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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

July 12, 1999

The Honorable John W. Holcombe
Sheriff, Chester County
P.O. Box 727
Chester, South Carolina 29706

Dear Sheriff Holcombe,

Thank you for your letter, dated May 13, 1999, to this Office which has been referred to me for a response. You ask for an opinion on South Carolina Code of Laws Sections 16-17-420 and 59-63-280, entitled "Disturbing schools" and "Possession of paging devices by public school students under the age of eighteen prohibited," respectively.

You describe a situation in which a student became uncooperative and disruptive after his pager went off in a classroom and he was escorted to the Assistant Principal's office. You write that the student refused to provide his name and produce the pager to the Assistant Principal and the School Resource Officer. When told he would be placed under arrest for disturbing school if he did not relinquish the pager, he replied, "Go ahead and arrest me. I'm not giving it up." The student became even more disruptive when placed under arrest and additional units had to be called in to assist the School Resource Officer.

In particular you ask whether under 16-17-420, a student can be charged with disturbing school, while at school. You also ask whether an officer may confiscate the pager, pursuant to 59-63-280, in such circumstances as described above.

In response to your first question, Section 16-17-420 does not limit the application of the disturbance of school offense to perpetrators entering from off campus. The statute says:

It shall be unlawful:

(1) For any person wilfully or unnecessarily (a) to interfere with or to disturb in any way or in any place the students or teachers of any school or college in this State, (b) to loiter about such school or college premises or (c) to act in an obnoxious manner therein; or

(2) For any person to (a) enter upon any such school or college premises or (b) loiter around on the premises, except on business, without the permission of the principal or president in charge.

Although provision (2) addresses people who enter from off campus or who remain on campus without a legitimate purpose, provision (1) certainly applies to students on campus or in the classroom, as well. In the attached opinion, dated April 11, 1994, this Office opined at some length on the application of 16-17-420 to students who were fighting at school. Furthermore, the South Carolina Court of Appeals upheld a ten year old boy's conviction under 16-17-420 after he became disruptive in a school cafeteria. See In the Interest of John Doe, 318 S.C. 527, 458 S.E.2d 556 (1995). In short, a student can be charged under 16-17-420 for an offense committed at school.

As to your second question, I have been unable to find any case law or previous Attorney General opinions addressing the confiscation of a pager under Section 59-63-280. However, "[w]here 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." South Carolina Department of Highways and Public Transportation v. Dickinson, 288 S.C. 134, 341 S.E.2d 134 (1986). South Carolina Code Section 59-63-280 says, in part:

(D) A person who discovers a student in possession of a paging device in violation of this section shall report the violation to the appropriate school administrator, as determined by school policy, who shall order a peace officer or appropriate school employee to confiscate the device, which is forfeited to the school district.

This provision of the statute offers a clear and unambiguous response to your question. Absent the few exceptions for permissible pagers enumerated in provision (B), a School Resource Officer following the above procedures does have the right to confiscate the pager.

This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General not officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,



Robert D. Cook

Assistant Deputy Attorney General