

1974 WL 27985 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 10, 1974

\*1 Honorable Cyril B. Busbee  
State Superintendent of Education  
Rutledge Building, Room 1006  
1429 Senate Street  
Columbia, South Carolina 29201

Dear Dr. Busbee:

The Attorney General read your letter with interest and has referred it to me for research and reply. You have posited two questions, which I shall answer in turn.

You ask whether or not a local school offering Military or Naval ROTC is obligated by the language of R1230 to grant credit for ROTC instruction in lieu of physical education. In my opinion, the language of R1230 is merely permissive, and not obligatory. Section 1 of the Act states that 'such a program may be deemed equivalent to physical education' (emphasis supplied), but does not require it. Therefore, with reference to R1230 alone, a public school providing ROTC may grant alternative credit for participation in such a program but is not required to do so.

Your second question involves the amount of input the State Board of Education may have in deciding whether or not to require local schools to grant credit for ROTC instead of physical education. You further ask if the State Board is an appellate body for these purposes. The State Board of Education's function with regard to curriculum is administrative rather than judicial. Act Number 309 of 1963 at 2B(6) provides power to the board to set courses of study and to enforce such decisions. This power would seemingly be sufficient to allow the board to require a local school to furnish alternative credit.

Given the fact that R1230 indicates a more recent intent of the legislature than Act 309 (1963) or § 21-416 of the Code of Laws of S. C. of 1962 as amended, I would not recommend that the State Board adopt an absolute rule forbidding the grant of credit for ROTC participation under R1230.

I trust this will adequately answer your questions. Should any doubt remain, please do not hesitate to call upon me.  
Sincerely,

Hardwick Stuart, Jr.  
Assistant Attorney General

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