

1982 WL 189199 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 9, 1982

\*1 The Honorable Charlie G. Williams  
Superintendent of Education  
State of South Carolina  
South Carolina Dept. of Education  
Rutledge Building  
Columbia, S. C. 29201

Dear Dr. Williams:

You have requested the opinion of this office as to what options school districts have to excuse days of class missed due to inclement weather during the 1981-82 school year. This matter is governed by § 59-1-380 of the Code of Laws of South Carolina (1976) and by recently enacted House Bill 3456 (R320) which was signed by the Governor on March 5, 1982. The House Bill provides that '[n]otwithstanding any other provision of law, any school district board of trustees may waive up to 3 days of required school attendance in that district if the schools were closed on those days due to inclement weather during the 1981-82 school year [emphasis added].' The only other statute on the subject is § 59-1-380 which states as follows:

'[N]otwithstanding any other provisions of law to the contrary, the State Board of Education may, upon request of the governing body of any school district, suspend five make-up days when the schools in such district shall have been closed because of extreme weather conditions or extreme circumstances. Provided, however, such suspension shall not apply to the first two days as the result of such extreme weather conditions or other extreme circumstances.'

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The discretion given to districts under Bill 3456 applies to days of 'required' school attendance and it applies regardless of any other provisions of law. The required days of attendance probably were intended to include all those 185 days which constitute the statutory school term (Act 178 § 28, Acts and Joint Resolutions of South Carolina, 1981) which have not been excused under § 59-1-380.<sup>1</sup> These unexcused days would include days for which, in the district's discretion, suspension by the State Board had not been requested, or, if requested, which had been denied. The unexcused days would also include the first two days missed and any days in excess of the five subject to suspension by the State Board. Therefore, Bill 3456 would allow a district, in its discretion, to excuse any of these unexcused days up to three, including the § 59-1-380 make-up days. These three plus the five subject to suspension by the State Board of Education would allow for a maximum of eight excused days of class. For example, a district missing three to eight days could itself excuse the first three days and attempt to obtain State Board approval for any remainder up to five days.

The opinion of this office is that Bill 3456 allows the school districts the option of excusing up to three days of class missed due to inclement weather which could not or would not be excused by the State Board under § 59-1-380 or any days for which the school districts had not sought a State Board of Education excuse.

If we may be of further assistance, please let us know.

Yours very truly,

\*2 J. Emory Smith, Jr.

Assistant Attorney General

Footnotes

- 1 Bill 3456 indicates no intent to differentiate between student instruction, preparation for opening and closing schools and in-service training under Act 178. Thus, a district could excuse days of in-service training missed as well as days of instruction.
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