disease prevention methods.¹⁴⁷ This approach covers many of the CDC's recommended sex education topics, and it will ensure that all Washington students receive a standard level of sex education set by the state.

¹⁴³ *Washington State Profile*, SIECUS (Mar. 29, 2021), https://siecus.org/state_profile/washington-fy21-state-profile/ [https://perma.cc/2SQQ-AT2G]; Sally Ho, *Washington Passes 1st Voter-Approved Sex Ed Mandate in US*, AP NEWS (Nov. 3, 2020), <https://apnews.com/article/election-2020-legislature-education-washington-referendums-1e56607ec260263537974458faee616b> [https://perma.cc/VL9T-N6K2].

¹⁴⁴ SIECUS, *supra* note 143.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ WASH. REV. STAT. 28A.300.475 (2020).

Washington's plan includes vertically integrating age-appropriate concepts at each grade level.¹⁴⁸ It also includes modern concepts such as affirmative consent, LGBTQ+ issues, and bystander training.¹⁴⁹ AP News named it the "most progressive statewide sex ed mandate in the country[.]"¹⁵⁰

Although Oklahoma and Washington have considerably different cultures, Oklahoma can look to Washington's approach as a model of a genuinely comprehensive sex education program. Oklahoma should include similar standards within its sex education plan because it will provide scientifically accurate information while also allowing Oklahoma to maintain its current emphasis on abstinence. Adopting a similar education program will help prepare Oklahoma students to become sexually healthy adults.

2. Utilizing Existing Curriculum

No matter which option Oklahoma follows, mandating sex education independent of the Health Education Act means the loss of the micro-credentials and professional development programs mandated in the Act.¹⁵¹ The state may address the need for programming by providing funding for teacher training in the new bill. Alternatively, the state may conserve school districts' resources and lessen the burden on teachers by adopting or purchasing a pre-existing curriculum.

Organizations, such as Advocates for Youth, freely publish comprehensive sex education curriculum that meets the National Sexuality Education Standards.¹⁵² Advocates for Youth also offers training to

¹⁴⁸ Ho, *supra* note 143.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ OKLA. STAT. tit. 70 §11-103.13 (2021).

¹⁵² *Honest Sex Education*, Advocates for Youth, <https://www.advocatesforyouth.org/issue/honest-sex-education/> [<https://perma.cc/2KDG-NCG2>] (last visited Sept. 17, 2022).

complement their curriculum.¹⁵³ Utilizing pre-existing curricula lends itself to a faster implementation of comprehensive sex education than crafting an entirely new program.

Proper implementation of this solution will require effort from the state legislature, State Department of Education, State Department of Health, school districts, teachers, and local communities. Oklahoma may seek funding for pre-existing curricula from federal programs such as the Teen Pregnancy Prevention Program and the Personal Responsibility Education Program.¹⁵⁴ It may also seek grants from independent foundations that support comprehensive sex education in schools.

D. Criticism Of The New Legislation Solution

Critics may argue that the scale of Oklahoma's sex education problems does not warrant the effort and resources required to amend a statute. High teen pregnancy and STI statistics alone show how educational inequity has affected Oklahoma's adolescents. However, it is essential to realize that the scale of the problems goes far past the statistics. Due to Oklahoma's complete lack of sex education standards, and the state's majority Christian culture, many schools turn to a Christian morality-based, abstinence-only curriculum.¹⁵⁵

Abstinence-only education is not only ineffective, but it may also have profound mental health implications for students. These programs often rely on morality to emphasize their message and, subsequently, cause young people to associate guilt and shame with sexual experiences.¹⁵⁶ The use of

¹⁵³ *Id.*

¹⁵⁴ Zach Eisenstein, *Use of Millions in Federal Funds for Adolescent Sexual Health Programs Remains a Mystery, Report Shows*, SIECUS (March 21, 2019), <https://siecus.org/fy2018-siecus-state-profiles-press-release/> [https://perma.cc/P8FU-4XJW].

¹⁵⁵ See Hall, *supra* note 58.

¹⁵⁶ See KFF: WOMEN'S HEALTH POL'Y, *supra* note 26; see also Gina Florio, *Why Some People Hide Sexual Assault After Abstinence-Only Education*, TEEN VOGUE (July 14,

metaphors like chewed up gum or dirty Band-Aids teaches students that people who have had sex are dirty or all used up.¹⁵⁷ Many young people who participate in these programs do not disclose sexual assault or abuse due to shame and fear instilled in them by abstinence-only education.¹⁵⁸ The significant mental health risks associated with abstinence-only programs warrant the resources required to mandate comprehensive sex education. The cause of these risks— such as depression and suicide— will be further explored below.

