

LET’S TALK ABOUT SEX: REQUIRING COMPREHENSIVE SEX EDUCATION TO ADDRESS TEEN DATING VIOLENCE IN KANSAS

*By: Rachel Henderson**

I. INTRODUCTION

Movies and TV shows enjoy poking fun at inadequate sex education in public schools. In an iconic scene in the movie *Mean Girls*, the physical education teacher tells his students not to have sex because they will get pregnant and die.¹ The teacher then proceeds to pass out condoms to the students.² This satirical commentary on sex education in America gets one thing right—sex education needs to be improved. One area of needed improvement is adequately addressing violence in sexual and romantic relationships.

The United States Center for Disease Control and Prevention (“CDC”) conducts extensive research on intimate partner violence each year. According to the CDC, intimate partner violence is “abuse or aggression that occurs in a romantic relationship.”³ Intimate partner violence may take the form of physical violence, sexual violence, stalking, or psychological aggression.⁴ Intimate partner violence affects women more than men—forty-one percent of women have experienced intimate partner violence and twenty-six percent of men have experienced intimate partner violence.⁵ People from traditionally marginalized communities are more likely to be affected by intimate partner violence.⁶ Intimate partner violence has a negative impact on health, affecting the physical and mental health of survivors.⁷ Survivors may suffer physical injuries and in

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¹ MEAN GIRLS (Paramount Pictures 2004).

² *Id.*

³ *Fast Facts: Preventing Intimate Partner Violence*, CDC (Oct. 11, 2022), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html> [<https://perma.cc/X6JC-XVC4>] [hereinafter *Preventing Intimate Partner Violence*].

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

extreme cases, death.⁸ For these reasons, addressing intimate partner violence in public education is essential to promoting public health.

Intimate partner violence among teenagers is called “teen dating violence,” and involves similar forms as those described above (e.g. physical violence, sexual violence, stalking, or psychological aggression).⁹ Teen dating violence is common in the United States and Kansas teenagers are among those affected.¹⁰ In 2019, nearly ten percent of Kansas high school students reported experiences of teen dating violence.¹¹ Because teen dating violence is a form of intimate partner violence, teenagers experiencing dating violence suffer similar health consequences. Protecting teenagers from teen dating violence is pertinent to their health and wellbeing.

Health education is the perfect place to address teen dating violence. All high school students in Kansas are required to take physical and health education classes.¹² Discussing intimate partner violence and prevention should be included in the sex education curriculum because “it is critical for youth to begin learning skills to create and maintain healthy relationships[.]”¹³ Discussing intimate partner violence is vital to promoting healthy relationships because “[a]ttitude[s] toward intimate partner violence [have] been demonstrated as one of the prominent predictors of [teen dating violence].”¹⁴ Health education curriculum has the potential to facilitate discussions about teen dating violence, address attitudes toward teen dating violence and promote healthy relationships.

Abstinence-only and comprehensive sex education are the two main approaches to sex education.¹⁵ Abstinence-only sex education teaches students that abstaining from sex is the only morally acceptable option for preventing unwanted pregnancies and disease.¹⁶ Unfortunately, abstinence-only education often relies on metaphors rife with sexism.¹⁷ Commonly relied on metaphors

⁸ *Id.*

⁹ *Fast Facts: Preventing Teen Dating Violence*, CDC (Jan. 27, 2023), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/teendatingviolence/fastfact.html> [<https://perma.cc/49F8-E99L>] [hereinafter *Preventing Teen Dating Violence*].

¹⁰ *Id.*

¹¹ See *Kansas High School Youth Risk Behavior Survey, 2021*, CDC, <https://nccd.cdc.gov/youthonline/App/Results.aspx?LID=KS> [<https://perma.cc/2VBL-PF9V>] [hereinafter *Youth Risk Behavior Survey*].

¹² KAN. STAT. ANN. § 72-3218(c)(4) (2023); KAN. ADMIN. REGS. § 91-31-35(a)(5) (2023).

¹³ *Preventing Teen Dating Violence*, *supra* note 9.

¹⁴ Lili Wang, *Factors influencing attitude toward intimate partner violence*, 29 AGGRESSION & VIOLENT BEHAV. 16 June 2016, at 72, 73.

¹⁵ *Abstinence Education Programs: Definition, Funding, and Impact on Teen Sexual Behavior*, KFF (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/Z328-6PBQ>].

¹⁶ *Id.*

¹⁷ See Katherine Clonan-Roy, Elizabeth A. Goncy, Shereen C. Naser, Kimberly Anne Fuller, Alec DeBoard, Alyssa Williams & Audrey Hall, *Preserving Abstinence and Preventing Rape: How Sex*

include comparing girls who have sex to a cup full of spit or a chewed up piece of gum.¹⁸ Metaphors like these are rooted in misogyny and do nothing to promote girls' self-worth or encourage boys to respect girls' bodily autonomy.

Comprehensive sex education, on the other hand, is "science-based, medically accurate and complete, and age, developmentally, and culturally responsive sexual and reproductive health information that enables individuals to make decisions about their bodies and future that suit their unique experiences."¹⁹ The curriculum includes information about violence prevention, including consent, recognizing signs of abuse, refusal skills, accepting rejection, and sexual violence.²⁰ Comprehensive sex education has been shown to reduce risk factors of violence, which in turn leads to reductions in teen dating violence.²¹

Despite the evidence supporting comprehensive sex education, many parents and advocacy groups oppose comprehensive sex education.²² In their view, teaching students how to have safe and healthy sexual and romantic relationships merely encourages students to engage in sexual activity, which is always unsafe and morally wrong.²³ However, the risk that some students may be more likely to engage in sexual activity after receiving comprehensive sexual activity is significantly outweighed by the benefit of comprehensive sex education—the prevention of teen dating violence.

