

EDUCATION REPORTER

Number 97

The Newspaper of Education Rights

February 1994

Michigan Students Get Green Light to Opt Out of Sex Education Courses

LANSING, MI - Michigan parents are applauding the content of a memo sent on October 21 from State Superintendent of Instruction Robert E. Schiller to all school districts in Michigan. It explains the new "opt out" provision and clearly defines and upholds the rights of students and parents. (See full text of memo on page 4).

Following his consultation with Michigan's General Schiller sent the memo about the implementation of Section 166A of the FY 1994 State School Aid Act.

The memo clarifies that all health, sex and AIDS education material should be available for parents to read, so they can make an informed decision on whether or not to permit their child to receive the instruction. No longer will the teachers have a completely captive audience for pro-"safe sex," pro-condom and pro-abortion messages unless parents give it to them.

Regarding required health courses at the high school level, students can be excused from the entire health course or for any individual units or classes without academic penalty.

Schiller further clarified that the "opt out" provision provides for Science or Social Studies classes that include substance abuse or other health topics. The memo states that "students taking classes in a health education curriculum are subject to the provisions of parental notification, parental review of materials and con-

tent, and right of exclusion."

For classes in which mandated instruction (such as AIDS education) is given, parents can still excuse their child, because it is the district's responsibility only to offer instruction. There is no legislative mandate for students to receive this instruction in order to graduate from a Michigan public school.

No longer will the teachers have a completely captive audience for "safe sex," pro-condom and pro-abortion messages unless parents give it to them.

This also applies to school districts seeking to meet the Drug-Free Schools and Communities Act certification requirements. Students can still be excused from drug education classes without affecting certification, because certification requires only that a district offer instruction to "every student every year."

The memo further points out that students can "opt themselves out" of health education or HIV education classes because the language of section 166A is that, "Upon the written request of a pupil or the pupil's parent or legal guardian, the pupil shall be excused, without penalty or loss of academic credit, from attending class sessions in which the instruction is provided."

Parents are copying and circulating the Department of Education memo all over the state. In some instances, parents have found it necessary to have the memo in their hands when meeting with uncooperative principals and teachers. Parents in other states are finding the Michigan memo an excellent resource for developing "opt out" provisions in their local school districts.

Ban on Video-Taping Board Meetings Reversed by Judge

CASPER, WY - A new policy to ban video-taping of the regular board meetings of Hot Springs County School District has been ruled in violation of Wyoming law by Fifth Judicial District Judge Gary Hartman. Hartman also ruled that the actions taken by the board in establishing the no video-taping policy were in violation of the Wyoming Administrative Procedures Act.

KTWO-TV filed the lawsuit on behalf of reporter Robert Geha and cameraman Travis Sherwin, who were asked to remove their video-camera from a school board meeting they attended in June 1992. The *Casper Star Tribune* helped fund the suit.

KTWO-TV (K-2 News) traveled two hours to attend this board meeting upon the request of concerned parents, Phyllis Henley and Liz McCleery.

Mrs. Henley and Mrs. McCleery had attended a May 4, 1992 meeting with their video cameras in hand, but were asked - even without a school policy - to remove them. They had decided to tape the school board meeting because they were frustrated about the board members' lackadaisical attitude over Outcome-Based Education. They thought video taping the meetings would be a good way to hold board members accountable for their actions.

See *Video-Taping*, page 4

INSIDE . . .

Children are asked to classify people on the basis of race and national origin in a nosy survey, after watching a video about racist groups.

See *Attitudes Towards Groups* 4

Student's Fight For Decency Denounced as Censorship

GUILDERLAND, NY - Joseph Smith learned a lot about the burdens of good citizenship during his sophomore year at Guilderland High School, even though he received no academic credit for the experience. Having had the audacity to challenge his English teacher's choice of reading material, the 15-year-old student soon found himself at the center of an escalating controversy.

Smith, now a junior at Guilderland, last year objected to teacher David Robbins' assignment of Pat Conroy's novel *The Great Santini* as required reading for English. An account of a Marine father who takes a military approach to the raising of his family, the book contains several violent and sacrilegious passages. Smith objected in particular to a vulgar parody of the "Hail Mary" and a graphic account of a rape.