VII. THE SOLUTIONS' SHARED ASPECTS

No matter which solution the state prefers, two aspects must be included in any sex education program that Oklahoma adopts; parents and guardians must have complete access to all materials used and must be allowed to excuse their children from sex education courses. These requirements are vital to maintain the transparency that Oklahoma's current sex education laws provide.¹⁵⁹

Comprehensive sex education is most effective when parents and guardians support their children's growth and development.¹⁶⁰ Parents and guardians of students should have access to all curricula used by their student's schools; access enables them to have healthy conversations with students and answer any questions. Parents and guardians should also have access to the curriculum to determine if they will allow their children to participate.

Under the current statute, parents and guardians may opt their children out of any sex education.¹⁶¹ Any new sex education laws must preserve this

2017), <https://www.teenvogue.com/story/abstinence-only-education-shame> [<https://perma.cc/U532-4TAV>].

¹⁵⁷ See Hall, *supra* note 58.

¹⁵⁸ Florio, *supra* note 156.

¹⁵⁹ See OKLA. STAT. tit. 70, §11-105.1 (2019).

¹⁶⁰ COMM. ON ADOLESCENT HEALTH CARE, *supra* note 106.

¹⁶¹ OKLA. STAT. tit. 70, §11-105.1 (2019).

right. Parents may want to opt their children out of sex education because of their religious beliefs, maturity level, or past trauma. School districts should provide age-appropriate and culturally relevant curricula, but they cannot accommodate every student's specific sex education needs. Therefore, parents and guardians should have the option of excusing their students and providing alternative sex education when necessary.

VIII. CRITICISM OF BOTH SOLUTIONS

This section will address criticisms not specific to either solution, but that apply to both solutions in equal force. First, it will address the argument that sex education in schools is unnecessary. Second, it will consider the argument that an abstinence-only curriculum is appropriate for Oklahoma students and explain how abstinence-only programs harm students. Third, it will examine the argument that sex education is inappropriate for school-age children.

A. Sex Education is Necessary

Critics argue that sex education in schools is unnecessary because sex education is the job of parents and guardians or the church.¹⁶² Supporters of this argument often claim that sex education in schools violates parental rights.¹⁶³ This argument essentially asks Oklahoma to maintain its current approach of lax sex education standards backed by the assumption that parents and guardians or the church will fill in the gaps in education.¹⁶⁴

Oklahoma's consistently high adolescent STI and teen pregnancy rates, however, reflect the fact that sex education outside of public schools is either not happening or is inadequate.¹⁶⁵ If neither the church nor parents

¹⁶² See *Campaigns to Undermine Sexuality Education in the Public Schools*, ACLU, <https://www.aclu.org/other/campaigns-undermine-sexuality-education-public-schools> [<https://perma.cc/AG5F-Q4XN>] (last visited March 31, 2022).

¹⁶³ *Id.*

¹⁶⁴ See OKLA. STAT. tit. 70, §11-105.1 (2019).

¹⁶⁵ See OKLA. STATE DEP'T. OF HEALTH, *supra* note 56, at 8.

and guardians are currently providing students with adequate sex education, then there is no reason to assume they will do so in the future. However, parents and guardians retain the right to opt their children out of comprehensive sex education if it is adopted.¹⁶⁶ If parents or guardians wish to teach their students sexual health at home or through their church, they may do so.¹⁶⁷

Although parents or guardians in Oklahoma may prefer a religious perspective in sex education or that religious organizations provide sex education, many scholars consider the church an inappropriate organization to teach sex education.¹⁶⁸ The Christian church will be used as an example in this scenario because Oklahoma is a majority Christian state,¹⁶⁹ however, this portion may not reflect the beliefs or experiences of other religions. Due to Christianity's emphasis on saving sex until marriage, churches and religiously grounded curricula typically teach sex education with an "Abstinence-Only-Until-Marriage" message.¹⁷⁰ Additionally, when religious organizations teach sex education, there is no guarantee or requirement that the information is scientifically accurate.¹⁷¹

Due to a lack of training and scientific materials, religious curricula and educators may base sex education on moral values rather than facts.¹⁷² When this occurs, Christian morality's concept of "good" is likened to being a virgin, while sexually experienced students are shamed.¹⁷³ Students

¹⁶⁶ See OKLA. STAT. tit. 70, §11-105.1 (2019).

