The Caliber of Sex Ed Education in Public Schools: Abstinence Only vs. Comprehensive Sex Education, Which is Better?

Teenagers in the United States are among the most sexually active in the civilized world. Statistics show that approximately three million teenagers contract sexually transmitted diseases (STDs) annually with two-thirds of all STDs occurring in people who are twenty-five years of age or younger. The United States also has the highest rate of teenage pregnancy and births in the western industrialized world with approximately seven hundred fifty thousand teenage pregnancies annually. Behavior research also makes clear that teenagers who become sexually active not only increase their chances of becoming infected with an STD, but are also more likely to experience emotional and psychological injuries, subsequent marital difficulties, and involvement in other high-risk behaviors. In light of these daunting statistics, the question of whether sex education classes should be incorporated into American public school curricula has come to the forefront of discussion. Where the sole question was once whether or not sexual education should be taught in public schools, the current controversy also questions the methodology of what is being taught. Since the 1990s, policymakers have begun to consider whether an abstinence only approach is more favorable than a comprehensive approach to sex education that discusses STDs and contraception as well. However, statistics seem to suggest that to effectively address the current rise of STDs and unintended pregnancies among teens in America, school districts must adopt sex education curriculum that not only takes into account the Constitutional rights of parents to control their children’s education, but also stresses the
importance of abstinence while also raising awareness on optimal protection from STDs and unintended pregnancy.

In an attempt to assess the challenges that school districts face in effectively implementing a sex education curricula that integrates the abstinence-only and contraceptive based curricula, this paper will explore the controversy surrounding sex education programs in public schools. Specifically, this paper will provide an overview of the current state of sex education in America, and also address the constitutional dilemma of teaching these programs in public schools, specifically addressing the balancing of parents’ rights to control the education of their children with the state’s compelling interest of teaching sex education in an effort to address the rising social, health, and economic concerns related to adolescent and teen sexual behavior. This paper also will highlight the arguments in support of and in opposition to the implementation of contraceptive based and abstinence only sex education programs, and assess why a combination of both approaches should be adopted by American school districts. Finally, this paper will provide a brief overview of the current Obama administration’s involvement in reconstructing sex education curricula across states.

The Current State of Sex Education in America

As of 2001, most states have enacted some form of sex education classes. A review of state and federal laws and policies relating to sexuality education and STD education reveals that U.S. education policy has tended to increasingly gravitate toward an abstinence based curriculum. Beginning in 1981 with the enactment of the Adolescent Family Life Act (AFLA), and two other programs, namely, a major freestanding program of abstinence only grants to the states, enacted as part of welfare reform in 1996, and a separate abstinence only program set
aside for community organizations, as part of the maternal and child health (MCH) block grant, enacted during the George Bush administration, the federal government had specifically earmarked federal spending in efforts to promote abstinence rather than contraceptive based programs. While these efforts undoubtedly had good intention, statistics have shown that programs that focuses solely on advocating abstinence fail to take into account the current societal pressures and media images that promote sexual promiscuity.

**School Districts’ Dilemma of Whether to Teach Sex Education: The Constitutional Challenge of Balancing the Rights of Parents vs. the State**

While policymakers recognize the inefficiency of the current sex education curricula, the Constitutional constraints imposed by the First and Fourteenth Amendments has created an immense challenge for state and local school districts in determining what type of sex education curricula they can adopt to effectively address the social, health, and economic concerns related to adolescent and teen sexual behavior. It has been long established by the Supreme Court that the fourteenth amendment due process clause grants parents and legal custodians a “liberty” interest in controlling the education of their children. In the context of sex education curricula, this firmly rooted “liberty” interest grants parents the autonomy to object to educational programs and curricula that may come into conflict with the free exercise of religion and establishment clauses of the First Amendment of the United States Constitution. Consequently, states recognize that because sex education will inevitably address matters that religion has traditionally controlled, the Constitution will often require school districts to apply exemptions for those whose religious beliefs are substantially burdened by sex education, particularly where this information is administered in a sexually explicit manner. Furthermore,
while the Supreme Court has recognized that states have a compelling interest in educating its
citizenry, the Court in Wisconsin v. Yoder also made clear that this interest will be trumped
unless the government is able to show that the burden placed on religious communities is
narrowly tailored to meet the state’s compelling interest. As such, it is likely that compulsory
sex education programs, if challenged, will likely be found unconstitutional unless exemptions
are enforced which grant parents the right to receive advance notice and an opportunity to
withdraw their children from the program.

