

1974 WL 27949 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 6, 1974

*1 Dr. Cyril B. Busbee
State Superintendent of Education
1429 Senate Street
Columbia, SC 29201

Dr. Howard R. Boozer
Executive Director
Commission on Higher Education
1429 Senate Street
Columbia, SC 29201

Dear Drs. Busbee and Boozer:

You have asked whether or not an institution by using the name 'college' or university' in its charter is exempt from the provisions of the Proprietary School Act, Section 21-750 et. seq., 1962 Code of Laws of S. C., as amended.

Section 21-750.1(f) excludes from the provisions of the Proprietary School Act, 'private colleges and universities which award an Associate, baccalaureate, or higher degree.' From this language it would appear that the legislative intent was to exclude institutions actually awarding the named degrees, so that to merely adopt the title college or university in the title, would not, standing alone, be sufficient to exclude the institution from the provisions of the Act. It should, however, also be noted that Section 21-750.1(b) excludes an institution holding an eleemosynary charter.

The second question raised refers to Sections 21-772, 1962 Code of Laws of S. C., posing the question of whether or not the above cited provisions apply to schools other than business schools.

Sections 21-671 and 21-672 are found under the heading 'Business Schools' which is Article V of Chapter 15 which is entitled 'Special Types of Schools or Instruction.' Specifically the sections restrict the operation of '... a business college, university or similar school . . .' and restrict the authority of such institutions to confer degrees.

The language of Sections 21-671 and 21-672 and the heading of the article clearly seem to indicate an intent to regulate the business college or school, the word university apparently being included so as not to exclude 'universities' of business from the article by merely adopting such a title. I do not feel that the language of Sections 21-671 and 21-672 may be interpreted so as to be applied to institutions other than a business college or school.

It is apparent that our present statutes are not sufficiently comprehensive to allow for the regulation of all higher education institutions, particularly, the 'diploma mill' college or university holding an eleemosynary charter. Our office will be happy to assist in an attempt to remedy this situation.

Very truly yours,

Patricia O. Brehmer
Assistant Attorney General

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