

Student Voice, Student Vote

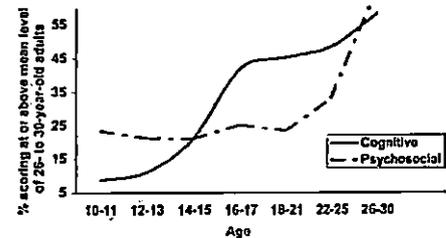
Frequently Asked Questions About Empowering 16 & 17 Year Olds to Vote in School Elections

- from the students of Student Voice Student Vote coalition -

Question: "Aren't teen brains too underdeveloped for them to vote?"

Answer: Teen brains are indeed still developing, but we are already at adult levels of development for the type of brain functioning used in voting. Teen brains are still not fully developed when it comes to "hot" cognition (the type of cognition used to make decisions in conditions with high social pressure and/or time pressure), but our "cold" cognition development (cognition used in decisions like voting where there is no time pressure and we can consult outside sources of information to help us make choices) is already on par with an adult between 26-30 years old as early as 15.

Proportion of Individuals in Each Age Group Scoring at or Above the Mean for 26- to 30-Year-Olds on Indices of Cognitive Capacity and Psychosocial Maturity



What the research says:

- While sensation-seeking behaviors and emotional impulsivity ("psychosocial maturity" or "hot" cognition) do peak around adolescence, our more patient and mindful processes ("cognitive capacity" or "cold" cognition) reach adult levels as early as age 15.⁴
- Because voting is not a demanding or urgent task with high levels of stimuli, we can expect that older adolescents already have the brain functioning needed to undertake the "cold" cognitive processes of researching candidates and voting responsibly.⁴

Question: "Won't students just become political pawns for teachers unions or education reformers?"

Answer: First, we're insulted. As young people, we think for ourselves. Ask any parent how easy it is to get a teen to do what they want if we don't already want to do it ourselves.

Secondly, we trust our teachers and schools every day to teach students HOW to think about issues, not WHAT to think about them. We don't think educators will stop that if more of their students can vote (because let's not forget, many students already *can* vote, and we don't see them being bullied by teachers or administrators at election time).

And further, telling someone how to vote can be considered voter intimidation, which is a felony. We doubt teachers or charter network leaders will start committing serious crimes en masse because students win the right to vote. And even if they did, fear of bad behavior on the part of adults shouldn't be the reason we refuse to empower young people - it's actually an argument to include us sooner.

What the research says:

- Research indicates that "16- and 17-year-olds come up with a vote choice that best represents their own political attitudes as often as older voters do."⁵
- Studies have shown that it's easier for young people to get informed and figure out our own needs in stable environments, like school.³

Question: “Is it even constitutional to let 16 & 17 year olds vote?”

Answer: Yes, it is. In fact, Colorado already allows voters under 18 to participate in elections, starting with the passage of HB19-1278 which empowered 17 year olds to vote in primaries and caucuses.

In addition, cities in two other states, Maryland and California, already allow 16 & 17 year olds to vote in local elections, including school elections. The voter qualifications listed in those states' constitutions are the same as Colorado's, and the voting age language in Maryland's constitution is almost identical to Colorado's.

CO Constitution

Article VII, Section 1

“Every citizen of the United States who has attained the age of eighteen years, has resided in this state for such time as may be prescribed by law, and has been duly registered as a voter if required by law shall be qualified to vote at all elections”

MD Constitution

Article I, Section 1

“Every citizen of the United States, of the age of 18 years or upwards, who is a resident of the State as of the time for the closing of registration next preceding the election, shall be entitled to vote in the ward or election district in which the citizen resides at all elections to be held in this state”

CA Constitution

Article II, Section 2

“A United States citizen 18 years of age and resident in this State may vote”

Maryland has had 16 & 17 year old voters participate in the last four election cycles with zero constitutional challenges ever having been made to the practice. Californians in Berkeley passed a ballot initiative to empower 16 & 17 year olds to vote in school board elections in 2016, and implementation of that initiative has proceeded since then with zero constitutional challenges. All three states' constitutions essentially say that once a resident citizen turns 18, they can't be prevented from voting. NONE of the language says “you can't let citizens vote UNTIL they're 18” or expressly prohibits enfranchising people under 18 years old.

