Legislating Education Policy and Equity at the Ballot Box: A Descriptive Analysis of the Prevalence and Content of Education Ballot Initiatives over Time

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Abstract: Political scientists have long studied the use of direct democratic ballot initiatives—proposed directly by citizens and put before a statewide vote—as currently allowed in 24 U.S. states. Despite the application of ballot initiatives to legislate education policy, however, education scholars have not yet adequately investigated this phenomenon within American public education. In a comprehensive analysis of state-level direct democracy in education, this article examines the content and prevalence of education ballot initiatives used to shaped U.S. education policy over time. Analyses suggest voters have considered 282 ballot initiatives regarding a variety of education issues, including those related to both K-12 and higher education and addressing policy issues related to finance, governance, and civil rights and equal opportunity. Further, the prevalence of education initiatives has increased and their content has evolved over time, particularly with the advent of, and increase in, initiatives seeking to limit the rights and opportunities of traditionally underrepresented students. These findings contribute to scholarship regarding state-level education policymaking in general, and call on researchers to consider further the benefits and potentially negative consequences of direct democracy as an

education policymaking tool, particularly for minoritized students.
Keywords: direct democracy; education policy; equal opportunity; education rights

Legislar política de educación y equidad en la *ballot box*: Un análisis descriptivo de la prevalencia y el contenido de las iniciativas de *ballots* de educación a lo largo del tiempo

Resumen: A pesar de la aplicación de iniciativas de *ballots* electorales, propuestas directamente por los ciudadanos y puestas antes del voto estatal, para legislar la política educativa, los académicos de la educación no han investigado adecuadamente este fenómeno dentro de la educación pública estadounidense. En un análisis de la democracia directa en la educación a nivel estatal, este artículo examina el contenido y la prevalencia de las iniciativas de *ballots* educativas utilizadas para dar forma a la política educativa de los Estados Unidos a lo largo del tiempo. Los análisis sugieren que los votantes han considerado 282 iniciativas de votación en relación con una variedad de temas educativos, incluidos los relacionados con K-12 y la educación superior, y abordan temas de políticas relacionadas con finanzas, gobernabilidad y derechos civiles e igualdad de oportunidades. Además, la prevalencia de las iniciativas educativas ha aumentado y su contenido ha evolucionado a lo largo del tiempo, especialmente con la llegada y el aumento de iniciativas que buscan limitar los derechos y oportunidades de los estudiantes tradicionalmente subrepresentados. Estos hallazgos piden a los investigadores que consideren los beneficios y las posibles consecuencias negativas de la democracia directa como una herramienta de formulación de políticas educativas, en particular para los estudiantes minoritarios.
Palabras-clave: democracia directa; política educativa; igualdad de oportunidades; derechos de educación

Legislação da educação e política de equidade na *ballot box*: Uma análise descritiva da prevalência e conteúdo das iniciativas de *ballots* de educação ao longo do tempo

Resumo: Apesar da aplicação de iniciativas *ballots* eleitorais, propostas diretamente pelos cidadãos e submetidas ao voto do estado, para legislar sobre política educacional, os estudiosos da educação não investigaram adequadamente esse fenômeno na educação pública nos Estados Unidos. Em uma análise da democracia direta na educação em nível estadual, este artigo examina o conteúdo e a prevalência de iniciativas de *ballots* educacional usadas para moldar a política educacional dos Estados Unidos ao longo do tempo. A análise sugere que os eleitores consideraram 282 iniciativas de votação em relação a uma variedade de questões educacionais, incluindo aquelas relacionadas à educação básica e superior, e abordam questões políticas relacionadas a finanças, governança, direitos civis e igualdade de oportunidades. Além disso, a prevalência de iniciativas educacionais aumentou e seu conteúdo evoluiu ao longo do tempo, especialmente com a chegada e o aumento de iniciativas que buscam limitar os direitos e as oportunidades de alunos tradicionalmente sub-representados. Essas descobertas pedem aos pesquisadores que considerem os benefícios e possíveis conseqüências negativas da democracia direta como uma ferramenta para formular políticas educacionais, particularmente para estudantes de minorias.
Palavras-chave: democracia direta; política educacional; igualdade de oportunidades; direitos de educação

Legislating Education Policy and Equity at the Ballot Box:
A Descriptive Analysis of the Prevalence and Content of Education Ballot Initiatives over Time

In 24 states, citizens can directly draft legislation, collect voter signatures, and certify proposals for the statewide ballot (Bowler & Donovan, 2000; Matsusaka, 2004; Nicholson, 2005; Sabato, Ernst & Larson, 2001). If approved by voters, state governments then codify these initiatives as state law. Referred to as ballot measures or ballot initiatives, these citizen-initiated initiatives revise state statute or amend state constitutions (Bowler & Donovan, 2000; Matsusaka, 2004; Nicholson, 2005; Sabato, Ernst & Larson, 2001) and can have large consequences for state politics and policies around a host of issues, including education. The scale of use within initiative states is considerable: Since the first ballot measure emerged in Oregon in 1902 (Ellis, 2002), more than 3,000 citizen-initiated ballot initiatives appeared on the ballot (Initiative and Referendum Institute, n.d.). Nevertheless, many Americans live in states without direct democratic systems—mostly in the eastern and southern regions of the United States—and are often unfamiliar with the ways initiative systems influence the political terrain.

Although more than half of U.S. states do not utilize direct democracy, the influence of the initiative process on American politics writ large remains: In addition to 24 state-level systems, Matsusaka (2002) estimated that between one-third and one-half of American cities had adopted some form of initiative process, including 15 of the largest 20 cities. Matsusaka further estimated that in 2002 nearly 75% of Americans lived in a community affected by direct democracy, when considering state and local initiatives in tandem (Matsusaka, 2002). To put this in the context of education today, the National Center for Education Statistics estimated there were approximately 50 million public K-12 and nearly 15 million public post-secondary students in the United States in 2016 (Snyder, Brey, & Dillow, 2018). We can use these estimates to infer that almost 49 million public school students in K-12 and higher education attend schools in communities that allow the use of ballot initiatives. What we have not previously been able to estimate, however, is the extent to which these initiatives legislate education policy in particular.

Political scientists have long studied direct democracy, who it is serving, and toward what ends (Bowler, Donovan, & Tolbert, 1998; Matsusaka, 2004, 2012; Sabato, Ernst, & Larson, 2001; Smith & Tolbert, 2004). Within the field of education, however, scholars have paid little attention to the use of ballot initiatives or how they impact American public education, and the literature is underdeveloped as a result (Carpenter & Clouse, 2013; McLendon & Eddings, 2002; Moses, 2010; Moses & Farley, 2011; Piazza, 2017). In fact, when publishing prior research related to anti-affirmative action ballot initiatives (Farley, Gaertner, & Moses, 2013), an editor of a leading education journal asked the authors to include a summary of and citation(s) to foundational literature outlining the prevalence and history of ballot initiative use in education. Unfortunately, no such citations existed at that time.

To help fill the void in the extant literature, in this article I describe the historical landscape of education ballot initiatives in the United States, focusing explicitly on those education-focused initiatives enacted by citizens (henceforth referred to as education initiatives). The following overarching research question guided the study: To what extent, and toward what ends, have statewide ballot initiatives been used to shape education in the United States? To address this question, I first set the stage by quantifying the use of education initiatives—holistically and as a function of both time and geography—to understand better their prevalence as a policy-making tool within education. I then draw on content analyses of archival data to characterize the substance of education initiatives and conceptualize the breadth and depth of education policy issues most often

taken up via direct democracy. Finally, I present results from a deeper investigation of those education initiatives that addressed civil rights and equal opportunity to understand the potential consequences of direct democracy for the education of marginalized and underrepresented students in particular. The overarching themes presented in this paper provide a critical contribution to the literature by summarizing the history and extent of education initiative use over time in the United States and exploring their use to limit or expand educational rights and services for underrepresented student groups.

Literature Review: Historical and Policy Context of Direct Democracy

Any discussion of direct democracy must first explicate the differences between direct democracy and representative government. In the Federalist Papers, James Madison (1787) distinguishes between a pure democracy—in which all citizens assemble and administer the government themselves—and a representative government like the United States. Madison explained that in a representative government, the citizenry delegates its decision-making authority to a small number of elected representatives. This delegation functions to "refine" public opinions, "by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations" (Madison, 1787, para.16). In this way, Madison reasoned, representative governments protect from political folly or misuse of democratic processes to advance unfair or unjust policies.

Within the federal republic of the United States, direct democratic initiative systems appeared more than a century after Madison and others drafted the Federalist Papers. These initiative systems largely grew out of the populist, progressive movement in the American West in the early 20th century (Bowler & Donovan, 2006; Bridges & Kousser, 2011; Donovan & Bowler, 1998; Kapsch & Steinberger, 1998), and proponents believed they would give greater voice to ordinary citizens and reduce the power wealthy interests held over elected representatives (Donovan & Bowler, 1998). First adopted in South Dakota in 1898 and first utilized in Oregon in 1902 (Ellis, 2002), direct democracy spread quickly: Within 20 years, 18 additional states followed South Dakota's lead and adopted comparable systems (Lewis, 2013). Bridges and Kousser (2011) attributed the "peculiar geography of direct democracy" (Persily, 1997, as quoted in Bridges & Kousser, p. 168) to the political savvy of progressive reformers, noting that reformers most often advocated for direct democracy in states likely to support their agenda at the ballot box: "They appear to have made their support for direct democracy contingent on their level of agreement with 'the people.' As the proportion of Catholics or White tenant farmers in a state rose, the chances of adopting the initiative fell" (Bridges & Kousser, 2011, p. 189). For these reasons, the adoption of initiative processes was largely clustered in the progressive west and was least likely to be adopted in the anti-progressive south (Bridges & Kousser, 2011). While Bridges and Kousser characterize this geographic divide as the work of political shrewdness, it raises questions about whether designers of American direct democracy truly aspired to serve the public will or instead sought to reform the existing policymaking and legislative systems to advance their own political values.