¹⁶⁷ *Id.*

¹⁶⁸ See Shatz, *supra* note 11, at 496-98; see also JULIE F. KAY & ASHLEY JACKSON, SEX, LIES & STEREOTYPES: HOW ABSTINENCE-ONLY PROGRAMS HARM WOMEN AND GIRLS 10 (2008), http://hrp.law.harvard.edu/wp-content/uploads/2013/03/sexlies_stereotypes2008.pdf [<https://perma.cc/MB83-XFUK>].

¹⁶⁹ PEW RSCH. CTR., *supra* note 42.

¹⁷⁰ See Shatz, *supra* note 11, at 496-98.

¹⁷¹ *Id.*; see KAY & JACKSON, *supra* note 168, at 30.

¹⁷² See Laurie Mintz, *Abstinence-Only Sex Ed: Harmful? Unethical?*, PSYCH. TODAY (Sept. 5, 2017), <https://www.psychologytoday.com/us/blog/stress-and-sex/201709/abstinence-only-sex-ed-harmful-unethical> [<https://perma.cc/5JSY-HNJH>].

¹⁷³ Florio, *supra* note 156.

who go through Abstinence-Only-Until-Marriage programs experience guilt and shame surrounding sex for years afterward, and they are not prepared to prevent unwanted pregnancy or STIs.¹⁷⁴

Sex education is appropriate in Oklahoma schools because statistics reveal students are not currently receiving adequate sex education from outside sources.¹⁷⁵ Additionally, sex education in schools does not violate parental rights as parents may excuse their students and provide an alternative sex education if they wish. The current approach must change if Oklahoma wishes to prepare students to be sexually healthy adults.

B. Abstinence-only Sex Education is Harmful

Some critics argue Oklahoma should adopt an abstinence-only curriculum if it mandates sex education.¹⁷⁶ These people believe that abstinence-only sex education is the best approach to teach adolescents about sex, or it is at least sufficient for the needs of adolescents.¹⁷⁷ Seeking the best curriculum for Oklahoma students is completely understandable, but an abstinence-only curriculum is not the best method to teach adolescents about sex.¹⁷⁸ An abstinence-only curriculum is not appropriate because, as this article will explain, abstinence-only programs: (1) are ineffective; (2) promote gender stereotypes; (3) harm LGBTQ+ students; (4) harm students who have experienced sexual trauma or exploitation; (5) may violate the establishment clause; and (6) are not supported by Oklahoma health officials.

First, abstinence-only programs are ineffective at changing adolescent sexual behaviors.¹⁷⁹ Abstinence-only education aims to prevent teen

¹⁷⁴ See Mintz, *supra* note 172; see Florio, *supra* note 156.

¹⁷⁵ See OKLA. STATE DEP'T. OF HEALTH, *supra* note 56.

¹⁷⁶ ACLU, *supra* note 162.

¹⁷⁷ *Id.*

¹⁷⁸ See KFF: WOMEN'S HEALTH POL'Y, *supra* note 25.

¹⁷⁹ KAY & JACKSON, *supra* note 168, at 30.

pregnancy and STIs by discouraging all sex before marriage.¹⁸⁰ However, these programs stress abstinence to the exclusion of accurate information on contraceptives and sexual safety.¹⁸¹ Multiple studies have concluded there is no credible evidence to support the belief that abstinence-only programs successfully delay adolescent sexual activity.¹⁸² Students who participate in these programs are unprepared to have safe sexual experiences.¹⁸³ Some students even report avoiding contraceptives because their schools taught them that contraceptive use is immoral.¹⁸⁴ Avoiding contraceptives has a disproportionate effect on students who are at risk of becoming pregnant.

Second, abstinence-only programs harm all students because they perpetuate misogynistic gender stereotypes.¹⁸⁵ Abstinence-only programs separate students by biological sex and teach the groups different material.¹⁸⁶ Students in the female class learn to protect their virginity and constantly monitor themselves so as not to tempt boys.¹⁸⁷ They are stereotyped as passive participants in sex, and their sexuality and sexual decision-making is undermined.¹⁸⁸ In contrast, students in the male class are characterized as aggressive and taught that they must control their sexual impulses.¹⁸⁹ The curriculum neglects their emotional well-being, and objectifies women by portraying them as a temptation boys must resist.¹⁹⁰ Neither group learns to communicate their sexual feelings and needs in a healthy way.¹⁹¹

¹⁸⁰ Mintz, *supra* note 172.

