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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

April 9, 2001

Bradley T. Farrar, Deputy County Attorney
County of Richland
P.O. Box 192
Columbia, South Carolina 29202

RE: Informal Opinion

Dear Mr. Farrar,

By your letter of March 22, 2001, you have requested an opinion of this Office concerning the inspection of school district facilities by local county inspection officials.

Some background information may be necessary before turning to your question. Chapter 9 of Title 6 establishes a statutory scheme whereby local governments may adopt certain listed building codes, with procedures for approval of variations from those codes due to any unique conditions of the locality. See City of Charleston v. South Carolina State Ports Authority, 309 S.C. 118, 121, 420 S.E.2d 497, 499 (1992). Because the various adopted codes and approved local variations differ, the legislature has exempted state agencies and other entities from the local codes. See id.

South Carolina Code of Laws Section 6-9-110(A) lists those entities exempted from local ordinances:

(A) A county, municipal, or other local ordinance or regulation which requires the purchase or acquisition of a permit, license, or other device utilized to enforce any building standard does not apply to a:

- (1) state department, institution, or agency permanent improvement project, construction project, renovation project, or property; or
- (2) school district facility, permanent improvement project, construction project, renovation project, or property which is reviewed and approved by the State Department of Education; except that the State Department of Education or a local school district may direct that the local ordinance or regulation apply to a particular facility, project, or property.

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As you have noted, the statute allows a school district or the State Department of Education to "opt-in" to local ordinances from which it would otherwise be exempt. Your question involves a school district facility that has not opted-in, but requests a building inspection from local building inspection officials, regardless. You have asked if the local inspection officials "may have some role in inspecting a school district facility" although the facility may choose not to comply with local building code ordinances.

Particularly, you have questioned whether the provisions of Section 6-9-110(B) would prohibit the local inspectors from inspecting school facilities. Section 6-9-110(B) states:

(B) After successful completion of all requirements, the State Fire Marshal shall certify personnel of the State Engineer's Office of the Budget and Control Board designated by the State Engineer. *The certified personnel and deputy state fire marshals, including resident state fire marshals, have exclusive jurisdiction over state buildings, including schools, in the exercise of the powers and jurisdictional authority of the State Fire Marshal under Sections 23-9-30, 23-9-40, and 23-9-50.*

(Emphasis added). The statutes referenced in this provision, Sections 23-9-30, 23-9-40, and 23-9-50, concern the duties of the State Fire Marshall to enforce the fire safety codes. These include such things as inspecting the storage of combustibles, checking the installation and maintenance of fire alarms and fire escapes, assessing the sufficiencies of exits, and investigating the causes of fires.

First and foremost, as a cardinal rule of statutory interpretation, the words of a statute must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Bryant v. City of Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning. State v. Blackman, 304 S.C. 270, 403 S.E.2d 660 (1991). By the plain language of the statute, the certified personnel of the Fire Marshall have exclusive jurisdiction over school facilities, but only for the exercise of the duties enumerated in the fire safety provisions of Sections 23-9-30, 23-9-40, and 23-9-50. Nothing in Section 6-9-110(B) prohibits a local building inspection official from performing inspections pursuant to other building safety codes, as long as the official does not purport to exercise the authority of the Fire Marshall and his duties under Sections 23-9-30, 23-9-40, and 23-9-50. Moreover, no other provision in the Code of Laws prohibits local building inspection officials and school district facilities from entering into an agreement by which the local officials inspect the facility and report the findings to the facility for its own information.

I would note, however, that because pursuant to Section 6-9-110(A), the school district facilities are exempt from certain local ordinances, the local building inspection officials may perform the inspection service as a courtesy, but cannot require the school facilities to acquire permits or licenses in compliance with local ordinances. Thus, a school district facility may request

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an inspection by the local inspection officials, and the local officials may perform the service, despite a facility's option not to comply with local building code requirements.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,



Susannah Cole
Assistant Attorney General