

1978 WL 35033 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 10, 1978

***1 RE: Effect of In Re Primus on Department of Youth Services' Policies**

Mr. Grady A. Decell
Director
Department of Youth Services
P. O. Box 21487
Columbia, S. C. 29221

Dear Mr. Decell:

In response to your letter of July 5, 1978, I have received the attachments submitted by you. I have also had an opportunity to review the Supreme Court's recent decision in In Re Primus.

One of your inquiries concerned the effect of the recent case of In Re Primus on the present Department policy of release of confidential student record information. It is my opinion that the case of In Re Primus (hereafter, Primus), does not affect the Department's present policy on release of confidential student information. The Department's policy on release of confidential student information is predicated on the students' rights of privacy. The Court's decision in Primus does not suggest that the rights of privacy of the students at the Department of Youth Services are in any way subordinate to the A.C.L.U.'s rights to freedom of expression under the First Amendment. Therefore, I do not think that any changes in the current Department policy are necessitated by the Supreme Court's decision in Primus.

As to your question of whether A.C.L.U. attorneys and other non-profit organizations may solicit Department of Youth Services students for litigational purposes, I do not think that Primus constitutes a wholesale authorization for the A.C.L.U. to solicit Department of Youth Services students for litigational purposes. Specifically, I do not interpret Primus to allow the A.C.L.U. to confer with students of the Department of Youth Services in order to advise them of their rights to bring legal actions with the A.C.L.U. acting as counsel.

It is significant, I think, that the act of solicitation which the Court found to be protected under the First and Fourteenth Amendments was in the form of a letter and was not an in-person solicitation. Further, the Court did not strike down South Carolina's rules of Court which govern solicitation by attorneys. See, S.Ct. Rule 32, D.R. 2-103 and D.R. 2-104. The Court simply held that the application of the disciplinary rules to appellant's solicitation by letter on behalf of the A.C.L.U. violated the appellant's rights as guaranteed under the First and Fourteenth Amendments.

Your final inquiry concerning the effect of Primus on the Department of Youth Services Institutions is too broad for me to address. I will, however, be glad to address any other specific questions you may have concerning the effect of Primus on procedures presently used at the Department of Youth Services.

I suspect that the A.C.L.U.'s interpretation of Primus may be somewhat broader than our interpretation. In that regard, please do not hesitate to call on this Office if problems pertaining to Primus arise.

With kind regards.

Very truly yours,

***2** William K. Moore
State Attorney

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