Though given the option of reading an alternate selection, Smith felt that the book was inappropriate for high school students and decided to go public with his protest. He filed a curriculum objection with the school district in June of 1993 and participated in the district's hearing on the book. Knowing that the hearing would be closed to the public, Smith attended a Board of Education meeting the week before and made a lengthy presentation that included the reading of the prayer parody and the rape scene. Smith's reading of the book's rape scene was interrupted by Board member William Brinkman, who expressed concern that the material might be offensive to the adults in attendance.

Stung by the charges of censorship that were leveled against him following his public protest, Smith began his presen-

tation at the closed-door district hearing by insisting that the school system "must live up to the responsibility that it has to its students and not worry about the fact who would interpret these responsible actions as censorship." The question to ask, said Smith, is whether or not "the interests of the students [are] being served by using this book in the high school English curriculum."

According to Smith, "The only interests being served here are those of people that believe that anything less than total liberalism is a form of censorship. To call me a censor is ludicrous," he continued. "I believe in the rights of students not to have to grow up before their time, not to have perversions shoved down their throats, not to have violence smashed in their faces in the name of education."

To buttress his argument, Smith cited shocking statistics concerning the incidence of sexual harassment in the schools, sex crimes against children, and rape, insisting that there is a correlation between such behavior and the ready availability of pornographic materials like those found in *The Great Santini*. "It doesn't take



Joseph Smith

I believe in the rights of students not to have to grow up before their time, not to have perversions shoved down their throats, not to have violence smashed in their faces in the name of education.

a Ph.D, a Master's, or even a high school diploma to see that anything that may be even remotely tied in with this dehumanizing, exploitive, and violent behavior must be studied carefully and dealt with immediately," said Smith.

"Wouldn't it be refreshing," Smith

asked in conclusion, "to see the district and teachers use energies and resources to find novels with positive role models for women, fathers, and children - rather than trying to justify a novel with shocking materials used to illustrate the ills we're already aware of and trying to cope with in our surroundings?"

Unfortunately, Smith's remarks fell on deaf ears, for the curriculum committee subsequently denied his request to have *The Great Santini* removed from the high school's reading list. In a letter to

See *Great Santini*, page 3

EDUCATION BRIEFS

Public schools should not make condoms available to students, say 75% of the USA WEEK-END readers who responded to a Nov. 26-28 call-in. The call-in vote accompanied a story about a Connecticut school system that makes condoms available to kids as young as 10 years old through a sex education program. Readers were asked to call a 900 telephone line or vote by mail, and 9,336 unduplicated calls and 405 postcards were received. One of the readers, Fred Becker of Algonquin, IL, responded by stating that, "under the health administration of Joycelyn Elders in Arkansas, the teenage pregnancy rate went up! Why are we considering any of her ideas?"

In cooperation with the government's latest anti-AIDS campaign, television networks are changing their tune when it comes to advertising condoms. Formerly shut out by the Big 3 networks, condom marketers are now making plans to cash in on the deal. Kim Leffler, marketing manager at Safetex, is working with his company's first TV spot and comments that, "the campaign opens up a whole new world of opportunity for condom marketing." Another company, Ansell-Americas, marketer of LifeStyle condoms, plans to ask the networks to reconsider its \$10 million campaign that was earlier rejected.

Michigan Governor John Engler has signed Senate Bill 896, which allows more charter schools to be created. A charter school system allows parents to choose which public school their children attend. "Senate Bill 896 gives Michigan the most sweeping charter school act in the nation. There will be over 600 charter-granting entities in Michigan," said Engler.

The Kentucky Educational Reform Association has withdrawn its state's participation in the national spelling bee. OBE reformers believe that competition and memorization causes children stress and endangers their self-esteem.