¹⁸¹ See KFF: WOMEN'S HEALTH POL'Y, *supra* note 25.

¹⁸² KAY & JACKSON, *supra* note 168, at 30.

¹⁸³ Mintz, *supra* note 172.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ KAY & JACKSON, *supra* note 168, at 19.

¹⁸⁷ *Id.* at 20.

¹⁸⁸ *Id.*

¹⁸⁹ Mintz, *supra* note 172.

¹⁹⁰ KAY & JACKSON, *supra* note 168 at 20.

¹⁹¹ *Id.*

Third, abstinence-only sex education is harmful to students of color because it often relies on and reinforces race-based gender stereotypes.¹⁹² Research conducted at Washington University School of Law revealed that Black students are much more likely to receive abstinence-only sex education than white students;¹⁹³ thus, it is imperative to consider the impact that abstinence-only education has on their communities. For example, some abstinence-only curriculum teaches white students to “maintain traditional values” while stereotyping African American women as sexually aggressive.¹⁹⁴ Abstinence-only programs do nothing to combat these stereotypes; rather, they rely on them to enforce their message.¹⁹⁵ Modern sex education should not only be aware of this problem, but it should also be culturally responsive in combating negative racial stereotypes.

Fourth, abstinence-only programs harm LGBTQ+ students by relying on heteronormative definitions of sex.¹⁹⁶ Abstinence-only programs are largely heteronormative, and they fail to recognize that many students will experience sexual attraction to members of the same sex or not at all.¹⁹⁷ They also fail to recognize that students may not associate with either of the binary genders.¹⁹⁸ These programs stigmatize sexual minorities, LGBTQ+ relationships, and asexual students by refusing to discuss non-heterosexual material.¹⁹⁹ Additionally, when authorities do not require medically accurate information, students are often taught false and harmful

¹⁹² ACLU, *supra* note 162.

¹⁹³ Gabrielle Doyle & Madeline Doe, *How Sex Ed Can (And Should) Advance Racial Justice*, SIECUS, <https://siecus.org/black-history-month-sex-ed-and-racial-justice/> [<https://perma.cc/D379-GUYB>] (last visited March 31, 2022).

¹⁹⁴ KAY & JACKSON, *supra* note 168, at 22.

¹⁹⁵ *Id.*

¹⁹⁶ The Society for Adolescent Health and Medicine, *Abstinence-Only-Until-Marriage Policies and Programs: An Updated Position Paper of the Society for Adolescent Health and Medicine*, 61 J. OF ADOLESCENT HEALTH 400, 400–03 (2017).

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

information about non-heterosexual relationships.²⁰⁰ One student recalls their school teaching them that men have a “90% chance of catching an STD when having gay sex.”²⁰¹

Stereotypes and false information perpetuate homophobic beliefs and demonize gay communities.²⁰² Abstinence-only programs may cause sexual minority youth to suffer health problems such as substance abuse, feelings of isolation and loneliness, violence, and suicide.²⁰³ The children of non-heterosexual parents may also experience undue stress and conflict at home because their sex education program has taught them to reject their parents.²⁰⁴

Students participating in abstinence-only programs do not learn to be sexually healthy adults. However, youth in LGBTQ+ minority groups are especially unprepared because these programs treat them as if they do not exist.²⁰⁵ An abstinence-only program may mention the existence of condoms, even if only to stress their failure rate, but these programs do not mention other protection methods.²⁰⁶ An abstinence-only curriculum does not address the unique needs of students involved in non-heterosexual relationships.²⁰⁷ For example, lesbians often need different forms of STI protection than heterosexual partners.²⁰⁸ LGBTQ+ students who are taught sex education from a heteronormative, abstinence-only perspective will not have the opportunity to learn how to protect themselves.²⁰⁹

²⁰⁰ See Mintz, *supra* note 172.

²⁰¹ *Id.*

²⁰² See generally *id.*

²⁰³ *Id.*; The Society for Adolescent Health and Medicine, *supra* note 196.

²⁰⁴ See The Society for Adolescent Health and Medicine, *supra* note 196.

²⁰⁵ *Id.*; see Mintz, *supra* note 172.

