

1973 WL 27672 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 9, 1973

***1 Re: No. 278—South Carolina Board and Commission—State Board for Technical and Comprehensive Education**

Mr. O. Stanley Smith, Jr.
Executive Director
South Carolina State Board for Technical and Comprehensive Education
Rutledge Building
1429 Senate Street
Columbia, S. C. 29201

Dear Mr. Smith:

Attorney General McLeod referred to me your request for an interpretation of Section 5 Subsection 2 of 1972 Act 1269, enacted by the South Carolina General Assembly. Specifically, you wish to know if the subsection in question has the effect of requiring all existing technical education institutions to establish criteria before expanding their programs. The ambiguity of this subsection centers around the underlined portions of the following clause: 'establish criteria, subject to the approval of the Commission on Higher Education, for the establishment of new public two-year post-secondary institutions and programs' The use of the phrase 'new . . . institutions and programs' in line three of said subsection is subject to four possible interpretations; (1) that the term programs applies to all programs, regardless of how new the programs may be, at both old and new institutions; (2) that the term programs applies to all new programs at both old and new institutions; (3) that the term programs applies only to those programs at the new institutions; (4) the term programs merely qualifies the term institutions. In light of the foregoing ambiguities found in said subsection, one must resort to either expressed legislative intent or established rules of statutory construction.

The wording of Section 5 (in which the subsection in question is found) indicates that Subsection 2 should not be read so as to limit the powers and duties previously designated to the State Board. Although the Commission on Higher Education under Section 4 of this Act has the expressed authority to approve all associate degree programs, the Commission on Higher Education under Subsection 2 of Section 4 merely reviews and comments on programs of the State Board for Technical and Comprehensive Education. Thus, the expressed intent of Section 5 and the provisions of Section 4 lead me to believe that the use of the term 'programs' in conjunction with the term 'institutions' is merely for the purposes of qualifying institutions.

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Sincerely,

Hardwick Stuart, Jr.
Assistant Attorney General

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