Question: “But won't this bill violate students' constitutional right to ballot secrecy or the Constitution's prohibition against making ‘identifying marks’ on a ballot?”

Answer: No. We take the possible constitutional implications of our bill very seriously and have worked diligently to make sure that the measures the bill includes to protect ballot secrecy and the existing practice and case law around “identifying marks” challenges mean our bill is fully constitutional. This question touches on some very complex election administration issues, though, so let's take a deep breath... Ready?

Short version: protecting ballot secrecy in rural areas is already a challenge, especially for blue voters in predominantly red areas and vice versa, but those challenges don't mean we keep such voters from voting. It's the same thing with youth voters. Plus, we worked closely with CO election administrators to add some smart new mechanisms that help them protect ballot secrecy. And on the “identifying marks” question, case law from two 2014 cases in the CO Supreme Court & 10th District Court of Appeals has already established that ballots like these won't violate the constitution on that front.

Long version: The CO Constitution guarantees everyone an individual right to ballot secrecy, and it also prohibits ballots from being “marked in any way whereby the ballot can be identified as the ballot of the person casting it.” Both of these provisions are aimed at making sure no one can find out that “Individual Voter X voted for Candidate Y” in a given election. At the same time, CO has some of the most transparent elections in the country. Election administrators publicly report tons of data and results from elections down to the most local unit of electoral counting (the “precinct”) to make sure it's easy to independently verify there was no cheating or fraud, and the CO Open Records Act (CORA) makes almost all ballots public documents that can be viewed by any member of the public.

The combination of high transparency / detailed election reporting and the small number of voters in some rural precincts means that after some elections - even before our bill takes effect - it can be fairly easy to use publicly available data to figure out how a specific person voted in a small enough precinct. And when voters in a rural precinct receive or turn in different ballot styles based on who they are - like in CO's new open primary election system or in Title 22 races after our bill takes effect - individual ballot secrecy can be even harder to protect. Example: if Farmer Juan is the only person in his rural precinct to turn in a Republican primary ballot because the rest of his neighbors either didn't vote or turned in Democratic primary ballots, then someone could conceivably learn how Farmer Juan voted and violate his right to ballot secrecy. It could even be argued that Farmer Juan's ballot has been given an unconstitutional "identifying mark" because you can tell just by looking at it that it belongs to the only person who voted in the Democratic primary in his rural precinct, and anyone could conceivably find out from other publicly available information that Juan is the only registered Democrat in that precinct. But none of this means that we don't let Farmer Juan vote or repeal the open primary laws because CO election administrators have the tools they need to protect his ballot secrecy.

The same situation could apply when our bill goes into effect in some precincts where there aren't many 16 & 17 year olds, especially because 16 & 17 year olds will have to receive ballot styles that only include questions for Title 22 elections. It is true that there will be extra challenges to protecting the secrecy of ballots cast in areas of the state where there are small numbers of 16 & 17 year olds in a given voting precinct, just as is already the case in small precincts in general. But that is why we have added multiple provisions in one of our latest amendments to the bill that give election administrators extra abilities to protect the secrecy of 16 & 17 year olds' ballots. The amendments includes two key changes:

1. Pre-registrant ballots, and only those ballots, will be exempt from public inspection (that is, from CORA) in precincts where 10 or fewer pre-registrant ballots *were actually cast*. This addresses concerns around ballot secrecy both in precincts where only a small number of pre-registrants live AND in precincts where only a small number of pre-registrants actually cast a ballot. This protects against the possibility of using CORA to identify an individual's specific ballot and vote.

2. The bill requires election administrators to lump precinct-level election result data in with the results of the larger district that precinct is part of, but *only for races in which there are 10 or less if a pre-registrant ballots cast in that precinct and only for the Title 22 questions*. This makes it harder to use other publicly available elections reports and data to determine how any individual 16 or 17 year old voted while preserving election administrators' ability to share precinct level data for other non-Title 22 races.

Lastly, there is existing case law in the CO Supreme Court case of *Jones v. Samora* (2014) in which the Court held that the Constitution's "identifying marks" prohibition was intended specifically to prohibit an older practice "under which election officials had permanently hand-numbered voted ballots to permit particular ballots to be identified during an election contest," not to prohibit other practices. In addition, in the *Citizen Ctr. v. Gessler* case in 2014, the federal 10th Circuit Court of Appeals found that the right to ballot secrecy was not implicated by the fact that some ballots were "traceable" due to the use of potentially unique ballots.