Recognizing the potential constitutional challenges of implementing sex education
programs, public schools are reluctant to incorporate sex education into the curricula particularly
where it is not compelled. Although not teaching sex education might be the solution to the
Constitutional challenges school districts may face, the lack of any form of sex education could
prove detrimental to the social, health, and economic problems associated with teenage sexual
behavior in the United States. As a practical matter, states must advocate to courts that the
fundamental right of parents to control the education of their children is not absolute and must be
balanced with the compelling interest of states in educating its citizenry on AIDS awareness,
STD prevention, and teenage pregnancy prevention through sex education programs. States must
also stress that despite the Constitutional challenges to implementing compulsory sex education
in public schools, ninety-percent of parents in the United States support compulsory sex
education programs.

The Debate Goes On: “Abstinence Based” versus “Comprehensive” Sex Education or
Should They be Combined?
While many parents recognize the importance of sex education programs, there is sharp disagreement on the content and how sex education classes should be taught. Some parents contend that the sex education curriculum should take a more comprehensive approach that not only encourages children to abstain from sex but also advocates safe sex by teaching them to properly use birth control and practice safe sex in the event they do become sexually active. In contrast, others assert that the curriculum should be informed by moral principles that focus on teachings of celibacy and abstinence only.\(^{xiii}\)

More specifically, advocates for comprehensive based sex education programs argue that the abstinence only approach fail to provide adequate information to protect the health of adolescents, and distorts information about contraceptive use and STDs. Specifically, two major reviews of abstinence curriculums- one in 2004 from the House of Representatives' Committee on Government Reform, another by the Texas Freedom Network Education Fund earlier this year—found that more than eighty percent of the “abstinence only” curricula contained “false, misleading or distorting information” about reproductive health. Proponents of the comprehensive approach further contend that abstinence only programs often advance a specific religious perspective and may have serious implications for people for whom marriage is not valued or desired, or is unavailable as an option, particularly homosexuals living in places where same-sex marriage is not legally or socially acceptable.\(^{xiv}\)

By sharp contrast, proponents of the abstinence only approach contend that teaching abstinence promotes moral values by emphasizing the importance of limiting sex within the bounds of marriage, and also highlights the physical and emotional costs of engaging in premarital sex. Advocates for the abstinence only approach criticize the contraceptive approach to sex education, and argue that it encourages premarital sexual activity among teenagers. They
assert that in an era where HIV and other incurable STDs are widespread and when teenage pregnancy is an ongoing concern, teenagers should not be trained on using contraceptives but instead should simply be discouraged from engaging in premarital sex. xv

Despite the arguments posited by both sides, however, studies seem to reflect that neither the “abstinence only” nor the “comprehensive based” approaches taught in isolation have proven to be effective methods for discouraging teenage sexual behavior and decreasing the high incidence of teenage pregnancies and STDs. The trend toward reliance on “abstinence only” education is especially disquieting in the face of a study conducted by the Mathematica Policy Research Inc. on behalf of the U.S. Department of Health and Human Services, which evaluated the impact of the “abstinence only” until marriage programs funded under the 1996 federal welfare reform law. Specifically, this study evaluated more than two thousand children who were randomly assigned to groups that received “abstinence only” counseling and those who received no counseling through numerous surveys for four to six years. The results of this study revealed that students participating in “abstinence only” programs had a similar number of sexual partners as their peers not in the programs, and that the age of first sex encounter was similar in both group.xvi

Likewise, while studies show that contraceptive based programs have had greater success in delaying the onset of sex or reducing the frequency of sex and the number of sexual partners, these programs still have failed to effectively reduce the overall risk of teenage pregnancy and STD infections. xvii Nonetheless, of the two approaches, several specific studies seem to indicate that the contraceptive based approach has had the most positive outcomes in regulating teenage sexual activity, because this approach most closely reflects a comprehensive approach that combines notions of abstinence with contraceptive use.
The greater success of comprehensive sex education programs, which combine notions of abstinence with education on STDs and contraceptives, in deterring teenage sexual promiscuity should not come as a surprise. Instead of simply discouraging teenagers from having sex, these programs seek to equip teenagers with the information needed to ensure they are safe if they choose to engage in sexual activity. The reality is that in the United States images of sex and promiscuity are rampantly saturated in the media. There are many television shows targeted at teenage audiences that rather than promoting abstinence, encourage teenagers to engage in risky sexual behavior. Moreover, teenagers are constantly faced with the peer pressure to conform and “do what the popular kids are doing.” Undoubtedly, parents and schools should send a message to discourage teenagers from engaging in pre-marital sex. However, parents and schools cannot ignore the possibility that this message may be ignored. Thus, it is critical that teenagers be properly educated on STDs and contraceptive use.