In contemporary U.S. politics, direct democracy refers to any political process in which citizens draft legislation and enact policy via direct vote (Patterson, 1998). As noted above, 24 states have adopted some sort of citizen-initiated direct legislation: 18 states currently allow constitutional initiatives and 22 allow statutory initiatives (Bowler & Donovan, 2000; Bowler, Donovan, & Tolbert, 1998; Broder, 2000; Ellis, 2002; Matsusaka, 2004; Nicholson, 2005; Sabato, Ernst & Larson, 2001; Smith & Tolbert, 2004). Initiative use is widely variable across the states, with some states recording

well over 100 initiatives (e.g., Oregon, California, and Colorado) and others only seeing only a handful since their inception (Hicks, 2013; Initiative and Referendum Institute, 2006). Despite this geographic variation, there has been a resurgence in the popularity and use of the initiative process in the United States since the 1970s (Ellis, 2002; Initiative and Referendum Institute, 2006; Kapsch & Steinberger, 1998).

To date, initiatives have addressed a wide array of policy issues, from tax law to civil rights, education to housing policies. Across all content areas, Lewis (2013) suggests that modern ballot initiatives have moved beyond the more narrow policy goals of the progressive and populist movements, and have had a broad impact on nearly every substantive policy issue. Furthermore, most U.S. voters regard direct democracy favorably, with some research suggesting that upwards of 64% of voters support its use (Bowler, Donovan, & Karp, 2007). Despite this popularity, the value of the ballot initiative process in the United States has been widely debated by scholars and politicians. Most salient among criticisms leveled at ballot initiative systems—and most relevant to the present study—are claims that these systems are vulnerable to corruption by rich or powerful actors who disproportionately use them to enact their political will (Garrett, 1999; Goldsmith, 2005; Magleby, 1995; McCuan, Bowler, Donovan, & Fernandez, 1998; Smith & Tolbert, 2004) and fears that initiatives allow citizens in a voting minority to be tyrannized by majority voters (de Tocqueville, 1835; Gamble, 1997; Guinier, 1994). In fact, Madison (1787) voiced similar fears regarding the potential tyranny of the majority in his early writing about American democracy, noting that more so than representative governments, direct forms of democracy might allow voting majorities to infringe upon individual rights, particularly for individuals who constitute a political minority.

Direct Democracy in Public Education

Little scholarship to date has examined the relationship between ballot initiatives and education policy despite the large potential implications for our nation's schools and schoolchildren. Nevertheless, several trends do emerge from the limited existing literature. First, the use of ballot initiatives to create education policy has grown over time (Carpenter & Clouse, 2013; Moses, 2010), although they have been only marginally successful at the ballot box (Carpenter & Clouse, 2013; McLendon & Eddings, 2002). Second, education initiatives appear to focus on fiscal issues most often (Carpenter & Clouse, 2013; McLendon & Eddings, 2002). Despite the prevalence of financial issues, some scholars have also suggested that voters have increasingly used ballot initiatives to decide some of the most contentious issues in American politics (McDonnell, 2007). McLendon and Eddings (2002) characterized education initiatives as most often involving "money and morality: the former for the sheer number of ballot proposals… and the latter for the opportunities …to become both a target and vehicle of larger societal conflicts over the reallocation of values" (p. 211). Together, this collection of research suggests the use of education ballot initiatives is an area ripe for additional study.

Theoretical Framework

While this article seeks to fill a hole in the existing literature, it is motivated by a larger overarching purpose—one predicated on the idea that education initiatives warrant additional study not only because they are under-explored, but also because they represent a unique case among direct democratic initiatives. This understanding is drawn from normative concerns about democracy, justice, and equality, and it is heavily influenced by conceptions of democratic education that centrally locate equal educational opportunity and believe public education (a) plays a central role in our democracy, (b) is the primary place in which people learn to participate in our political process, and (c) provides citizens with opportunities to learn how to make decisions and choices to

lead a "good life" (Gutmann, 1999; Howe, 1997; Moses, 2002). Therefore, education is viewed as both tangibly and intangibly distinct from other policy areas, and policy-making within education is constructed as not only important for our schools and school children, but for our broader societal and democratic well-being.

Education as a Unique Case

Bull (2008) argues schools have implications for the future of democratic practices that few, if any, other social institutions have. As a result, "it is important to design the decision-making arrangements for schools carefully so that their consequences are compatible with the continuation and development of democratic norms in society" (p. 34). This is not to say education is the only substantive area with consequences for justice. Consider, for example, the use of ballot initiatives to prohibit gay marriage prior to the *Obergefell v. Hopkins* decision. It was unjust and dangerous to target minority groups and put their rights before a vote of the majority who may, at best, fail to understand completely their needs and desires, and, at worst, "tyrannize" them purposely (de Tocqueville, 1835; Guinier, 1994). These injustices are certainly detrimental to the fabric of our democracy. Even in this case, though, they are distinct from the risks inherent in enacting unjust education policies, which also have potential replicative effects. Not only could education injustices affect rights directly, but they also can contribute to future democratic practices, including whose voices are heard and who is empowered to have a voice at all.

This theoretical framing is relevant as we consider the use of ballot initiatives in education policy-making. Research cannot divorce the actual issues in question from the consequences of direct democracy. Borrowing language from economics, one would expect a higher tolerance for risk regarding decisions about something relatively mundane, like a 2012 legislatively referred initiative in Kansas that would have allowed the legislature to change the classification and taxation of boats (Ballotpedia, 2012). While this issue ostensibly had a host of supporters and opponents,[1] one would be hard-pressed to find someone to argue that boating politics, or even the taxation policies surrounding boat ownership, are foundationally important to the public good or the fabric of our democracy. On the other hand, many argue that education is a public good that functions to maintain and reproduce democracy and to advance equity and justice (Gutmann, 1999; Howe, 1997).

Certainly, in all policy areas, it is important that ballot initiatives are just and fair. This is true for housing laws, environmental restrictions, and access to healthcare, to name a few. It is probably even true for boating taxation policies. However, because education serves a unique purpose, we must consider the consequences here with great caution. By situating the present study in this theoretical tradition, it can contribute to a broader discussion of the potential consequences of direct democracy for our education system and our democracy.

Core Principles of Democratic Education

If education is to serve its intended democratic purpose, education policy decisions must pay special attention to equal opportunity and consider the needs of all students. It therefore makes sense that we must first understand the extent and tenor of direct democracy within education to consider its benefits and potentially negative consequences. Three principles found in Gutmann (1999) and Howe (1997) are useful in informing the conclusions that may be drawn as a result. These principles provide guidance on when it is justifiable to place limitations on democratic authority; that is, they can help us begin a conversation about the defensibility of using direct democracy as an education policy-making tool.

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[1] Although, interestingly, no one wagered a formal opposition campaign (Ballotpedia, 2012).

First, Gutmann's principle of *nonrepression* prevents the state from "using education to restrict rational deliberation of competing conceptions of the good life and the good society" (p. 44); schools and teachers must uphold the principle of nonrepression by providing opportunities for their students to meaningfully deliberate. Second, Gutmann's corollary principle of *nondiscrimination* prohibits "denying anyone an educational good on grounds irrelevant to the legitimate social purpose of that good" (p. 45). In action, this is really a principle of nonexclusion, meaning that schools, policies, and individuals cannot exclude any educable child from an education. In sum, both principles intend to protect students and families from any undemocratic procedures that restrict access to education and consequently remove the opportunity for meaningful deliberation, both at present and in the future (Gutmann, 1999). The final principle as it applies to education ballot initiatives is Howe's principle of *nonoppression*. Howe (1997) argues that by focusing too narrowly on procedural limitations, Gutmann's (1999) principle of nonrepression is too weak. Instead, he argues that a more appropriate principle is the principle of nonoppression, which requires "establishing new rules and procedures that guarantee all groups are genuinely recognized" instead of merely protected from restrictions (emphasis added, p. 69). Howe refers to this principle as the "procedural embodiment of the virtue of recognition" (p. 130), which requires the inclusion of the voices and experiences of oppressed groups and the intentional exclusion of explicitly oppressive language and group characterizations.

The principles of nonoppression (Howe, 1997) and nondiscrimination (Gutmann, 1999) are particularly relevant to the study of education initiatives regarding civil rights and equal opportunity. If education initiatives enact policies that increase equity and participatory parity for all students or at a minimum do not decrease it, then they may provide an appropriate and valuable alternative to traditional policy-making tools. If, however, they somehow exacerbate current inequities and/or disproportionately affect traditionally marginalized or underrepresented students and their families, it is incumbent upon education researchers and policy-makers to examine ways to limit these negative consequences.

Method

To analyze both the prevalence and content of education initiatives in the United States, I first collected archival data for 110 years of education initiatives (1902-2012). I then classified these data into distinctive substantive categories using content analyses (Weber, 1990), similar to the approach described in McLendon & Eddings' (2002) examination of eight years of higher education initiatives. I then used descriptive quantitative analyses of the coded initiative data to explore the primary research question: To what extent, and toward what ends, have ballot initiatives been used to shape education in the United States? The content analysis and associated quantitative analyses focused on three lines of inquiry, including (a) the prevalence and content of education initiatives, (b) patterns of education initiative use over time, and (c) electoral outcomes and passage rates of education initiatives. Each of these areas of inquiry also heavily considered the extent to which direct democracy has addressed issues of educational opportunity and equal rights.

Data Sources

Archival ballot initiative data (NCSL). At least two prior studies (Carpenter & Clouse, 2013; McLendon & Eddings, 2002) have also described the use of ballot initiatives within education, but neither produced a dataset appropriate for the current study. McLendon and Eddings' (2002) study focused only on higher education initiatives over an eight-year span between 1993 and 2000, meaning their focus was too narrow for the present study. Although Carpenter and Clouse (2013) examined education ballot initiatives between 1906 and 2009, the use of narrow inclusion criteria

resulted in the exclusion of nearly one-third of the education initiatives identified by the present study.[2] Furthermore, although public repositories of ballot initiatives like the one maintained by the National Conference of State Legislatures (NCSL) categorize initiatives by policy area, preliminary analyses suggested those classifications excluded far too many education initiatives.[3]

It was therefore necessary to create a longitudinal dataset of education initiatives. I collected data from the National Conference of State Legislatures (NCSL) *State Ballot Measures Database* (National Conference of State Legislatures, n.d.), a public resource chronicling statewide ballot initiatives across the United States over time. NCSL data include initiative-level variables, including the initiative title and/or number, state, year, election type (primary or general), initiative type (constitutional amendment or state statute), and a summary or description of the initiative most often drawn directly from the initiative text. NSCL data also include information regarding initiative passage and the percent of yes votes cast in the election (NCSL, 2012).

