1974 WL 28035 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
December 27, 1974

***1 Re: Dismissal of Married or Pregnant Students from public schools**

Mr. A. Ray Godshall
Attorney at Law
415 ½ North Limestone Street
Gaffney, South Carolina 29340

Dear Mr. Godshall:
This office has issued many opinions on the issue of the dismissal of married or pregnant students. I have enclosed a copy of the most recent of these opinions:

1. 1970-71 Op. Atty. Gen. 3191 The conclusions of this opinion remain valid and represent the present trends of legal thought on this issue pursuant to South Carolina law.

§ 21-230(3) of the South Carolina Code of Laws (1973 Supp.) is the applicable statute that bestows authority on the Boards of Trustees of School Districts to promulgate rules of conduct of students in public schools. It also provides for dismissal as a sanction for enforcing these rules and regulations. Any dismissal or denial of a right to attend public schools under this section may be justified only by showing that the dismissal is necessary to promote the welfare of the greatest number of students. Therefore no dismissal of married or pregnant students should be effected unless the Board of Trustees is able to show on each case that such dismissal is necessary to promote the welfare of the greatest number of students.

There have been some case holdings that indicate any statute or rule denying married or pregnant students the right to attend public school are per se unreasonable and arbitrary, and therefore invalid; although there is no South Carolina case on point. However, there are cases controlling in South Carolina that indicate that before a student is dismissed from a public school or denied a right to attend, there must be an adequate showing of reasonable apprehension of disruption of the other students because of the student's action or conduct.

The Constitution of South Carolina at article 11 § 3 states:
The General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the state. . ..

This section has no express limitations as to married or pregnant students; and in effect mandates a policy that public schools be open to all children in the state. With due regard to the above reasons and limitations it appears that any regulation requiring the dismissal of married or pregnant students, solely on the basis of this status, is invalid. This, however, is in no way a prohibition of dismissing married or pregnant students whose continued presence in the school creates disruption of other students.

I hope this opinion is of some help to you and the Board, please call on this office and myself again if any questions arise. Give my regards to Chip.

With kind personal regards, I am
Sincerely,

Edwin E. Evans
Staff Attorney

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