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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

February 4, 1999

The Honorable Ronald P. Townsend
Chairman
House Education and Public Works Committee
Room 420, Blatt Building
Columbia, SC
By Delivery

Dear Chairman Townsend:

You have requested an informal opinion as to whether the Education Accountability Act prohibits boards of trustees from holding an appeals hearing and then promoting a student based upon the information presented at the hearing even though the student's assessment results indicate that standards have not been met. S.C. Code Ann §59-18-10, et seq. Relevant parts of the law in §59-18-500 are as follows:

(A) ...at the beginning of each school year, the school must notify the parents of the need for a conference for each student in grades three through eight who lacks the skills to perform at his current grade level based on assessment results, school work or teacher judgment....

(C) At the end of the school year...[i]f the student's work has not been at grade level or the terms of the academic plan have not been met, the student may be retained or he may be required to attend summer school for promotion . If there is a compelling reason why the student should not be required to attend summer school or be retained, the parent of student may appeal to a district review panel.

(D) At the end of summer school, ...[i]f the student is not at grade level or the student's assessment results show standards are not met, the student will be placed on academic probation. A conference...will revise the academic plan....At the conference it must be stipulated that **academic**

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probation means if either school work is not up to grade level or if assessment results again show standards are not met, the student will be retained. The district's appeal process remains in effect. (emphasis added).

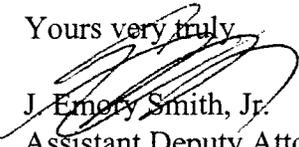
(E) Each district board of trustees will establish policies on ...district level reviews....

The question that you have presented is the extent to which a district appeal under paragraph D may consider factors other than a student's failure to meet assessment standards or failure to perform at grade level. Although paragraph E states that a board will establish policies on district level reviews, neither it nor paragraph D define the scope of the review or provide express guidance as to how broad the review may be. Given the absence of express guidance, I suggest that legislative clarification be obtained as to the extent of the review process so that students, parents and school districts will all know what that process may consider.

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

If you have further questions, please let me know.

Yours very truly


J. Emory Smith, Jr.

Assistant Deputy Attorney General