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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

August 29, 1995

Informal Opinion

The Honorable Joe Wilson
Senator, Lexington County
P.O. Box 142
Columbia, South Carolina 29202

Dear Senator Wilson:

You have requested additional information regarding the informal opinion dated August 17, 1995 concerning the legality of parents' releasing their children for religious instructions during study halls, and elective and exploratory class time. Specifically, you would like to know whether a school district may adopt a policy allowing children to be released by their parents during instructional time for religious education.

As noted in the earlier letter, Zorach v. Clauson, 343 U.S. 306, 72 S.Ct. 679, 96 L.Ed. 954 (1952), upheld the constitutionality of a statute providing for the release of public school students from school attendance to attend religious classes. The New York statute in that case allowed only one hour a week for such training, but no opinion is expressed in this letter as to how much release time from school would be permissible for religious education. See below.

The earlier letter also noted that school districts have the authority to adopt policies concerning absences from school. Ops. Atty. Gen. (February 16, 1983); see also Ops. Atty. Gen. (June 17, 1986). State Board of Education regulation 43-274 (S.C. Code Ann., Vol. 24) defines lawful absences so as to provide that "...students may be excused from attendance in school for recognized religious holidays of their faith [and] ... students may be excused from attendance in school in accordance with local board policies." In addition, I note that Reg. 43-274 provides that students must attend high school "...a minimum number of days each instructional period, unless the local board of trustees grants approval for each excessive absence in accordance with local board policy."

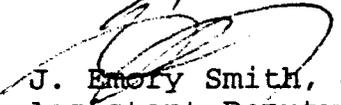
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The above regulation and Zorach appear to permit a school district to adopt a policy of excusing a student from school for purposes of religious instruction; however, the extent of time for the release and the procedures for obtaining the release would be a matter for the District to determine under the above statutes if the District chose to adopt such a policy.

I hope that this additional information will be of assistance to you. 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.

Please do not hesitate to contact me if you have additional questions.

Yours very truly,



J. Emory Smith, Jr.
Assistant Deputy Attorney General

JESJr.