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SOUTH CAROLINA STATUTES AND LAWS

This profile provides an overview of sex education laws in South Carolina including:

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South Carolina legislative session convened on 1/8/19 and adjourned on 5/9/19. The [South Carolina Legislative page](#) updates its [Codes of Law online](#) periodically. The official print version is updated before the start of each legislative session

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What should I know about [navigating sex ed terms](#)?

I. SEX-ED REQUIREMENTS QUICK CHART				
LEGISLATIVE REQUIREMENTS	YES	NO	NOT INDICATED	LEGISLATIVE CODES
Sex education required	X			§59-32-20
Sex education optional				
If/when provided, sexual education in this state includes:				
Be medically accurate			X	
Be evidence based			X	
Be age appropriate	X			§59-32-20(B) , §59-32-10(1) , §59-32-30(1)
Be culturally appropriate and unbiased			X	
Reference/stress abstinence*	X			§59-32-10(2) , §59-32-10(4)(a,b)
Include HIV/AIDS education	X			
Sexualization		X		§59-32-10(2)
LGBT Inclusive		X		§59-32-30 (A)(5)
Include safety against sexual abuse	X			§59-32-20(B) , §59-32-30(G)
Contraception guidelines	X			§59-32-10(4)(c) , §59-32-30(A)(2) , §59-32-30(D)
Abortion guidelines	X			§59-32-10(4)(c) , §59-32-30(D)
Parental Role in Sexual Education:				
Parents notification	X			§59-32-50 , §59-32-30(D)
Parental involvement	X			§59-32-30(B)
Opt-in			X	
Opt-out/withdraw	X			§59-32-50
Access to/review curriculum	X			§59-32-50
* Warning: While statutes might say “abstinence based” or require materials to “stress abstinence” as the standard, many CSE programs only mention abstinence in passing; they do not establish abstinence as the expected standard and fail to emphasize abstinence as the only sure way to protect against pregnancy and sexually transmitted diseases, including AIDS. See harmful elements of CSE here .				

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II. PARENTAL RIGHTS LAWS

What should I know about [parental rights laws](#)?

The following laws and guidelines apply to sex education and how it is taught, according to South Carolina [Education Code](#).

[§59-32-30](#). Local school boards to implement comprehensive health education program; guidelines and restrictions.

(B) Local school boards may use the instructional unit made available by the board pursuant to Section 59-32-20, or local boards may develop or select their own instructional materials addressing the subjects of reproductive health education, family life education, and pregnancy prevention education. To assist in the selection of components and curriculum materials, each local school board shall appoint a thirteen-member local advisory committee **consisting of two parents**, three clergy, two health professionals, two teachers, **two students**, one being the president of the student body of a high school, and two other persons not employed by the local school district.

[§59-32-50](#). Notice to parents; right to have child exempted from comprehensive health education program classes.

Pursuant to policies and guidelines adopted by the local school board, public school principals shall develop a method of **notifying parents** of students in the relevant grades of the content of the instructional materials concerning reproductive health, family life, pregnancy prevention, and of their **option to exempt** their child from this instruction, and sexually transmitted diseases if instruction in the diseases is presented as a separate component. **Notice must be provided sufficiently in advance** of a student's enrollment in courses using these instructional materials to allow parents and legal guardians the opportunity to **preview the materials** and exempt their children.

A public school principal, upon receipt of a statement signed by a student's parent or legal guardian stating that participation by the student in the health education program conflicts with the family's beliefs, **shall exempt** that student from any portion or all of the units on reproductive health, family life, and pregnancy prevention where any conflicts occur. **No student must be penalized** as a result of an exemption. School districts shall use procedures to ensure that students exempted from the program by their parents or guardians are not embarrassed by the exemption.

HISTORY: 1988 Act No. 437, Section 3

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III. SEX EDUCATION LAWS

What should I know about [sex education laws](#)?

The following laws and guidelines apply to sex education and how it is taught, according to South Carolina [Education Code](#)

[§59-32-10](#) - Definitions.

(1) "Comprehensive health education" means health education in a school setting that is 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 maintenance, and disease prevention. It includes **age-appropriate**, sequential instruction in health either as part of existing courses or as a special course.

(2) "Reproductive health education" means instruction in human physiology, conception, prenatal care and development, childbirth, and postnatal care, but **does not include instruction concerning sexual practices outside marriage or practices unrelated to reproduction** except within the context of the risk of disease. **Abstinence** and the risks associated with sexual activity outside of marriage must be strongly emphasized.