²⁰⁶ See Mintz, *supra* note 172.

²⁰⁷ *Id.*

²⁰⁸ *Can Lesbians Get STDs?*, Ask the Experts, PLANNED PARENTHOOD (Aug. 9, 2010, 7:10 PM), <https://www.plannedparenthood.org/learn/ask-experts/can-lesbians-get-stis#:~:text=Lesbians%20can%20reduce%20the%20risk,a%20new%20person%20uses%20it> [<https://perma.cc/5XHF-9NSZ>].

²⁰⁹ See The Society for Adolescent Health and Medicine, *supra* note 196.

Fifth, abstinence-only education harms students by moralizing sex and associating “good” with virginity and “bad” with sexual experiences.²¹⁰ The programs use metaphors, such as chewed gum or an apple at the bottom of the tree that anyone can touch, to convey that people who have sex are worthless and unclean.²¹¹ These programs do not make an effort to acknowledge or accommodate students who have experienced sexual abuse, rape, or who have sexual experiences, rather, the vilifying message directly hurts students with trauma related to sexual experiences.²¹² Moralizing virginity makes students who have experienced sexual assault or exploitation feel shame and guilt over experiences they did not choose and did not have control over.²¹³

One of the purposes of the Oklahoma Health Education Act is to “support the health and well-being of children that have been affected by traumatic experiences.”²¹⁴ To achieve this goal, Oklahoma must consider the impact that misguided sex education has on students. Enacting abstinence-only standards would be directly opposed to the Act’s stated purpose. In contrast, comprehensive sex education will teach students about sex without demonizing students who have experienced sexual abuse.²¹⁵ It can also help students learn how to spot the signs of sexual abuse and teach them that it is safe to seek help.²¹⁶

Sixth, abstinence-only sex education is inappropriate because it violates the separation of church and state. Many scholars believe that abstinence-

²¹⁰ See Mintz, *supra* note 172.

²¹¹ See Florio, *supra* note 156.

²¹² See Mintz, *supra* note 172.

²¹³ *Id.*

²¹⁴ OKLA. STAT. tit. 70 §11-103.12 (2021).

²¹⁵ See CTR. FOR DISEASE CONTROL AND PREVENTION, *What Works: Sexual Health Education*, CDC: ADOLESCENT AND SCHOOL HEALTH (Feb. 3, 2020), <https://www.cdc.gov/healthyouth/whatworks/what-works-sexual-health-education.htm> [<https://perma.cc/EH4FZVUU>].

²¹⁶ *Id.*

only sex education violates Establishment Clause principles.²¹⁷ Abstinence-only sex education attempts to prevent unwanted pregnancy and STIs by teaching students that everyone is expected to be abstinent until marriage.²¹⁸ The idea that sex belongs exclusively inside the context of marriage is inherently a religious idea.²¹⁹ Besides abstinence, there are numerous ways to effectively prevent STI contraction and unwanted pregnancy, but students do not learn about those methods.²²⁰ There is no justification for stressing abstinence and completely neglecting to teach students about other sexual protections besides conformity to religious doctrine and morality.²²¹

There is a direct link between early American efforts to censor sex education and religion.²²² Anthony Comstock's devout Christian beliefs led him to write an anti-obscenity bill that later became the Comstock Act.²²³ Religion is also linked to later attempts to control sex education.²²⁴ Senator Jeremiah Denton introduced the AFLA, "chastity law," in 1981 to provide federal funding for abstinence-only sex education.²²⁵ Denton was elected thanks to support from the Moral Majority, a right-wing Christian political organization. The New York Times described him as "a crusading spokesman for right-wing Christian groups."²²⁶ Notably, the AFLA did not

²¹⁷ See Shatz, *supra* note 11, at 504; see KAY & JACKSON, *supra* note 168, at 39.

²¹⁸ PLANNED PARENTHOOD, SEX EDUCATION IN THE U.S. (2016), https://www.plannedparenthood.org/uploads/filer_public/da/67/da67fd5d-631d-438a-85e8-a446d90fd1e3/20170209_sexed_d04_1.pdf [<https://perma.cc/S6V6-SE6A>].

²¹⁹ See Shatz, *supra* note 11, at 520.

²²⁰ KFF: WOMEN'S HEALTH POL'Y, *supra* note 25.

²²¹ See Shatz, *supra* note 11, at 521.

²²² See PBS, *supra* note 8.

²²³ *Id.*

²²⁴ See NCAC, *supra* note 27.