A review of relevant literature shows extensive research has proven that comprehensive sex education reduces teen dating violence by challenging attitudes toward teen dating violence.²⁴ Many organizations are dedicated to promoting the use of comprehensive sex education. The Sexuality Information and Education Council of the United States ("SIECUS") provides model sex

Education Textbooks Contribute to Rape Culture, 50 ARCHIVES OF SEXUAL BEHAV. 231, 231 (2021).

¹⁸ Christina Capatides, *A cup full of spit, a chewed up piece of gum. These are the metaphors used to teach kids about sex*, CBS NEWS (Apr. 29, 2019), <https://www.cbsnews.com/news/a-cup-full-of-spit-a-chewed-up-piece-of-gum-these-are-the-metaphors-used-to-teach-kids-about-sex/> [<https://perma.cc/N74E-7VC8>].

¹⁹ SIECUS, ADVANCING SEX EDUCATION: COMPREHENSIVE SEX EDUCATION FEDERAL FACT SHEET: SEPT. 2021 [hereinafter CSE FACT SHEET].

²⁰ *Id.*

²¹ Shelly Makleff, Florencia Barindelli, Rosa Icela Zavala, Jovita Garduño, Jimena Valades, Marissa Billowitz, Vanessa Ivon Silva Márquez & Cicely Marston, *Preventing Intimate Partner Violence Among Young People—a Qualitative Study Examining the Role of Comprehensive Sexuality Education*, 17 SEXUALITY RSCH. AND SOC. POL'Y 314, 314, 324 (2020).

²² See *About*, STOP CSE, <https://www.comprehensivesexualityeducation.org/about/> [<https://perma.cc/7B2H-88N5>].

²³ The Henry J. Kaiser Fam. Found., *Sex Education in America*, NPR (2013), <https://www.kff.org/wp-content/uploads/2013/01/sex-education-in-america-summary.pdf> [<https://perma.cc/7WLL-PWX8>] ("thirty percent of the principals of public middle schools and high schools where sex education is taught report that their schools teach abstinence-only. Forty-seven percent of their schools taught abstinence-plus, while twenty percent taught that making responsible decisions about sex was more important than abstinence.").

²⁴ See Makleff, Barindelli, Zavala, Garduño, Valades, Billowitz, Márquez & Marston, *supra* note 21, at 323; Eva S. Goldfarb & Lisa D. Lieberman, *Three Decades of Research: The Case for Comprehensive Sex Education*, 68 J. OF ADOLESCENT HEALTH, (2021), at 13, 13, 19–20.

education curriculum and The Sex Education Collaborative created model legislation.²⁵ Despite this overwhelming research supporting comprehensive sex education, Kansas does not require comprehensive sex education in public schools. Moreover, Kansas laws and its conservative leaning citizens present unique challenges to the implementation of comprehensive sex education. This article distinguishes itself from past research by exploring those unique challenges and suggests strategies to overcome them.

Today, the quality and content of sex education in Kansas depends on local school boards. Under the Kansas Constitution, the state board of education has “general supervision of public schools.”²⁶ Local public schools, however, “shall be maintained, developed and operated by locally elected boards.”²⁷ State statutes and administrative regulations require health to be taught in schools, but parents may waive the requirement if the curriculum goes against their personal beliefs.²⁸ The state board of education provides model health curriculum for schools to follow if they choose.²⁹ Ultimately, however, local school boards determine the health curriculum. Because the health curriculum is controlled by local school boards, discrepancies in content and quality of sex education exist across Kansas.³⁰

To address these discrepancies and ensure all Kansas students have access to comprehensive sex education, this article explores two solutions to implement comprehensive sex education in Kansas schools. Before delving into the solution, this article first discusses the problem of teen dating violence. Although there are many ways to address teen dating violence, this article focuses on comprehensive sex education. After discussing the benefits of comprehensive sex education, this article examines statutes and regulations on sex education in Kansas, concluding current statutes and regulations do not ensure every Kansas student has access to comprehensive sex education.

²⁵ See FOSE, *National Sexuality Education Standards: Core Content and Skills, K–12* (2012), <https://advocatesforyouth.org/wp-content/uploads/2019/09/josh-fose-standards-web.pdf> [https://perma.cc/H7XN-Z45Y] [hereinafter Standards 2012]; see FOSE, *National Sex Education Standards: Core Content and Skills, K–12* (2nd ed. 2020), SIECUS, <https://siecus.org/wp-content/uploads/2020/03/NSES-2020-2.pdf> [https://perma.cc/TWW2-92ZZ] [hereinafter Standards 2020]; see SEX EDUC. COLLABORATIVE, *Sex Education Model Legislation*, https://sexeducationcollaborative.org/files/MODEL_SEX_EDUCATION_LEGISLATION_0.pdf [https://perma.cc/Z3XN-HWA6] [hereinafter Model Legislation].

²⁶ KAN. CONST. art. VI, § 2.

²⁷ KAN. CONST. art. VI, § 5.

²⁸ KAN. STAT. ANN. § 72-3218(c)(4) (2023); KAN. ADMIN. REGS. § 91-31-35(a)(5) (2023).

²⁹ KAN. STATE DEP'T OF EDUC., *Kan. Model Curricular Standards for Health Education*, (2018) [hereinafter KAN. MODEL CURRICULUM].

³⁰ *Kansas State Profile*, SIECUS (May 21, 2021), https://siecus.org/state_profile/kansas-state-profile/ [https://perma.cc/6CA4-9T63]; SCHOOL HEALTH PROFILES: CHARACTERISTICS OF HEALTH PROGRAMS AMONG SECONDARY SCHOOLS, CDC 96-101 (2018), <https://www.cdc.gov/healthyyouth/data/profiles/pdf/2018/CDC-Profiles-2018.pdf> [https://perma.cc/YU3Q-KHZM] [hereinafter SCHOOL HEALTH PROFILES].