General initiative frequency data (IRI). Longitudinal data from the Initiative and Referendum Institute's (IRI; n.d.) *Historical Database* augmented the NCSL data. IRI's *Historical Database* provided (a) the number of initiatives on the ballot and (b) the number and percent that passed, for each year, in each state, across the United States. These data were useful in comparing the number of education initiatives to the total number of initiatives generally and in analyzing trends about the prevalence and success of initiatives over time.

Periodization data. The NCSL data included the election year for each initiative. For ease of analysis across the 110 years of sampled data, I clustered initiatives by decade to allow for quick comparisons of the frequency/density of initiative use in a consistent timespan. To contextualize each decade, I drew periodization data from Urban and Wagoner (2009). These periodizations include the progressive era (1900-1930), postwar and labor unrest era (1930-1959), great society era (1960-1979), and neoliberal era (1980-2009).

Analytical Approach

Initiative selection. Because NSCL's (n.d.) database includes initiatives across a wide range of policy arenas, two search criteria limited the data for analysis. First, the initial search excluded legislative referenda and recall elections, leaving only the universe of citizen-initiated ballot initiatives between 1902 and 2012. Next, given the possibility of inadvertently excluding education-related initiatives by using NCSL's topical coding, search parameters included a broader subset of categories, including the following topic areas: (a) "Education: PreK-12," (b) "Education: Higher

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[2] Carpenter and Clouse (2013) also relied on the NCSL data, but their search parameters limited their results to initiatives coded explicitly as education initiatives. This narrow selection criteria resulted in 206 education-related initiatives—76 fewer than the number identified here. The omitted initiatives also appear to affect the conclusions drawn, most notably with regard to initiatives they categorize as equity-focused. For example, the authors only identify eight equity-focused initiatives, and they erroneously claim that the first was a 1950 Arizona desegregation initiative, and the most recent (through 2009) a Michigan ballot issue on affirmative action. In fact, in 1946, Arkansas approved an initiative that allowed an ad valorem tax to ensure that every district had separate schools for White and Black students, and two additional affirmative action bans appeared on the ballot in 2008—one that failed in Colorado and one in Nebraska that passed.

[3] For example, in Arizona alone, three initiatives were excluded by limiting the results to NCSL's education topic areas: 1988's Proposition 106 which made English the official language of the state of Arizona, which was later deemed unconstitutional in *Ruiz v. Hall*; 2004's Proposition 200 which required proof of citizenship for voters and also required state and local governments to verify citizenship when administering public benefits; and Proposition 100 in 2008, which limited the state's ability to raise new taxes on property sales and was heavily opposed by the Arizona Teachers' Association.

Education," (c) "Civil & Constitutional Law," or (d) "Tax & Revenue." These criteria yielded 839 possible initiatives.

Similar to McLendon & Eddings (2002), I then reviewed each of these potential initiatives manually for inclusion in the final dataset. All initiatives that specifically referenced K-12 or higher education or public schooling were automatically included. Those that did not explicitly reference education were only included when the language of the initiative made it clear that the outcome would potentially affect K-16 students in schools and/or classroom or instructional practices. Like McLendon and Eddings, the most common initiatives included under this second criterion were property tax initiatives that directly affected state education budgets and sparked significant public debate about education finance (McLendon & Eddings, 2002). Half of the official English language policy proposals in the final dataset were also included under the second criterion: Three of the six explicitly named schools and were included under the first criterion, but the remaining three proposals did not explicitly name schools, focusing on governmental functions more broadly conceived. However, consistent with property tax initiatives, the impact on education was a major point of debate in the election of all official English language initiatives. In total, 282 initiatives comprised the final dataset of education initiatives; the findings section details the content and characteristics of these initiatives in greater detail.

Initiative coding. After narrowing the population of initiatives to those focused on education issues, I used qualitative content analyses (Weber, 1990) to develop additional descriptors for each initiative, beyond those included in the original NSCL data. Content analyses are a "data-reduction process by which the many words of texts are classified into much fewer content categories" (Weber, 1990, p. 15). Analyzed data included initiative descriptions, titles, and narrative summaries. In instances where the NCSL data were incomplete or inadequate, official voters' pamphlets and initiative text from secretary of state websites provided additional data.

Initiative categorization. The first phase of qualitative content analysis aimed to describe the content of each education initiative to enable quantitative analyses across policy issues and trend analysis over time. Using an inductive approach to coding, I first assigned each initiative a topical code, using language from the initiative text whenever possible (Miles & Huberman, 1994). These initial codes were quite specific (e.g., "anti-affirmative action" or "establishing charter schools"). Using an approach similar to a constant comparative method (Glaser & Strauss, 1967), I then iteratively clustered those codes into larger substantive policy categories until they were able to capture the distribution of education initiatives across various broad policy issues. For example, anti-affirmative action initiatives were clustered under "education rights initiatives," and initiatives seeking to establish charter schools were clustered under "privatization" and ultimately "K-12 policy initiatives." Once the coding framework was finalized, I recoded each initiative in reverse—beginning with the overarching codes and ending with the subcodes—to check for consistency and to ensure code definitions had not evolved or shifted over the course of the analysis.

The resulting organizational structure (see Appendix) resulted in overarching categories diverse enough to capture the large number of policies and practices affected by direct democracy within public education, but limited enough to simplify the content across 282 distinct initiatives. In total, five categories of codes emerged, with variable numbers of subtopics clustered under each. The five overarching initiative categories include: (a) *K-12 policy initiatives*, or initiatives that specifically address state-wide K-12 education policies or explicitly affect curricular or local policies in K-12 schools; (b) *Higher education policy initiatives*, or initiatives that specifically address higher education, including the establishment of universities and college loan programs; (c) *Education finance initiatives*, or initiatives that explicitly affect education funding, including those that target tax policies, funding requirements, and additional sources of state education budgets (e.g., levies, lottery monies);

(d) *Education governance initiatives*, or initiatives that create or alter existing education governance structures (e.g., state boards or university systems) or mandate specific governance structures; and (e) *Education rights initiatives*, or initiatives that limit or advance the civil and education rights of minority groups, or that explicitly limit or ensure their access to equal educational opportunities (e.g., affirmative action programs).

It is worth noting that although education policy is rarely neatly and categorically distinct in practice, the categories developed in this analysis were discrete by design. That is, for the purposes of simplification, I assigned each of the 282 initiatives to just one overarching category, determined by the primary purpose of the proposed initiative. When there appeared to be multiple purposes, the most cited purpose in voters' pamphlets and media reports prevailed. For example, the first education rights initiative to appear on the ballot was Oklahoma State Question 316 (Oklahoma Secretary of State, 1944), which appeared in 1946 and asked voters to consider an ad valorem tax to ensure every district had separate schools for White and Black students. While the intended purpose of this initiative was to ensure the existence of segregated schools, the vehicle for accomplishing that goal was fiscal. This example highlights the challenges inherent in classifying initiatives into a single discrete category, because this initiative in some ways represents both an education finance and an education rights initiative. However, to simplify analyses, I coded this initiative as an education rights initiative because the underlying motivation was the maintenance of school segregation—a purpose seen in both the initiative text and public discourse.

Coding anti-education rights initiatives. Because this study also explored how direct democracy takes up issues of educational opportunity, particularly for minoritized groups, analyses also considered whether each of the education rights initiatives sought to bolster education rights and equal educational opportunity or limit them. Initiatives that sought to eliminate, reduce, or overturn the rights and educational opportunities of a minority group—including students of color, immigrants or non-native English speakers, or LGBT students or educators—were coded as *anti-education rights initiatives*. Importantly, each of these anti-education rights initiatives explicitly mentioned a traditionally marginalized or underrepresented group in the initiative text, suggesting the average voter would understand the initiative targeted these populations.

Descriptive analyses of longitudinal data. Quantitative analyses relied on data from the categorization of initiatives described above and the original NCSL data to address the central research questions. Descriptive analyses explored trends and patterns, first across all education initiatives and then within each of the five categories described above, examining the prevalence and content of education initiatives, changes and patterns over time, and passage rates. Analyses addressed the following questions: What education issues do ballot initiatives take up most often? How has the number and substance of education initiatives changed (or remained the same) over time? How does this compare to historical trends across initiatives more broadly conceived? To what extent do ballot initiatives occur that specifically target the education rights and services of minoritized groups? And, how successful are education initiatives at the ballot box, and how does this compare to all non-education initiatives and to initiatives within each of the five categories described above?

Findings

The primary aim of this article is to characterize the landscape of education initiatives in the United States, both generally and with regard to education initiatives regarding civil rights and equal opportunity. A deep understanding of this landscape requires three related lines of inquiry. First, we need to understand the prevalence and content of education initiatives. Findings related to the

substance of education initiatives are presented first across the entire sample (*n* = 282) to characterize the broad landscape of direct democracy in education, and are then summarized within each initiative category. These findings begin to unpack differences that play out across policy arenas and highlight the education issues more frequently taken up via direct democracy. This section concludes with a rich description of initiatives targeting education rights and opportunity to elucidate the extent to which direct democracy in education has specifically targeted marginalized or underrepresented students.

Having described the content of education initiatives, the next section explores patterns of use over time. These analyses examine whether education initiatives have consistently addressed the same kinds of policy proposals and questions, or if the use of ballot initiatives to make education policy has evolved over time. They also pay particularly attention to differences between education initiative categories and patterns within education rights initiatives in particular. The final line of inquiry considers electoral outcomes, specifically whether voters approve education initiatives and codify them into law and how passage rates compare within education initiative categories and to the universe of all other non-education initiatives.