**Obama Administration’s Current Policy on Sex Education**

The prospects of sex education programs shifting from an “abstinence only” to a more comprehensive approach, that incorporates teachings of abstinence and proper contraceptive use, has been greatly supported by the current Obama administration. President Obama’s 2010 budget program did not renew the Title V grant program (implemented under the 1996 welfare reform law), and is making major cuts to the Community Based Abstinence Education (CBAE) grant program, implemented during the George Bush administration. These programs have served as a major source of abstinence only funding, but the Obama administration has recognized that despite the large sums of federal funding, abstinence based programs have proven ineffective in targeting the problems associated with teenage sexual activity. President Obama called for an end to the “abstinence-only” policy for fiscal year 2010 and requested that Congress
begin a new invest of $178 million in evidence-based sex-education programs to prevent teen pregnancy. While it is not yet clear which comprehensive/evidence based programs will be funded, the Obama administration has made clear that to receive federal funding, states must include some combination of abstinence and contraceptive use curricula in their sex education programs.\textsuperscript{xix}

\textbf{Conclusion}

In conclusion, studies conclusively show that teen sexual activity is high-risk behavior that has serious social, health and economic implications. In today’s society, teenagers are constantly exposed to sex-saturated media which encourages promiscuity rather than making teens aware of the dangers of risky sexual behavior. Given the high rates of teens infected with STDs and unwanted pregnancies, it has become evident that the traditional abstinence only approach that has been advocated on a federal, state, and local level has proven ineffective. Instead, governmental and public school officials must shift focus to a more comprehensive approach to sex education which integrates abstinence while also educating students on contraceptive use, STDs, pregnancy, and the emotional and psychological risks associated with teenage premarital sex.

While the implementation of these comprehensive based programs will require school districts to take into account the fundamental rights of parents to control what their children are exposed to, public school officials must find a way to find a curricula that discourages and properly educates teens about sexual behavior. Knowledge is power, and if schools, parents, and policymakers want to see a decline in teenage promiscuity, teens must be equipped with the appropriate facts in order to make informed decisions. Essentially, the message that must be conveyed through sex education programs is: “Abstinence ensures 100% protection from pregnancy, STDs, and the emotional and psychological consequences of engaging in premarital
sex. However, if one makes the choice to engage in sexual activity, contraceptive use will provide some mechanism of protection.”

1 See Centers for Disease Control and Prevention, Sexually Transmitted Disease Surveillance, Sept 1996.

2 Study shows that many young girls report experiencing regret or guilt after their initial sexual experience, and that sexually active youth often live with anxiety about the possibility of an unwanted pregnancy or contracting an STD. Those who do become infected with a disease suffer emotional, such as loss of self esteem and self confidence, as well as physical effects. In a survey by the Medical Institute for Sexual Health, 80 percent of those who had herpes said that they felt "less confident" and "less desirable sexually." New Jersey Family Policy Council, Family Findings, Abstinence Programs Are Effective in Reducing Teen Sexual Behavior, Pregnancy (2006), http://www.njjfc.org/html/findings/AbstinenceWorks_Family%20Findings.pdf; See also Robert Rector, “The Effectiveness of Abstinence Education Programs In Reducing Sexual Activity Among Youth,” available at http://www.heritage.org/Research/Reports/2002/04/The-Effectiveness-of-Abstinence-Education-Programs. (engagement in early sexual behavior also impairs teenagers’ ability to have stable and happy marriages. In general, individuals who engage in premarital sexual activity are 50 percent more likely to divorce later in life than those who do not. Marital relationships that follow early sexual activity can also suffer from the emotional impact of infertility resulting from an STD infection, ranging from a sense of guilt to depression).

3 Guttmacher Institute, Report on Public Policy: State Level Policies on Sexuality, STD Education, at 252-55 (August 2001). As of 2001, 39 states required that some education related to sexuality be provided throughout the state. Twenty one required that both sexuality and STD education be provided. Seventeen required the provision of instruction on STDs, but not sexuality education. Only one, Maine, required sexuality education but not STD education. Eleven states left the decision to teach these subjects entirely to local school districts.

4 According to a nationwide survey taken by the Alan Guttmacher Institute of school superintendents: 86% of school districts with a sexuality education policy require promotion of abstinence; 51% require that abstinence be taught as the preferred option but also permit discussion of contraception as an effective means of protecting against unintended pregnancy and STIs; 35% require abstinence to be taught as the only option for unmarried people, while either prohibiting discussion of contraception altogether or limiting discussion to contraceptive failure rates; and 14% of school districts currently have truly have policies that are comprehensive and teach both contraception and abstinence. Chris Collins, Priya Alagiri & Todd Summers, AIDS Policy Research Center & Center For AIDS Prevention Studies, Abstinence Only versus Comprehensive Sex Education; What are the Arguments? What is the Evidence? (2002), http://ari.ucsf.edu/science/reports/abstinence.pdf.