Finally, this article proposes two solutions to address the inadequacies in Kansas law: the Department of Education must update the Kansas Model Health Curriculum and the Kansas Legislature must pass a statute mandating comprehensive sex education.

II. TEEN DATING VIOLENCE

Teen dating violence is intimate partner violence, but the victims and perpetrators are teenagers.³¹ Teen dating violence falls into four categories: physical abuse, sexual abuse, psychological abuse, and stalking.³² Kansas law largely reflects the CDC's definitions.³³ Kansas defines intimate partners as "persons who are or have been in a dating relationship."³⁴ Under Kansas law, physical abuse is "[i]ntentionally attempting to cause bodily injury, or intentionally or recklessly causing bodily injury."³⁵ Sexual abuse under Kansas law is "[e]ngaging in any sexual contact or attempted sexual contact with another person without consent or when such person is incapable of giving consent."³⁶ Kansas also criminalizes the dissemination of nude photos of a person without their consent.³⁷ Psychological abuse is "[i]ntentionally placing, by physical threat, another in fear of imminent bodily injury."³⁸ Stalking includes "[r]ecklessly engaging in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person's safety . . . and the targeted person is actually placed in such fear[.]"³⁹ Victims may experience more than one form of abuse.

There are many risk factors associated with teen dating violence. Generally, teenagers exposed to other forms of violence have an increased risk of victimization or perpetration of dating violence. Risk factors for victimization include having a history of traumatic experiences, including sexual abuse; living in poverty; engaging in risky behaviors, including substance abuse; low self-esteem; and believing dating violence is acceptable.⁴⁰ Risk factors for perpetration include exposure to violence; positive attitudes towards dating

³¹ *Preventing Teen Dating Violence*, *supra* note 9.

³² *Id.*

³³ Although Kansas law does not distinguish different forms of abuse in its definition of abuse, its definition of abuse mirrors the CDC definitions for physical abuse, sexual abuse, and psychological abuse. *See id.*

³⁴ KAN. STAT. ANN. § 60-3102(b) (2023) ("Intimate partners or household members' means persons who are or have been in a dating relationship, persons who reside together or who have formerly resided together or persons who have had a child in common.").

³⁵ KAN. STAT. ANN. § 60-3102(a)(1) (2023).

³⁶ KAN. STAT. ANN. § 60-3102(a)(3) (2023).

³⁷ KAN. STAT. ANN. § 21-6101(a)(8) (2023).

³⁸ KAN. STAT. ANN. § 60-3102(a)(2) (2023).

³⁹ KAN. STAT. ANN. § 21-5427(a)(1) (2023).

⁴⁰ *Youth At Risk of Teen Dating Violence*, YOUTH.GOV, <https://youth.gov/youth-topics/teen-dating-violence/risk> [<https://perma.cc/V96Z-UGWG>].

violence; low self-esteem; and anger management problems.⁴¹ Mitigating both categories of risk factors is essential to prevent teen dating violence.

Teenagers from traditionally marginalized communities are more likely to be affected by teen dating violence. For example, girls and LGBTQ+ teenagers are more likely to be victims of dating violence than boys.⁴² Girls and women between the ages of sixteen and twenty-four are the most likely to experience intimate partner violence.⁴³ However, anyone can experience intimate partner violence regardless of gender or sexual orientation.⁴⁴ In 2019, 7.9 percent of Kansas high school students reported experiences of sexual dating violence.⁴⁵ Among female high school students, 11.6 percent reported experiences of sexual dating violence.⁴⁶ That same year, 7.3 percent of Kansas high school students reported experiences of physical dating violence.⁴⁷ Nearly ten percent of Kansas high school students reported experiencing teen dating violence. Given the extent of this problem, the State must take steps to reduce teen dating violence immediately.

Victims face lasting health consequences because of teen dating violence.⁴⁸ Victims of teen dating violence have an increased risk of using drugs and alcohol, suffering from depression and anxiety, and committing suicide.⁴⁹ Victims also have an increased risk of revictimization.⁵⁰ People that experience intimate partner violence as teens are more likely to be victimized in college.⁵¹ Given the lasting health consequences of abuse, many victims struggle to have healthy relationships after the abuse.⁵² Victimization does not end when the abuse stops, and for some, the abuse never stops.

Teen dating violence is preventable.⁵³ Empowering teens to lead healthy lives and establish healthy relationships protects them from intimate partner

⁴¹ *Id.*; Studies have shown that boys who have been exposed to domestic violence and accept such violence as normal are more likely to become abusers than boys who have been exposed to domestic violence but do not accept such violence as normal. Maura O'Keefe, *Teen Dating Violence: A Review of Risk Factors and Prevention Efforts*, VAWNET (Apr. 2005), https://vawnet.org/sites/default/files/materials/files/2016-09/AR_TeenDatingViolence.pdf [<https://perma.cc/AB4G-JJ3L>].

⁴² *Preventing Teen Dating Violence*, *supra* note 9.

⁴³ *Teen Dating Violence Prevention and Awareness Month (February)*, KAN. COAL. AGAINST SEXUAL & DOMESTIC VIOLENCE (Dec. 22, 2020), <https://www.kcsdv.org/tdvam-feb-2021/> [<https://perma.cc/M9HE-ECCD>].

