



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

May 16, 1995

The Honorable Wilda J. Robinson
Chairperson
Denmark Technical College Area Commission
Post Office Box 327
Denmark, South Carolina 29042-0327

RE: Informal Opinion

Dear Ms. Robinson:

By your letter of May 1, 1995, to Attorney General Condon, you asked that this Office review a policy adopted by the Denmark Technical College Area Commission regarding public participation in its commission meetings. You wished to know if the policy is within the guidelines and parameters of the Freedom of Information Act.

I am enclosing a copy of an opinion of this Office dated July 23, 1992, in which the agenda policy of the Taylors Fire and Sewer District was examined to the extent possible. In that opinion, we stated:

The Freedom of Information Act contains no guidance as to how a public body is to establish its agenda or how a member of the public will be allowed to participate at a meeting. See Op. Atty. Gen. dated November 30, 1987.... Participation of the public can be limited by the terms of §30-4-70 (c), which provides that "[t]his chapter does not prohibit the removal of any person who willfully disrupts a meeting to the extent that orderly conduct of the meeting is seriously compromised." (Emphasis added.)

....

Because the FOIA offers no guidance as to how a public body is to establish its agenda for any type of meeting, a court reviewing the matter would likely consider whether such a policy would be reasonable, given the

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need for conducting public business in public, in an orderly fashion. Even if an individual is seeking to address the District, as a public body, given the U.S. Constitution's First Amendment's guarantee of freedom of speech, still the public body is authorized to place reasonable restrictions on the time, place, and manner of speech in a public forum. City of Darlington v. Stanley, 239 S.C. 139, 122 S.E.2d 207 (1961). It would be up to a court to review the policy and determine whether such is a reasonable policy, considering all attendant facts and circumstances.

The same reasoning would apply to the policy enclosed with your letter. It would likewise be up to a court to review the policy and determine whether it is a reasonable policy, considering all attendant facts and circumstances.

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 questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

Enclosure