Education Reporter (ISSN 0887-0608) is published monthly by Eagle Forum Education & Legal Defense Fund with editorial offices at 7800 Bonhomme Ave., St. Louis, MO 63105, (314) 721-3373. The views expressed in this newsletter are those of the persons quoted and should not be attributed to Eagle Forum Education & Legal Defense Fund. Annual subscription \$25. Back issues available @ \$2. Second Class postage paid at Alton Illinois.

School Course in 'Good and 'Evil' Turns Out to be More 'Evil'

THE COLONY, TX - The syllabus for the accelerated English class promised a survey of good and evil in British literature, but Jason Ellis and other juniors at The Colony High School began to realize that the focus of the class would be almost exclusively on the "dark side." When Bram Stoker's *Dracula* was assigned as required reading during the Christmas holidays, Jason and his parents, John and Roni Ellis, decided that enough was enough.

The first three pages of the book's introduction, written by George Stade for the Bantam Books edition, were "so objectionable that we couldn't even read past that," Roni Ellis recalls, noting that the sexually graphic and sacrilegious material glorified bestiality and the sexual enslavement of women. According to Stade, Stoker's vampires "are puritan Christianity's demonic underside, just as *Dracula* is a parody of Christ." Stade interprets *Dracula* as "an apparition of what we repress, particularly eros. To be bitten by *Dracula* is to become a slave to a kind of lust, abandoned to unlawful hungers, a projection of the beholder's desire and dread."

Stade argues that "*Dracula* is the symptom of a wish, largely sexual, that we wish we did not have. To a woman in a Victorian frame of mind," he observes, "*Dracula*'s kiss is but a scratch where she itches." Pandering to the mindset of his colleagues, Stade concludes that Stoker's gory gothic is in reality a kind of feminist manifesto: "The prevailing emotion of the novel," he asserts, "is a screaming horror of female sexuality. Along with the horror, of course, goes fascination and hate."

Repulsed by such "insights," Mrs. Ellis phoned Jason's English teacher, Janet Adams, to express her concern, but the instructor glibly dismissed her objections and advised her to make an appointment if she wanted to discuss the matter further. Mrs. Ellis and her husband then met in person with Ms. Adams, Principal Mitch Hall, and Curriculum Coordinator Linda Foster. The trio promptly concluded that there was no basis for their complaint. Mrs. Ellis said they exhibited the attitude of "We're the educators. Go away." The Ellises were particularly incensed by Hall's suggestion that their son spend three weeks in the school library while the class discussed the book or switch to an unaccelerated English class.

In a letter to the editor that appeared in the *Lewisville Leader*, the Ellises hoped to alert other parents to their concerns. The Ellises insisted they had no objection to their son knowing "the story of *Dracula*, per se," but charged that "the writing style, slant and intent of this book, described in the introductory notes, indicate that this assignment is most objectionable and highly inappropriate for our minor-aged children." They also charged that "the timing of this assignment at Christmas is wholly inappropriate, a slap against all Christians."

In their letter, the Ellises challenged officials of the Lewisville Independent School District (LISD) to justify their decision to have students read sexual glorification of "Satanic behavior." Arguing that "what goes in the mind comes out in behavior," the parents demanded an answer to a pointed query: "If you put anger, hate, violence [and] satanic ritualistic enslavement of women for sexual gratification into a child's mind, what will come out?"

The Ellises concluded their letter with a call to action. "Wake up, people! The pattern of filling the minds of our youth with violence and antisocial behaviors through the media from all directions plays a part in the violent crimes, satanic cults and suicides that are reported daily across America."

The *Lewisville Leader* ran a story on the controversy on the front page of the same issue, and local television and radio stations soon picked it up. According to Mrs. Ellis, school officials reacted to the publicity with a "You're not going to tell me what to do" attitude. She paraphrases their response as follows: "We are the educators. You don't know what you're talking about. The curriculum has been approved, and so it's okay."

When he returned to class after the holidays, Jason was given the option of reading Charles Dickens' *A Christmas Carol* instead of *Dracula*. In a January 7 letter to the Ellises, Principal Mitch Hall announced his intention to form a committee to review their request for reconsideration of the Stoker novel. Mrs. Ellis, however, doubts that an objective decision will be reached by a committee comprised of the principal, the English teacher who assigned the book, the curriculum coordinator, the head of the English de-



The prevailing emotion of the novel is a screaming horror of female sexuality. Along with the horror, of course, goes fascination and hate.



