

## The State of South Carolina



## Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE: 803-734-3970  
FACSIMILE: 803-253-6283

March 8, 1990

The Honorable Nell W. Smith  
Senator, District No. 2  
612 Gressette Building  
Columbia, South Carolina 29202

Dear Senator Smith:

You have asked whether the county departments of social services are responsible for investigating allegations that physical abuse is alleged to have occurred at the hands of school district personnel while in the course of employment pursuant to the child abuse statutes. You have also asked which public agency is responsible for investigating these allegations if the county departments of social services are not. These questions have been addressed in a previous opinion of this Office dated June 28, 1982 issued during the administration of former Attorney General McLeod and which I have enclosed for your review. The opinion noted that the South Carolina D.S.S. considered the designated purpose of the child protective services statutes was "the preservation and stabilization of family life" and that the purpose was not "served by intervention in school situations." We opined that the policy of South Carolina D.S.S. was defensible and that local law enforcement would be the appropriate authority to investigate allegations of abusive treatment of students by school district personnel. This previously-issued opinion would be applicable to your questions unless it is clearly erroneous and then may be overruled or superseded. Upon review of amendments to the applicable statutes and decisions issued by the appellate courts of this state, we do not find any authority which would render the June 28, 1982 opinion clearly erroneous.

While a 1984 South Carolina Court of Appeals decision did extend the application of the child protection services statutes to an uncle who sexually abused his two minor nieces while they were visiting in his home finding that the uncle was "legally responsible" for them because he had the power to control them within his home, the court concluded that it was apparent the legislature meant to include individuals with the power to control a child within his or the child's home. S.C. Department of Social Services v. Forrester, 282 S.C. 512, 320 S.E.2d 39 (S.C. App. 1984). While a

The Honorable Nell W. Smith  
Page 2  
March 8, 1990

court, if faced with the questions you pose may extend the child protection services statutes to instances of possible student abuse perpetrated by school personnel, it has not yet done so.

Also, and in the event the incidents regarding the students concern the infliction of corporal punishment by school district personnel, I direct your attention to S.C. Code §59-63-260 which permits school districts to provide for corporal punishment, S.C. Code §20-7-490(c)(1)(a) through (e) which exempts corporal punishment which meets certain guidelines from the definition of harm, and prior opinions of this Office concerning corporal punishment. See also, South Carolina D.S.S. v. Father and Mother 294 S.C. 518, 366 S.E.2d 40 (S.C. App. 1988).

I hope that I have been responsive and have provided the assistance you desired. If not, kindly contact me so that we can discuss the matter further.

With kind regards, I am

Sincerely,



Salley W. Elliott  
Assistant Attorney General

SWE/nnw  
Enclosure

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions