



HENRY McMASTER
ATTORNEY GENERAL

June 28, 2010

Sam W. White, Chief
Public Safety Department
City of Union
215 Thompson Boulevard
Union, South Carolina 29379

Dear Chief White:

In a letter to this office you referenced the provisions of S.C. Code Ann. §§ 59-24-60 and 59-63-335 which state in order:

[i]n addition to other provisions required by law or by regulation of the State Board of Education, school administrators must contact law enforcement authorities immediately upon notice that a person is engaging or has engaged in activities on school property or at a school sanctioned or sponsored activity which may result or results in injury or serious threat of injury to the person or to another person or his property as defined in local board policy.

[f]ailure of a school administrator to report criminal conduct as set forth in Section 59-24-60 or failure to report information concerning school-related crime pursuant to Section 59-63-330 shall subject the administrator and the school district to liability for payment of a party's attorney's fees and the costs associated with an action to seek a writ of mandamus to compel the administrator and school district to comply with Section 59-24-60 or 59-63-330.

S.C. Code Ann. § 59-63-330 states that

[o]n forms prepared and supplied by the State Department of Education, each school district in the State shall report school-related crime quarterly to the State Department of Education. The department shall compile the information received from the districts and annually, not later than January thirty-first of the year following the districts' final quarterly reports of the school year, make a report to the General Assembly on the findings. In addition, the State Department of Education shall, upon receipt, forward all information concerning school-related crime to the Attorney General's Office. This information shall be used by the Attorney General in the supervision of the prosecution of school crime.

Referencing such, you have questioned whether a school district is required to report all suspected crimes to law enforcement. You also questioned whether a school district has the authority to limit law enforcement in the investigation of crimes on school grounds.

A prior opinion of this office dated December 1, 2005 dealt with the question of the applicability of the words “as defined in local board policy” as used in Section 59-24-60. It was particularly questioned whether the referenced phrase modifies the entire statutory provision or just that part of the phrase “his property.” The opinion stated as follows:

[w]hen interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Moreover, statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

In construing Section 59-24-60, it is my opinion that the rule of statutory construction termed the “last antecedent” rule is applicable. As referenced in a prior opinion of this office dated September 11, 1996, such rule states that “...referential and qualifying words and phrases, where no contrary intention appears, refer solely to the last antecedent.” As stated in an opinion of this office dated February 5, 1980,

The last antecedent consists of “the last word, phrase or clause that can be made an antecedent without impairing the meaning of the sentence”... Referential and qualifying words, phrases and clauses are to be applied to the words or phrase immediately preceding, and are not to be construed as extending to or including others more remote....”

See also: Op. Atty. Gen. dated April 23, 1962 (“Referential and qualifying words and phrases where no contrary intention appears, refers solely to the last antecedent.”). In this instance, the last antecedent is “his property”. Therefore, the phrase “as defined in local board policy” is limited in applicability to the phrase “his property”. Moreover, the statute was written in the disjunctive, using the word “or” several times to separate the words used in the provision. See: Op. Atty. Gen. dated July 20, 1979 (“The use of the word ‘or’ is presumed to be in the disjunctive sense.”). Consistent with such, it is my opinion that the phrase “as defined in local board policy” is applicable only to the words “his property” and does not apply to the remainder of the reporting requirements.

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Consistent with such, in the opinion of this office, a school district is required to report all suspected crimes to law enforcement as set forth in Section 59-24-60. As stated such statute provides that “[i]n addition to other provisions required by law or by regulation of the State Board of Education, school administrators must contact law enforcement authorities immediately upon notice that a person is engaging or has engaged in activities on school property or at a school sanctioned or sponsored activity which may result or results in injury or serious threat of injury to the person or to another person....” I would further note that S.C. Code Ann. § 59-63-350 provides that

[l]ocal law enforcement officials are required to contact the Attorney General's "school safety phone line" when any felony, assault and battery of a high and aggravated nature, crime involving a weapon, or drug offense is committed on school property or at a school-sanctioned or school-sponsored activity or any crime reported pursuant to Section 59-24-60.

As to your separate question of whether a school district has the authority to limit law enforcement in the investigation of crimes on school grounds, as stated in a prior opinion of this office dated April 17, 2008, citing the decision in Wuethrich v. Delia, 341 A.2d 365 at 370 (N.J. 1975), “[p]olice officers have the right, indeed the duty, to investigate seemingly criminal behavior or activity....” Therefore, while law enforcement should be aware of the school setting and conduct any investigation in the least disruptive manner of the school setting, in the opinion of this office, a school district is without authority to limit law enforcement in the investigation of crimes on school grounds.

With kind regards, I am,

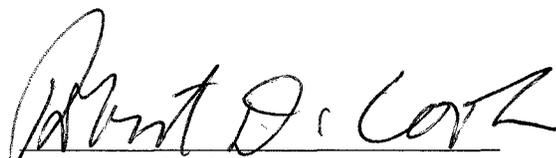
Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General