1974 WL 27994 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
October 30, 1974

***1** Mr. James W. Smith
Superintendent
East Clarendon District #3
Post Office Drawer 270
Turbeville, SC 29162

Dear Superintendent Smith:
Please allow me to apologize for the necessary delay in answering your letter. You have requested an opinion on the validity of a school board regulation prohibiting married individuals from attending school.

Recent trends within the federal court system have indicated that the opportunity to attend school is to be considered a 'right' guaranteed to all prospective students. This is especially to be emphasized in states where compulsory attendance laws have indicated the public's attitude on the value and necessity of education, Alexander v. Thompson, 313 P. Supp. 1389 (1970). While the opportunity to attend school is not absolute, Johnson v. Town of Deer-field, 25 F. Supp. 621, 1939, it cannot be denied arbitrarity Lindouist v. City of Coral Gables, 323 F. Supp. 1161 (1971). In actual fact any exclusion of a child from the benefits of a public school education will come before a court under severe suspicion. The burden of proving that the individual's outright exclusion from the schools because of marriage is necessary for the continued orderly operation of the schools will be on the School Board. This will be a very heavy burden to bear and will likely be an impossibility. Several recent cases in other jurisdictions have even gone so far as to guarantee access to public education to unmarried-pregnant girls.

Because of the fact that I do not believe it likely that your school Board can justify the exclusion of married individuals from your schools to the satisfaction of the courts, I recommend that your present regulation be rescinded.
Sincerely,

Hardwick Stuart, Jr.
Assistant Attorney General

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