The Fabulous Story of How Inventors Changed the Way We Live

American Inventors is a video history of inventions in the United States. It illustrates how America was the first nation to protect intellectual property through the patent laws, thus stimulating free market principles that produced a rising standard of living. The video is excellent as a supplement to social studies curricula in the classroom and for use as educational entertainment at home.

The 45-minute video shows that the protection America guarantees to inventors is a major cause of its economic prosperity. An inventor is inspired to develop innovations knowing that, if his product is successful, he will have exclusive right to profit from his patented product for a certain length of time.

Narrated by Phyllis Schlafly, this video relates dozens of fascinating stories of inventions and inventors including Thomas Edison, Ben Franklin, Samuel Morse and Eli Whitney. The history continues into the 20th century with stories of inventions from the ice cream cone at the St. Louis World's Fair, to the modern space rocket, to the wonder drugs that have saved millions of lives.

When *American Inventors* was produced in 1987, it was granted official recognition by the U.S. Bicentennial Commission, which stated that it has "exceptional merit with national significance, and substantial educational and historical value."

Through the kindness of generous donors, this video has been placed in hundreds of public and private school libraries and video distribution centers. Eagle Forum has received many letters from teachers and librarians testifying to the educational value of the video in their classes. It is available for \$19.95 from Eagle Forum, Alton, IL 62002.

partment, and two parents chosen by the principal.

The question that school officials must answer with regard to reading assignments, Mrs. Ellis insists, is a simple one: "Why are you putting literature that is undeniably full of erotic implications into their hands?" Noting that incidents of vampirism have occurred in the Lewisville area, she argues that it is unwise to require the reading of a book that "glorifies this behavior." Confident that she and her husband can protect their son from the evil influence of such materials, she nevertheless worries that "there are many kids in the school system who don't have someone at home who will deprogram them and talk to them about right and wrong." ☐

FOCUS: Performance-Based Education Is Always a Loser in Academics

By Eunie Smith

Alabamians are taking sides in a heated battle over the legislature's consideration of a multimillion dollar experimental education reform called "Alabama First." Supporters of the reform are frustrated and even angry by the number of people who oppose "Alabama First" and who claim it will hurt academics.

But the opposition to "Alabama First" should come as no surprise. Nowhere in America can we find improved student achievement in schools using the Performance-Based or Outcome-Based system around which Alabama First is structured. Quite the contrary. It is causing controversy everywhere it is tried.

Proponents of the reform need to listen to the Pennsylvania Federation of Teachers, who wrote: "To define OBE as merely a struggle by the philosophical extremes merely hides the fact that many of us are concerned about the very real

potential for decreased student achievements."

The Oklahoma OBE Task Force reported in 1992 that scores in math, reading, language arts, science and social studies all declined after four years in Arkansas. All academic progress declined in Arkansas under OBE. Several districts in Pennsylvania, Montana, Tennessee, Michigan and New Mexico have already dropped programs because costs doubled or tripled while test scores plummeted. In 1985, the

A 1988 legislative audit found that, under OBE, 55% of classroom time was spent on non-academic subjects.

Chicago Independent School District Board, faced with a lawsuit from parents claiming "educational malpractice" after five years of OBE, acknowledged students

way behind on standardized tests in spite of a \$7.5 million investment. They dropped OBE.

Democratic Gov. Wilder of Virginia last year instructed his education department to drop its OBE program. Teachers complained in Minnesota that OBE's enormous test-giving and record-keeping re-

quirements left little time even to teach children to read. A 1988 legislative audit there found that, under OBE, 55% of classroom time was spent on non-academic subjects.

Dr. Jeffrey Satinover, former fellow of the Yale Child Study Center who holds a Master's degree from Harvard Graduate School of Education, concluded, "There are no successful tests of a realistic OBE experiment anywhere."