(3) "Family life education" means instruction intended to:

- (a) develop an understanding of the physical, mental, emotional, social, economic, and psychological aspects of close personal relationships and an understanding of the physiological, psychological, and cultural foundations of human development;
- (b) provide instruction that will support the development of responsible personal values and behavior and aid in establishing a strong family life for themselves in the future and emphasize the responsibilities of marriage.
- (c) provide instruction as to the laws of this State relating to the sexual conduct of minors, including **criminal sexual conduct**.

(4) "Pregnancy prevention education" means instruction intended to:

- (a) stress the importance of **abstaining** from sexual activity until marriage;
- (b) help students develop skills to enable them to resist peer pressure and **abstain** from sexual activity;
- (c) explain methods of **contraception** and the risks and benefits of each method. **Abortion** must not be included as a method of birth control. 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.

HISTORY: 1988 Act No. 437, Section 3.

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[§59-32-20](#) - Selection or adoption of instruction units by state board required.

(A) Before August 1, 1988, the board, through the department, shall select or develop an instructional unit with separate components addressing the subjects of reproductive health education, family life education, pregnancy prevention education, and sexually transmitted diseases and make the instructional unit available to local school districts. The board, through the department, also shall make available information about other programs developed by other states upon request of a local school district.

(B) In addition to the provisions of subsection (A), before September 1, 2015, the board, through the department, shall select or develop instructional units in **sexual abuse and assault awareness and prevention**, with separate units **appropriate for each age level** from four-year-old kindergarten through twelfth grade.

HISTORY: 1988 Act No. 437, Section 3; 2014 Act No. 293 (H.4061), Section 1, eff June 23, 2014; 2018 Act No. 185 (S.302), Section 3, eff May 17, 2018.. Effect of Amendment. 2014 Act No. 293, Section 1, inserted subsection designator (A), and added subsection (B). 2018 Act No. 185, Section 3, added (C), relating to instruction on prescription opioid abuse prevention

[§59-32-30](#). Local school boards to implement comprehensive health education program; guidelines and restrictions.

(A) Pursuant to guidelines developed by the board, each local school board shall implement the following program of instruction:

(1) Beginning with the 1988-89 school year, for **grades kindergarten through five**, instruction in comprehensive health education must include the following subjects: community health, consumer health, environmental health, growth and development, nutritional health, personal health, prevention and control of diseases and disorders, safety and accident prevention, substance use and abuse, dental health, and mental and emotional health. **Sexually transmitted diseases** as defined in the annual Department of Health and Environmental Control List of Reportable Diseases are to be excluded from instruction on the prevention and control of diseases and disorders. At the discretion of the local board, **age-appropriate** instruction in reproductive health **may** be included.

(2) Beginning with the 1988-1989 school year, for **grades six through eight**, instruction in comprehensive health must include the following subjects: community health, consumer health, environmental health, growth and development, nutritional health, personal health, prevention and control of diseases and disorders, safety and accident prevention, substance use and abuse, dental health, mental and emotional health, and **reproductive health** education. **Sexually transmitted diseases** are to be included as a part of instruction. At the discretion of the local board, instruction in family life education or **pregnancy prevention** education or both may be included, but instruction in these subjects **may not include an explanation of the methods of contraception before the sixth grade**. Beginning with the 2016-2017 school year, for grades six through eight, instruction in comprehensive health education also must include the subject of domestic violence.

(3) 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,

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including at least seven hundred fifty minutes of **reproductive health** education and **pregnancy prevention** education.

(4) The South Carolina Educational Television Commission shall work with the department in developing instructional programs and materials that may be available to the school districts. Films and other materials may be designed for the purpose of explaining bodily functions or the human reproductive process. **These materials may not contain actual or simulated portrayals of sexual activities or sexual intercourse.**

(5) 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 concerning sexually transmitted diseases.

(6) In grades nine through twelve, students must also be given appropriate instruction that adoption is a positive alternative.

(B) [[located in parental rights section](#)]

(C) The time required for health instruction for students in kindergarten through eighth grade must not be reduced below the level required during the 1986-87 school year. Health instruction for students in grades nine through twelve may be given either as part of an existing course or as a special course.

