

EDUCATOR SPECIFIC

1. WHAT LAWS DO EDUCATORS NEED TO KNOW BEFORE DISCUSSING THIS TOPIC WITH MIDDLE AND HIGH SCHOOL STUDENTS?

Safe Delivery of Newborns is mentioned in two places in Michigan law:

- ✓ MCL Division 288-1939-XII, Section 712.1-712.20 created the Safe Delivery law which took effect in 2001 and defines how it works to this day. This section of the law deals with family division court and is the primary law related to Safe Delivery of Newborns. This section of the law does not address schools. For more information about the Safe Delivery law, visit <http://legislature.mi.gov/doc.aspxmcl-288-1939-XII>, or link from www.michigan.gov/safedelivery
- ✓ MCL section 380.1507b states that if public schools teach sex education, they shall also "...provide information for pupils about how young parents can learn more about adoption services and about the provisions of the safe delivery of newborns law..." if it is age appropriate to do so. This section of the law pertains to parameters around sex education in public schools and was passed in 2004. For details about Michigan's sex education laws visit: www.michigan.gov/documents/mde/HIV_and_Sex_Ed_Laws_Chart_Rev_4_2010_345047_7.pdf and http://www.michigan.gov/documents/mde/4_Unabridged_Sex_Ed_Laws_249443_7.pdf, or link from www.michigan.gov/safedelivery

This means that no laws directly affect the teaching of this topic in public school districts or other settings, unless the public school district classifies this topic as sex education. Please see the next question for more information about this circumstance.

2. DO THESE LESSONS HAVE TO BE APPROVED BY THE SCHOOL BOARD AS PART OF THE SCHOOL'S SEX EDUCATION PROGRAM?

It depends. It is up to each public school district to determine if the teaching of Safe Delivery is part of their sex education programming or not. The Safe Delivery of Newborns law was created to address a legal and safety issue. However, lawmakers now also require Safe Delivery information to be shared if public schools teach sex education. The sex education law, 380.1507b, requires other topics, in addition to Safe Delivery (requirement j), that if taught on their own, could be construed as outside the boundaries of sex education. For example, schools are also required to "...advise pupils of the law pertaining to their responsibility as parents to children born in and out of wedlock..." (requirement d) and "...provide instruction on healthy dating relationships and on how to set limits and recognize a dangerous environment..." (requirement i). These topics may be taught without being considered sex education and not require school board approval and other requirements of the sex education law.

Check with your sex education supervisor to determine whether or not the teaching of Safe Delivery of Newborns law is defined as sex education in your district. If a school district does consider this topic to be sex education, that designation has several consequences:

- ✓ Only teachers who are qualified to teach health may teach sex education. At the secondary level this includes teachers endorsed to teach health (MA); health, physical education, recreation, and dance (MX); or family and consumer science (KH).
- ✓ Michigan law requires all sex education programming to be recommended by a sex education advisory board and approved by the local school board.
- ✓ Parents have the right to be notified in advance, give passive consent, and may opt their children out of the class. They have other rights due them under Michigan's laws related to sex education.
- ✓ See http://www.michigan.gov/documents/mde/HIV_and_Sex_Ed_Laws_Chart_Rev_4_2010_345047_7.pdf for details, or link from www.michigan.gov/safedelivery

3. IF WE ARE IN A PUBLIC SCHOOL DISTRICT THAT OFFERS THE STATE-MANDATED HIV INSTRUCTION, BUT NOT THE OPTIONAL SEX EDUCATION INSTRUCTION, CAN WE TEACH ABOUT SAFE DELIVERY?

Yes. Again, as stated above, the HIV and sex education law, 380.1507b, requires other topics, in addition to Safe Delivery (requirement j), that if taught on their own, could be construed as outside the boundaries of sex education. For example schools are also required to "...advise pupils of the law pertaining to their responsibility as parents to children born in and out of wedlock..." (requirement d) and "...provide instruction on healthy dating relationships and on how to set limits and recognize a dangerous environment..." (requirement i). These topics may be taught without being considered sex education and do not require school board approval and other requirements of the sex education law. Note that while parent notification is not legally required if a topic is not considered HIV and/or sex education, it may be best practice to notify parents about the instruction to enlist their support and encourage discussions.

4. IF A STUDENT DISCLOSES HER PREGNANCY AND WANTS TO USE SAFE DELIVERY TO SURRENDER HER INFANT, AM I REQUIRED TO NOTIFY HER PARENTS?

Neither Michigan nor federal law requires parents to be notified in this circumstance. It is recommended, however, that the staff member: 1) follow local school policies or procedures; 2) encourage the student to consider disclosing the issue to a parent and offer his/her assistance with that conversation; 3) consider his/her professional code of ethics about dealing with situations regarding pregnant students, disclosure, reporting obligations, and confidentiality; and ultimately 4) consider what is in the best interest of the student.

5. ARE THERE ANY LEGAL ISSUES THAT COULD COME UP FOR EDUCATORS WHO USE THIS LAW? WHAT ARE SOME SAFEGUARDS AGAINST THESE ISSUES EDUCATORS SHOULD USE?

Educators should always consult their district's or agency's policies and procedures and when in doubt, consult with an administrator and follow district or agency protocol regarding seeking legal counsel. Remember: if a student is pregnant and considering Safe Delivery, it may be because she has been assaulted or abused. If an educator suspects child abuse or neglect, they are legally required to report to Child Protective Services.

6. IS PARENT PERMISSION NEEDED BEFORE IMPLEMENTING THIS TOOLKIT?

It depends on whether or not the public school district classifies the topic to be sex education. Passive consent is required if the district has determined that Safe Delivery instruction is part of their sex education program. No parental consent is required if the district has determined that it is not part of their sex education program. Note that while parent notification is not legally required if a topic is not considered HIV and/or sex education, it may be best practice to notify parents about the instruction to enlist their support and encourage discussions. For educators working in settings other than public school districts, consult your agency's policies and procedures regarding parent permission.

7. WHAT IF STUDENTS BRING UP THE TOPIC OF ABORTION AS AN OPTION FOR AN UNWANTED PREGNANCY DURING A CLASSROOM LESSON ON SAFE DELIVERY?

Teachers in Michigan public schools are prohibited from teaching about abortion as a method of reproductive health or family planning. Abortion may be discussed as a social issue or legal issue. Students should be encouraged to discuss this topic with their parents or other trusted adults. For

educators working in settings other than public school districts, consult your agency's policies and procedures regarding discussion of abortion.

8. IF A STUDENT DISCLOSES THAT SHE IS PREGNANT, CAN SHE BE EXCLUDED OR EXPELLED FROM SCHOOL?

No. MCL 380.1301 states "A person who has not completed high school may not be expelled or excluded from a public school because of being pregnant." An alternative accredited program may be provided.