²²⁵ Patricia Donovan, *The Adolescent Family Life Act and the Promotion of Religious Doctrine*, 16 FAM. PLANNING PERSPECTIVES 222, 223 (1984); NCAC, *supra* note 27.

²²⁶ Robert D. McFadden, *Jeremiah A. Denton Jr., 89, Dies; With Blinks, Vietnam P.O.W. Told of Torture*, N.Y. TIMES (Mar. 28, 2014), <https://www.nytimes.com/2014/03/29/us/politics/jeremiah-a-denton-jr-war-hero-and-senator-dies-at-89.html> [<https://perma.cc/3E2B-X6BM>]; Emily Langer, *Jeremiah A. Denton Jr., Vietnam POW and former U.S. senator, dies at 89*, WASH. POST (Mar. 28, 2014), <https://www.washingtonpost.com/national/jeremiah-a-denton-jr-vietnam-pow->

contain any rules against churches using federal funds to teach religious doctrine.²²⁷ Many of the organizations that received funding through the AFLA were religious or teaching explicitly religious materials.²²⁸

In the 1988 case *Bowen v. Kendrick*, the American Civil Liberties Union (ACLU) represented plaintiffs challenging the AFLA on establishment clause grounds.²²⁹ The Supreme Court did not find that, at face value, the AFLA violated the first amendment's separation of church and state principle.²³⁰ However, the Court remanded the case to determine if the AFLA was unconstitutional as applied.²³¹ A later settlement prohibited all AFLA programs from including religious materials and required that all programs be medically accurate and "respect the principle of self-determination."²³²

Clearly abstinence-only education is historically rooted in religion, and it continues to represent religious ideologies today. Oklahoma is a deeply religious state, but despite this, it is inappropriate for public schools to force religious values on students through abstinence-only sex education.²³³ Public schools should not be pushing expectations rooted in religious ideals. In contrast, adopting comprehensive sex education would allow Oklahoma students to learn about sexual health free from pressure to conform to religious ideals. If parents and guardians wish to provide a religious perspective on sex education, they may do so outside of school.

and-us-senator-dies/2014/03/28/1a15343e-b500-11e3-b899-20667de76985_story.html [https://perma.cc/73FE-VBGP].

²²⁷ Donovan, *supra* note 225 at 195.

²²⁸ *Id.*

²²⁹ ACLU, *supra* note 17; NCAC, *supra* note 27.

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.*

²³³ See PEW RSCH. CTR., *supra* note 42.

Finally, comprehensive sex education should be adopted because it has support from the state and federal governments.²³⁴ Based on a study of adolescent sexual health in Oklahoma, the State Department of Health recommends that educators be allowed to teach evidence-based, comprehensive sex education in schools.²³⁵ The CDC recommends that schools teach medically accurate and developmentally appropriate content to promote sexually healthy development in adolescents.²³⁶ If critics genuinely want the best curriculum for students, they should support comprehensive sex education standards.

The abstinence-only sex education curriculum is inappropriate for Oklahoma schools because it is ineffective and relies on sexist and racist stereotypes to promote its message.²³⁷ Additionally, it promotes a heteronormative worldview and may disproportionately harm LGBTQ+ students.²³⁸ Finally, there is a considerable argument that abstinence-only sex education violates the separation of church and state, and it lacks support from the state or federal government.²³⁹

C. Sex Education is Appropriate And Necessary

Other critics may argue that Oklahoma should never mandate sex education because sex education is inappropriate for school-age children.²⁴⁰ This argument stems from a misunderstanding of how schools use

²³⁴ See OKLA. STATE DEP'T. OF HEALTH, *supra* note 56, at 15; see also CTR. FOR DISEASE CONTROL AND PREVENTION, *What Works: Overview*, CDC: ADOLESCENT AND SCHOOL HEALTH (Feb. 3, 2020), <https://www.cdc.gov/healthyyouth/whatworks/what-works-overview.htm> [<https://perma.cc/YY7Y-RBEZ>].

²³⁵ See OKLA. STATE DEP'T. OF HEALTH, *supra* note 56, at 15

²³⁶ CDC, *supra* note 215.

²³⁷ ACLU, *supra* note 162.

²³⁸ The Society for Adolescent Health and Medicine, *supra* note 196.

²³⁹ See Shatz, *supra* note 11, at 502-07; see also OKLA. STATE DEP'T. OF HEALTH, *supra* note 56, at 15.