(D) **No contraceptive device or contraceptive medication may be distributed** in or on the school grounds of any public elementary or secondary school. **No school district may contract with any contraceptive provider** for their distribution in or on the school grounds. Except as to that instruction provided by this chapter relating to complications which may develop from all types of abortions, school districts **may not offer programs, instruction, or activities including abortion counseling, information about abortion services, or assist in obtaining abortion**, and materials containing this information must not be distributed in schools. Nothing in this section prevents school authorities from referring students to a physician for medical reasons **after making reasonable efforts to notify the student's parents or legal guardians** or the appropriate court, if applicable.

(E) Any course or instruction in sexually transmitted diseases must be taught within the reproductive health, family life, or pregnancy prevention education components, or it must be presented as a separate component.

(F) Instruction in pregnancy prevention education must be presented separately to male and female students.

(G) Beginning with the 2015-2016 school year, districts annually shall provide **age-appropriate** instruction in **sexual abuse and assault awareness and prevention to all students in four-year-old kindergarten, where offered, through twelfth grade**. This instruction must be based on the units developed by the board, through the department, pursuant to Section [59-32-20\(B\)](#).

HISTORY: 1988 Act No. 437, Section 3; 2014 Act No. 293 (H.4061), Section 2, eff June 23, 2014; 2015 Act No. 58 (S.3), Pt IV, Section 22, eff June 4, 2015; 2016 Act No. 152 (H.3265), Section 2, eff April 21, 2016.

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[§59-32-90](#). Restrictions on use of films, pictures, or diagrams.

Films, pictures, or diagrams in any comprehensive health education program in public schools must be designed solely for the purpose of **explaining bodily functions or the human reproduction** process and **may not include actual or simulated portrayals of sexual activities or sexual intercourse**.

HISTORY: 1988 Act No. 437, Section 3.

[§59-32-80](#). Penalty for teachers violation of or refusal to comply with chapter.

Any teacher violating the provisions of this chapter or who refuses to comply with the curriculum prescribed by the school board as provided by this chapter is subject to dismissal.

[§59-32-40](#). Staff development.

As part of their program for staff development, the department and local school boards shall provide appropriate staff development activities for educational personnel participating in the comprehensive health education program. Local school boards are encouraged to coordinate the activities with the department and institutions of higher learning.

HISTORY: 1988 Act No. 437, Section 3.

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IV. CONSENT LAWS

What should I know about [consent laws](#)?

[Age of Majority](#) = Based on South Carolina Code [§15-1-320](#), anyone under the age of 18 is considered a minor, while those 18 years old and older are considered adults.

[Age of Consent](#) = Based on South Carolina Code [§16-3-655](#), the age when children can legally consent or agree to sex is 16.

Warning! Most CSE programs put parental rights at risk by either encouraging or requiring that parents not be notified and/or by instructing children how to access such things as abortion, contraception and other so-called health services **without parental notification or consent**. It is particularly dangerous to encourage students in this way, particularly considering the fact the laws often support what is being taught in CSE programs. For example:

- **Without notifying or receiving consent from their parents**, minor children in South Carolina may consent to:
 - [§63-5-340](#). *Minor's consent to health services.*
 - [§63-5-350](#). *Health services to minors without parental consent.*

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V. OBSCENITY LAWS

What should I know about [obscenity laws](#)?

[§16-15-385](#) Disseminating harmful material to minors and exhibiting harmful performance to minor defined; defenses; penalties.

(A) A person commits the offense of disseminating harmful material to minors if, knowing the character or content of the material, he:

(1) sells, furnishes, presents, or distributes to a minor material that is harmful to minors; or

(2) allows a minor to review or peruse material that is harmful to minors.

A person does not commit an offense under this subsection when he employs a minor to work in a theater if the minor's parent or guardian consents to the employment and if the minor is not allowed in the viewing area when material harmful to minors is shown.

(B) A person commits the offense of exhibiting a harmful performance to a minor if, with or without consideration and knowing the character or content of the performance, he allows a minor to view a live performance which is harmful to minors.

(C) Except as provided in item (3) of this subsection, mistake of age is not a defense to a prosecution under this section. It is an affirmative defense under this section that:

(1) the defendant was a parent or legal guardian of a minor, but this item does not apply when the parent or legal guardian exhibits or disseminates the harmful material for the sexual gratification of the parent, guardian, or minor.

(2) the defendant was a school, church, museum, public, school, college, or university library, government agency, medical clinic, or hospital carrying out its legitimate function, or an employee or agent of such an organization acting in that capacity and carrying out a legitimate duty of his employment.