⁴⁴ *Id.*

⁴⁵ *Youth Risk Behavior Survey*, *supra* note 11.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Preventing Teen Dating Violence*, *supra* note 9.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Dating Violence Prevention*, YOUTH.GOV, <https://youth.gov/youth-topics/teen-dating-violence> [<https://perma.cc/DDA9-22XL>].

violence by reducing risk factors.⁵⁴ Many programs are designed to empower teens through education.⁵⁵ These programs focus on attitudes toward violence, gender stereotypes, conflict resolution, and problem-solving skills.⁵⁶ The goal of these programs is to stop teen dating violence before it begins.⁵⁷

III. COMPREHENSIVE SEX EDUCATION

Although there are many ways to prevent teen dating violence, this article proposes requiring comprehensive sex education to prevent dating violence and foster healthy relationships between teenagers. Comprehensive sex education has the potential to reach every student in Kansas, compared to other methods of preventing teen dating violence, such as therapy, which affects significantly fewer teenagers. Comprehensive sex education covers a wide range of topics relevant to teen dating violence prevention⁵⁸ and dismantles positive attitudes toward intimate partner violence, fostering healthy relationships by promoting respect and equity in relationships.⁵⁹

SIECUS provides detailed guidelines for comprehensive sex education.⁶⁰ Comprehensive sex education is evidence-based, medically accurate, and age-appropriate.⁶¹ According to SIECUS, age-appropriate sex education should begin in kindergarten and continue through twelfth grade.⁶² Although termed “sex education,” comprehensive sex education goes beyond sex, and does not discuss sexual activity until students reach puberty.⁶³ Comprehensive sex education encourages students to assert bodily autonomy and recognize their physical and mental health needs.⁶⁴ The curriculum includes “consent and healthy relationships, anatomy and physiology, puberty and adolescent sexual development, gender identity and expression, sexual orientation and identity, sexual health, and interpersonal violence.”⁶⁵

Research indicates comprehensive sex education prevents sexual abuse and dating violence and helps students develop healthy relationships.⁶⁶ Reviewing eighty studies analyzing the outcomes of comprehensive sex education, researchers concluded comprehensive sex education prevents intimate partner violence.⁶⁷ Thirteen studies showed comprehensive sex education improves

⁵⁴ *Id.*

⁵⁵ *Preventing Teen Dating Violence*, YOUTH.GOV, <https://youth.gov/youth-topics/teen-dating-violence/prevention> [<https://perma.cc/Y3S6-AELC>].

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ CSE FACT SHEET, *supra* note 19.

⁵⁹ Goldfarb & Lieberman, *supra* note 24, at 20.

⁶⁰ *See generally* SIECUS, GUIDELINES FOR COMPREHENSIVE SEXUALITY EDUCATION: KINDERGARTEN THROUGH 12TH GRADE (3rd ed. 2004) [hereinafter GUIDELINES FOR CSE].

⁶¹ CSE FACT SHEET, *supra* note 19, at 2.

⁶² *See* GUIDELINES FOR CSE, *supra* note 60.

⁶³ *Id.*

⁶⁴ CSE FACT SHEET, *supra* note 19, at 2.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *See* Goldfarb & Lieberman, *supra* note 24.

“knowledge and attitudes related to [domestic violence] and [intimate partner violence], including reduction in rape myths, victim blaming, and sexist attitudes.”⁶⁸ Five studies showed comprehensive sex education “led to reductions in [domestic violence] and [intimate partner violence] perpetration.”⁶⁹ Seven studies showed comprehensive sex education “led to reductions in [domestic violence] and [intimate partner violence] . . . victimization.”⁷⁰

Comprehensive sex education counteracts harmful gender stereotypes contributing to gender-based harassment.⁷¹ It promotes equity and fosters positive attitudes toward girls and LGBTQ+ teenagers⁷²—teenagers most vulnerable to violence. Focusing on counteracting gender stereotypes and promoting equity disrupts internalized beliefs about intimate partner violence, preventing future violence.⁷³ Comprehensive sex education challenges students’ attitudes towards intimate partner violence. In addition to discussing physical abuse and sexual assault, effective curriculum discusses sexual coercion, which victims and perpetrators may not think of as sexual abuse.⁷⁴ Through comprehensive sex education, students challenge rape myths, victim blaming, and sexist attitudes.⁷⁵

Comprehensive sex education curriculum extends beyond violence prevention, teaching students how to have healthy relationships as well. The curriculum improves student knowledge about healthy relationships.⁷⁶ Comprehensive sex education also fosters healthy communication skills, encouraging students to discuss sex and relationships with their partners and trusted adults.⁷⁷

Several advocacy groups are against comprehensive sex education and are actively working to prevent the spread of comprehensive sex education in the United States.⁷⁸ These groups claim comprehensive sex education is harmful to children because it encourages minors to engage in sexual activity for pleasure.⁷⁹

⁶⁸ *Id.* at 20.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *See id.* at 16.

⁷² *Id.* at 19–20; *Teen Dating Violence and Gender*, YOUTH.GOV, <https://youth.gov/youth-topics/teen-dating-violence/gender> [<https://perma.cc/U6NK-5WGP>]; *Studies Show LGBT Youth Face Higher Risk of Dating Violence*, TEENDATING VIOLENCE, <https://www.teendvmonth.org/studies-show-lgbt-youth-face-higher-risk-of-dating-violence/> [<https://perma.cc/QZQ6-TMJA>].

⁷³ *See* Goldfarb & Lieberman, *supra* note 24, at 20.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.* at 21.

⁷⁷ *Id.*

⁷⁸ STOP CSE, *supra* note 22.

⁷⁹ *15 Harmful Elements of CSE*, STOP CSE, <https://www.comprehensivesexualityeducation.org/15-harmful-elements-of-cse/> [<https://perma.cc/E2GV-T7YA>].

