

The State of South Carolina



T. Travis Medlock
Attorney General

803-734-3970
Columbia 29211

Attorney General

April 11, 1994

Mr. Joseph P. Madden
Public Information Officer
Jasper County Schools
Post Office Box 848
Ridgeland, SC 29936

Dear Mr. Madden:

You have requested the opinion of this Office as to certain matters relating to the arrest of students "disturbing a school." You have set forth two different circumstances which are discussed below.

The first circumstance concerns fighting. Under S.C. Code Ann. § 16-17-420 (1976) for a person "...to interfere with or to disturb in any way...the students or teachers of any school..." is unlawful. No case has apparently addressed the question of whether fighting would constitute interference or disturbance of a school, however, giving "interfere" and "disturb" their plain meanings¹ would include fighting which was, in fact, disruptive of a classroom, school corridor or any other part of the school campus where students or faculty are engaged in school activities. The Court might construe these terms to apply to any part of the campus regardless of whether students or other students or faculty were present. The fighting might also constitute assault and battery. See State v. Hill, 254 S.C. 321, 175 S.E.2d 227 (1970).

¹ "Where the terms of a statute are clear and unambiguous, there is no room for interpretation and we must apply them according to their literal meaning." South Carolina Department of Highways and Public Transportation v. Dickinson, 288 S.C. 134, 341 S.E.2d 134 (1986).

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If your school district believes that a crime has occurred by students fighting on campus, the district should report the matter to its local law enforcement agency. That agency could determine whether an arrest should be made. Certainly, too, the students could be subject to discipline in accordance with any applicable parts of your school district's disciplinary policy. We have not seen your District's policy.

The other circumstance that you have mentioned is a student's refusal to leave the school campus or school bus when requested to do so by a principal. Depending upon the facts, this conduct could constitute disturbance of a school. Moreover, it might also constitute loitering (§ 16-17-420) or trespass pursuant to §§ 16-11-530, 16-11-600 and 16-11-620 assuming that the principal has properly directed the student to leave, and the student has failed or refused to do so. Refusal to leave might also violate § 16-17-420 as to entry of a school campus without permission. If a crime has been committed in the refusal to leave, law enforcement officers could be called to handle the matter.

In connection with the refusal of a student to leave campus, you have asked whether the student's use of offensive language toward the principal or police officer may make the student subject to arrest. If the language included the threat to take the life of or inflict bodily harm on the principal, the conduct could constitute a crime pursuant to § 16-3-1040 (Supp. 1993). This statute would probably also apply to such conduct directed to a law enforcement officer as a "public official" under § 16-3-1040. See Ops. Att'y Gen. September 8, 1992. Use of obscene or profane language near a "schoolhouse" might constitute disorderly conduct under § 16-17-530 or it might constitute disturbing the school under § 16-17-420. Of course, use of obscene language may be subject to sanction under the school district's disciplinary policy if such conduct is prohibited thereunder.

The purpose of this response is not to outline each and every possible crime that might be applicable to a given set of circumstances. Whether a crime has been committed would depend upon the particular facts of a situation; however, I hope that this letter provides you with some guidance to the general applicability of criminal laws as to fighting and trespass on school premises and threats to kill or do bodily harm to school officials and other public officers. Should you need additional information, please do not hesitate to contact me.

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CONCLUSION

South Carolina possesses laws which provide for a tough, but fair, policy in the schools to protect administrators, teachers and students. If these laws are used forcefully, firmly and fearlessly, they will greatly help to make schools the safe zones we need.

Emphasis by school officials should be on using existing laws to make the school safe, not just in name, but in fact. That includes every classroom, every hallway, each restroom, all gyms and parking lots. Fighting constitutes disrupting a school and is against State law. Failure to leave a school campus when directed to do so by a principal is against State law, too. So is using foul or abusive language against a teacher, staff member or police officer.

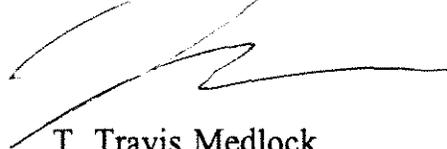
If school officials use the legal tools that are available to them, administrators, staff, teachers and students will not forfeit their right to safety and security at the schoolhouse door.

1. South Carolina Code Section 16-17-420 makes it unlawful to interfere with or to disturb in any way the students or teachers of any school.
2. Fighting would be included within the prohibition of Section 16-17-420.
3. This statute could be interpreted to include any part of the school campus, regardless of whether students or other students or faculty are present.
4. Such fighting may also constitute assault and battery.
5. If a school district believes a crime has occurred by students fighting on campus, the matter should be reported immediately to local law enforcement.
6. Students fighting on school grounds would be subject to a school's disciplinary policy, in addition to any criminal penalties contained in Section 16-17-420.
7. Failure by a student or other person to leave a school campus or school bus, when requested to do so by a principal, could, under particular circumstances, constitute a criminal offense.

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8. Such failure could constitute disturbance of a school, loitering (Section 16-17-420), trespass (Sections 16-11-530, 16-11-600, 16-11-620) (assuming the principal has directed the student to leave and the student does not), or entry of a school without permission (Section 16-11-420).
9. Calling local law enforcement would be the proper procedure to remove a student or other person who fails to leave when directed by a principal.
10. Use of foul or offensive language toward a principal, teacher, or police officer can constitute a crime. Such conduct could, depending on the circumstances, be a threat to harm a teacher or principal (Section 16-3-1040 [Supp. 1993]). Such conduct may also constitute disorderly conduct (Section 16-17-530) or disturbing the school (Section 16-17-420).
11. Use of obscene or offensive language may also be subject to discipline under a school's policy in addition to criminal penalties.

Sincerely yours,



T. Travis Medlock
Attorney General

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