²⁴⁰ ACLU, *supra* note 162.

comprehensive sex education. Critics may base their beliefs on inaccurate stereotypes of sex education.

Comprehensive health education happens across multiple grade levels, and the CDC recommends that educators outline “the key health topics and concepts to be learned across grade levels, and the logical progression of health knowledge, skills, and behaviors to be addressed at each grade level—from pre-kindergarten through 12th grade.”²⁴¹ The curriculum should consider the students’ developmental stages and tailor the contents to be age-appropriate.²⁴² If the sex education standards adopted by the state are truly comprehensive, then students will never be exposed to age-inappropriate material.²⁴³

Adopting sex education as a part of Oklahoma’s Health Education Act will let the state integrate sex education with other health education topics. The State Department of Education could use the opportunity to gradually teach students different aspects of sex education amongst other health topics. For example, grade school students may learn basic personal hygiene and how to care for their bodies with diet and exercise, middle school students may learn about puberty, and high school students may learn about contraceptive use and STIs.

Additionally, supporters of this critique may misunderstand the contents of comprehensive sex education due to purposeful disinformation campaigns led by anti-sex education groups.²⁴⁴ These groups attempt to control the narrative around sex education through placements on school boards and censorship of educational materials.²⁴⁵ When correctly done, comprehensive sex education will never expose students to age-

²⁴¹ CDC, *supra* note 215.

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ ACLU, *supra* note 162.

²⁴⁵ *Id.*

inappropriate materials, and parents will have access to any materials shown to students.

Sex education is appropriate for school-age children because they are growing humans who deserve to learn to care for their bodies.²⁴⁶ Arguing that sex education is inappropriate ignores that students need medically accurate sexual and health education to become healthy adults.²⁴⁷ Students will age out of the school system, and when they do, they should leave feeling confident in their ability to protect their sexual health.

IX. CONCLUSION

The purpose of mandating sex education in Oklahoma schools is to educate students and give them the necessary skills to make responsible sexual health decisions. The current approach must change if Oklahoma wishes to prepare students to be sexually healthy adults. Abstinence-only sex education cannot achieve this goal and is not an acceptable curriculum for Oklahoma to adopt. Decades of abstinence-only education studies have shown that it is ineffective in supporting adolescents' sexual development.²⁴⁸ In reality, abstinence-only education can cause lasting harm to students' mental health and cause them to feel guilt and shame surrounding sexual experiences.²⁴⁹

In contrast, comprehensive sex education effectively delays young peoples' first sexual encounters and decreases their total number of sexual partners.²⁵⁰ Students who participate in comprehensive sex education programs also show increased use of condoms and other contraceptives.²⁵¹ Additionally, comprehensive programs will not place students at risk for the

²⁴⁶ See WORLD ASS'N FOR SEXUAL HEALTH, *supra* note 87; see also The Society for Adolescent Health and Medicine, *supra* note 196.

²⁴⁷ See AM. PUB. HEALTH ASS'N, *supra* note 39.

²⁴⁸ See The Society for Adolescent Health and Medicine, *supra* note 196.

²⁴⁹ See AM. PUB. HEALTH ASS'N, *supra* note 39.

²⁵⁰ KFF: WOMEN'S HEALTH POL'Y, *supra* note 25.

²⁵¹ KFF: WOMEN'S HEALTH POL'Y, *supra* note 25.

previously discussed negative mental health effects associated with abstinence-only education. The positive results of a comprehensive curriculum and the negative impact of an abstinence-only curriculum demonstrate why Oklahoma should adopt comprehensive sex education standards upon mandating sex education.

Oklahoma students are disproportionately affected by the state's stark lack of sex education resources.²⁵² To remedy the inequity and better serve the students of Oklahoma, the State Legislature and State Board of Education must immediately mandate comprehensive sex education. Including sex education in Oklahoma's Health Education Act's subject matter standards would allow the state to quickly and smoothly begin teaching sexual health lessons without additional expenses. The state may also write new legislation which amends the current sex education statutes or adds sex education to the state's list of required subjects for schools. Both solutions will allow the state to provide students with evidence-based, comprehensive sex education that discusses abstinence but does not portray it as an expectation. Comprehensive sex education is the best way to help Oklahoma's young people navigate their sexual development and become sexually healthy adults.

²⁵² See OKLA. STATE DEP'T. OF HEALTH, *supra* note 56.