Many parents agree with this view of comprehensive sex education and oppose teaching comprehensive sex education in schools. These parents believe the only way to teach students how to have safe and healthy relationships is to discourage them from engaging in sex at all, rather than engaging in safe and healthy sexual practices.⁸⁰

The alternative to comprehensive sex education—abstinence-only education—does not address teen dating violence as effectively as comprehensive sex education. Rather than promote healthy sexual relationships, abstinence-only sex education relies on fear to scare students into abstaining from sex.⁸¹ Abstinence-only curriculum often links sexual activity with drug use, implying it is inherently harmful and dangerous.⁸² By teaching students to fear sexual activity, this curriculum discourages teens from learning how to have healthy sexual relationships.⁸³ Teens that cannot distinguish between healthy sexual relationships and harmful sexual relationships are unable to recognize red flags for abuse. Abstinence-only sex education “does not engage students in thinking about responsible sexual decision making.”⁸⁴ Abstinence-only sex education promises students that they will have healthy marriages if they abstain from sex but does not give them the tools they need to have healthy sexual relationships.⁸⁵

Abstinence-only curriculum is quick to warn girls they are more likely to be raped if they engage in sex before marriage, but does not instruct boys how to not rape girls.⁸⁶ This curriculum perpetuates rape myths and encourages victim blaming.⁸⁷ Abstinence-only sex education places the burden on girls to prevent rape by setting limits and avoiding risky behavior.⁸⁸ The curriculum does not teach boys how to navigate consent and respect women.⁸⁹ For these reasons, schools that teach abstinence-only sex education must switch to comprehensive sex education to effectively address and prevent teen dating violence.

State policy plays a significant role in the quality of sex education. Research shows that state policies requiring comprehensive sex education achieve better outcomes—teens engaging in safe and healthy sexual relationships.⁹⁰ State policies that require sex education but allow local school boards to control content saw better outcomes than states requiring abstinence-

⁸⁰ *Id.* (Advocacy groups and parents against comprehensive sex education even condemn instruction on consent in sexual and romantic relationships because “children of minor age should never be encouraged to “consent” to sex.”).

⁸¹ Clonan-Roy, Goncey, Naser, Fuller, DeBoard, Williams & Hall, *supra* note 17, at 237.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.* at 238.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.* at 242–43.

⁸⁹ *Id.* at 243.

⁹⁰ Danielle N. Atkins & W. David Bradford, *The Effect of State-Level Sex Education Policies on Youth Sexual Behaviors*, 50 ARCHIVES OF SEXUAL BEHAV. 2321, 2331 (2021).

only sex education.⁹¹ However, states requiring sex education and setting curriculum requirements saw a further reduction in unsafe sex practices.⁹² State policies requiring sex education and setting curriculum requirements ensure all students access quality sex education.

IV. KANSAS LAW

The Kansas Board of Education derives its authority from article VI of the Kansas Constitution.⁹³ According to article VI, section 2, “[t]he legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state[.]”⁹⁴ While the Kansas Constitution gives the Kansas Board of Education general authority over public schools, local school boards make most operating decisions.⁹⁵ Article VI, section 5 provides, “[l]ocal public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards.”⁹⁶ This division of authority renders Kansas a local control state.

Prior to 2021, Kansas schools had to teach sex education to be accredited.⁹⁷ Today, sex education is no longer required. Prior to 2021, the Kansas Administrative Regulations § 91-31-32 provided:

The quality criteria shall consist of the following quality measures, which shall be required to be in place at each school.
... [P]rograms and services to support students learning and growth at both the elementary and secondary levels, including
... instruction in health and human sexuality[.]⁹⁸

The regulation explicitly required sex education. In 2021, the regulation was revised and the language requiring “instruction in health and human sexuality” was removed.⁹⁹ Today, the regulation states “[e]ach education system seeking accreditation shall meet the following requirements: . . . offer subjects and areas of instruction approved by the state board that provide each student with the opportunity to achieve at least the capacities listed in K.S.A.

⁹¹ *See id.* at 2332.

⁹² *Id.*

⁹³ KAN. CONST. art. VI, § 2(a).

⁹⁴ *Id.*

⁹⁵ KAN. CONST. art. VI, § 5.

⁹⁶ *Id.*

⁹⁷ KAN. ADMIN. REGS. § 91-31-32 (2020).

⁹⁸ *Id.*

⁹⁹ KAN. ADMIN. REGS. § 91-31-32 (2023).

72-3218[.]”¹⁰⁰ Kansas Statute 72-3218 does not mention human sexuality.¹⁰¹ The only capacity listed relevant to health education is “knowledge of his or her mental and physical wellness[.]”¹⁰² Therefore, in the regulations, language requiring sex education was essentially replaced with vague language instructing schools to provide students with “knowledge of his or her mental and physical wellness.”¹⁰³ Thus, today, the Kansas Administrative Regulations do not explicitly require sex education.

Although health education is no longer a requirement for accreditation, it is a requirement for graduation under the Kansas Administrative Regulations.¹⁰⁴ Section 91-31-35 provides students “are eligible for graduation only after completion of at least the following graduation requirements as established by the state board: . . . one unit of physical education, which shall include health and which may include safety, first aid, or physiology.”¹⁰⁵ The regulation does not mention sex education. Further, the regulation allows parents to waive the health education requirement for their student if the parent believes the curriculum is contrary to the parent’s religious beliefs.¹⁰⁶ Analyzing the relevant laws and regulations indicates sex education may not be required, and if it is included in the health curriculum, parents may elect to remove their children from health class.

The Kansas Board of Education sets general curriculum requirements and makes specific curriculum recommendations. The Board’s curricular standards “provide information on what students should know and be able to do at different grade levels.”¹⁰⁷ Local school districts may use the standards to develop their curriculum.¹⁰⁸ Under the local control model, each school district “develops its own curriculum and teachers decide on how they will provide instruction to ensure student learning.”¹⁰⁹ While Kansas is a local control state, schools are incentivized to meet certain curricular standards through state testing requirements.¹¹⁰ The “assessed curricular standards” include English, Math, Science, and Social Studies.¹¹¹ The Kansas Board of Education sets curricular

¹⁰⁰ KAN. ADMIN. REGS. § 91-31-32(g)(7) (2023); Under Kansas Statute 72-3218, “[s]ubjects and areas of instruction shall be designed by the state board of education to achieve the goal established by the legislature of providing each and every child with at least the following capacities: . . . sufficient self-knowledge and knowledge of his or her mental and physical wellness[.]” KAN. STAT. ANN. § 72-3218(c)(4) (2023).

