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Office of the Attorney General

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February 17, 1989

Dr. Charlie G. Williams  
State Superintendent of Education  
Department of Education  
Rutledge Office Building  
1429 Senate Street  
Columbia, South Carolina 29201

Dear Dr. Williams:

You have requested the advice of this Office as to whether a portion of Comprehensive Health Education Act (Act) of 1988, requires that twelfth grade students, during the 1989-90 school year, receive instruction in comprehensive health education, as provided in the Act. §59-32-30(A)(3) of the Code of Laws of South Carolina, 1976, as amended (Act 437, 1988). This section of the Act provides as follows:

"Beginning with the 1989-90 school year, at least one time during the four years of grades nine through twelve, each student shall receive instruction in comprehensive health education, including at least seven hundred fifty minutes of reproductive health education and pregnancy prevention education." (emphasis added)

As set forth in section two of the Act, "[t]he purpose of this Act is to foster the development and dissemination of educational activities and materials which will assist South Carolina students, teachers, administrators, and parents in the perception, appreciation, and understanding of health principles and problems in responsible sexual behavior."

The following rules of statutory construction are applicable here:

The ... primary function in interpreting a statute is ascertaining the intention of the

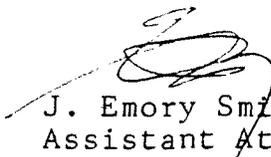
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Legislature.... Where the terms of the statute are clear and unambiguous, there is no room for interpretation and we must apply them according to their literal meaning.

South Carolina Department of Highways and Public Transportation v. Dickinson, \_\_\_ S.C. \_\_\_, 341 S.E.2d 134 (1986). Because the words "each student" apply to "grades nine through twelve" and because the implementation of the requirements for those grades begins with the 1989-90 school year, a plain reading of this provision is that twelfth grade students would be included. Dickinson, Supra. This construction of this provision of the Act is consistent with the purpose of the Act, as set forth above, to "foster the development and dissemination of educational activities and materials..." concerning the subjects covered by Act. Dickinson, supra. To construe this provision as permitting a phase-in beginning only with ninth grade students in the 1989-90 school year would exclude tenth, eleventh and twelfth grade students that year from the required<sup>1/</sup> receipt of these "educational activities and materials." Because the Legislature delayed implementation of the health education requirements until the 1989-90 school year (Act 437, Section 6), because of the plain meaning of §59-32-30(A)(3), and because of the purpose the Legislation, the General Assembly has indicated no intent that tenth, eleventh and twelfth grader students be exempted in 1989-90. Therefore, §59-32-30(A)(3) clearly applies to twelfth grade students during the 1989-90 school year.

If you have any questions, please let me know.

Yours very truly,

  
J. Emory Smith, Jr.  
Assistant Attorney General

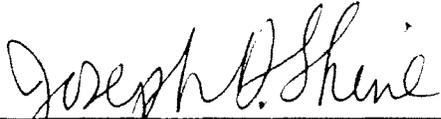
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<sup>1/</sup>§59-32-50 provides a means for parents and legal guardians to exempt their children from units on reproductive health, family life, and pregnancy prevention.

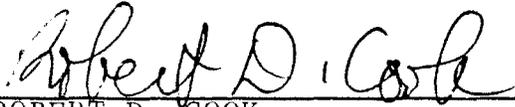
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REVIEWED AND APPROVED BY:



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JOSEPH D. SHINE,  
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