(3) before disseminating or exhibiting the harmful material or performance, the defendant requested and received a driver's license, student identification card, or other official governmental or educational identification card or paper indicating that the minor to whom the material or performance was disseminated or exhibited was at least eighteen years old, and the defendant reasonably believed the minor was at least eighteen years old.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five thousand dollars, or both.

Credits

HISTORY: 1987 Act No. 168 § 3; 1990 Act No. 358, §§ 1, 2; 1993 Act No. 184, § 34; 2004 Act No. 208, § 7, eff April 26, 2004.

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VI. STATE DEPARTMENT OF EDUCATION POLICY

What should I know about [school policy](#)?

The following laws and guidelines apply to sex education and how it is taught, according to [South Carolina Department of Education](#).

- The State Board of Education approved the South Carolina Academic Standards for Health and Safety Education on August 8, 2017. These Standards provide the scope and sequence for age appropriate comprehensive health education. The SC Standards are based on the 2007 *National Health Education Standards. Along with the Standards, the Comprehensive Health Education Act of 1988 requires that each school board appoint a CHE advisory committee to assist in the selection of curriculum components and materials. This committee must consist of two parents, three clergy, two health professionals, two teachers, two students, and two other persons not employed by the local school district. Each district advisory committee must carefully review all reproductive health education, family life education, and pregnancy prevention education materials before they are used in the schools.

***Note:** The *National Sexuality Education Standards* have been analyzed and found to contain 13 out of 15 of the [harmful elements](#) typically found in CSE curricula or materials. Learn more and see harm analysis [here](#).

- [Gender Equity and Section 59-32--30\(A\)\(5\) Memo](#) - [Concerning SC Education Code [59-32--30\(A\)\(5\)](#).] Section 59-32-30(A)(5) may no longer be enforced, applied, or relied on by any person or entity, including but not limited to local school districts, local school district boards, and public school administrators and teachers and that instruction under the Comprehensive Health Education Act (CHEA) must be designed and implemented without regard to Section 59-32-30(A)(5).
- South Carolina [Academic Standards for Health and Safety Education](#), starting in grade six, includes:
 - Explaining why abstinence is the most effective means of protecting reproductive health
 - Defining the terms sexually transmitted infections and diseases (STIs/STDs) and human immunodeficiency virus (HIV).
 - Discussing South Carolina laws relating to the sexual conduct of minors, including criminal sexual conduct through the use of technology.
 - Describing, demonstrating, communicating about, and taking steps about situations that constitute sexual harassment, sexual abuse, sexual assault, rape, and dating violence.
 - Discussing ways sexting violates personal boundaries.
 - Communicating sexual boundaries

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- Identifying steps in a decision-making process that promotes abstinence and avoids risky behaviors
 - Describing signs and symptoms and effective treatment of sexually transmitted infections and diseases (STIs/STDs), human immunodeficiency virus (HIV), and acquired immunodeficiency disease (AIDS).
 - Explaining effective methods for the prevention of STIs/STDs, HIV, and AIDS.
 - Explaining effective methods for the prevention of unintended pregnancy in the context of future family planning.
 - Demonstrating the ability to access valid information and resources related to reproductive health and STIs/STDs, HIV, and AIDS.
 - Locate valid information and resources related to dating violence, sexual harassment, sexual abuse, and sexual assault.
 - Discussing the influence of family, peers, culture, and the media on personal decisions about sexual behavior.
 - Utilize communication and refusal skills to promote sexual abstinence and to avoid risk behaviors.
 - Discuss the laws related to ATOD that can affect the ability to give or perceive the provision of **consent** to sexual activities.
 - [See more here](#)
- Definition
 - Abstinence - The act or practice of abstaining; the act or practice of refraining from indulgences, drinking alcoholic beverages or engaging in sexual activity (Merriam-Webster, n.d.a)
 - Consent - Voluntary, positive agreement between the participants to engage in specific sexual activity. Verbal communication prior to engaging in sex helps to clarify consent (Northwestern-Student Affairs, n.d.).
 - Evidence-based programs - Programs or interventions supported by credible scientific studies that find associated decreases in risk behaviors (e.g., delay in sexual initiation, or increase in condom-use) or adverse health outcomes (e.g., HIV or other STD transmission) (CDC, 2012).
 - [See more here](#)

Compare [state laws](#) with [state department of education policies](#) for alignment

Revised May 2020

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