¹⁰¹ See KAN. STAT. ANN. § 72-3218(c)(4) (2023).

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ KAN. ADMIN. REGS. § 91-31-35(a)(5) (2023).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Curricular Standards*, KAN. DEP’T OF EDUC., <https://www.ksde.org/Agency/Division-of-Learning-Services/Career-Standards-and-Assessment-Services/CSAS-Home/Curricular-Standards> [<https://perma.cc/6HWS-BM3F>].

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*; KANSAS ASSESSMENT PROGRAM, <https://ksassessments.org/> [<https://perma.cc/C8CV-DQ73>].

¹¹¹ See *Curricular Standards*, *supra* note 107.

standards for health education, but health is not an assessed curricular standard.¹¹² Therefore, schools are not incentivized to meet the health education curricular standards set by the Board like they are incentivized to meet the standards set for other subjects.

Given Kansas's policy surrounding sex education, it is not surprising that discrepancies in the quality of sex education across Kansas exist. The CDC identifies twenty sexual health topics, which it recommends incorporating into sex education curriculum.¹¹³ In Kansas, only 14.3 percent of schools covered all twenty sexual health topics in any grade six, seven, or eight.¹¹⁴ The number rose to a measly 24.4 percent in any grade nine, ten, eleven, or twelve.¹¹⁵ These statistics demonstrate that many Kansas students do not have access to comprehensive sex education.

V. UPDATING THE MODEL CURRICULUM

The Kansas State Department of Education provides model health curriculum. The current Kansas Model Health Curriculum was approved in 2018.¹¹⁶ The Department of Education created the curriculum for teachers to use to “plan and implement K-12 education in Kansas schools.”¹¹⁷ The model curriculum encourages parents to be involved in their child's health education.¹¹⁸ The Kansas model standards are based on national standards.¹¹⁹ The curriculum covers ten content areas.¹²⁰ Each content area establishes benchmarks for kindergarten through second (“K-2”), third through fifth (“3-5”), sixth through eighth (“6-8”), and ninth through twelfth (“9-12”).¹²¹

For this article, the most pertinent content area is “Family Life, Relationships and Human Sexuality.” The table below lists the relevant benchmarks for each age range.

¹¹² *Id.*

¹¹³ SCHOOL HEALTH PROFILES, *supra* note 30, at 96–101.

¹¹⁴ *Id.* at 100.

¹¹⁵ *Id.* at 108.

¹¹⁶ KAN. MODEL CURRICULUM, *supra* note 29, at 3.

¹¹⁷ *Id.* at 4.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.* at 6.

¹²¹ *See id.*

Table 5-1: Kansas Department of Education Model Health Curriculum Benchmarks – Family Life, Relationships and Human Sexuality¹²²

Grade Range	Relevant Benchmarks for “Family Life, Relationships and Human Sexuality”
K-2	<ul style="list-style-type: none"> Family relationships
3-5	<ul style="list-style-type: none"> Building healthy relationships Respecting yourself and others
6-8	<ul style="list-style-type: none"> Changes during puberty Refusal skills Responsible behaviors within relationships (communication, abstinence, etc.) Male and female reproductive systems Potential outcomes of sexual activity Laws associated with sexual behaviors (consent, harassment, assault, rape, etc.)
9-12	<ul style="list-style-type: none"> Adapting to changes associated with puberty Adapting to change within the family Changing responsibilities from adolescence to adulthood Responsible behaviors within relationships (communication, abstinence, etc.) Potential outcomes of sexual activity (STIs, pregnancy, etc.) Impact of media and technology on sexual behaviors Laws associated with sexual behaviors (consent, harassment, assault, rape, human trafficking, etc.) Differences between individual, family, culture, community, and global values

The model curriculum provides general standards and benchmarks.¹²³ Local school boards determine how these standards and benchmarks are

¹²² *Id.* at 14–15.

¹²³ *See id.*

achieved. School boards determine the content of health education.¹²⁴ The 6-8 benchmarks include “refusal skills.”¹²⁵ Although the curriculum does not elaborate on “refusal skills,” the benchmark’s language implies teaching students to refuse to engage in sexual activity. The benchmark does not include teaching students not to pressure, coerce, or force sexual or romantic partners into unwanted sexual activity.

Both the 6-8 and 9-12 benchmarks include “laws associated with sexual behaviors (consent, harassment, assault, rape, human trafficking, etc.).”¹²⁶ This benchmark is the most likely to include teen dating violence. However, the benchmark frames dating violence in the context of “laws associated with sexual behaviors.” While it is important for students to know local laws associated with sexual behaviors, framing teen dating violence in this context implies only illegal activity is harmful. Some forms of teen dating violence are not illegal. Further, this framework implies perpetrators of teen dating violence only face consequences if they are caught and criminally prosecuted. Because many perpetrators of teen dating violence are not criminally charged, this is not an effective deterrent. Students should discuss teen dating violence in the context of respect and healthy relationships, as well as legal and illegal activity.

For these reasons, the Kansas Model Health Curriculum does not effectively address teen dating violence. The Kansas Model Health Curriculum should be updated, setting clear 6-8 and 9-12 benchmarks for teen dating violence and healthy relationships.

SIECUS created the National Sexuality Education Standards, a comprehensive sex education curriculum spanning kindergarten through twelfth grade.¹²⁷ The curriculum covers seven topics, including healthy relationships.¹²⁸ The table below lists the relevant benchmarks for each age range.

Table 5-2: SIECUS National Sexuality Education Standards – Healthy Relationships Benchmarks¹²⁹

¹²⁴ *Id.* at 4.

