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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

June 19, 1998

The Honorable Elsie Rast Stuart
Member, South Carolina House of Representatives
Suite 326-D Gressette Building
Columbia, S.C. 29211

Dear Representative Stuart:

You have requested the Opinion of this Office as to whether North and Bowman High Schools in Orangeburg County could be closed and moved to another location in the same attendance area without public hearings and a referendum as to the closings.

Act No. ____ (R275), 1998 S.C. Acts ____ provides, in part as follows:

...No high school in an attendance area may be closed without the holding of the same public hearings required above for an elementary or middle school provided, that in addition to the public hearings requirement, if a high school in an attendance area that existed before consolidation is to be closed and the students thereof moved to a high school in another attendance area the qualified electors within the attendance area where the high school is to be closed must also first approve the closing by referendum.... (emphasis added).

David L. [Signature]

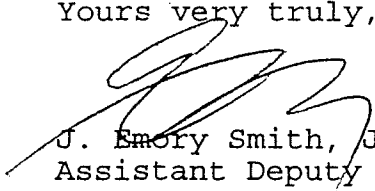
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Under applicable rules of statutory construction¹, a reading of the 1998 Act indicates that it requires a referendum only regarding the move of students from a closed school to one in another attendance area; however, this statute does appear to require a public hearing for closures resulting in relocation within the same attendance area. The provisions for hearings are not limited to moves to other attendance areas as are the provisions for referenda. In conclusion, the 1998 Act requires public hearings before a high school in Orangeburg County is closed, but a referendum is not required when the students will be relocated within the same attendance area.²

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.

If you have further questions, please let me know.

Yours very truly,



J. Emory Smith, Jr.
Assistant Deputy Attorney General

JESjr

CC: The Honorable Elsie Rast Stuart (Pelion address)

¹ The "...primary function in interpreting a statute is to ascertain the intention of the legislature." South Carolina Department of Highways and Public Transportation v. Dickinson, 288 S.C. 134, 341 S.E. 2d 134 (1986). "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." Id. "... [T]he meaning of particular terms in this statute may be ascertained by reference to words associated with them in this statute." Southern Mutual Church Insurance Company v. Windstorm and Hail Underwriting Assoc., ___ S.C. ___, 412 S.E.2d 377 (1991).

² The attachments to your letter reference a previous referendum relating to the construction of a new school where North High School is now located. I have not reviewed that referendum and express no opinion as to what effect it has, if any, on school relocation issues.