5 Through the Adolescent Family Life Act (AFLA), the federal government for the first time invested in a small scale in local programs designed to prevent teenage pregnancy by encouraging “chastity and self discipline” among teenagers. In the late 1900s, federal investment in this area increased significantly after Congress, as part of the 1996 welfare reform law, created a federal state program funded at $440 million over five years to support local sexuality education programs that condemn all sex outside marriage for people of any age and prohibit any positive discussion of contraception. Four years later, Congress approved a third abstinence only program funded at $50 million over two years through a set aside in the maternal and child health block grant. Guttmacher Institute, Report on Public Policy, Sex Education, Politicians, Parents, Teachers and Teens by Cynthia Dailard, at 256-259, (February 2001).

6 “No State shall…deprive any person of life, liberty, or property, without due process of law…” U.S. Const. amend. XIV § 1; See also Meyer v. Nebraska 262 U.S. 390, 399 (1923) (the Supreme Court held that the “liberty” protected by the Due Process clause includes the right of parents to “establish a home and bring up children” and “to control the education of their own); Pierce v. Society of Sisters, 268 U.S. 510, 535 (1925) (Supreme Court again held that the “liberty of parents and guardians” includes the right "to direct the upbringing and education of children under their control." The Court explained in Pierce that ”the child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for
additional obligations); Prince v. Massachusetts, 321 U.S. 158, 166 (1944), where the Court again confirmed that there is a constitutional dimension to the right of parents to direct the upbringing of their children. "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." Wisconsin v. Yoder, 406 U.S. 205, 232, (1972) (“The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition”).

vii “Congress shall make no law respecting an establishment of religion”… “or prohibiting the free exercise thereof.” The establishment clause has generally been interpreted to prohibit 1) the establishment of a national religion by Congress, or 2) the preference of one religion over another. U.S. Const. amend. I.

viii Id. at 539.

ix Id.


xi See Corrine Packer, Sex Education: Child’s Right, Parent’s Choice or State’s Obligation, in of Innocence and Autonomy: Children, Sex, and Human Rights 163, 171-172 (Eric Heinze ed., 2000); See also European Convention on Human Rights, Convention for the Protection of Human Rights and Fundamental Freedoms as Amended by Protocol No. 11 (Sept. 2003), http://echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/EnglishAnglais.pdf. (whereas the United States Constitution does not require compulsory sex education, some have interpreted the European Convention on Human Rights (“ECHR”) to require member states to teach sex education. The ECHR permits member states to compel attendance so long as they have a rational basis for doing so. With this flexibility, many European nations require their public schools to teach sex education, and not coincidentally, these nations have experiences the greatest success in reducing teen pregnancy and STD transmission).

xii See Collins, Alagiri, and Summers, supra note iv.

xiii See Fisher, supra note xi. at 341. (Studies seem to indicate that parents overwhelmingly support the preventative abstinence-based approach. Also make note that it is the parents that are strong proponents for the abstinent based approach that will challenge contraceptive based sex education programs on grounds of 1st amendment violations).

xiv See Sarah Cliff, The Future of Abstinence, Newsweek, Oct. 27, 2009, http://www.newsweek.com/id/219818/page/2. (a Texas report, which collected data from over 96 percent of the state's school districts, found one curriculum teaching that condoms have "little to no benefit." (The Centers for Disease Control and Prevention describes condoms as "highly effective in preventing the sexual transmission of HIV infection and reduce the risk of other STDs" when used consistently and correctly.) Religious influence was another problem for some abstinence-education programs; the American Civil Liberties Union mounted a number of lawsuits (some successful, some not) against abstinence-only curriculums in public schools and state-sponsored events that advanced a specific religious perspective).

xv See Rector, supra note 2. Proponents of abstinence based programs assert that there are studies which show the effectiveness of these programs. A 2002 study conducted by the Heritage Foundation, a Washington D.C. based research and public policy organization, published report highlighting ten studies that demonstrated that abstinence education persuades teens who have not yet engaged in sexual activity to remain abstinent and helps those who are sexually active to make the choice to become abstinent. These programs have been proven to reduce teenage pregnancy rates and also the spread of AIDS and STDs.

See Collins, Alagiri, and Summers, supra note iv. (“Reducing the Risk” is an example of a contraceptive based program that has demonstrated success. The program was implemented throughout various urban and rural areas in California in 9th to 12th grade sex education classes. The program included intensive role playing and emphasized avoidance of unprotected sex through abstinence or using protection. At 18 months post intervention, the program was found to have delayed the initiation of increase, increase the frequency of contraceptive use for females and lower risk youth, and reduce the frequency of unprotected intercourse among more sexually inexperienced youth).

See Cliff, supra note xv.