

# The State of South Carolina

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July 12, 1988

Henry J. Cauthen  
President and General Manager  
South Carolina Educational Television Network  
2712 Millwood Avenue  
P. O. Drawer L  
Columbia, South Carolina 29250

Dear Mr. Cauthen:

You have requested an opinion as to whether the South Carolina Educational Television Commission ["Commission"] is authorized to establish a child development center, which includes children of employees of the South Carolina Educational Television Network ["ETV"], for use in its programming responsibilities. According to my understanding, ETV is presently obtaining permission from private day care centers or schools to enable ETV to film its early childhood development program for broadcast; I further understand that ETV is the production center for the National Association for the Education of Young Children, which distributes the programs produced by ETV all over the United States.

The proposed early childhood development center would serve about forty (40) children, aged infant to five years. A full-day developmental program, including an educational program and meals, will be offered during ETV's normal operational hours. Parents will pay a fee comparable to that which is charged by private daycare facilities in the local community. The classrooms to be utilized will be equipped for lights and sound, with appropriate window and ceiling treatments for filming; the use of an on-site studio will decrease the cost of film production, as "on location" filming and its resultant higher costs will be eliminated. The center will be licensed by the Department of Social Services, though the higher standards of the National Association for the Education of Young Children will be observed whenever possible.

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The Commission is created and empowered by S.C. Code Ann. §§59-7-10 through -60 (1976). Section 59-7-40 provides, in relevant part: "The Commission may purchase, lease or otherwise acquire and operate such educational television, radio, and related equipment and facilities as are required to develop, promote and extend educational programs to meet the needs of the State and its citizens." S.C. Code Ann. §59-7-40 (1976).

The primary function in interpreting a statute is to ascertain the intent of the legislature. State v. Martin, 293 S.C. 46, 358 S.E. 2d 6 (1987). In construing a statute, words must be given their plain and ordinary meaning without resort to subtle or forced construction for the purpose of limiting or expanding its operation. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Words used in statutes should be taken in their ordinary and popular significance, unless there is something in the statute requiring a different interpretation. Gambrell v. Travelers Ins. Cos., 280 S.C. 69, 310 S.E.2d 814 (1983). The generally accepted meaning of words used in statutes are to be accepted unless such words have a well-recognized meaning in law in which instance they are presumed to have been used in that sense. Purdy v. Moise, 223 S.C. 298, 75 S.E.2d 605 (1953). Generally, a statute enacted for the public benefit should be construed liberally in favor of the public. See Sutherland Stat. Constr. §58.04 (4th ed. 1984); 73 Am. Jur. 2d Statutes §281; 82 C.J.S. Statutes §387.

Section 59-7-40 grants the Commission broad authority "to develop, promote and extend educational programs to meet the needs of the State and its citizens." See, e.g., S.C. Att'y Gen. Op., Sep. 18, 1980 (interpreting S.C. Code Ann. §§59-7-40 & -50 (1976)); S.C. Att'y Gen. Op., Jul. 18, 1975 (interpreting S.C. Code Ann. §21-60.3 (1962) (later codified as S.C. Code Ann. §59-7-40 (1976))). Considering S.C. Code Ann. §50-7-50 (1976),<sup>1</sup> this Office has recognized a definition of "facilities":

The word "facilities" embraces anything which aids or makes easier the performance of the activities involved in the business....<sup>2</sup>  
Black's Law Dictionary 705 (4th ed. 1968).

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<sup>1</sup> S.C. Code Ann. §59-7-50 (1976) provides, in relevant part: "The [South Carolina Educational Television] Commission may lease or sell the use of its facilities, equipment, programs, publications and other program related materials on such terms as the Commission deems advantageous, and funds received therefrom shall be used for Commission purposes."

<sup>2</sup> The most recent edition of Black's Law Dictionary contains this identical definition. Black's Law Dictionary 531 (5th ed. 1979).

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S.C. Att'y Gen. Op., Jan. 11, 1979. This definition seems also to be appropriate for the use of the word "facilities" in §59-7-40. See Smalls v. Weed, 293 S.C. 364, 360 S.E.2d 531 (Ct. App. 1987) (Where the same word is used more than once in a statute, it is presumed to have the same meaning throughout unless a different meaning is necessary to avoid an absurd result.); State v. Sawyer, 104 S.C. 342, 88 S.E. 894 (1916) (When the legislature has expressed its intention clearly in one part of an act, it will be presumed that it had the same intention in another part, unless a different intention clearly appears.).

The child development center which you describe for use in your programming responsibilities appears to fall within this definition of "facilities." Consequently, §59-7-40 would apparently authorize the establishment<sup>4</sup> of such a child development center<sup>3</sup> by the Commission.

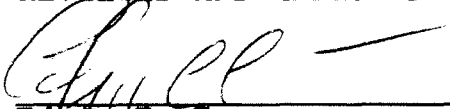
If I can answer any further questions, please do not hesitate to contact me.

Sincerely,

*Samuel L. Wilkins*  
Samuel L. Wilkins  
Assistant Attorney General

SLW/fg

REVIEWED AND APPROVED BY:

  
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Edwin E. Evans  
Chief Deputy Attorney General

  
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Robert D. Cook  
Executive Assistant for Opinions

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<sup>3</sup> This Opinion does not address whether such a child development center would comply with any other relevant federal or state statutory or regulatory requirements.

<sup>4</sup> This Opinion does not address whether other State agencies are authorized, pursuant to their individual enabling legislation, to establish child development or day care centers.