Prevalence and Description of Education Initiatives

In total, between the advent of direct democratic systems in the United States and 2012—the last year of data included in the analysis file—citizens in direct democracy states voted on 282 ballot initiatives regarding education, representing just over 10% of the total initiatives seen in that time period. The first five education initiatives appeared in 1910 in Oregon, Oklahoma, and Missouri and addressed the funding and creation of local universities and the creation of minimum education/literacy standards for voters. Those five initiatives, and the remaining 277, were distributed geographically across the United States, occurring in 21 of 24 initiative states, with an average of 13 education initiatives in each, compared to roughly 100 initiatives per state across all policy areas including education. However, the use of initiatives varied across states. Figure 1 presents the number of education initiatives in each state and is color-coded to indicate how each state's data varies from the mean. States with above-average initiative use are blue, while states with below-average use are green; the strength of color represents the variation from the mean (e.g., darker colors are further from the mean, while lighter colors are closer to the mean).
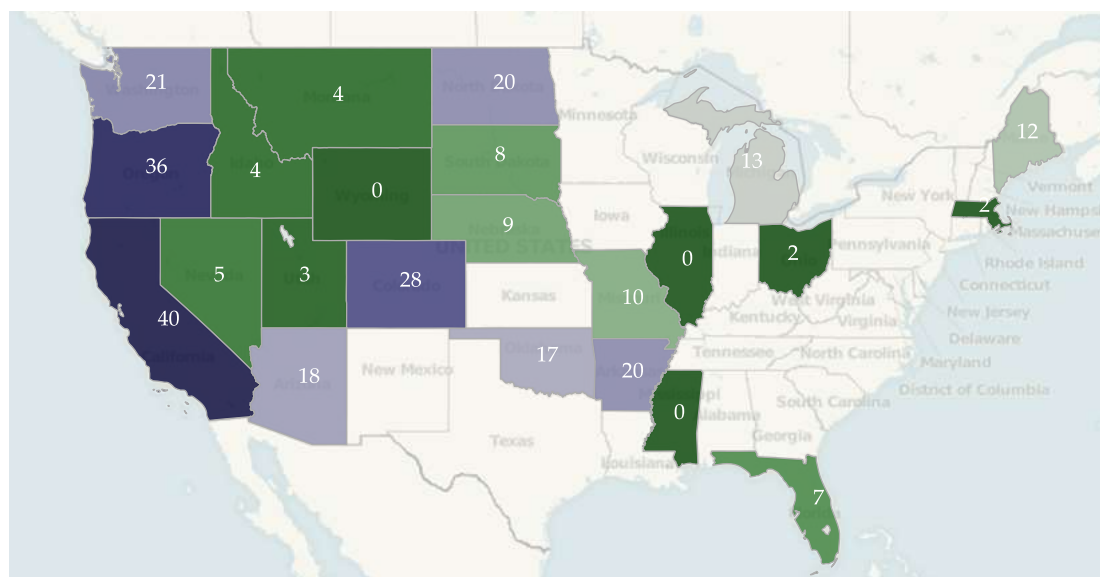
Figure 1. Total number of education initiatives, by state

In general, these findings mirror results from all initiative types: For the most part, states with above-average initiative use in general also have above-average education initiative use.[4] The three most prolific ballot initiative states also saw the highest number of education initiatives: California ($n = 40$), Oregon ($n = 36$), and Colorado ($n = 28$). Furthermore, the three states without any education initiatives (i.e., Illinois, Mississippi, and Wyoming) had very low overall initiative usage through 2012. This consistency suggests that education initiative use was generally not limited to or clustered within specific states.

To characterize the policy arenas addressed via direct democracy, Table 1 presents the frequency of education initiative use within each category, ordered by overall prevalence. The sections that follow discuss the content and relative frequency of initiatives within each category in greater detail. However, two immediate conclusions surface from these initial data. First, consistent with prior research (Carpenter & Clouse, 2013; McLendon & Eddings, 2002), education finance initiatives were by far the most common education policy issue addressed via ballot initiative through 2012, representing more than half the total number of education initiatives and occurring more than three times as often as the next most common initiative type. Second, K-12 policy and reform was the subject of citizen-initiated legislation more often than higher education. Although this finding mirrors patterns in education reform writ large, where K-12 policies are more acutely politicized than those within higher education, additional research is needed to further explain this result.

Table 1

Frequency and passage of education initiative categories, ordered by prevalence

Initiative Category	Frequency	%	Pass Rate	Margin of Victory[a]
Education finance initiatives	151	53.5	34%	- 13%
K-12 policy initiatives	50	17.7	33%	- 10%
Education rights initiatives	36	12.8	64%	+ 11%
Education governance initiatives	31	11.0	32%	- 10%
Higher education policy initiatives	14	5.0	36%	- 9%
Total	282	100.0	37%	- 9%

Note: [a] Margin of victory represents the percentage that separates yes and no votes. For example, if an initiative had 55% yes and 45% no votes, the margin of victory would be +10%.

Education finance initiatives. Education initiatives regarding finance issues ($n = 151$) tackled a wide diversity of political and policy issues, although the majority of education finance initiatives ($n = 84$; 56%) addressed taxes in some form. Within tax initiatives, there have been initiatives that seek to increase taxes and those that seek to reduce or limit them. For example, voters considered tax increases 24 times and millage or ad valorem taxes eight additional times. On the other hand, advocates proposed 17 property tax limits, four general tax reductions, and seven revised voter approval requirements for new taxes, including the now infamous TABOR laws. Other education finance initiatives included gaming initiatives ($n = 17$, 11%), initiatives mandating adequate funding of schools ($n = 16$, 11%) or limiting state spending ($n = 7$, 5%), lottery initiatives ($n = 6$; 4%), direct levy initiatives ($n = 6$ for each; 4%), state aid initiatives ($n = 5$, 3%), and citizen-

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[4] Oklahoma was the single exception, which has slightly below-average overall use and slightly above-average use within education.

initiated bonds (*n* = 3, 2%). Voters also considered supplementary funding for disadvantaged schools or special programs (e.g., afterschool programs), limits to administrative costs, reductions in per-pupil-expenditures, and revisions to funding systems; each of these occurred one time in the data.

K-12 policy initiatives. Like education finance initiatives, direct democracy addressed a variety of K-12 policy and practice issues within the 110 years between 1902 and 2012. More than half of the 50 K-12 policy initiatives engaged with questions regarding the direct provision of educational services, by seeking to legislate policies regarding curriculum and instruction (*n* = 13; 26%) or the privatization of education (*n* = 13; 26%). These initiatives were some of the most hotly contested issues in the dataset. Among the 13 initiatives regarding curriculum and instruction, nine appeared before 1980. These early curriculum and instruction initiatives addressed the adoption and financing of approved textbooks, the use of the Bible in public school instruction, the adoption of compulsory kindergarten programs, and school and state standards. The more recent curriculum initiatives tackled testing and accountability policies (*n* = 3) and parental rights with regard to school curriculum (*n* = 1). Among privatization initiatives, 10 focused on school vouchers and three on the authorization of charter schools. These were predominantly a modern phenomenon, with only two privatization initiatives occurring before 1988.

Initiatives regarding teaching regulations and working conditions were also common within K-12 policy initiatives (*n* = 11; 22%). These initiatives fell into two categories, separated by their substantive content and timeline. Seven occurred before 1962, mostly during the postwar and labor unrest era marked by the proliferation of unions and revised labor laws (Urban & Wagoner, 2009), and they almost exclusively[5] addressed teacher pay and teacher pensions. Four others appeared after 2000, during the neoliberal era largely characterized by market-based reform and a persistent focus on teacher quality and educator effectiveness (Rowan & Raudenbush, 2016). Consistent with the broader national discourse, three of the four contemporary initiatives took up reform efforts in the educator effectiveness movement. These initiatives related broadly to testing and accountability reform, although they explicit linked those concepts to teacher pay or tenure.

Although less common, a handful of K-12 initiatives sought various other policy shifts, including class-size reduction (*n* = 3), compulsory attendance policies (*n* = 3), calendar adoption and regulations regarding the first day of school (*n* = 2), universal preschool (*n* = 2), and mandatory vaccination (*n* = 2).

Education governance initiatives. Education governance initiatives (*n* = 31) generally sought to establish governing boards, reify processes and procedures, or enact rules regarding the governance and management of education systems within K-12 and higher education. These initiatives most often tackled issues regarding exactly who governed education systems and how. Here, advocates proposed initiatives regarding the reorganization or consolidation of public school districts (*n* = 6), the creation of State Boards of Education (*n* = 6), and the design of university governance structures (*n* = 5). Less often, initiatives proposed changes to procedural rules or permissions, including initiatives that sought to permit states to authorize bonds or levies (*n* = 3), change election procedures for state leaders (*n* = 3), clarify/revise the governance of teacher certification (*n* = 2), or determine election or voting qualifications (*n* = 2).

Higher education policy initiatives. Education initiatives designed to legislate higher education policies were relatively uncommon, appearing just 14 times in 110 years. The 14 initiatives in this category also had a relatively narrow focus, including six that sought to establish a university,

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[5] The exception was a successful 1948 initiative in North Dakota prohibiting the wearing of religious dress by public school teachers.

three that sought to change a university name or location, and two that addressed the creation or provision of college loans. While initiatives in this category only included those that explicitly and distinctly targeted higher education policies and practices, a consistent set of inclusion rules applied to K-12 policy initiatives. It therefore seems that reformers and the broader public were less likely to legislate the direct provision of educational services at institutions of higher education than within K-12 settings. However, policy regarding finance, governance, and rights and opportunity deeply affect both K-12 and higher education, so the sum impact on each level of education is likely larger than the individual data might suggest. The prior literature confirms this: McLendon and Eddings (2002) included a host of finance, governance, and civil rights initiatives in their analyses of higher education initiatives for this very reason.