Alabama First continues to point to Kentucky as the prototype for Alabama. Kentucky's official documents acknowledge that its system is OBE. The similarity of both restructuring plans is "striking," according to the November Alabama State Department of Education publication. Kentucky test results released in October 1993 show no significant overall improvement. High school scores were actually lower in every category in spite of the largest single tax increase in Kentucky's history.

No wonder dissatisfaction with KERA is pervasive. Just last month the Louisville *Courier Journal* reported that it is canceling statewide spelling bees. Why? "Spelling bees don't fit with the Kentucky Education Reform Act because they emphasize competition and rote memorization." If we

want students to be globally competitive, why can't they compete in spelling bees?

It has been said that Performance-Based Education asks students to demonstrate what they have learned in the same way the army asks a recruit to demonstrate care for the rifle as well as rifle skills.

Actually, the rifle analogy illustrates the problem with OBE.

The recruit's ultimate test is to hit the bull's eye. It is a single shot repeated and repeated until it hits as close to the bull's eye as he can come. Every recruit is expected to do the very same thing. The ultimate achievement would be for all to be able to shoot the bull's eye through the same hole made by the



Eunie Smith

first one.

The goal in the army is uniformity of performance, whereas the goal in education has been unlimited opportunity. Every student in American schools has always before been given a weapon more akin to a shotgun. His testing on the target covers a wider area (information), and his pattern can be on target without being

Students Challenge College Policy

Social Work Department Discriminates Against Students With Non-Politically Correct Attitudes

ST. CLOUD, MN - St. Cloud State University's social work department has made its position on students' attitudes toward homosexuality very clear. During the spring of 1992, the administration pronounced its opinions regarding homosexuality, which all students are expected to accept. The position states that "Many of our students come from strong religious backgrounds that do not accept homosexuality ... Accepting gay and lesbian people does not mean accepting them as individuals while simultaneously abhorring their behavior ... It is not OK in this case to 'love the sinner and hate the sin' ... Students who have predetermined negative attitudes towards gay and lesbian people and who are not open to exploring values ... should probably look elsewhere for a major."

In order to enforce this position, the social work department discriminates via an interview process for admittance. A group of students combined their efforts and formed the organization, Students Advocating Valid Education (SAVE). SAVE publicized the university's position statement, as well as the means of enforcing it, which attracted great public scrutiny. Members of SAVE contacted the Christian Legal Society for legal assistance to challenge the policy.

The Christian Legal Society threatened legal action against the university on the basis of its discriminatory position with regard to freedom and speech and religion. In a letter to president of S.C.S.U., Steven McFarland, Director of the Center for Law and Religious Freedom, stated, "As the very title of that policy implies, it is aimed at the opinions and beliefs of students, particularly religious beliefs, and, therefore, the policy violates the law of Minnesota and the Constitution of the United States."

The social work department then rescinded its position and reinstated a new one that reads, "... in the admissions process ... students struggle most with understanding the issues of discrimination related to sexual orientation and homophobia." The department's intent is to "introduce knowledge and values that will challenge ... attitudes" that result from "preconceived negative stereotypes about gay males and lesbians."

The new policy adopts many of the positions of the Council on Social Work Education Standards, referring to homosexuals as an "oppressed group" to whom special attention ought to be paid. Peter Jungmann, national coordinator for SAVE, said, "While the new policy still violates the students' rights to believe as they wish, it is a step in the right direction." ☺

Great Santini

continued from page 1

Smith, Guilderland High School Principal John Whipple promised that the committee would encourage teachers to inform students and parents in advance when potentially offensive books are to be assigned. When the Board of Education upheld the committee's decision, Smith appealed to the state's Commissioner of Education, who in more than three months has yet to issue a ruling.

Toni Smith, Joseph's mother, expects the Commissioner to uphold the decision of the Board. Having attempted to discourage her son from filing his challenge, Mrs. Smith nevertheless supported her son's decision and expresses admiration for his strength of character in standing up to a torrent of abuse.

"I knew what he was in for," she says, acknowledging that she herself might have wilted under such a sustained attack. According to Mrs. Smith, Joseph viewed himself as a champion for all the classmates who were too intimidated to speak out. She quotes with pride his explanation for his determination: "I've got to be the one to stand up and say, 'You've got to rethink this stuff.'"

