

# The State of South Carolina



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July 11, 1991

The Honorable Michael L. Fair  
S.C. House of Representatives  
326C Blatt Building  
Columbia, SC 29211

Dear Representative Fair:

You have requested the Opinion of this Office as to whether the explanation of methods of contraception in comprehensive health education classes in the public schools must be confined to separate classes for male and female students even when the discussion of contraceptives is in the context of sexually transmitted diseases rather than pregnancy prevention. S.C. Code Ann. §59-32-5, et seq. (1990). The only express reference in the Comprehensive Health Education Act (Act) to this matter is that "[i]nstruction in pregnancy prevention education must be presented separately to male and female students." Section 59-32-32(F). "Pregnancy prevention education" is defined by the Act, in part, as follows:

...instruction intended to:

(c) explain methods of contraception and the risks and benefits of each method...instruction explaining the methods of contraception must not be included in any education program for grades kindergarten through fifth. Contraceptive information must be given in the context of future family planning.

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Although the term "sexually transmitted diseases" is not defined in the Act except for its reference to the diseases as defined in a Control List of Reportable Diseases, this law contains a number of references to this subject, some of which are noted below. See section 59-32-30(1).

The following rule of statutory construction is applicable here:

In the construction of statutes, the dominant factor is the intent, not the language of the legislature....A statute must be construed in light of its intended purposes, and, if such purpose can be reasonably discovered from its language, the purpose will prevail over the literal import of the statute. Spartanburg Sanitary Sewer District v. City of Spartanburg, 283 S.C. 67, 321 S.E.2d 258 (1984).

Here, although the only express reference to instructing male and female students separately is with regard to pregnancy prevention education, the legislature has indicated an intent in other parts of the Act that explanations of contraception methods should be presented separately even if discussion is in the context of sexually transmitted disease rather than pregnancy prevention. Certainly, when explanation of contraception methods is a statutory component of pregnancy prevention education, the legislature's requirement that such education be provided separately to male and female students, indicates an intent that contraception methods should, themselves, be separately explained. Moreover, the law treats the explanation of methods of contraception similarly to its treatment of sexually transmitted diseases in that both are excluded from instruction for grades kindergarten through five. Sections 59-32-10(4)(c) and 59-32-30(1) and (2).

Because of this similarity of treatment of contraception and sexually transmitted diseases and because explanation of contraception is an express statutory component of pregnancy prevention education that must be taught separately to male and female students, a legislative intent is indicated that contraception methods should also be explained separately in the context of sexually transmitted disease instruction. To require separate instruction in pregnancy prevention, which includes an explanation of the

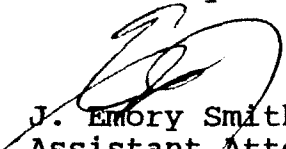
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methods of contraception while, at the same time, presenting an explanation of the methods of contraception in a sexually transmitted diseases class (see section 59-32-30(E)) to male and female students jointly would render ineffective the separate instruction provisions. The legislature is presumed to pass legislation to "accomplish something" and not to do a "futile thing." State ex rel. McLeod v. Montgomery, 244 S.C. 308, 136 S.E.2d 778,779 (1964); Sutherland Statutory Construction, Vol. 2A § 45.12.

In conclusion, the General Assembly has indicated its intent that the explanation of methods of contraception should be presented separately to male and female students in sexually transmitted diseases instruction as well as in pregnancy prevention education. If you have any questions, please let me know.

Yours very truly,

  
J. Emory Smith, Jr.  
Assistant Attorney General

JESjr/jps

cc: The Honorable Michael L. Fair  
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