      Education rights initiatives. Citizens have also used direct democracy to legislate policies regarding civil rights and equal opportunity within public education, either as it relates to the rights of students protected under law or the education services and opportunities of students traditionally underrepresented in schools. This category represents the third most common issue area among all education initiatives ($n = 36$; 13%). Within this domain, there were initiatives related to segregation, immigration and English-language policies, discrimination and racial classification, affirmative action, and the rights and education of LGBT students and teachers (Figure 2).
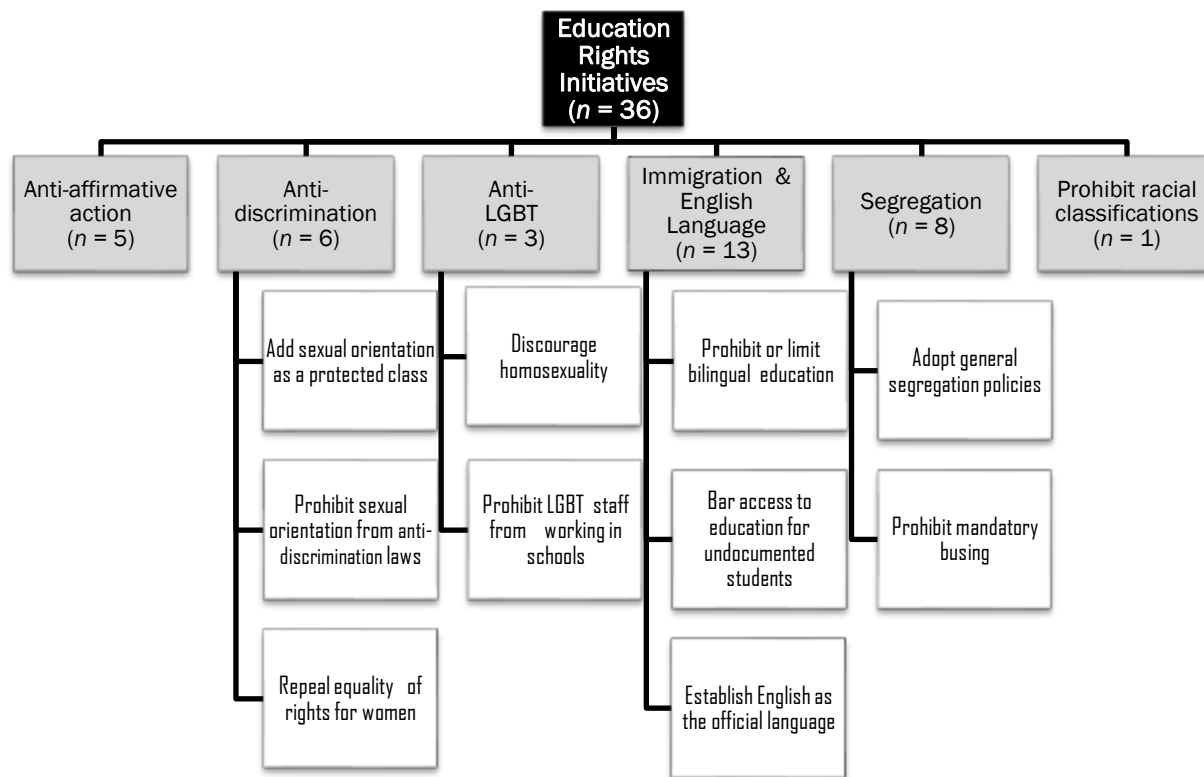
Figure 2. Categorization and prevalence of education rights initiatives

      While advocates can draft any initiative to enact or repeal policies, the distinction between education rights initiatives that expand students' rights and those that seek to restrict or eliminate them is particularly salient. Among the 36 education rights initiatives identified in this study, 34 were also coded as anti-education rights initiatives (Table 2), meaning they sought to *eliminate* or *diminish* the rights and educational opportunities of underrepresented students, including students of color,

immigrants, women, and LGBT students. Only two of the education rights initiatives attempted to expand or secure the rights and opportunities of minoritized students.

Segregation initiatives. The first education rights initiative, Oklahoma State Question 316 (Oklahoma Secretary of State, 1944), appeared in 1946 and asked voters to consider an ad valorem tax to ensure every district had separate schools for White and Black students. The initiative text explicitly requested funds for the "acquisition of sites and erection of buildings for separate schools for White and Negro children" (Oklahoma Secretary of State, 1944). Seven additional segregation initiatives quickly followed suit, proposed from 1950 to 1974. Except for one—a 1950 Arizona initiative prohibiting segregation in public schools—all of these initiatives sought to limit or halt desegregation efforts or formalize school segregation within state statute or the constitution. These initiatives also co-occurred with significant public outrage over desegregation policies: Arkansas saw three in 1956 as a direct and immediate response to the Supreme Court's ruling in *Brown v. the Board of Education* (1954). Three others, each prohibiting mandatory busing and desegregation policies, occurred in California, Washington, and Colorado, in 1972, 1973, and 1974 respectively.

Immigration and English-language policy initiatives. Within education rights initiatives, immigration and English-language policy initiatives occurred more than any other issue (*n* = 13). The earliest education initiatives that addressed immigration or English-language policy were four initiatives seeking to establish English as the official language introduced in California in 1986 and Florida, Colorado, and Arizona in 1988. Alaska and Utah voted on similar initiatives in 1998 and 2000, respectively. While the six official-English initiatives focused on language use in a variety of settings, including schools, the public discourse, voters' pamphlets, and media coverage highlighted the impact on education. Official English initiatives were overwhelmingly successful—all six passed on Election Day—even though they were each opposed by the teachers' associations in their state and subject to vigorous political debate.

Following the success of official English initiatives, and possibly spurred by advocates' disappointment that the resulting legislation did not effectively limit the use of other languages (Dillow, 2006), proponents shifted their strategy. Between 1998 and 2008, five additional immigration and English language policy initiatives sought to limit access to bilingual education for non-native English speakers. Occurring in California (1998), Arizona (2000), Colorado (2002), Massachusetts (2002), and Oregon (2008), these initiatives were largely framed as providing expanded choice and opportunity for English Language Learners (ELLs) and their families; despite that framing, they were generally considered anti-bilingual education by scholars and activists (Wright & Pu, 2005). Finally, two initiatives in California (1994) and Arizona (2004) proposed to prohibit all access to public education for undocumented students. Voters approved both measures, although the courts eventually overturned each; these two initiatives are also among the most well-known and widely researched education initiatives of all time.

Anti-discrimination laws and policy initiatives. Six education rights initiatives, all but one from the 1990s, addressed antidiscrimination laws and policies. One, in Washington in 1997, proposed to add sexual orientation to existing antidiscrimination laws. Four additional initiatives prohibiting the inclusion of sexual orientation in antidiscrimination laws and policies appeared between 1992 and 1995. Finally, an initiative in 1976 in Colorado sought to repeal equal rights on account of sex as established in the Colorado state constitution.

Anti-affirmative action initiatives. Five states considered citizen-initiated amendments regarding the use of affirmative action. Often called "civil rights initiatives" by advocates, these initiatives have sought to prohibit the use of affirmative action in public education, employment, and contracting. Supporters of affirmative action have accused initiative advocates of intentionally misleading the public by co-opting language from the Civil Rights Amendment (Frosch, 2008;

Table 2

Rights-restricting education ballot initiatives, organized by sub-category and time

Subcategory	State	Year	Title	Brief Description	Outcome
Immigration and English Language Policies	CA	1986	Proposition 63	Adopt English as official language.	Pass
	AZ	1988	Proposition 106	Adopt English as official language.	Pass
	CO	1988	Amendment 1	Adopt English as official language.	Pass
	FL	1988	Amendment 11	Adopt English as official language.	Pass
	CA	1994	Proposition 187	Require citizenship for public services.	Pass
	AK	1998	Measure 6	Adopt English as official language	Pass
	CA	1998	Proposition 227	Restrict bilingual education.	Pass
	AZ	2000	Proposition 203	Restrict bilingual education.	Pass
	UT	2000	Initiative A	Adopt English as official language	Pass
	CO	2002	Amendment 31	Restrict bilingual education.	Fail
	MA	2002	Question 2	Restrict bilingual education.	Pass
	AZ	2004	Proposition 200	Require citizenship to vote or receive public benefits.	Pass
	OR	2008	Measure 58	Restrict bilingual education.	Fail
Segregation	OK	1946	Question 316	Tax levy: Separate schools for Whites and Blacks.	Pass
	AR	1956	Amendment 47	Officially oppose racial mixing in schools.	Pass
	AR	1956	Act of Interposition	Nullification of *Brown*; interposes state sovereignty.	Pass
	AR	1956	Initiated Act 2	Authorize school boards to preserve segregation.	Pass
	CA	1972	Proposition 21	Repeal/prohibit desegregation, including busing.	Pass
	CO	1974	Amendment 8	Prohibit desegregation policies, including busing.	Pass
	WA	1978	Initiative 350	Prohibit desegregation policies, including busing.	Pass
Anti-discrimination	CO	1976	Amendment 6	Repeal equal rights on account of sex.	Fail
	CO	1992	Amendment 2	Exclude sexual orientation from protected class.	Pass
	ID	1994	Proposition 1	Exclude sexual orientation from protected class.	Fail
	OR	1994	Measure 13	Exclude sexual orientation from protected classification.	Fail
	ME	1995	Question 1	Exclude sexual orientation from protected classification.	Fail
Anti-affirmative action	CA	1996	Proposition 209	Eliminate affirmative action.	Pass
	WA	1998	Initiative 200	Eliminate affirmative action.	Pass
	MI	2006	Proposal 06-2	Eliminate affirmative action.	Pass
	CO	2008	Amendment 46	Eliminate affirmative action.	Fail
	NE	2008	Measure 424	Eliminate affirmative action.	Pass
Anti-LGBT	CA	1978	Proposition 6	Ban gays and lesbians from working in public schools.	Fail
	OR	1992	Measure 9	Require government to discourage homosexual behaviors.	Fail
	OR	2000	Measure 9	Prohibit instruction sanctioning homosexual behaviors.	Fail
Prohibit racial classification	CA	2003	Proposition 54	Prohibit use of racial/ethnic classifications.	Fail

Michigan Civil Rights Commission, 2006). Furthermore, some empirical research has suggested voters were confused about the intended outcome of the proposed initiative in Colorado, disproportionately believing that it was in *support* of affirmative action policies (Farley, Gaertner, & Moses, 2013).

