

1984 S.C. Op. Atty. Gen. 42 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-12, 1984 WL 159820

Office of the Attorney General

State of South Carolina

Opinion No. 84-12

February 1, 1984

*1 Honorable Charlie' G. Williams
State Superintendent of Education
State Department of Education
Rutledge Building
Columbia, South Carolina 29201

Dear Dr. Williams:

You have requested the advice of this Office as to the existence of approval authority over correspondence courses under the compulsory school attendance laws ([Section 59–65–10, et seq. of the Code of Laws of South Carolina \(1976\)](#)).¹ Use of correspondence courses as a means of meeting the requirements of the compulsory school attendance laws is not expressly addressed by those laws. See: [Section 59–65–10, et seq. of the Code](#); but see: [Section 59–61–30\(a\)](#). Thus, whether those courses may satisfy those requirements would appear to depend upon whether they constitute 'private schools' or whether they may be utilized by private schools or at 'places(s) other than . . . school(s)'. See [Sections 59–65–10 and 59–65–40](#).

Attendance at a private school satisfies compulsory school attendance requirements provided that the school has been approved by the designated entities. Attendance at a parochial or denominational school also satisfies these requirements. If merely the giving of instruction constituted a 'school', then no purpose would be served by [Section 59–65–40](#) which permits approved instruction at a place other than a school. Sutherland Statutory Construction, vol. 2A, Section 45.12 (4th Ed.). The Legislature is presumed not to have passed legislation with such a useless construction. Sutherland Statutory Construction, vol. 2A, Section 45.12 (4th Ed.). Thus, the use of correspondence courses does not, alone, constitute a school under the above statutes. See [Grigg v. Commonwealth of Virginia](#), 297 S.E.2d 799 (Va. 1982); [State v. M.M.](#), 407 So.2d 987 (Fla. Dist. Ct. App. 1981). In particular, home use of correspondence courses does not constitute a private school. Id. For the purposes of this Opinion, we need not undertake now to define further what constitutes a school under these statutes.

Although correspondence courses alone do not constitute a school, the above statutes do not indicate that their use by private schools and places other than a school is prohibited. Thus, use of such courses should be permissible by private, denominational and parochial schools falling within the terms of [Section 59–65–10](#). The only approval authority of the State Board of Education (State Board) over such schools would appear to be to approve 'private' schools not belonging to the Independent School's Association or a similar organization. [Section 59–65–10](#).

The State Board also has approval authority over 'other Programs'. Id. These 'programs' are not defined but they would appear to include '. . . instruction . . . at a place other than a school' such as home instruction. See [Section 59–65–40](#); see also Rule 43–249, vol. 24 of the Code, Sutherland, vol. 2A, Section 51.02. The State Board has express authority over the approval of that instruction under [Section 59–65–40](#).² Thus, in reviewing or approving the schools and instruction at other places, the State Board may, as a part of that process, review any correspondence courses being used as well as other aspects of the instructional program.

*2 Because the above statutes do not expressly address the questions that you have posed, the conclusions are not entirely free from doubt; however, we believe that they are reasonable interpretations of the law under the above authority. Seeking legislative clarification of these matters may be desirable in the future.

If we may be of other assistance, please contact us.

Yours very truly,

J. Emory Smith, Jr.
Assistant Attorney General

Footnotes

- 1 We do not address here what approval authority over correspondence courses, if any, exists under proprietary school and other laws. See Sections 59–59–10, et seq. and 59–61–10, et seq. of the Code. This letter addresses only the compulsory school attendance laws.
- 2 This authority has been delegated to school district Boards of Trustees subject to a right of appeal to the State Board of Education, R. 43–246, vol. 24 of the Code.
1984 S.C. Op. Atty. Gen. 42 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-12, 1984 WL 159820

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.