



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

July 23, 1997

G. Steven Suits, MD
Member, Health and Safety Curriculum Review Panel
116 Indian Ridge Court
Irmo, South Carolina 29063

Dear Dr. Suits:

You have requested the advice of this Office as to several matters regarding the Comprehensive Health Act (Act) (S.C. Code Ann. §59-32-5, et seq. (1990)). Your questions are addressed below.

1. "Do the restrictions and directives of the [Act] apply to any instruction in our public schools, or only to comprehensive health courses?"

A previous informal opinion of this Office concluded that the Act does appear to apply these programs and the instruction when it covers a subject addressed by the Act. (Inf. Opi. June 11, 1997).

2. "...Does the law allow teaching about homosexuality and such alternative lifestyles in any degree?"

Section 59-32-30(5) of the Act provides as follows:

" The program of instruction provided for in this section may not include a discussion of alternate sexual lifestyles from heterosexual relationships including but not limited to, homosexual relationships, except in the context of instruction regarding sexually transmitted diseases."

The "...primary function in interpreting a statute is to ascertain the intention of the legislature." South Carolina Department of Highways and Public Transportation v. Dickinson, 288 S.C. 134, 341 S.E. 2d 134 (1986). "Where the terms of a statute are clear and unambiguous, there is no room for interpretation and we must apply them according to their literal meaning." Id.

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The American Heritage Dictionary (Second College Edition 1991) defines "lifestyle" as follows: "[a] way of life or style of living that reflects the attitudes and values of an individual or group." Applying this definition and the above rules of construction here indicates that the General Assembly's intention was that the lifestyle discussion restriction includes matters other than "sexual activities" (see also §59-32-20 (3) and 59-32-30 (2) re "Family life education"); however, whether particular curriculum or textbooks would violate this prohibition would be a matter for the Department of Education to determine. §§ 59-32-20 and 59-32-60.

3. "...does a curriculum teaching putting off intercourse until an older age or 'until you're ready' comply with §59-32-10(2)?"

The referenced statute states that "reproductive health education "...does not include instruction concerning sexual practices outside marriage or practices unrelated to reproduction except within the context of the risk of disease." It also states that "[a]bstinence ..must be strongly emphasized." Under the above rules of construction, teaching about intercourse outside of marriage does not appear to be permitted by the General Assembly except in the context of disease.

4. "...according to §59-32-10(4)(c) can contraceptive information be given in hopes of preventing a future family for the students or does this paragraph apply to teaching about the use of contraceptives in future marriages as implied in §59-32-10(2)."

"... [T]he meaning of particular terms in this statute may be ascertained by reference to words associated with them in this statute." Southern Mutual Church Insurance Company v. Windstorm and Hail Underwriting Assoc., ___ S.C. ___, 412 S.E.2d 377 (1991). Section 59-32-10(2) requires contraceptive information to be "...given in the context of future family planning" and paragraph (4)(c), as quoted above, restricts instruction about sexual practices outside marriage or unrelated to reproduction. These restrictions in paragraph (10)(4)(c) indicate that the contraceptive information in (4)(c) must be given in the context of planning a future family during marriage.

The extent to which particular instruction or programs meet the requirements of the Act might involve fact questions that would be beyond the scope of Opinions of this Office. Ops. Atty. Gen. (December 12, 1983). Also, as noted above, the Department of Education has various responsibilities under this statute including assuring school district compliance.

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This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

I hope that this information is of assistance to you. If you have any questions or need further assistance, please let me know.

Yours very truly,


J. Emory Smith, Jr.

Assistant Deputy Attorney General

JESjr