California and Washington were the first states to see affirmative action bans at the ballot box, in 1996 and 1998 respectively. Following those initiatives, anti-affirmative action activists mostly focused on a judicial strategy, bringing forward two high-profile affirmative action lawsuits against the University of Michigan. However, on the same day Supreme Court decisions in *Gratz* and *Grutter* supported the constitutionality of using race in college admission decisions, affirmative action opponent Ward Connerly and his group announced a new anti-affirmative action initiative in Michigan, the same state named in the two court cases (Moses, Yun, & Marin, 2009). The Michigan initiative appeared on the ballot in 2006, and Nebraska and Colorado followed with similar initiatives in 2008.

Anti-LGBT initiatives. Three initiatives specifically targeting LGBT students and teachers appeared on the ballot between 1978 and 2000. In 1978, voters in California considered Proposition 6, known as the Briggs initiative, which would have essentially banned LGBT teachers and staff from working in California's public schools. Proposition 6 provided districts the right to file charges against educators for "advocating, soliciting, imposing, encouraging or promoting private or public sexual acts … Between persons of the same sex in a manner likely to come to the attention of other employees or students, or publicly and indiscreetly engaging in said acts" (National Conference of State Legislatures, n.d.). Two other anti-LGBT initiatives appeared in Oregon, one in 1992 requiring schools to "discourage" homosexuality, and another in 2000 prohibiting instruction in public schools that "encourages, promotes, or sanctions" homosexuality or bisexuality (National Conference of State Legislatures, n.d.).

Initiative Use over Time

Figure 3 presents the relative proportion of initiatives appearing on the ballot over time, comparing data within all initiatives, education initiatives, and anti-education rights initiatives. Over the first 70 years of implementation, education initiatives appeared at a relatively steady pace. However, a sharp increase appeared starting in 1990, and nearly 50% of the entire population of education initiatives occurred between 1990 and 2009; this uptick in general initiative use occurred within the neo-liberal era defined by Urban and Wagoner (2009). Furthermore, the rapid growth in education initiatives outpaced the increase in general initiatives: Education initiatives more than quadrupled in the three-decade span between 1980 and 2009, while the count for general initiatives did not even double. This pattern persists for anti-education rights initiatives: The prevalence of these initiatives also increased over time, with 2000-2009 also surpassing all prior decades. Further, nearly two-thirds of rights-restricting initiatives occurred between 1990 and 2009.
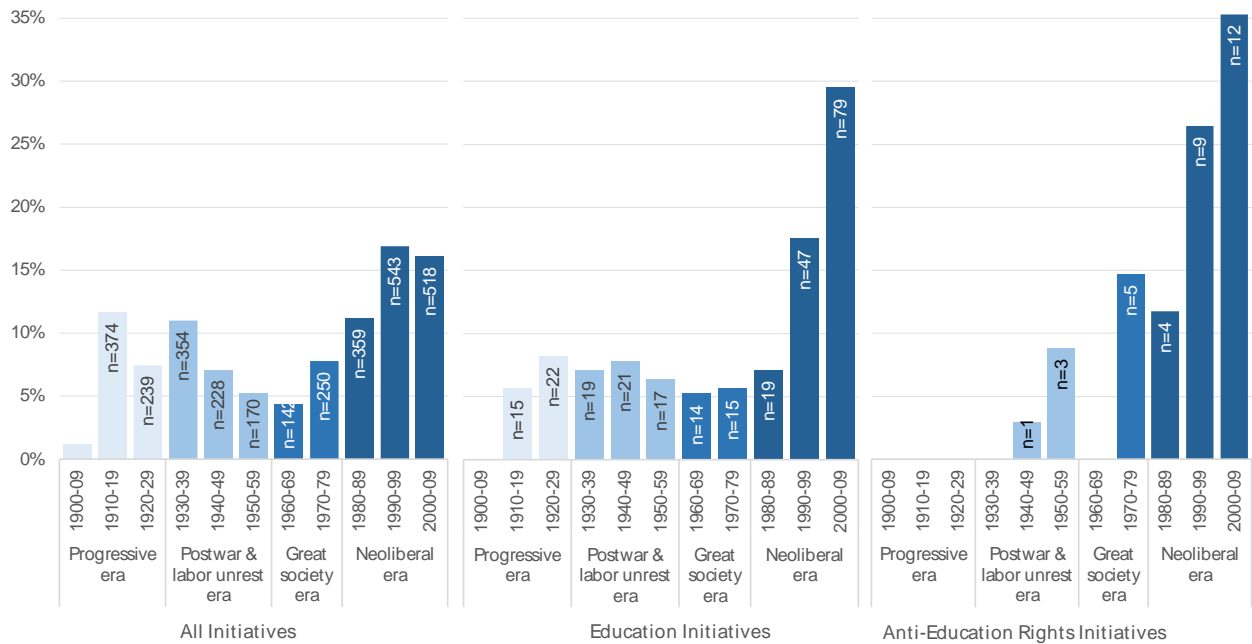
Figure 3. Trends in all initiative, education, and rights-restricting initiative use by decade and historical period

Along with a general increase in education initiative use, there are interesting patterns with regard to the use of education initiatives over time. Figure 4 graphically presents the use of education initiatives within each category as a function of time, mapped to the four historical periods drawn from Urban and Wagoner (2009). Although this figure does not indicate initiative density—or the prevalence within a given time span—it does illustrate historical patterns. It makes apparent that direct democratic initiatives have been used consistently throughout the last century to decide issues of funding, K-12 policies, and governance. Higher education policy initiatives, on the other hand, occurred with less frequency and less regularity, consistent with the findings outlined above. The most striking result to emerge from the data, however, is the pattern of use within education rights initiatives. Education rights initiatives did not appear until the latter half of the 21st-century, and did not appear with frequency until after 1970.
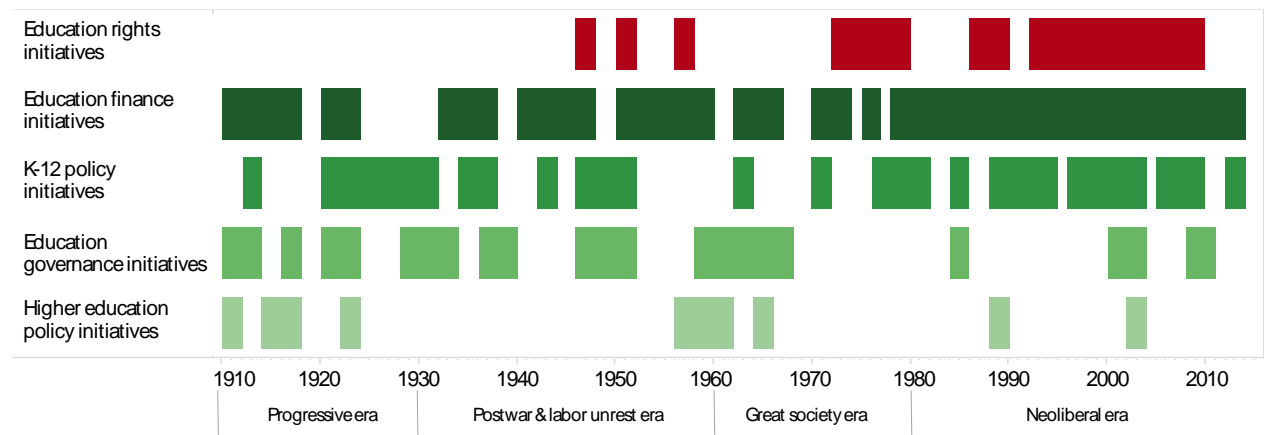
Figure 4. Education initiative use over time, by category

To explore this unique history of education rights initiatives more comprehensively, Figure 5 disaggregates initiative use across education rights initiative subcategories. This figure is quite revealing in several ways. First, initiatives related to segregation exclusively comprise the earliest occurrences of education rights initiatives. If we overlaid the *Brown* (1954) decision and the political controversy surrounding desegregation busing policies with this figure, we would see a clear relationship and would likely conclude that those two historical events catalyzed the use of anti-segregation initiatives within education. In contrast, the other four education rights initiative types—including anti-affirmative action, anti-discrimination, anti-LGBT, and immigration and English initiatives—were mostly modern phenomena and were predominantly clustered in the neoliberal era, following the civil rights reforms of the Great Society (Urban and Wagoner, 2009). This suggests that in the last few decades, something about the nature of direct democracy within education has shifted, at least with regard to civil rights. It also suggests the use of direct democracy to target minority groups within education is a relatively recent development.

Figure 5. Education rights initiatives, over time

Electoral Outcomes of Education Initiatives

In total, education initiatives have been only marginally successful at the ballot box: As presented in Table 1, voters approved just 37% (*n* = 105) of the 282 education ballot initiatives. This was slightly lower than the passage rate across all initiatives during the same period (41%, or 986 out of 2,418 total initiatives). Despite this success, large variation existed in the percentage of yes votes cast: On average, about 45% of voters cast yes votes on any given education initiative, with a standard deviation of 13% and a range from 8% to 84%. The two least successful proposals were university relocation initiatives in South Dakota and Oregon, and the most successful was the 1988 official English initiative in Florida, which garnered a +68% margin of victory. Analyses also revealed positive trends in education initiative passage over time: Education initiatives in the most recent decade (2000-2009) passed at slightly higher rates than in the periods before. Thus, as education initiatives have become more prevalent, they have also become more successful, suggesting a general increase in the number of education policy proposals adopted as state statute or constitutional amendments in the United States.

