

The State of South Carolina



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October 12, 1989

The Honorable Michael L. Fair
South Carolina House of Representatives
323B Blatt Building
Columbia, South Carolina 29211

Dear Representative Fair:

You have requested the opinion of this office as to whether the Comprehensive Health Education Act (Act), Section 59-32-10, et seq., of the Code of Laws of South Carolina, 1976, as amended, governs only comprehensive health education matters implemented pursuant to the Act or whether it also governs such matters that originated prior to the Act's passage. Therefore, this letter addresses the guidelines and restrictions of §§ 59-32-30 and 59-32-90 and the provisions of §§ 59-32-20 and 59-32-50.

The term "comprehensive health education" is broadly defined, as follows, in Section 59-32-10(1):

. . . health education in a school setting as planned and carried out with the purpose of maintaining, reinforcing, or enhancing the health, health-related skills, and health attitudes and practices of children and youth that are conducive to their good health and that promote wellness, health education, and disease prevention. It includes age-appropriate, sequential instruction in health either as part of existing courses or as a special course.

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The following rules of statutory construction are applicable here:

In the interpretation of statutes, the first rule of construction is that of intention on the part of the Legislature Where the terms of a statute are clear and unambiguous, there is no room for construction and the terms must be accorded their literal meaning Indeed, [t]here is no safer nor better rule of interpretation that when language is clear and unambiguous it must be held to mean what it plainly says Detyens v. Maguire, 324 S.E.2d 648 (S.C. 1984).

Applying this rule of construction to the definition of "comprehensive health education" which includes, without restriction as to time of origin, ". . . health education in a school setting" which has the purpose of "maintaining, reinforcing, or enhancing" health, health skills and health attitudes and practices, indicates that the Legislature intended this term to apply to all health education in the schools which meets statutory purposes without limitation as to when the health education program began; however, other provisions of the Act need to be examined to determine whether they are limited to programs of comprehensive health education begun pursuant to the Act.

Section 59-32-30 sets forth guidelines for the "program of instruction" which should apply to any comprehensive health education matters covered therein regardless of whether they were begun before or after the Act because of references therein to "comprehensive health," because of the title's reference to "comprehensive health education" (Sutherland Statutory Construction, Vol. 2(A), Section 47.03), and because the term "comprehensive health education" is not limited to instructional programs developed under the Act. For similar reasons, §§ 59-32-20 and 59-32-50 would apply to preexisting instruction in reproductive health education, family life education, sexually transmitted diseases and pregnancy prevention education as well as instruction set up under the Act. The restrictions on use of films, pictures or diagrams in § 59-32-90 should also apply to comprehensive health education matters originating before as well as after passage of the Act.

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In conclusion, as to the comprehensive health education matters covered in §§ 59-32-20, 59-32-30, 59-32-50, and 59-32-90 therein, the Comprehensive Health Education Act appears to apply to preexisting comprehensive health education programs as well as to programs developed under the Act. If you have any questions, please let me know.

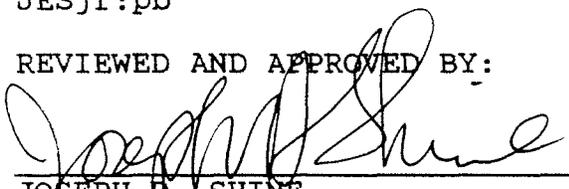
Yours very truly,



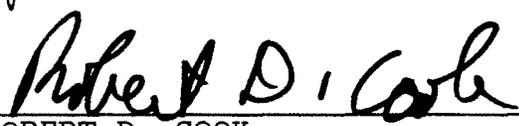
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REVIEWED AND APPROVED BY:



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cc: The Honorable Michael L. Fair
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