Smith's effort produced an extraordinary amount of coverage in local newspapers. ☺



identical to everyone else's.

Unfortunately, the remedy proposed to Judge Reese imposes this Performance-Based Education on Alabama public schools. That order reaches beyond the quality of opportunity to which all students are entitled, and unwisely mandates the impossible - equality of results. Children are not manufactured goods. They are created by God with multi-faceted talents and abilities, and all must be enabled to reach their fullest potential.

We advocate accountability, but only true accountability to the parents through local school boards. The Performance-Based system establishes accountability of the bureaucracy to itself while weakening education boards accountable to the electorate.

The first step in addressing decline in student achievement is to allow teachers once again to teach the basics. Second, we must stop burdening our schools with extraneous activities. These steps are part of the Alabama Education Improvement Act revised by SCORE 100, which is based on tried and true methodology. It requires solid academics, real phonics in addition to other reading methods, provides true local control, supports parental rights, treats teachers as professionals, limits the power and size of bureaucracy, and channels money directly to the classroom. We commend it to you. ☺

Under threat of detention, all students were given this test on December 12, 1993 at Dunellen High School in New Jersey. Students were first shown a movie about Skin-Heads and the KKK. The principal of the school approves of the test and says that it originated from the office of the New Jersey Attorney General.

ATTITUDES TOWARDS GROUPS

Examine each statement very carefully. In response to each statement, put a letter indicating the appropriate ethnic category that you believe the statement applies to or that you think others believe the statement applies to.

Initials for the various groups are:

- I - Italian
- W - White Anglo-Saxon Protestants
- J - Jews
- B - Blacks
- L - Latinos
- N - None

1. Have many irritating habits and manners.
2. Are usually very well dressed.
3. Have a superior athletic ability.
4. Will seek to exploit others.
5. Must be dealt with forcefully since democratic procedures will never make them behave properly.
6. Tend to keep to themselves and are suspicious of others.
7. Usually meddle too much and interfere with other people's business.
8. Are generally tolerant of other people.
9. Often lack initiative and dependability.
10. Are extremely ambitious, capable and intelligent.
11. Are often lazy and ignorant.
12. Are morally superior to others.
13. Often discriminate against others.
14. Usually become wealthy by manipulating and cheating unsuspecting people.
15. Are satisfied with their lot and are fair in their dealings with others.
16. Are never satisfied and are always seeking more money and power.
17. Usually try to exert control and influence over others.
18. Are the ones behind the Communist menace in the United States.
19. Have money and power out of all proportion to their numbers.
20. Are mostly patriotic individuals who would stand up for the U.S. above all others.
21. Are largely responsible for the increase of crime and lawlessness in the U.S.
22. Put more emphasis on material than spiritual values.
23. Are fair with each other but ruthless in their dealings with other people.
24. Will probably succeed in education.
25. Prove to be as trustworthy as other people.
26. Control most of our powerful economic and political institutions.
27. Should be allowed to intermarry with any group.
28. Are the most likely to be aggressive and start fights.
29. Are almost always courteous and friendly.
30. Practice strange customs.
31. Lack imagination.
32. Are cunning and proud.
33. Will often display compassion for people in trouble.
34. Are often too emotional.

Video-Taping

continued from page 1

They invited KTWO-TV to attend the June meeting with them because of the board's plans to implement the banning of video cameras. KTWO-TV reporters arrived with a TV camera, but were asked, along with Mrs. Henley and Mrs. McCleery, to turn off their cameras.

"The school board literally moved their public board meeting into another building after they passed the banning of video taping policy, and we did not shut off our cameras," said Mrs. Henley.

According to Judge Hartman, the key question in this case, since the open meeting law "does not specifically mention video cameras, is the agency [school board] free to adopt rules and regulation of said devices." The Wyoming Public Records Act, Hartman said, encourages "disclosure, not secrecy."