Little variation exists with regard to passage across education initiatives, with one notable exception. Voters approved funding initiatives at a similar rate as the population of education initiatives (34%), although tax initiatives that sought to limit school funding appeared to be

marginally more successful than those that sought to expand it.[6] K-12 policy (33% approved), education governance (32% approved), and higher education initiatives (36% approved) all accrued similar rates as well. However, education rights initiatives were much more successful at the ballot box, passing almost twice as often (64%) as each of the other categories. Among anti-education rights initiatives, this rate was marginally higher: 68% were successful, or 23 of 34 initiatives. There was some variation across types of education rights initiatives, with overwhelmingly high passage rates for segregation initiatives (7 out of 7 or 100% approved, with a +19% margin), immigration and English language initiatives (11 out of 13 or 85% approved, with a 23% margin), and anti-affirmative action initiatives (4 out of 5 or 80% approved, with an 11% margin). Anti-LGBT (0 out of 3 or 0% approved, with a -12% margin) and anti-discrimination initiatives (1 out of 5 or 20% approved with a -8% margin) were less successful overall.

In addition to faring better on Election Day, education rights initiatives were also more popular among voters: Anti-education rights initiatives represented five of the top ten "most successful" education initiatives ever presented to voters, as measured by overall percentage of "yes" votes registered, even though they only represent 12% of the population of all education initiatives. Three of those five declared English the official language of the state, one limited access to bilingual education for non-native English speakers, and one from 1974 prohibited desegregation policies that required mandatory busing or student assignment based on race.

Conclusion

As the analyses in this article reveal, states and citizens have voted on direct democratic ballot initiatives regarding a host of education policy issues for over 100 years, often with significant implications for the schools, teachers, and students in those states. Despite that history, their use remains understudied in the field of education research (Carpenter & Clouse, 2013; McLendon & Eddings, 2002; Moses, 2010; Piazza, 2017). While prior research has criticized specific education initiatives for targeting minority rights (Moses, 2010; Moses & Farley, 2011; Moses & Saenz, 2008; Welner & Escamilla, 2002), this is the first study seeking to characterize the broader landscape of education initiatives and quantify the extent to which education rights initiatives appear.

In total, these analyses suggest citizens have used ballot initiatives to legislate weighty and important education policy issues throughout the history of direct democracy in the United States. Two hundred eighty-two education initiatives have appeared on the ballot in 21 states, targeting a variety of education issues related to both K-12 and higher education and addressing policy issues related to finance, governance, and civil rights and equal opportunity. Analyses also suggest the content and character of education initiatives have evolved over time. Despite increasing use across all types of initiatives, the growth in education has outpaced growth more generally, and the growth among education rights initiatives has been even greater still. Finally, whereas initiatives in the other four categories have occurred with relative consistency throughout the last century, the arrival of education rights initiatives was a modern phenomenon: Education rights initiatives primarily occurred in the current neoliberal era, driven in part by a rash of anti-affirmative action and English language initiatives. Education rights initiatives were also more successful at the ballot box than any other issue area, including tax reductions. While the total number of anti-education rights initiatives may seem small, it represents approximately 12% of the total number of education initiatives brought before voters. Moreover, that rate has risen: In the most recent 25 years of available data

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[6] Three of 24 tax increases passed (13%) compared to three of 17 (18%) property tax limits, one of four (25%) tax reductions, and three of seven (43%) voter approval measures, which made it more difficult to impose additional taxes to fund schools.

(1988-2012), anti-education rights initiatives accounted for more than 16% of the total education initiatives, or 24 of 142 total initiatives.

This all leads to an inevitable conclusion: Ballot initiatives have been used to some extent to target the rights and services of political minorities—just as Madison (1787) feared. Out of 36 education rights initiatives, 34 were coded as anti-education rights because they explicitly sought to limit education rights and opportunity for minoritized students. Within the present study, this homogeneity was unique: In the other categories—including education finance, education governance, K-12 policy, and higher education policy initiatives—citizens used direct democracy to advance a variety of agendas, embodying both liberal and conservative, reformist and traditionalist, and regressive and progressive values. While both sides were not always equally successful, as seen in differential passage rates between tax increases and tax decreases, citizens representing a variety of perspectives were able to access direct democracy to propose state rule. Education rights initiatives, however, appear disproportionately used by advocates seeking to advance one side of a particular political agenda. This finding lends support to Moses and Saenz's (2008) claim that certain groups may have "hijacked" the initiative process to advance a narrow anti-minority agenda.

That anti-minority agenda may be part of an effort to reverse progress toward educational rights and opportunities gained through other policies, court rulings, or general societal change. Clark (2007) warns: "Those in the majority, having already secured much of what they want through the representative process, then proceed through an initiative to take back the few crumbs they had been forced to toss to the minority" (p. 1364). The rash of reactive initiatives renouncing integration and mandating segregation following the *Brown* decision is one good example of this. Another is the way that affirmative action opponents transitioned from a political strategy centered on the courts to one focused on direct democracy following the *Gratz* and *Grutter* decisions. Perhaps more important than the outcome of the Michigan affirmative action initiative, however, is the message it sent: The decision of the Supreme Court regarding the legality of affirmative action was unimportant, so long as a majority of voters were willing to mobilize around the issue and enact their political agenda via direct democracy.

Limitations and Future Research

Although this article explores the historical use and prevalence of ballot initiatives within education, it represents only a first step in the consideration of the impact of education initiatives on equal opportunity and conceptions of justice. Additional research is needed to contextualize and further explore some of the trends presented here. First, the overwhelming voter support of anti-education rights initiatives demands additional research. Second, while the methodological approaches employed here characterize trends and patterns in the outcomes of education ballot initiatives, they are inadequately able to describe the overall effects of various ballot initiatives on education and democracy or their impact on minority groups—an objective that requires situating ballot initiatives within a larger context. Third, the findings presented do not take up an important next question: How do laws and procedures enacted by direct democracy—even unjust and discriminatory ones—differ from those enacted by legislative rule? We know that legislatures also debate and even institute discriminatory and oppressive bills. The recent rash of so-called bathroom bills affecting transgender youth in schools provides just one example. As such, education policy scholars and theorists should pursue additional research to explore claims of tyranny of the majority.

This research also does not uncover the potential causes for the trends presented. Additional research might consider the political and societal shifts that have contributed to the rapid expansion of education initiative use over the last three decades. Deeper historical investigations may also be able to help the field understand the relationship between the patterns seen here and prior historical

events and the socio-political context within a given state. For example, research could explore the relationships between school finance initiatives and the economy, initiative use and state politics, or civil rights and changing state demographics. The potential avenues for future study are considerable.

Recommendations for Policy and Practice

To consider the implications of this research for policy and practice, I return to the theoretical framework presented above and drawn from democratic theories of education (Gutmann, 1999; Howe, 1997). The existence and success of anti-education rights initiatives provide compelling evidence that education ballot initiatives may compromise the principles of nonoppression and nondiscrimination. As a result, Gutmann (1999) would suggest it may be reasonable to place limitations on their use and vital that we consider the defensibility of such decision-making tools in the education context. This is particularly important given the reduced tolerance for risk when legislating policies about institutions that maintain and replicate our democracy. However, research that relies on democratic theories of education must provide convincing evidence that the protection of minority groups is important enough to justify limiting democratic processes. Additional research may be necessary to make those claims, although this article provides a starting point for that conversation. The role of education is foundational in maintaining our democracy and moving our society forward, and any threat to equal opportunity must be regarded not only as a threat to underrepresented or minoritized students, but also as a serious threat to the fabric of our democracy.

Acknowledgements

References

Ballotpedia. (2012). *Kansas Boat Property Tax Amendment, HCR 5017 (2012).* Retrieved from
        https://ballotpedia.org/Kansas_Boat_Property_Tax_Amendment,_HCR_5017_(2012)
Bowler, S., & Donovan, T. (2000). *Demanding choices: Opinion, voting, and direct democracy.* Ann Arbor:
        University of Michigan Press.
Bowler, S., & Donovan, T. (2006). Direct democracy and political parties in America. *Party
        Politics*, *12*(5), 649-669. https://doi.org/10.1177/1354068806066792
Bowler, S., Donovan, T., & Karp, J. A. (2006). Why politicians like electoral institutions: Self-
        interest, values, or ideology? *Journal of Politics*, *68*(2), 434-446. https://doi.org/10.1111/j.1468-
        2508.2006.00418.x
Bowler, S., Donovan, T. A., & Tolbert, C. J. (1998). *Citizens as legislators: Direct democracy in the United
        States.* Columbus, OH: Ohio State University Press.
Bridges, A., & Kousser, T. (2011). Where politicians gave power to the people adoption of the citizen
        initiative in the US states. *State Politics & Policy Quarterly*, *11*(2), 167-197.
        https://doi.org/10.1177/1532440011406232
Broder, D. S. (2000). *Democracy derailed: Initiative campaigns and the power of money.* New York: Harcourt.
Brown v. Board of Education, 347 U.S. 483 (1954)
Bull, B. L. (2008). *Social justice in education.* New York: Palgrave MacMillan.
        https://doi.org/10.1057/9780230616110

Carpenter, D. M., & Clouse, W. (2013). A typology of education ballot issues: 1906 to 2009. *Journal of New Approaches in Educational Research*, *2*(2), 54-62. https://doi.org/10.7821/naer.2.2.54-62

Clark, S. J. (2007). Ennobling direct democracy. *University of Colorado Law Review, 78*, 1341-1370.

de Tocqueville, A. (1835). *Democracy in America.* Trans. H. Reeve. London: Saunders & Otley.

Dillow, G. (2006, May 21). English-only law likely would go unenforced. *The Orange County Register.* Retrieved from https://www.ocregister.com

Donovan, T. & Bowler, S. (1998) An overview of direct democracy in the American states. In S. Bowler, T. A. Donovan, & C. J. Tolbert (Eds.), *Citizens as legislators: Direct democracy in the United States* (pp. 1–21). Columbus, OH: Ohio State University Press.

Ellis, R. J. (2002). *Democratic delusions: The initiative process in America.* Lawrence: University of Kansas Press.

Farley, A. N., Gaertner, M., & Moses, M. S. (2013). Democracy under fire: Voter confusion & influences in Colorado's anti-affirmative action initiative. *Harvard Educational Review, 83*, 432-462. https://doi.org/10.17763/haer.83.3.b356k655n4m0u860

Frosch, D. (2008, April 1). Colorado petition draws charges of deception. *New York Times.* Retrieved from https://www.nytimes.com/2008/04/01/us/01denver.html

Gamble, B. S. (1997). Putting civil rights to a popular vote. *American Journal of Political Science, 41*, 245-269. https://doi.org/10.2307/2111715

Garrett, E. (1999). Money, agenda setting, and direct democracy. *Texas Law Review, 77*, 1845-1890.

