

The State of South Carolina



Office of the Attorney General

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May 11, 1990

The Honorable Joe Wilson
State Senator
P. O. Box 142
Suite 606, Gressette Senate
Office Building
Columbia, SC 29202

Dear Senator Wilson:

You have requested the Opinion of this Office as to a matter concerning the Comprehensive Health Education Act (Act), Section 59-32-5 of the Code of Laws of South Carolina, 1976, as amended. You have asked whether the Act prohibits school guidance counselors from referring students to institutions, agencies and physicians for the purpose of obtaining abortions:

"Except as to that instruction provided by this chapter relating to complications which may develop from all types of abortions, school districts may not offer programs, instruction, or activities including abortion counseling, information about abortion services, or assist in obtaining abortion, and materials containing this information must not be distributed in schools. Nothing in this section prevents school authorities from referring students to a physician for medical reasons after making reasonable efforts to notify the student's parents or legal guardians or the appropriate court, if applicable." Section 59-32-30(D). (emphasis added)

The following rule of statutory construction is applicable here:

"The court's primary function in interpreting a statute is to ascertain the intention of the Legislature, and when the terms of a statute are clear and unambiguous, the court must apply them according to their literal meaning. Lindsay v. Main Insurance Co., 281 S.C. 331, 315 S.E.2d 166 (Ct.App. 1984). Words used in a statute should be given their plain and ordinary meaning unless something in the statute requires a different interpretation. Multi-Media, Inc. v. Greenville Airport Commission, 287 S.C. 521, 339 S.E.2d 884 (Ct.App. 1986). Further, a statutory provision should be given a reasonable and practical construction consistent with the purpose and policy expressed in the statute. Hay v. South Carolina Tax Commission, 273 S.C. 269, 255 S.E.2d 837 (1979)." First South Savings Bank, Inc. v. Gold Coast Associates, (Ct.App. No. 1469, March 12, 1990).

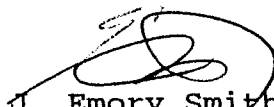
Section 59-32-30(D) is very broadly worded in referring to matters other than merely instruction in abortion matters including "programs...activities including abortion counseling, information about abortion services, or assist in obtaining abortion." Applying the above rules of construction to this language of Section 59-32-30(D) so as to give the statute its "plain and ordinary meaning" indicates that the General Assembly intended that the prohibitions of this statute would bar school district personnel, including guidance counselors, from referring students to institutions, agencies and physicians for the purpose of obtaining abortions. Although school authorities may refer students to a physician "for medical reasons" as provided in the Act, this language does not permit such

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authorities to refer students for the purposes of obtaining an abortion.


If you have any questions, please let me know.

Yours very truly,



J. Emory Smith, Jr.
Assistant Attorney General

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State Senator
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