Hartman said, "It would appear from

the Wyoming case law and decisions of other jurisdictions that there is a movement away from closed and secretive meetings of public agencies. The trend is to be to construct open meeting laws to mean that public meetings must be open to public scrutiny, on the underlying basis that an informed public is a requisite to a democratic society.

"This policy would allow audio recordings and video taping of these public meetings. A de facto ban on video taping by the school board can be construed as an unreasonable action and an impermissible prior restraint. The court finds that the School Board Policy banning video tape recording is in violation of the Wyoming Open Meeting Law.

The board was given 30 days to appeal the judge's decision to the Wyoming Supreme Court, but choose not to do so.

"The ruling has set a precedent for Wyoming," said Mrs. Henley. "School board meetings across the entire state are now being video-taped." ☺

STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
P.O. Box 30008
Lansing, MI 48909
October 21, 1993

MEMORANDUM

TO: All Local District and Intermediate District Superintendents
FROM: Robert E. Schiller
SUBJECT: Clarification of Section 166A of School Aid Act (Public Act 175 of 1993)

After consultation with the Attorney General's staff, the following questions and answers have been formulated to assist you in the implementation of Section 166A of the FY 1994 State School Aid Act.

Question:

What is meant by "content of instruction" in notifying parents/guardians of health, communicable disease, or sex education courses, units of study or classes that will be implemented by a school district?

Answer:

The amount of detail needed in notifying parents annually of the content of health, communicable disease and sex education courses, units of study or classes is that having read the description of content, the parent or guardian will be able to make an informed decision on whether to arrange for a curriculum materials review, excuse their child, or permit their child to receive the instruction.

Question:

We have a required health course at the high school level. It is part of our graduation requirements. How does the new "opt out" provision affect our ability to require health education?

Answer:

The language of Section 166A allows a student or the student's parent or guardian to have the student excused from the entire health education course or any individual units or classes without penalty. If a student is excused from part of a health course, his/her grade must only reflect the quality of work accomplished while in attendance. Another course can be required by the district in place of the health course for graduation.

Question:

What about a Science or Social Studies class in which substance abuse or another health topic is taught?

Answer:

The language of Section 166A reads: "...the board of a district or intermediate district providing instruction in a school health education curriculum, such as the Michigan Model..." We interpret this to mean that students taking classes in a health education curriculum are subject to the provisions of parental notification, parental review of materials and content, and right of exclusion. A district must define its health education curriculum as that portion of the total curriculum that would allow students to meet the core curriculum student outcomes in health education at the completion of instruction.

Question:

Since health education is part of the required core curriculum, how can a school district meet the expectations of students achieving core curriculum outcomes if they are allowed to "opt out" of a core curriculum area of study? Further, education about serious communicable diseases, including, but not limited to, education about human immunodeficiency virus (HIV) infection and acquired immune deficiency syndrome (AIDS) is mandated under Public Act 139 of 1990. Can a parent have their child excused from a class in which mandated instruction is being given?

Answer:

It is the district's responsibility to offer instruction in health education as part of the core curriculum requirements. Under Section 1169 of the School Code, a district must also offer instruction to all students about serious communicable diseases, including, but not limited to HIV and AIDS. The legislation language is "shall be taught." There is no legislative mandate for students to receive this instruction in order to be graduated from a Michigan public school.

Question:

How can a school district meet the Drug-Free Schools and Communities Act certification requirements if students can be excused from health courses or classes in which substance abuse prevention education is taught?

Answer:

The Drug-Free Schools and Communities Act certification requires only that a district offer instruction to "every student every year." In doing so, a district has met this part of the certification requirements.

Question:

Can students "opt themselves out" of health education or HIV education classes or courses?

Answer:

Yes. According to the language of Section 166A, "Upon the written request of a pupil or the pupil's parent or legal guardian, the pupil shall be excused, without penalty or loss of academic credit, from attending class sessions in which the instruction is provided."

Question:

If a student "opts out" of health, communicable disease or sex education and the parent does not want his child excused, whose rights prevail?

Answer:

The language of Section 166A is ambiguous in this regard. It is advised that the parent or guardian's wishes supersede that of the pupil.