Glaser, B. G., & Strauss, A. L. (1967). *The discovery of grounded theory: Strategies for qualitative research.* New York: Aldine De Gruyter.

Goldsmith, A. A. (2005). Plebiscites, fiscal policy and the poor: Learning from US experience with direct democracy. *Development Policy Review, 23*, 553-566. https://doi.org/10.1111/j.1467-7679.2005.00302.x

Guinier, L. (1994). *The tyranny of the majority: Fundamental fairness in representative democracy.* New York: The Free Press.

Gutmann, A. (1999). *Democratic education.* Princeton: Princeton University Press. https://doi.org/10.1515/9781400822911

Hicks, W. D. (2013). Initiatives within representative government: Political competition and initiative use in the American states. *State Politics & Policy Quarterly*, *13*(4), 471-494. https://doi.org/10.1177/1532440013502797

Howe, K. R. (1997). *Understanding equal educational opportunity: Social justice, democracy, and schooling.* New York: Teachers College Press.

Initiative and Referendum Institute. (n.d.). *IRI Historical Database.* Los Angeles, CA.

Initiative and Referendum Institute. (2006, November). *Overview of Initiative Use, 1904-2006.* Los Angeles, CA. Retrieved from http://research.policyarchive.org/5591.pdf

Kapsch, S., & Steinberger, P. (1998). The impact on legislative committees and legislative processes on the use of the initiative in the American west. *34 Willamette Law Review, 689.*

Lewis, D. C. (2013). *Direct democracy and minority rights: A critical assessment of the tyranny of the majority in the American states.* New York, NY: Routledge. https://doi.org/10.4324/9780203109342

Madison, J. (1787). *Federalist Paper No. 10.*

Magleby, D. B. (1995, Winter). Let the voters decide? An assessment of the initiative and referendum process. *66 University of Colorado Law Review, 13.*

Matsusaka, J. G. (2002). *The initiative and referendum in American cities: Basic patterns.* Los Angeles: Initiative & Referendum Institute, USC School of Law.

Matsusaka, J. (2004). *For the many or the few: The initiative, public policy, and American democracy.* Chicago: University of Chicago Press. https://doi.org/10.7208/chicago/9780226510873.001.0001

Matsusaka, J. G. (2012). *Disentangling the direct and indirect effects of the initiative process*. Los Angeles: Initiative & Referendum Institute, USC School of Law.

McCuan, D., Bowler, S., Donovan, T., & Fernandez, K. (1998). California's political warriors: Campaign professionals and the initiative process. In S. Bowler, T. A. Donovan, & C. J. Tolbert (Eds.), *Citizens as legislators: Direct democracy in the United States* (pp. 55–79). Columbus, OH: Ohio State University Press.

McDonnell, L. M. (2007). The politics of education: Influencing policy and beyond. In D. K. Cohen, S. H. Fuhrman, & F. Mosher (Eds.), *The State of Education Policy Research* (pp. 19–39). Mosher. Mahwah, NJ: Lawrence Erlbaum Associates.

McLendon, M. K., & Eddings, S. (2002). Direct democracy and higher education: The state ballot as an instrument of higher education policy making. *Educational Policy, 16*(1), 193-218. https://doi.org/10.1177/0895904802016001010

Michigan Civil Rights Commission. (June, 2006). *Report of the Michigan Civil Rights Commission Regarding the Use of Fraud and Deception In the Collection of Signatures For the Michigan Civil Rights Initiative Ballot Petition.* Lansing, MI: Michigan Civil Rights Commission. Retrieved from http://www.michigan.gov/documents/ PetitionFraudreport_162009_7.pdf

Moses, M. S. (2002). *Embracing race: Why we need race-conscious education policy*. New York: Teachers College Press.

Moses, M. S. (2010). By the people, for the people: Interrogating the education-policy-by-ballot-initiative phenomenon. In Deborah Kerdeman (Ed.) *Philosophy of Education 2009*. Urbana, IL: Philosophy of Education Society.

Moses, M. S., & Farley, A. N. (2011). Are ballot initiatives a good way to make education policy?: The case of affirmative action. *Educational Studies, 47,* 260-279. https://doi.org/10.1080/00131946.2011.573607

Moses, M. S., & Saenz, L. P. (2008). Hijacking education policy decisions: The case of affirmative action. *Harvard Educational Review, 78*(2), 289-310. https://doi.org/10.17763/haer.78.2.031547102j610762

Moses, M. S., Yun, J. T., & Marin, P. (2009). Affirmative action's fate: Are 20 more years enough? *Education Policy Analysis Archives, 17*(17). https://doi.org/10.14507/epaa.v17n17.2009

National Conference of State Legislatures (NCSL). (n.d.). *State ballot measures database* [Data file]. Retrieved from http://www.ncsl.org/research/elections-and-campaigns/ballot-measures-database.aspx

National Conference of State Legislatures (NCSL). (2002). *Initiative and referendum in the 21st century: Final report and recommendations of the NCSL I&R task force.* Denver, CO: National Conference of State Legislatures.

Nicholson, S. P. (2005). *Voting the agenda: Candidates, elections, and ballot propositions*. Princeton, NJ: Princeton University Press.

Obergefell v. Hodges, 135 S. Ct. 2584 (2015)

Oklahoma Secretary of State. (1944). *State Question 316 Initiative Petition 226*. Retrieved from https://www.sos.ok.gov/documents/questions/316.pdf

Patterson, S. C. (1998). Foreword. In S. Bowler, T. A. Donovan, & C. J. Tolbert (Eds.), *Citizens as legislators: Direct democracy in the United States* (pp. vii – ix). Columbus, OH: Ohio State University Press.

Piazza, P. (2017). The ballot initiative and other modern threats to public engagement in educational policymaking. *Berkeley Review of Education, 6*(2). http://dx.doi.org/10.5070/B86110053

Rowan, B. & Raudenbush, S. W. (2016). Teacher evaluation in American schools. In D. H. Gitomer & C. A. Bell (Eds.), *Handbook of research on teaching* (5th ed.; pp. 1159-1216). Washington, D.C., American Education Research Association. https://doi.org/10.3102/978-0-935302-48-6_19

Sabato, L., Ernst, H. & Larson, B. (Eds.). (2001). *Dangerous democracy? The battle over ballot initiatives in America.* Lanham, MD: Rowman & Littlefield.

Smith, D. A., & Tolbert, C. (2004). *Educated by initiative: The effects of direct democracy on citizens and political organizations in the American states.* Ann Arbor, MI: University of Michigan Press. https://doi.org/10.3998/mpub.11467

Snyder, T. D., de Brey, C., and Dillow, S. A. (2018, February). *Digest of Education Statistics 2016* (NCES 2017-094). National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Washington, DC.

Urban, W. J., & Wagoner, J. L. (2009). *American education: A history* (4th ed.). New York: Routledge. https://doi.org/10.4324/9780203872246

Weber, R. P. (1990). *Basic content analysis* (2nd ed.). Beverly Hills, CA: Sage. https://doi.org/10.4135/9781412983488

Welner, K. G., & Escamilla, K. (2002, August). The unintended consequences of Colorado's anti-bilingual initiative. Boulder, CO: Education and the Public Interest Center.

Wright, W. E., & Pu, C. (2005, September). *Academic achievement of English language learners in post Proposition 203 Arizona.* Tempe, AZ: Education Policy Studies Laboratory.

Appendix

Appendix Table A1
Historical ballot initiative classifications and coding framework

Primary Category	Subcategory	Issues Addressed within Subcategories
K-12 Policy Initiatives	Curriculum & instruction	Bible in public schools Evolution Kindergarten Parental rights Standards Textbooks Testing & Accountability
	Privatization	Charter schools Vouchers
	Teaching regulation & working conditions	Performance pay Teacher pay Teacher pension Teacher tenure
	Calendar/1st day of school	N/A
	Class size reduction	N/A
	Compulsory attendance	N/A
	Mandatory vaccination	N/A
	Universal preschool	N/A
Higher Education Policy Initiatives	College loans	N/A
	Establish a university	N/A
	State university consolidation	N/A
	University location change	N/A
	University name change	N/A
Education Finance Initiatives	Funding mandates	Adequate funding Limit administrative costs Limit state spending Reduce per-pupil expenditures
	New funding sources for public education	Bonds Levies Forestry revenues Land trusts Lotteries Gaming State aid
	Spending and budgetary limits	Limit administrative costs Limit state spending

Appendix Table A1 cont.
Historical ballot initiative classifications and coding framework

Primary Category	Subcategory	Issues Addressed within Subcategories
Education Finance Initiatives (cont.)	Supplemental & programmatic funding	Afterschool programs
		Disadvantaged schools
	Taxes	Diverting from education
		Establishing millage/ad valorem tax
		Property tax limit (adopt and reverse)
		Rebate/surplus reform
		Removing exemptions
		Taxes, increase
		Taxes, reconfigure
		Taxes, reduce
		Tobacco tax
		Voter approval
Education Governance Initiatives	Authorize bonds/levies	N/A
	Citizen control	N/A
	District consolidation	N/A
	Education voting qualifications	N/A
	Election of state body/leaders	N/A
	Election qualifications	N/A
	Board proceedings public access	N/A
	Restructure schools	N/A
	State board	N/A
	Teacher certification & tenure	N/A
	University Governance	N/A
Education Rights Initiatives	Anti-affirmative action	N/A
	Anti-discrimination laws & policies	Add sexual orientation as a protected class
		Prohibit sexual orientation as a protected class
		Repeal equality of rights for women
	Anti-LGBT	Discourage "homosexuality" in schools
		Prohibit employment of LGBT teachers
	Immigration & English language policies	Limit bilingual education
		Bar education access for undocumented
		Adopt English as the official language
	Prohibit racial classifications	N/A
	Segregation	General segregation policies
		Prohibits mandatory busing

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