¹²⁵ *Id.* at 14.

¹²⁶ *Id.* at 14–15.

¹²⁷ *National Sexuality Education Standards: First Edition*, SIECUS, <https://siecus.org/resources/national-sexuality-education-standards-first-edition/> [<https://perma.cc/3CVF-SFZW>].

¹²⁸ STANDARDS 2012, *supra* note 25, at 10.

¹²⁹ *Id.* at 12–22.

Grade Range	Relevant Benchmarks for “Healthy Relationships”
K-2	<ul style="list-style-type: none"> ▪ Healthy relationships between families and friends
3-5	<ul style="list-style-type: none"> ▪ Healthy relationships between families and friends
6-8	<ul style="list-style-type: none"> ▪ Compare and contrast the characteristics of healthy and unhealthy relationships ▪ Describe the potential impacts of power differences such as age, status or position within relationships ▪ Describe a range of ways people express affection within various types of relationships ▪ Analyze the ways in which friends, family, media, society and culture can influence relationships ▪ Demonstrate effective ways to communicate personal boundaries and show respect for the boundaries of others
9-12	<ul style="list-style-type: none"> ▪ Describe characteristics of healthy and unhealthy romantic and/or sexual relationships ▪ Describe a range of ways to express affection within healthy relationships ▪ Define sexual consent and explain its implications for sexual [decision making] ▪ Analyze factors, including alcohol and other substances, that can affect the ability to give or perceive the provision of consent to sexual activity ▪ Demonstrate effective strategies to avoid or end an unhealthy relationship ▪ Demonstrate effective ways to communicate personal boundaries as they relate to intimacy and sexual behavior ▪ Demonstrate respect for the boundaries of others as they relate to intimacy and sexual behavior

The SIECUS curriculum engages directly with teen dating violence, confronting risk factors and building skills necessary for healthy relationships. The Kansas State Department of Education could easily adopt the SIECUS curriculum or incorporate some of its standards.

To effectively educate Kansas students about teen dating violence and foster healthy relationships between Kansas teenagers, the Kansas Model Health Curriculum needs to be updated. The Department of Education can rephrase its “refusal skills” benchmark to “refusal skills and respecting boundaries.” The Department of Education can add a benchmark: “Teen dating violence and healthy relationships.” However, the curriculum would be more effective if it fleshed out the benchmarks, like the SIECUS curriculum. The Department of Education can easily adopt the SIECUS curriculum, especially the sections dealing with healthy relationships. With the SIECUS curriculum, Kansas students would develop the skills they need to have healthy relationships as teenagers and adults.

However, updating the model curriculum does not guarantee every Kansas student has access to comprehensive sex education. The Kansas Model Health Curriculum is not mandatory. Whether the model curriculum is followed is left to local school boards. While an updated curriculum may be helpful to some school districts open to comprehensive sex education, updated curriculum does not affect school districts opposed to comprehensive sex education. Therefore, students that already have access to quality sex education will continue to have access to it, while students that do not have access to quality sex education will continue to receive poor and even counterintuitive sex education. Ultimately, updating the model curriculum does not ensure every Kansas student accesses the education necessary to build healthy relationship skills and avoid risk factors for teen dating violence.

VI. CHANGING STATUTES AND REGULATIONS

The only way to guarantee all Kansas students have access to comprehensive sex education is through statutes and regulations. As discussed above, sex education is not required under Kansas law. Language requiring instruction in “human sexuality” was recently removed from the Kansas Administrative Regulations.¹³⁰ While health education is a graduation requirement, sex education is not necessary to fulfill the health education requirement.¹³¹ The CDC observed significant discrepancies in sex education across Kansas prior to the 2021 regulatory changes.¹³² The 2021 changes will

¹³⁰ See KAN. ADMIN. REGS. § 91-31-32(c) (2020); KAN. ADMIN. REGS. § 91-31-32 (2022).

¹³¹ See KAN. ADMIN. REGS. § 91-31-35(a)(5) (2022).

¹³² See SCHOOL HEALTH PROFILES, *supra* note 30, at 108.

likely lead to greater discrepancies, with some schools electing not to teach sex education at all.

To adequately address the discrepancies in sex education in Kansas, the legislature must pass a statute mandating comprehensive sex education. The Sex Education Collaborative created model legislation, which any legislative body can use to draft statutes mandating comprehensive sex education.¹³³ The Kansas Legislature can adopt the model legislation fully or incorporate pieces of it into a statute mandating comprehensive sex education in Kansas. The section of the model legislation relevant to this discussion includes mandatory instruction on effective communication, negotiation and refusal skills, bodily autonomy and consent, harmful gender stereotypes, violence, and coercion.¹³⁴

Kansas is a local control state.¹³⁵ Local school boards will likely resist legislation mandating comprehensive sex education if it usurps control from the school board, and there may be constitutional challenges to such a statute. Legislators may avoid the courts striking down the statute as unconstitutional if the language of the statute is sufficiently general. The Kansas Legislature may elect to require comprehensive sex education generally and then incentivize local school boards to follow the updated model curriculum by providing grants to fund comprehensive sex education curriculum.

A statute generally requiring comprehensive sex education may list content areas to be covered. The model curriculum then could be updated to expand on the content areas, providing benchmarks, like those previously discussed, for each content area. Content areas could include “Consent and Healthy Relationships;” “Anatomy and Physiology;” “Puberty and Adolescent Sexual Development;” “Gender Identity and Expression;” “Sexual Orientation and Identity;” “Sexual Health;” and “Interpersonal Violence.”¹³⁶ Drafting legislation requiring sex education and specifying which content areas must be covered, without mandating benchmarks for each content area, may avoid the local control problem.