Taking these court cases together with the additional protections our bill provides for ballot secrecy, we feel confident - and you should, too - that our bill will not threaten or challenge ballot secrecy in small precincts any more than the situations that can already occur in elections today. Sorry for the long answer, but... you asked.

Question: "Why just school board elections and not all elections?"

Answer: We would love for students to be able to vote in all elections, and that is a great long term goal. Unfortunately, it is highly unlikely that adult politicians and voters would support broader participation passing in Colorado without a first step like this.

We've received lots of pushback and excuses from adults over our last four years of working to win 16 & 17 year olds a vote in just school elections, and it seems clear that these same adults would push back even

harder if we were seeking lower the voting age for even more elections, so we're starting with a more limited scope with elections that most directly affect youth. We've also chosen this strategy in light of the resistance experienced by other youth-led campaigns seeking to lower the voting age for all local elections in places like San Francisco, Washington DC, and Golden, CO, all of which failed to pass such initiatives in recent years.** We're hoping that if we start with only school board elections, skeptical adults will have fewer reservations about giving young people a chance to participate in our democracy.

What the research says:

- In Austria, where the voting age is 16 for all elections, researchers found that “once given the rights [to vote], adolescents felt the obligation to get informed [. . .] and perceived schools to be the best place to get informed.”⁹
- School boards are the elections that are most relevant and most impactful on our daily lives. Much like a full-time work week, students spend up to 40 hours each week in school, and then additional time on nights and weekends with homework, team sports, and clubs/extracurriculars for college resumes.¹⁰
- **Although legislation did not pass, the margins in these elections were still close: In DC, the city council voted 7 to 6 against the bill⁶; San Francisco voters were 52.1% opposed and 47.9% in favor of expanding all city ballots to age 16⁷; and in Golden, 35% of voters supported 16-year olds voting in municipal elections.⁸

Question: “Why not experiment with this change at a local level first and then go statewide later?”

Answer: Firstly, we've received feedback from local election officials that it would likely not be possible to empower 16 & 17 year old to register and vote in school elections on a local level without changes being made to the statewide voter registration infrastructure and certain processes used to administer elections by the CO Secretary of State's office. School board elections are “coordinated elections,” which means that on an administrative level, they are state elections, and including 16 & 17 year olds in a local school board race would still require changes to state legislation to be possible.

Even if that weren't the case, empowering 16 & 17 year olds at a local level would require passing a ballot initiative in a local election in almost all cases, which poses big challenges: not only are there skeptical adult voters to appeal to in that scenario (see above answer), but our youth-led campaign simply does not have the resources and capacity to organize the kind of city-wide door-knocking / outreach campaign that could win a contentious ballot question. Even well-funded professional organizations struggle to win those kinds of campaigns, and we feel that asking a coalition of high school students to try to do that is a form of busy work that sets us up to fail.

Finally, Colorado has become a model for elections access and voter engagement nationwide, and this change represents another step that we can take as a state to continue to be a leader in elections access, especially in youth voter turnout. Our bill will substantially increase engagement in CO's democracy for generations to come, and in this time of serious challenges for elections across the country, it is an investment worth making.

Question: “Won't letting 16 & 17 year olds vote compromise their privacy by making their voter information part of the public voter file?”

Answer: No more than it's already compromised by the nearly non-existent privacy protections of social media companies, smartphone technology, and our internet-based lives.

Previous versions of our bill would have made the voter information of 16 & 17 voters automatically confidential until they turned 18, but we received a great deal of feedback of CO election officials and election transparency / access advocates that this kind of treatment would necessitate a near tripling of the number of confidential

voters in the state, and thus reduce the transparency of CO elections. Additionally, such groups have told us that making 16 & 17 year olds' voter information confidential would make it difficult, if not impossible, for school board candidates, their campaigns, and/or voter outreach and education groups to reach 16 & 17 year old voters for the purpose of educating them on their platforms and the issues they will be voting on ahead of an election, thus hindering the ability of 16 & 17 year olds to participate as informed voters.

