

1976 S.C. Op. Atty. Gen. 198 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4364, 1976 WL 22983

Office of the Attorney General

State of South Carolina

Opinion No. 4364

June 10, 1976

*1 Senator Thomas E. Smith, Jr.
Senate Office No. 4
State House
Columbia, SC 29202

Dear Senator Smith:

This letter is in response to your request for an opinion from our office with regard to whether or not a school district can withhold report cards from individuals on the grounds that they have not paid the necessary fees for their textbooks.

It is our opinion that the school district may legally withhold report cards under the above mentioned circumstances, however the school district cannot refuse to promote or withhold a certificate of graduation from a student who has earned it. This opinion is based on the theory that the individual who has successfully completed the requirement and earned promotion has in fact a property interest which should be protected as opposed to the privilege of receiving a report card which may be freely taken away. A 'property interest' as defined by the Fourth Circuit Court of Appeals requires that the individual have more than an abstract need, desire or expectation. He must have a legitimate claim of entitlement to it. The Court finds that such entitlement is created not by the constitution but by the rules or understanding that stem from state law. ([Johnson v. Fraley](#), 470 F2d 179 (1972) citing [Roth](#), 408 US 576, 92 S.Ct. 2708.) In the present situation the requirement of the definition are met when a student completes the prescribed courses and attains the standards of scholarship fixed for the grade or school by law. This achievement creates in the student a property interest which is protected by the requirement of procedural due process: notice and an opportunity to be heard. See Article I, Section 22, S.C. Constitution. On the other hand the presentation of a report card by the school district is merely a privilege in which the student does not possess a legal right.

Therefore we conclude that neither promotion nor a certificate of graduation can be withheld from a student who has earned it legitimately, but the right to receive a report card is merely a privilege given by the school district which may be withheld by the school district.

I hope this reply sufficiently answers your inquiry. Please let us know if you need further information.
Sincerely,

Hardwick Stuart, Jr.
Assistant Attorney General

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