VII. BARRIERS TO IMPLEMENTATION

There are two significant barriers to mandatory comprehensive sex education: (1) cost and (2) parental pushback. First, implementing new curriculum will be costly. Anticipated costs included purchasing new curriculum and training teachers. Although implementing comprehensive sex education may be expensive initially, the benefits of the curriculum justify its costs. Overcoming parental pushback is the more significant barrier.

Many parents believe sex education should be taught in the home and will pushback against legislation mandating comprehensive sex education be taught in Kansas schools. The legislature should not give in to pressure from parents against comprehensive sex education. Kansas students need adequate sex

¹³³ See MODEL LEGISLATION, *supra* note 25.

¹³⁴ *Id.* at 3.

¹³⁵ See KAN. CONST. art. VI, § 5.

¹³⁶ See STANDARDS 2020, *supra* note 25, at 15.

education. Kansas students date and have sex, sometimes against their parents' wishes. These students need to know how to safely engage in romantic and sexual relationships, and their parents may be reluctant to teach them. In Kansas, 22,593 incidents of domestic violence were reported in 2021. Five million children witness domestic violence in their home each year in the United States.¹³⁷ These children cannot rely on their parents to teach them how to have safe, healthy romantic and sexual relationships. Without comprehensive sex education, these children may learn unhealthy relationship skills from their parents, growing up to become victims or perpetrators of violence themselves.

In 2022, Governor Laura Kelley vetoed Senate Bill 58 ("SB 58"), which would have established a "Parent's Bill of Rights" in Kansas.¹³⁸ Under SB 58, parents would have the ability to inspect all materials and curriculum provided to students, object to any material or curriculum against the parent's moral or religious beliefs, and challenge the educational benefit of any material in the school library, potentially leading to its removal.¹³⁹ Such a bill could undermine access to comprehensive sex education. In other states, parents have used similar laws to ban books on sexuality from school libraries.¹⁴⁰ The Parent's Bill of Rights goes beyond a parent's right to control their own child's education. When it comes to sex education, parents should not have the right to impede other children's access to the curriculum.

In 2015, Kansas House Representative Willie Dove introduced House Bill 2199, which would require Kansas schools to switch from an opt-out sex education program to an opt-in program.¹⁴¹ Under an opt-in program, parents would have to consent to sex education before their student could participate in the program.¹⁴² Advocates for comprehensive sex education agree that opt-in requirements create unnecessary barriers to sex education.¹⁴³

¹³⁷ *Children & Domestic Violence Statistics*, DOMESTIC VIOLENCE SERV., INC., <https://www.dvs-or.org/children-domestic-violence-statistics> [<https://perma.cc/9NH4-N7UT>].

¹³⁸ S.B. 58, 2021-2022 Legis. Sess., (Kan.) Kan. Legislature, http://www.kslegislature.org/li_2022/b2021_22/measures/sb58/ [<https://perma.cc/BQU3-YYXW>].

¹³⁹ *Id.*

¹⁴⁰ Elizabeth Harris & Alexandra Alter, *A Fast-Growing Network of Conservative Groups Is Fueling a Surge in Book Bans*, N.Y. TIMES (Dec. 12, 2022), <https://www.nytimes.com/2022/12/12/books/book-bans-libraries.html> [<https://perma.cc/94X2-P2CB>].

¹⁴¹ Debb Hipp, *Sex Ed Is Hot Topic in Kansas*, COURTHOUSE NEWS SERV. (Feb. 23, 2015), <https://www.courthousenews.com/sex-ed-is-hot-topic-in-kansas/> [<https://perma.cc/5UAM-T5EL>].

¹⁴² *Id.*

¹⁴³ See SIECUS, *Opt-In vs. Opt-Out: State Sex Ed & Parental Consent Policy Brief 1* (Sept. 2018), <https://siecus.org/wp-content/uploads/2018/09/Policy-Brief-Opt-in-v.-Opt-out-Redesign-Draft-09.2018.pdf> [<https://perma.cc/XEX2-2LHZ>]; *Planned Parenthood Statement on End of Kansas 2015 Legislative Session*, PLANNED PARENTHOOD GREAT PLAINS (June 12, 2015), <https://www.plannedparenthood.org/planned-parenthood-great-plains/newsroom/planned-parenthood-statement-on-end-of-kansas-2015-legislative-session> [<https://perma.cc/XZQ4-T4EP>].

Under current Kansas law, parents may opt out their child from sex education.¹⁴⁴ The legislature may preserve this opt-out option if it mandates comprehensive sex education through statute. This opt-out option should sufficiently appease some parents against comprehensive sex education.

While an opt-out program is preferred to an opt-in program, opt-out options also create barriers to sex education. Organizations against comprehensive sex education may encourage their members to opt out their children from the program, undermining the effort to mandate comprehensive sex education.¹⁴⁵ To ensure all Kansas students access comprehensive sex education, the legislature should consider removing the opt-out option, despite pushback from parents.

Despite these barriers, the Kansas Legislature must recognize the importance of comprehensive sex education in preventing teen dating violence and pass a statute mandating comprehensive sex education.

VIII. CONCLUSION

Kansas students experience teen dating violence. Comprehensive sex education adequately addresses teen dating violence. However, current Kansas law does not require sex education at all. Further, the Kansas Model Health Curriculum does not adequately address teen dating violence and healthy relationships. To guarantee every Kansas student can access comprehensive sex education, the Kansas Department of Education must update the model curriculum and the Kansas Legislature must pass a statute mandating comprehensive sex education.

¹⁴⁴ KAN. ADMIN. REGS. § 91-31-35(a)(5)(B) (2023).

¹⁴⁵ See Tanya Connor, *Parents urged to review, opt out of public school sex ed program*, THE CATHOLIC FREE PRESS (Sept. 2, 2022), <https://catholicfreepress.org/news/parents-urged-to-review-opt-out-of-sex-ed-program> [<https://perma.cc/3JEA-LQDG>].