Based on that feedback, the 2020 version of our bill repeals the requirement that the voter information of pre-registrants be kept confidential, meaning that 16 & 17 year olds' voter information will automatically become part of the public voter file, thus treating the youth voters' information the same way all other voters' information is treated under normal circumstances. This does mean that some personal information of youth voters would be available on the public voter file and constitutes a small increased risk to our privacy. But even if someone did want to find a 16 or 17 year old's personal information for harmful reasons, it is much more likely that such a person would turn to the internet, social media, or other places where personal information is free and already readily available long before they turned to the Secretary of State's voter list, which they'd have to pay a fee to access.

Question: "Isn't this just too complicated to implement on an election administration level?"

Answer: Elections are difficult to administer no matter what, but that doesn't mean we don't do what's needed to make them work. Medicare/Medicaid, campaign finance, military budgeting, and disaster responses are all very complicated to administer, but talented public servants figure it out. This is no different. Young people pay taxes and are a necessary part of our communities, and we deserve to have our government make it possible just as much as any initiative with daunting logistics.

How SV2's legislation handles the logistics:

- The SV2 legislation actually makes it relatively easy to include 16 & 17 year olds in school elections by building on existing election laws. Rather than lowering the voting age itself, our legislation, in effect, supercharges Colorado's pre-registration laws by empowering pre-registrants to vote only in Title 22 elections. This makes the administrative changes needed relatively simple and efficient.
- The biggest challenge will be modifying SCORE, CO's voter registration system, so that the previously paradoxical category of "voter under 18" will make sense to the system. But SCORE already maintains a separate section in its database for pre-registered 16 & 17 year olds, and modifying the management of this existing section is a task that can certainly be handled by Colorado's talented election officials.

Question: "They're just kids. Don't 16- and 17-year olds have lower political maturity / party membership / interest / knowledge than adults?"

Answer: In the U.S., our society has already decided that 16 & 17 year-olds are mature enough to: 1) be employed, 2) figure out tax season, 3) be tried in court as adults, 4) be legally emancipated from our parents, 5) receive some medical and mental health treatments without our parents' consent, and 6) drive a car that could kill them and many others. If we can handle those responsibilities, we think we're ready to cast a single ballot in a single election.

What the research says:

- Studies with American teens found that 16 & 17 year-olds have similar political efficacy, knowledge, interest, tolerance, and skills to 18 year olds.¹
 - "Participation among 16 & 17 year olds was 75%, compared to 54% among 18 to 24 year olds."²

- In a Belgian study, increased opportunities for political participation led to higher levels of political interest among participants, but stimulating political interest did not necessarily result in increased rates of participation.³

Question: "Isn't it unfair for students to vote on property taxes (that is, mill levy bonds) when they don't pay them?"

Answer: Maybe, but isn't it unfair for older people who aren't in school and don't have children in school to vote on school policies that they aren't subjected to themselves? Our elections are such that people who aren't directly affected by a change still are allowed to vote on that change sometimes, and it's a clear double standard to say it's OK when adults vote on things that affect young people, but not the other way around.

In addition, young people already pay sales taxes. And many youth work jobs where they pay income taxes to help supplement the household's income, especially in communities of color and low-income families, and thus supplement the cost of property taxes or rent, which is affected by property taxes. This means that there are, in fact, many young people in CO who already contribute indirectly to property taxes. This could even be understood as a form of taxation without representation that young people are subjected to.

Either way, young people are undeniably directly affected by mill levy bond questions that affect property taxes because these questions determine the funding levels of their schools, and thus the level of investment we are making in their futures. Shamefully, CO has one of the lowest levels of public education funding in the nation, and many attempts to increase education funding - investment in *our* educations and futures - have been voted down in recent elections that only adults can participate in. It is only fair that *some* students are able to weigh in when we are collectively deciding whether or not we should increase funding for public education.

What the research says:

- Over 2 million tax returns were filed by citizens under 18 in 2018.¹¹
- Older, white, conservative voters tend to be the most common voters in district elections.¹² These school districts are less likely to increase school budgets than those with fewer older voters.¹³
- Researchers also found that "older voters were particularly unlikely to support increases in school budgets when the ethnic makeup of the school-aged population was substantially different than their own."¹² This means that districts where school-aged youth have larger proportions of people of color face structural barriers to achieving equitable education funding.

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