



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

July 16, 1998

Ms. Ann T. Robbins
Supervisor of Student Personnel
School District 5 of
Lexington & Richland Counties
P. O. Box 938
Ballentine, South Carolina 29002

Re: Informal Opinion

Dear Ms. Robbins:

Thank you for your recent letter requesting an Attorney General's opinion regarding S.C. Code Ann. §59-63-280(B) (1976). You note that this law prohibits students from possessing "a paging device while on school property or while attending a school sponsored or school related activity ... unless the student needs the device for a legitimate medical reason." In view of this statute, you inquire as to the legality of a policy authorizing parents to sign permission forms, thereby allowing their children to keep cellular telephones locked inside of their vehicles while on school property.

Crucial to answering your question is determining the proper interpretation of the term "paging device" that appears in §59-63-280(B). In interpreting any legislative act, the primary objective is to ascertain and effectuate legislative intent if at all possible. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). Also, words used in a statute are to be given their **plain and ordinary meaning** without resort to subtle or forced construction to limit or expand the statute's operation. State v. Blackmon, 304 S.C. 207, 403 S.E.2d 660 (1991). (Emphasis added). Section 59-63-280(A) defines 'paging device' as "a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor." Although it may be debated whether a cellular telephone falls within this definition, it is my opinion, when reading the statute as a whole, that the legislature did not intend for the prohibition to be read so broadly. While perhaps cellular telephones

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were not as pervasive in 1991, the year §59-63-280 was enacted, as they are today, the General Assembly was certainly aware of their existence. Consequently, had the legislature intended for cellular telephones to be encompassed by this definition, it would have been a simple matter for them to do so expressly. Thus, accordant with the rules of statutory construction noted above, it is my opinion that cellular telephones are not paging devices for the purposes of §59-63-280 and that individual school districts have authority to adopt reasonable rules pertaining to the use or possession of cellular telephones by students on school property. Moreover, this conclusion is consistent with a closely analogous opinion of the Texas Attorney General, dated September 18, 1990, which I have enclosed for your review.

This letter is an informal opinion only. It has been written by a designated Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

Again, thank you for your letter. I trust this information is responsive to your inquiry and that you will not hesitate to contact me if I can be of additional assistance.

With best wishes, I am

Very truly yours,



Zeb C. Williams, III
Deputy Attorney General

ZCW/an
Enclosure

cc: David Eckstrom, Chairman
Lexington-Richland School District Five Board